Santa Barbara County
Air Pollution Control District

Our Vision Clean Air

Revisions to District Environmental Review Guidelines

Staff Report

District Community Advisory Council
March 25, 2015 Meeting

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Executive Summary

Santa Barbara County Air Pollution Control District is proposing to update its *Environmental Review Guidelines* (*Guidelines*) to include the impacts of greenhouse gas emissions from business and industry sources of pollution, referred to as stationary sources. Stationary source projects covered by these *Guidelines* require District permits for operations; examples include projects associated with oil and gas facilities, landfills, large facilities such as hospitals or universities, and a wide-range of other types of facilities that have combustion devices.

The District regulates stationary sources, and does not regulate motor vehicles. The District also reviews projects under the California Environmental Quality Act (CEQA) for air quality impacts. The District has multiple roles under CEQA. It can act as a lead agency, responsible agency, or as a concerned/trustee agency. Santa Barbara County and the cities within Santa Barbara County are typically lead agencies under CEQA for projects within their jurisdiction. The District's *Guidelines* set significance thresholds for air quality impacts, and CEQA lead agencies are encouraged to use these thresholds in reviewing projects. CEQA lead agencies are now legally required to consider greenhouse gases when assessing projects; however, the District's *Guidelines* do not currently set significance thresholds for greenhouse gases. When a greenhouse gas threshold is incorporated into District *Guidelines*, lead agencies are encouraged to use it to set significance.

The District embarked on a process to update the *Guidelines* to include greenhouse gases significance criteria in the spring of 2014. The public review process has involved extensive outreach and noticing, public workshops, publicly accessible stakeholder meetings, and regular email updates on project activities. At public workshops May 6, 2014, May 8, 2014, and December 3, 2014, the District provided background information and outlined options, and received comments before, during and after the workshops.

A number of organizations supported a "zero" threshold. An online petition with more than 400 individuals listed was received supporting a "zero" threshold; many of the individuals submitted additional comments. Several commenters noted that if a higher numeric threshold than zero were to be established, it should capture all major new industrial sources of emissions, and be as close to zero as practical. Industry groups expressed support for a threshold approach tied to the state's greenhouse gas reduction goals under AB 32, with a "Business as Usual" approach to determine significance. The Bright Line Threshold of 10,000 metric tons was also presented and evaluated in the public workshops.

Commenters requested information on approaches taken by other air districts, and the amount of greenhouse gas emissions that could be covered, or captured by various numeric thresholds. Table 6-1 in this report compares the District's stationary source greenhouse gas emissions with data from air districts that have adopted a Bright Line 10,000 metric tons threshold; Table 5-1 provides capture rates for county stationary sources under a range of numeric thresholds. The public process and the

comments received are described fully in Section 4.0, and all the comments received are posted on the District's website.

This report presents two threshold options for consideration: A Bright Line Threshold of 10,000 metric tons, and an AB 32 Consistency Threshold. The District's Board of Directors will decide on a District significance threshold for greenhouse gases to become part of the *Guidelines*.

Bright Line Threshold of 10,000 metric tons of greenhouse gas emissions per year

Under this option, projects that emit more than 10,000 metric tons of greenhouse gas emissions per year would be considered to have a significant impact under CEQA; projects with greenhouse gas emissions under that threshold would be considered to have a less than significant impact.

Key elements of this option are as follows.

- Approximately 82.4% of 2013 greenhouse gas emissions from County stationary sources would be "captured," meaning emissions would need to be reduced, or mitigated, for the project to be considered less than significant under CEQA review.
- New or modified sources of greenhouse gas emissions greater than 10,000 metric tons would be required to reduce emissions while smaller projects would not face mitigation and administrative requirements.
- This threshold has been applied in California and to date has not been challenged in the courts.

AB 32 Consistency Threshold

This option would apply a screening threshold of 10,000 metric tons of greenhouse gas emissions per year; projects with emissions below that threshold would not be considered to have a significant impact. Projects with annual greenhouse gas emissions between 10,000 metric tons per year and 25,000 tons per year would be required to achieve a 15.3% reduction in emissions from projected business-as-usual (BAU) emissions. The 15.3% requirement is consistent with the most recent update to the State's Scoping Plan for AB 32, or the Global Warming Solutions Act.

Sources that emit more than 25,000 metric tons of greenhouse gases per year and are in the California Air Resources Board's Cap and Trade program would be considered to have a qualified greenhouse gas reduction plan; stationary source projects covered by this program would not need additional mitigation to be considered less than significant.

Key elements of this option are as follows.

- Sources of greenhouse gas emissions that fall under the State's Cap and Trade program (25,000 metric tons of greenhouse gases per year and higher) would not be required to mitigate over and above the requirements of that program.

- Smaller projects with annual emissions below the screening threshold would not be subject to mitigation and administrative requirements.
- Projects with greenhouse gas emissions between 10,000 and 25,000 metric tons per year would be required to reduce emissions using a "percent reduction from business-as-usual" method.
- The "percent reduction from business as usual" method has been challenged (successfully and unsuccessfully) in the courts.
- This threshold includes a commitment to revise the threshold as appropriate to reflect additional GHG reductions to remain consistent with California's long-term GHG reduction goals.

This threshold includes a commitment to revise the threshold as appropriate to reflect additional GHG reductions to remain consistent with California's long-term GHG reduction goals.
The table below, from Section 6 of this report, uses some hypothetical projects to compare emissions reduction, or mitigation, requirements under the two options.

Table ES-1

Comparison of Mitigation Requirements

Project Scenario/ Option	Stationary Source Emissions (Annual)	Threshold Level (Annual)	Purchased C&T Allowances[1] (Project Lifetime)	Additional Mitigation Required (Project Lifetime)	Total Mitigation Required (C&T Purchased Allowances[1] + Add'l, Project Lifetime)	Total Project Lifetime Emissions
AB 32 Consistency (15.3% down from BAU) - Project 10K-25K	15,000	12,705	N/A	68,850	**68,850**	450,000
Bright Line (10,000 MT) - Project 10K-25K	15,000	10,000	N/A	150,000	**150,000**	450,000
AB 32 Consistency - Project Subject to Cap and Trade (C& T)	40,000	Declining cap per C&T regulation	171,400	0	**171,400**	1,200,000
Bright Line (10,000 MT) - Project Subject to C&T	40,000	10,000	171,400	728,600	**900,000**	1,200,000

[1] Purchased C&T Allowances are defined as the amount of additional allowances/offsets that are required by the Cap and Trade program, above and beyond those that are directly (freely) allocated to the covered entity as established in Section 95891, Allocation for Industry Assistance, of the Cap and Trade regulation.

Table assumptions:

- thermal oil & gas project (100% allowance allocation in C&T),
- emissions in metric tons of carbon dioxide equivalent,
- 2020 cap adjustment factor in C&T remains constant after 2020,
- project emitting at the C&T benchmark value,
- BAU equals "Facility Emissions (Annual)" value, with 15.3% reduction from BAU, no mitigation required,
- project life of 30 years.

1.0 Introduction

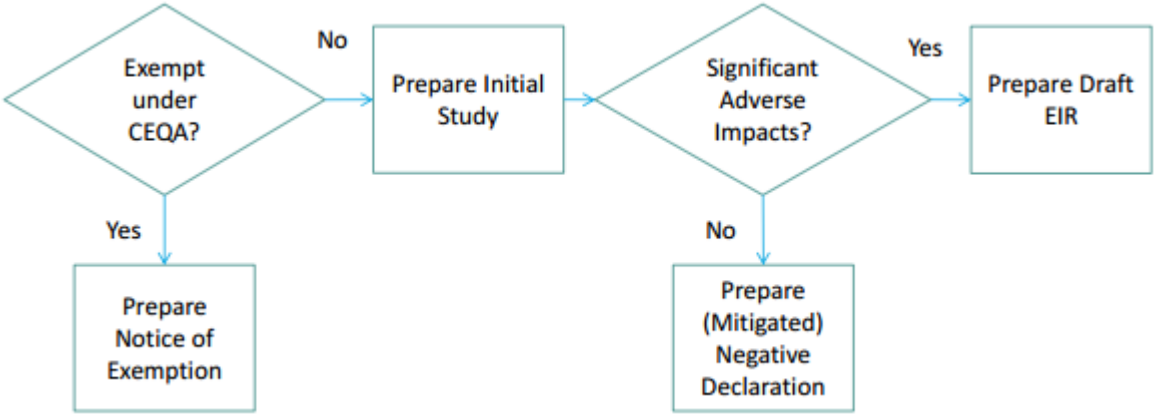
CEQA was enacted in 1970 with the purpose of providing for public disclosure during the decision making process, informing decision makers of the potential for environmental impacts associated with projects, and providing for an analysis of alternatives to avoid those impacts. The CEQA Statute is codified in the California Public Resources Code sections 21000 *et. seq*. As required by CEQA, the California Governor's Office of Planning and Research (OPR) has developed and occasionally revises a set of Guidelines that provide additional clarification, definitions, and procedures for implementing the CEQA Statute. These guidelines (hereafter referred to as the CEQA Guidelines) are codified in Tile 14 of the California Code of Regulations, section 15000 *et. seq.*

Most large development projects in California, whether proposed by a government agency or a private developer, are subject to environmental review requirements under CEQA. The agency that approves the project (aka, the CEQA "lead agency") is responsible for meeting the requirements of the law. Other agencies that may also be permitting or regulating the project after the lead agency decides to approve the project are called CEQA "responsible agencies." CEQA requires that responsible agencies review and consult with lead agencies during the environmental review phase of the project, and offer mitigation measures as appropriate to avoid impacts within their issue/resource area.

Projects that do not require any sort of discretionary action, and are purely ministerial in nature, are not subject to CEQA. Very small projects and those that clearly have no environmental impact may be found to be exempt from CEQA. Some projects may have the potential for impacts that can be addressed through project redesign or application of standard mitigation measures. Those projects may be addressed through the preparation of an "Initial Study" and a "Negative Declaration (ND)" or a "Mitigated Negative Declaration". If a project will have significant environmental effects that cannot be mitigated or avoided, the lead agency must proceed with the preparation of an Environmental Impact Report (EIR). Figure 1-1 below is a basic flow diagram that demonstrates how the CEQA process applies to discretionary projects.

Figure 1-1

CEQA Process



The CEQA Statute requires that California agencies prepare a set of guidelines for how they will implement CEQA. The Santa Barbara County Air Pollution District (hereafter referred to as the District, or APCD) developed its *Environmental Review Guidelines* in 1995 and revised them in 2000. Since the revision in 2000, OPR has revised the CEQA Guidelines to provide additional clarification and procedures and also to include guidance from CEQA case law that establishes precedents for how CEQA should be implemented. Importantly, the CEQA Guidelines were revised in 2010 to include procedures for the assessment of climate change impacts and greenhouse gas (GHG) emissions.

The District proposes to update its *Environmental Review Guidelines* to incorporate general updates and clarifications, revise the list of projects that are considered to be exempt (for air quality impacts) under CEQA (Appendix A), and to include a threshold of significance for GHG emissions.

It should be noted that under all threshold scenarios, a project's GHG emissions (direct and indirect) are considered to be cumulative in nature. This is because any GHG emissions contribute to the cumulative impact of global climate change. A project's GHG emissions are not considered to be a project-specific impact that directly affects the health of the environment and the community immediately adjacent to the project site. However, reducing GHG emissions in some cases may produce co-benefits in reductions of other air pollutants.

This document has 10 sections:

- Section 2.0 further describes the project of updating the District's *Environmental Review Guidelines*.
- Section 3.0 provides background information on the project, including the efforts that local, state and federal agencies have undertaken to address climate change/GHG emissions impacts.
- Section 4.0 provides a detailed description of the public review process associated with these updates.

- Section 5.0 includes a discussion of the stationary source GHG emission inventory for Santa Barbara County.
- Section 6.0 presents two options for stationary source GHG thresholds of significance, the basis for the thresholds, and a discussion of how the thresholds would be implemented.
- Section 7.0 provides a discussion of GHG mitigation.
- Section 8.0 summarizes the all of the proposed changes to the Environmental Review Guidelines.
- Section 9.0 includes definitions to terms and acronyms.
- Section 10.0 provides a comprehensive list of the documents that were reviewed and referenced during the *Environmental Review Guidelines* update process and for the preparation of this staff report.

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2.0 Revisions to Environmental Review Guidelines

The District developed its *Environmental Review Guidelines* (or *District Guidelines*) in 1995 and revised them in 2000. The *District Guidelines* are intended to inform District staff, other governmental agencies, applicants, and the public of definitions, procedures, and forms to be used by the District in the implementation of CEQA and to supplement the State's CEQA Guidelines. The *District Guidelines* is an APCD Board-adopted document and includes thresholds of significance for criteria air pollutants (reactive organic compounds or ROCs, nitrogen oxides or NOx, particulate matter or PM10). The *District Guidelines* also include methodologies for determining significance of toxic air contaminants (via health risk thresholds) and for determining consistency with state and federal air quality planning efforts. The thresholds of significance that are included in the *District Guidelines* are to be used by the District when it assumes the role of a CEQA lead agency; they are also recommended for use by other CEQA lead agencies in Santa Barbara County when the agency does not have its own adopted significance thresholds for air quality impacts.

Since the *District Guidelines* were revised in 2000, OPR has revised the State CEQA Guidelines to provide additional clarification and procedures and also to include guidance from CEQA case law that establishes precedents for how CEQA should be implemented. Importantly, the State CEQA Guidelines were revised in 2010 to include procedures for the assessment of climate change impacts and greenhouse gas (GHG) emissions.

The District proposes to update its *Environmental Review Guidelines* to incorporate general updates and clarifications, revise the list of projects that are considered to be exempt (for air quality impacts) under CEQA (Appendix A), and to include a threshold of significance for GHG emissions. Additional discussion of the editorial revisions and changes to Appendix A of the *District Guidelines* are discussed in Section 8.0 of this staff report. Section 6.0 of the staff report includes a detailed discussion of the two possible options that are proposed for consideration as a GHG threshold of significance. One is a "Bright Line 10,000 metric ton per year (MT/yr)" threshold, and one is an "AB 32 Consistency" threshold, with a 10,000 MT/yr screening threshold and consideration of the State's AB 32 required Cap and Trade program as a qualified GHG reduction plan.

Discussion of CEQA Thresholds and Applicability

The District plays a CEQA lead agency role when it proposes to adopt a Clean Air Plan, to revise an existing District rule or adopt a new District rule or set of rules, or when permitting a federal action that did not require a local land use approval. For most other projects, the District has a responsible agency or a commenting agency role under CEQA. Land use projects where the District has a CEQA lead agency role occur infrequently, and this generally occurs when an existing land use proposes a modification to their facility or equipment that triggers an APCD permit requirement but do does not trigger an additional land use approval.

As mentioned previously, the District's currently adopted air quality significance thresholds are recommended for use by other CEQA lead agencies. Some jurisdictions in Santa Barbara County (*e.g.*, the County of Santa Barbara and the City of Goleta) have adopted their own air quality thresholds through a public process and apply those thresholds to discretionary projects subject to CEQA. Other agencies have relied on the District's adopted thresholds in the absence of their own adopted thresholds. Assuming the proposed changes to the *District Guidelines* are adopted to include a GHG threshold of significance, the same premise holds true – those agencies with their own thresholds that were adopted through a public process are expected to use their own adopted thresholds. It is recommended that other agencies, without adopted CEQA GHG thresholds, use the District's GHG significance threshold.

3.0 Background

This section provides a discussion of the existing regulatory requirements, guidance, and efforts by other agencies that are relevant to the project of updating the District's *Environmental Review Guidelines* and developing a GHG threshold for stationary sources.

3.1 APCD Environmental Review Guidelines

Section 21082 of the CEQA Statute requires that,

> *"All public agencies shall adopt by ordinance, resolution, rule, or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to this division…The objectives, criteria, and procedures shall be consistent with the provisions of this division and with the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083."*

In accordance with CEQA Statute Section 21082, the District adopted its *Environmental Review Guidelines* in October, 1995. The *Environmental Review Guidelines* were last revised in November, 2000. The current project is to revise the *District Guidelines* to reflect current CEQA practice and to include a GHG significance threshold for stationary sources. More details on the proposed revisions are included in Sections 6.0 (options for GHG thresholds) and 8.0 (other revisions) of this staff report.

3.2 CEQA Requirements to address Climate Change/Greenhouse Gas Impacts

Senate Bill 97 and the 2010 Revisions to the CEQA Guidelines

Senate Bill 97, adopted by the California legislature in 2007, required OPR to prepare, develop, and transmit to the California Resources Agency guidelines for the feasible mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions, as required by CEQA, including, but not limited to, effects associated with transportation or energy consumption. The bill required that the Resources Agency certify and adopt those guidelines by January 1, 2010.

OPR developed amendments to the CEQA Guidelines, which were adopted by the California Resources Agency on December 30, 2009 and became effective March 18, 2010. These amendments establish a framework for addressing global climate change impacts in the CEQA process, and include revisions to the Environmental Checklist Form (Appendix G) as well as to the Energy Conservation appendix (Appendix F). A new section (15064.4) was added that provides an approach to assessing impacts from GHGs. A new section (15183.5) was also added to provide guidance for tiering and streamlining the analysis of greenhouse gas emissions in the context of program-level plans for the reduction of greenhouse gases. A summary of the SB 97 CEQA Guidelines amendments are provided as a technical

appendix to this report. For additional information on the SB 97 CEQA Guidelines amendments, visit the Resources Agency's website at resources.ca.gov/ceqa/guidelines/.

Need for GHG Threshold for Stationary Sources when APCD acts as CEQA Lead Agency

The District acts as a lead agency under CEQA when implementing agency-sponsored activities and regulatory programs, such as the District's Clean Air Plan, or proposals for new or revised rules pertaining to the control of air pollution sources in Santa Barbara County. Since the CEQA Guidelines were revised in 2010 to clarify the need to assess climate change/greenhouse gas impacts, the District has assessed GHG impacts of projects for District lead agency actions on a case-by-case basis, and has generally relied on the established thresholds of other agencies as well as consideration of consistency with AB 32 Scoping Plan goals.

The adoption of thresholds of significance is encouraged in the CEQA Guidelines but is not required (CEQA Guidelines Section 15064.7). The advantage to adopting specific thresholds of significance is that it provides consistent procedures for District staff to implement, and also provides more clarity and regulatory certainty for project proponents and lead agencies alike.

Although the stationary source thresholds proposed in this staff report have been specifically developed for the purposes of the District's lead agency role under CEQA, it is recommended that these thresholds be used by other agencies as described in CEQA Guidelines Section 15064.7(c).

State of California Efforts to Develop CEQA thresholds for GHGs

Many CEQA lead agencies throughout the State of California have acknowledged that a statewide CEQA significance threshold for climate change/greenhouse gas impacts would be very useful. This would provide fairness, consistency, and regulatory certainty for projects statewide. Also, it would provide a direct tie to the state's AB 32 Scoping Plan goals, if it were developed by the agency tasked with implementing AB 32. In 2008, the California Air Resources Board (ARB) began a process to develop such thresholds. A *"Preliminary Draft Staff Proposal - Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act"* was released for review on October 24, 2008, and workshops were conducted. However, this effort did not continue beyond the initial workshop phase.

Since then, the ARB has not expressed an interest in developing a statewide threshold of significance for GHGs, and has not assumed a CEQA "responsible agency" role for projects that are regulated under AB 32. No other state agency has proposed developing a statewide GHG threshold for CEQA. When preparing Environmental Impact Reports (EIRs) throughout the state, the California State Lands Commission has utilized a variety of CEQA thresholds depending on the adopted thresholds in use in the location of the proposed project. In preparing EIRs for new California power plants, the California Energy Commission's analysis of GHG impacts has been tied to the goals, measures, and implementing

regulations of the AB 32 Scoping Plan including the renewable energy, energy efficiency, and Cap and Trade programs, to assess the significance of a project's GHG emissions.

3.3 State of California Efforts to Address Climate Change Impacts and Reduce GHGs Emissions

Assembly Bill 32 (AB 32) Scoping Plan

The 2006 adoption of Assembly Bill 32 (AB 32) solidified California's commitment to tackling climate change in a comprehensive way. A copy of the AB 32 legislation is included as a technical appendix to this report. AB 32 required the ARB to develop a Scoping Plan that describes the approach California will take to reduce greenhouse gases to achieve the goal of reducing emissions to 1990 levels by 2020. The Scoping Plan was first considered by the ARB in 2008 and must be updated every five years. The ARB approved the First Update to the Climate Change Scoping Plan on May 22, 2014. The Executive Summary to the 2014 Scoping Plan Update is included as a technical appendix to this report.

Many of the GHG reduction measures identified in the AB 32 Scoping Plan relate to stationary sources of air pollution, directly and indirectly – for example, measures pertaining to energy use and efficiency, requirements for landfills, motor vehicle emissions standards, measures pertaining to waste reduction and water conservation, standards for the carbon content of fuels, measures specific to high global warming potential pollutants – however, the AB 32 programs that relate most directly to stationary sources of air pollution are the Mandatory Reporting Regulation and the Cap and Trade Program.

CARB Mandatory Reporting Regulation

The reporting regulation classifies three types of reporting entities: facility, supplier (of natural gas, CO2, and transportation fuels), and electric power entity. Rule applicability is determined based on the total emissions summed across all applicable source categories for each type of reporting entity. For facilities with emissions between 10,000 and 25,000 MT/yr, operators have the option to file an abbreviated report using simpler emission calculation methods. Facilities with greater than 25,000 MT/yr of emissions, inclusive of all fossil and biogenic emissions, are subject to the full reporting requirements.

CARB Cap and Trade Program

The Cap and Trade Program is implemented by ARB and is a market-based regulation that is designed to reduce GHGs from industrial sources in California, while also avoiding the potential for emissions "leakage" that might result from an excessive regulatory burden and cost to operate in California. Generally, sources emitting greater than 25,000 MT/yr are subject to the program; some sources are required to participate regardless of their emissions level.

The program sets a firm limit or cap on GHGs while minimizing the cost of compliance to achieve AB 32 goals. The GHG emissions cap identified in the program declines by a rate of 2% per year, beginning in 2013. The program allows for emissions "trading" that creates an economic incentive for facilities to

reduce their emissions to below their allotted levels by investing in low carbon technologies and energy efficiencies.

Facilities subject to the Cap and Trade program are allotted a certain amount of GHG emissions for each operational year. That allotment is based on an efficient industry-specific standard or "benchmark", multiplied by a progressively declining "cap adjustment factor." Benchmark values were developed by the ARB based on studies of California industrial operations, and are published in the Cap and Trade regulation. Facilities subject to the regulation that operate less efficiently than their emissions allotment are required to surrender additional carbon allowances that have either been purchased at an ARB auction or have been acquired from another regulated entity. On a limited basis, facilities can also fulfill their compliance obligation by surrendering GHG emission "offsets" from verified GHG reduction projects outside of the California "capped sector", as long as those offset projects meet strict offset criteria established by ARB.

It is important to note that the Cap and Trade program in its current form is only effective through 2020. An extension of the program has not yet been developed, but ARB has indicated its intention to continue the program past 2020 in the 2014 Scoping Plan update (CARB, 2014, at Pg. 87).

3.4 Federal Efforts to Address Climate Change Impacts and Reduce GHGs Emissions

The federal government has addressed climate change impacts, and has regulated GHG emissions from industrial sources, through a variety of programs and regulations:

Federal Mandatory GHG Reporting

These requirements are codified in 40 CFR Part 98. This regulation generally requires facilities emitting greater than 25,000 MT/yr to comply with a GHG emissions quantification and reporting requirement. The regulation establishes emissions calculation procedures for a variety of industries. Much of these procedures have been carried over from California's GHG emissions reporting requirements.

Federal Clean Air Act and Tailoring Rule

In 2007 the U.S. Supreme Court upheld EPA's "endangerment finding" that is a prerequisite to EPA regulating greenhouse gases under the federal Clean Air Act. Because the mass of GHG emissions is very large as compared to the traditionally regulated pollutants, the EPA developed a model rule (called the "Tailoring Rule") that provides for a different threshold level as compared to traditional, health-based pollutants. Local air districts that issue federal operating permits pursuant to the federal Prevention of Significant Deterioration (PSD) or Clean Air Act Title V (Part 70) permit programs have incorporated the Tailoring Rule thresholds into their local permitting rules and regulations.

In 2014, the U.S. Supreme Court (in *Utility Air Regulatory Group v. EPA*, No. 12-1146) decided that EPA may not treat greenhouse gases as an air pollutant for purposes of determining whether a source is a major source required to obtain a federal permit (*i.e.*, a PSD or a Title V permit). The Court also said that PSD permits that are otherwise required (based on emissions of other air pollutants) may continue to

limit greenhouse gases emissions based on the application of Best Available Control Technology (BACT). The Court repeated EPA's estimate that major sources represent fully 83% of all stationary source emissions of GHGs. EPA is currently evaluating the implications of the Court's decision and awaiting further action by the U.S. Courts.

Federal Clean Power Plan under Development

In June, 2014, EPA proposed a Clean Power Plan, which aims to reduce carbon emissions from power plants by 30% by the year 2030. A supplemental proposal, that addresses carbon reductions in Indian country and U.S. territories, was introduced in October, 2014. The Clean Power Plan proposal is flexible in that it acknowledges that different states have a different mix of power sources. The proposal is designed to maintain an affordable, reliable energy system, while cutting pollution and protecting public health and the environment. More information is available at www2.epa.gov/carbon-pollution-standards.

Federal New Source Performance Standards for Oil & Gas facilities

The U.S. Environmental Protection Agency (EPA) is currently in the process of developing New Source Performance Standards that will reduce emissions of smog-forming volatile organic compounds (VOCs), methane (which is a potent GHG pollutant due to its high global warming potential (GWP) value of 27), and toxic air contaminants. For more information refer to EPA's website at www.epa.gov/airquality/oilandgas.

President's Council on Environmental Quality Guidance on NEPA and GHGs for federal projects

The Council on Environmental Quality (CEQ) issued draft guidance in December, 2014 to provide Federal agencies direction on when and how to consider the effects of greenhouse gas emissions and climate change in their evaluation of all proposed Federal actions, in accordance with the National Environmental Policy Act (NEPA) and the CEQ Regulations Implementing the Procedural Provisions of NEPA. The guidance is designed to provide for better and more informed decision making regarding greenhouse gases and the effects of climate change, consistent with existing NEPA principles. The guidance suggests that federal agencies should consider direct and indirect effects, short-term and long-term effects, and can take a qualitative or a quantitative approach to the analysis. The CEQ provides a reference point of 25,000 MT/yr for requiring a quantitative analysis of GHG emissions. More information is available at www.whitehouse.gov/administration/eop/ceq/initiatives/nepa.

3.5 Local Efforts to Address Climate Change Impacts and Reduce GHG Emissions

Many local agencies, nonprofit organizations, private companies, schools, and individuals in Santa Barbara County and surrounding areas have played a role in working to address climate change impacts and reduce GHG emissions both locally and elsewhere. To describe all of these efforts is beyond the scope of this report.

However, there are two items that closely relate to the District's current effort to adopt a stationary source threshold of significance.

Santa Barbara County's Draft Energy and Climate Action Plan

The Long Range Planning Division of Santa Barbara County's Planning & Development Department has prepared a Draft Energy and Climate Action Plan (ECAP) as the second phase of Santa Barbara County's Climate Action Strategy. The Draft ECAP includes a baseline GHG emissions inventory, a forecast of emissions to both 2020 and 2035, a GHG reduction target of 15% below baseline emissions by 2020, a set of emission reduction measures to meet the target, and a methodology for tracking and reporting emissions in the future. The Draft ECAP was presented to the County and Montecito Planning Commissions in September 2014, but has not yet been finalized. Additional information is available from the County's website at longrange.sbcountyplanning.org/programs/climateactionstrategy/climateaction.php

Santa Barbara County's Efforts to Develop a GHG Threshold for Industrial/Stationary Source Projects

The County of Santa Barbara is the CEQA lead agency for projects undertaken by the County of Santa Barbara, and for projects that are permitted by the County in unincorporated areas. Hence, the County of Santa Barbara is the CEQA lead agency for projects within the unincorporated areas of the County. These projects include many onshore oil and gas facilities, mining and processing facilities, the Tajiguas landfill, large renewable energy projects, wineries, and many other industrial and infrastructure-related facilities. These facilities are also required to be permitted with the District; therefore, the District plays a "responsible agency" role for these projects as they undergo environmental review pursuant to CEQA.

The Energy Division of Santa Barbara County's Planning & Development Department has begun a process to develop a GHG emission thresholds of significance for industrial/stationary source projects that are under their CEQA lead agency jurisdiction. Workshops were held on February 9 and 11, 2015, and the workshop presentations focused on a summary of how GHG thresholds are being applied to other industrial/stationary source projects around the state. The process includes data gathering, preparation of recommendations for consideration by County decision-makers, and public hearing(s) on those recommendations for consideration by the County Planning Commission and Board of Supervisors. As of this publishing, no specific thresholds have been proposed. More information is available at the Energy Division website: www.sbcountyplanning.org/energy.

3.6 California Air Pollution Control Officers Association

The California Air Pollution Control Officers Association (CAPCOA) is a non-profit association of the air pollution control officers from all 35 regional and local air quality agencies throughout California. CAPCOA was formed in 1976 to promote clean air and to provide a forum for sharing of knowledge, experience, and information among the air quality regulatory agencies around the State. CAPCOA has been involved and engaged in Climate Change activities throughout the state, and air districts have collaborated to develop a number of climate change-related documents and programs. More information is available at http://www.capcoa.org

The CAPCOA projects that closely relate to GHG thresholds of significance under CEQA are the following:

CEQA & Climate Change "White Paper"

This paper, titled *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*, was published January, 2008 and was developed to offer guidance to CEQA lead agencies on how to analyze climate change impacts under CEQA. The paper offers several approaches to developing thresholds of significance for GHG impacts. This paper is often referenced in EIRs as providing substantial evidence to support a specific threshold option.

Quantifying Greenhouse Gas Mitigation Measures

The full title of this document is *Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures.* The document was developed in 2010 and provides a basis for assessing the emission reduction measures that can be applied to land use projects to reduce their GHG impact. Many of the mitigation measures and calculation methods in this document were incorporated into the CalEEMod Emissions Estimation Model, discussed below.

CalEEMod Emissions Estimation Model

CAPCOA, under the leadership of South Coast Air Quality Management District, developed this emissions estimation model as a tool to help CEQA lead agencies assess both the criteria pollutant impacts and the GHG emissions associated with new land use projects. This model is an improvement on the previous model that was used, URBEMIS, because it includes a full assessment of direct and indirect GHG emissions, and also includes an option to assess the GHG emission reductions achieved through implementation of various mitigation measures. More information is available at http://www.caleemod.com.

Greenhouse Gas Reduction Exchange (GHG Rx)

The GHG Rx is CAPCOA's most recent statewide collaborative effort. Its mission is to provide a trusted source of high quality California-based greenhouse gas credits to keep investments, jobs, and benefits in-state, through an Exchange with integrity, transparency, low transaction costs, and exceptional customer service. To date, several protocols have been developed and approved for use on the GHG Rx. For more information see www.ghgrx.org.

3.7 Air Districts in California with Adopted GHG Thresholds

Several air districts throughout the state have adopted CEQA GHG significance thresholds. Although air districts have regulated criteria pollutants at stationary sources of air pollution for decades, there has been little guidance from the ARB to local air districts on how to address greenhouse gases under CEQA. Although air districts have authority to regulate greenhouse gases from stationary (non-vehicular) sources, they have only recently begun to do so. The devices and operations that are permitted with local air districts typically emit greenhouse gases as well as criteria pollutants, with GHG emissions mostly in the form of carbon dioxide (CO2) as a result of fuel combustion. Another source of GHG emissions from air district-permitted equipment is fugitive methane (CH4) from landfills and tanks and components at oil and gas production and processing facilities. Because air districts permit these pieces of equipment and have technical knowledge of how the devices work, the amount of fuel burned, and where the emissions occur, they have a solid understanding of the nature and level of GHG emissions at permitted facilities.

The following is a summary of California air districts that have adopted stationary source CEQA significance thresholds for GHGs. For each of these threshold adoption processes, the air districts involved adopted them in a public process and provided justification documents that included evidence to support the threshold approach. The air districts that adopted a GHG threshold based on a "capture rate" approach developed data sets, specific to the air districts' region, that are referenced in the respective justification documents. Santa Barbara District staff have reviewed these justification documents, examined the various datasets involved, and have discussed application of the thresholds with other air district staff in a variety of contexts over the last several years. This was done in order to gain a thorough understanding of the approaches taken, how the datasets were developed, and how the "capture rate" approach was accomplished. References for all of those justification documents are provided in Section 10.0, References, of this report.

- South Coast AQMD – in 2008 this agency adopted a stationary source significance threshold for GHGs of 10,000 MT/yr. The adoption was based on a goal of achieving a 90% capture rate from all new or modified stationary sources.

- Bay Area BAAQMD – in June 2010, this agency adopted revised CEQA Guidelines and Thresholds of Significance for a variety of potential air quality impacts. This adoption included a stationary source significance threshold for GHGs of 10,000 MT/yr, with an estimated capture rate of 95% of GHG emissions from stationary source projects. These thresholds were then challenged in a CEQA lawsuit, and the courts have disallowed the agency from recommending their use to other agencies. It should be noted that the legal challenge was not specifically related to the stationary source GHG threshold of significance.

- San Luis Obispo APCD – in 2012, this agency adopted a stationary source significance threshold for GHGs of 10,000 MT/yr (SLOAPCD, 2012). The adoption was based on a goal to capture a 90% of the GHG emissions from new or modified stationary sources.

- Sacramento Metropolitan AQMD – in 2014, this agency adopted a stationary source significance threshold for GHGs of 10,000 MT/yr (SMAQMD, 2014). The adoption was based on a capture rate of83% of GHG emissions as well as the desire to be consistent with other agencies across the state. It should be noted that although the adopted threshold is 10,000 MT/yr, the adoption also specifies that mitigation for projects that emit greater than 10,000 MT/yr, should be done in accordance with a "21% reduction from No-Action-Taken (NAT)" analysis.

- Mendocino County APCD – in June, 2010 this agency adopted a stationary source significance threshold for GHGs of 10,000 MT/yr.

- San Joaquin Valley APCD – in December, 2009 the San Joaquin Valley APCD adopted a policy that outlines how GHG impacts from projects will be evaluated for significance. They developed an approach that involves an analysis of whether specific industries meet adopted "best performance standards (BPS)" for minimizing GHG emissions. The adoption also included a process whereby projects not subject to a "BPS" could be considered in the context of whether they are consistent with the AB 32 reduction goal of 29% compared to "Business As Usual."[1] When adopting this approach, the agency also acknowledged that projects complying with an adopted GHG reduction plan can be considered less than significant. In 2014, San Joaquin Valley District staff formalized a policy APR-2025, that further clarifies the consideration that a project's participation in the Cap and Trade program leads to the determination that the project impacts are less than significant, since the project is participating in a qualified GHG reduction plan. In adopting this approach, the agency committed to preparing a triennial report that evaluates the effectiveness of the BPS significance determination method, and adjusting the program accordingly if there is an emissions shortfall.

- East Kern APCD – in March, 2012 this agency adopted an addendum to their CEQA Guidelines to address GHG impacts from stationary source projects. Their approach is similar to the approach described above for San Joaquin Valley APCD. However, they specify that sources emitting less than 25,000 MT/yr would have a less than significant impact. They also reference a "20% below Business as Usual" reduction, as opposed to the 29% reduction that was adopted by the San Joaquin Valley APCD in 2009.

- Mojave Desert AQMD and Antelope Valley AQMD – both of these agencies have set a CEQA GHG significance threshold of 100,000 MT/yr, consistent with federal permitting thresholds for GHGs.

[1] A 29% reduction from "Business As Usual" was consistent with the AB 32 reduction goals outlined in the original 2008 AB 32 Scoping Plan, that was being implemented at the time that San Joaquin Valley APCD adopted their GHG threshold.

- San Diego County APCD – in November, 2013 San Diego County's Planning & Development Services, Department of Public Works, finalized and approved several different GHG significance thresholds, depending on the project type. The thresholds document includes a bright line threshold of 10,000 MT/yr for stationary sources, as well as an option to apply a "performance threshold" of 16% reduction from unmitigated project emissions. For the performance threshold, unmitigated GHG emissions are defined as emissions from the proposed project as described in the application, in compliance with any applicable standards. This approach is similar to a "Business as Usual" approach in that the level of mitigation would represent a fair share of what is needed throughout the state to achieve the AB 32 emissions reduction target. For this threshold option, the 16% reduction is considered adequate to avoid a cumulatively considerable contribution to the significant cumulative impact of climate change. However, language in the guidance document indicates that the "performance threshold" was developed to address certain types of projects, and that early coordination with the County is required for applicants that wish to use the "performance threshold" approach.

3.8 CEQA Case Law

District staff is aware of two published CEQA court cases that have involved an AB 32 consistency/percent reduction from Business as Usual type of approach. One of them was also denied for review by the State Supreme Court. These court cases established precedents for how the impact of climate change and greenhouse gas emissions may be addressed under CEQA. These two cases are:

- *Citizens for Responsible Equitable Environmental Development (CREED) v. City of Chula Vista*, replacement of a Target store (4th District Appellate Court; California Supreme Court denied petition for review)
- *Friends of Oroville v. City of Oroville*, replacement of a Walmart store (3rd District Appellate Court)

Both of these court cases gave deference to the CEQA lead agency in utilizing a GHG significance threshold that was tied to consistency with the State's GHG reduction goals through implementation of the AB 32 Scoping Plan. They also provided additional reasoning and guidance for how a "percent reduction from Business as Usual" analysis may be conducted.[2]

[2] This page has been revised since the original March 9, 2015 publishing, see March 17, 2015 Addendum.

4.0 Public Review Process

The District has heard from agencies, industry, and the public that they would like the District to adopt stationary source thresholds to bring certainty into the CEQA and land use approval process. In April, 2014, the District began the public review process for the project of updating its *Environmental Review Guidelines* (or *District Guidelines*). The following steps were taken to ensure that the public was involved and informed in the process:

- A central staff point of contact was designated (Molly Pearson, Planning & Grants Supervisor, 961-8838).
- An exclusive email account (CEQA@sbcapcd.org) and noticing list was developed.
- A dedicated web page was developed at www.ourair.org/greenhouse-gases-and-ceqa.

The public review process has involved extensive outreach and noticing, public workshops, publicly accessible stakeholder meetings, and regular email updates on project activities. Workshop notices were printed in multiple local newspapers and were distributed widely to local agencies, jurisdictions, industry representatives, and other stakeholders. Messages were also delivered via the District's "general news" Twitter account.

4.1 Public Workshops May 6 and 8, 2014

The initial workshops for the *District Guidelines* revisions were conducted on May 6 in Santa Maria at the main library and on May 8, 2014 in Santa Barbara at the main library. At these workshops, District staff provided a presentation that covered the District's responsibilities under CEQA, CEQA requirements for GHG impact assessments, the State's efforts to reduce GHG emissions, the process for the revisions, and a request for input from the public and stakeholders. Following the presentations at both workshops, District staff answered questions relating to the presentation and then opened the workshop up for general comments and questions. Approximately 50 people in total attended these workshops; the presentation and notes from the May workshops are available on the District website, referenced above.

Following the May workshops, two stakeholder meetings were requested and were held at the District offices in Santa Barbara (a meeting with 350 Santa Barbara was held on June 17 and a meeting with Western States Petroleum Association was held on August 7). Notice of the meetings was given in advance via email and the District website, and the meetings were open to the public.

Initial input and comments from the public were requested by August 15, 2014, and the District received comments from a wide range of interested parties, including the League of Women Voters, a private citizen, the Environmental Defense Center & Community Environmental Council, the City of Santa Maria, the California Independent Petroleum Association and the Coastal Operators Group, the Western States Petroleum Association, and Latham & Watkins on behalf of Pacific Coast Energy Company. All of the comments the District received are linked from the District's website. Some commenters urged the

District to adopt a threshold that allowed for "no net increase" in GHG emissions. Other commenters urged the District to adopt a threshold that was based on consistency with the State's efforts to reduce GHG emissions. Still others urged the District to consider a "bright line" threshold.

After reviewing all of the input received, District staff compiled a summary of the information, conducted more research into the options being considered, and developed materials for another public workshop.

4.2 Public Workshop December 3, 2014

Another public workshop was held December 3, 2014 in Santa Barbara. At this workshop, District staff provided a presentation that included a summary of the input received after the May workshops, the threshold options that were provided by the public, and the threshold options that were being considered by the District. Tables were presented that listed the pros and cons for all of the threshold options received from the public. The following four threshold options under consideration were described at the workshop; flow charts and examples of mitigation scenarios were presented and discussed:

- Zero threshold;
- Bright Line threshold of 10,000 MT/yr;
- Performance-Based Measures and Percent Reduction Consistent with AB 32 Goals; and
- Percent Reduction from Business-As-Usual (BAU).

Following the presentation, District staff answered questions related to the presentation and then opened the workshop up for general comments and questions. Many of the workshop attendees actively engaged in discussion surrounding the threshold options, how they would be applied, what the expectations were for mitigation, how a proper "Business As Usual" analysis should be done, and many other topics. Approximately 30 people attended the December workshop; the presentation and notes from the workshop are available on the District website. At the workshop and in the public notices, District staff encouraged participants to review and consider the District's threshold options under consideration, and to provide verbal and/or written comments by January 9, 2015 (this date was later extended to January 16, 2015).

Some of the comments and questions at the workshop focused on the visual flow charts and graphs that were designed to aid in understanding how the thresholds would be applied, and what level of mitigation would be required for different project and threshold scenarios. District staff decided to revise the flow charts and graphs to clarify several points; the revised flow charts and graphs were placed on the District website and a notification email was also sent out on January 2, 2015 to the project noticing list.

Following the December workshop, the District received written comments from the following interested parties: Sierra Club, Community Environmental Council, 350 Santa Barbara, City of Santa

Barbara, Western States Petroleum Association, Environmental Defense Center, Latham & Watkins on behalf of Pacific Coast Energy Company, Santa Barbara County Action Network, and several private citizens. It should be noted that the comments submitted by one citizen included multiple submissions (more than 400) from an online petition. The names of the more than 400 individuals were included, and numerous additional comments from these individuals were included. All of the written comments are posted on the District's website.

Again, the feedback that the District received after the December workshop included a wide range of opinions. Many requested a threshold that resulted in a "zero net increase" in GHG emissions. This was the message conveyed by the 400+ members of the public, who were mostly individuals who did not represent any specific industry or interest group. Industry groups tended to prefer a threshold approach that was tied to the state's GHG reduction goals under AB 32, and established a "Business As Usual" approach to determine significance. None of the commenters expressed an explicit preference for the performance-based measure approach, and the methodology and basis for the approach were questioned.

In order to provide a look at the range of comments submitted by the public, the following is a sampling of the types of comments received during the December 3rd - January 16th comment period.

- A zero-emission threshold should be adopted. This was advocated in the majority of the individual comments received. Reasoning supporting a zero emission threshold included: the scientific consensus that global carbon levels are already unsustainable, thus any additional contribution of CO2 would be a step further from acceptable target levels; there is ample opportunity to fully mitigate emissions increases; the State Lands Commission has utilized a zero threshold, and other reasons.
- Any threshold other than zero, should capture all major new industrial sources of emissions, and be as close to zero as practical.
- The District should identify the bright line threshold for addressing 95% of new project emissions, if the District intends to use a bright line approach.
- A zero threshold would impose a substantial administrative burden on the District without a corresponding climate benefit.
- Options other than zero (percentage reduction from BAU) are convoluted, unprecedented, unworkable, and unacceptable.
- The 10,000 MT threshold is far too high; unacceptable to set an emissions threshold of 10,000 MT.
- The 10,000 bright line does not disclose all project impacts and does not require full mitigation of such impacts.
- Option 3, the performance-based threshold, has issues that make its adoption and application vulnerable. Product Benchmarks developed by ARB for use in the Cap-and-Trade Program do not represent BAU levels of GHG emissions intensity, rendering product benchmarks an inappropriate foundation for a GHG significance threshold. Requiring the additional percentage

reductions below Product Benchmarks is not supportable as those reductions are untethered from ARB's reasoned analysis in the Scoping Plan.

- Option 3, the performance-based measure, hasn't been used by any other air district in the state. This option would lead to an overall increase in GHG emissions, as many large projects would be permitted with minimal mitigation required.
- Option 4 is the best choice subject to further modification and improvement. Option 4 should be refined to be consistent with ARB's concept of BAU (and further supported by substantial evidence). The District's formulation of BAU is inconsistent with ARB's concept of BAU.
- Option 4 would capture most emissions, correlate with State AB 32 goals and State Cap-and-Trade regulations, recognize local CEQA options for programmatic GHG mitigation approaches, and avoid the administrative burden and cost for small sources. Use of the 10,000 MT screening threshold provides consistency with approaches adopted by other jurisdictions and air districts.
- Option 4 allows minimal mitigation of 15.3% or 35% and would likely lead to an increase in overall county GHG emissions if many large projects were approved. Mitigation of 15.3% or 35% is incompatible with E.O. S-21-09.
- The "percentage off" options do not comply with the goal to create a threshold for CEQA significance. Regardless of the percent reduction, if the result of a project is a large increase in pollution, the project is significant.
- There is no current legislation or regulation supporting a post 2020 percent reduction; the percent reduction should be limited to the 15.3 % reduction supported by the updated Scoping Plan and current regulations.
- If a percent reduction approach is used it must be based on 2050 targets; a recent Court of Appeals decision in *Cleveland National Forest Foundation v. SANDAG* supports this.
- Mitigation that meets AB 32 protocols and requirements, regardless of location, must be allowed.
- Projects subject to Cap-and-Trade should be deemed less than significant and no further mitigated should be required by the District.
- District should set a scientifically-based threshold and protect the people and environment of the county.
- The District should consider the potential benefits of waiting for relevant developments to play out, such as the *CBD v. CDFW* Supreme Court decision, and Senate Bill 32.

4.3 Activities Since December 3 Workshop

After the end of the comment submittal period, District staff reviewed the input, responded to information and data requests, and further refined the options being considered. Because of the many questions received related to GHG mitigation, the District decided to prepare a separate GHG mitigation "white paper" that describes the many options and possibilities available for GHG mitigation. As of the publishing of this report, that paper is currently under development.

District staff refined the GHG thresholds options being considered down to two options – one being a "Bright Line" Threshold of 10,000 MT/yr, and the other being an "AB 32 Consistency" threshold, with a 10,000 MT/yr screening threshold and consideration of the Cap and Trade Program as a qualified GHG reduction plan. The reasoning for carrying these two options forward, the basis for both thresholds, and an in-depth discussion of how both thresholds would be implemented, are included in Section 6.0 of this staff report.

5.0 GHG Inventory and Data for SB County Stationary Sources

5.1 Background

The Santa Barbara County Air Pollution Control District maintains a complete inventory of air emissions within Santa Barbara County. This inventory is principally used to assist in the production of the District's Clean Air Plans, and during assessment of emission fees. Recently, the inventory was expanded to include greenhouse gas (GHG) emissions. Overall, three GHG data sets were developed, which covered the 2011, 2012, and 2013 inventory years. Since minimal variation was noted between the three data sets (less than approximately 10% differences), the following discussion pertains solely to the 2013 data set.

5.2 Analysis

The District's GHG inventory data sets are primarily based on data acquired through required facility-specific annual reporting. Using this data, calculations were performed to determine a particular facility's contribution to the Santa Barbara County (County) GHG inventory. In general, most devices considered are combustion sources and, to a lesser degree, fugitive components.

During review of all three data sets, the County's stationary GHG sources were categorized. Through this process, it was determined that the County contains numerous small sources, and several large sources. During 2013, sources with emissions of less than 1,000 MT CO_2e (347 total sources within this category) accounted for approximately 1.4% of the County's total GHG inventory. Additionally, sources with emissions greater than 25,000 MT CO_2e (7 total sources within this category) accounted for approximately 74.1% of the County's total GHG inventory. Summary information on the amount of sources within each category is provided in Table 5-1.

Figures 5-1 and 5-2 provide additional information, and a complete County-wide breakdown of the 2013 stationary source GHG inventory. Additionally, each figure includes a brief description of the types of sources that are within each of these categories.

Figure 5-1

Santa Barbara County, CA
Number of Sources per GHG Bracket (2013)

Typical Source Category by GHG Bracket:

<1K MT CO2e - Emergency Standby Generators, Small Oil and Gas Extraction Facilities, Additional Miscellaneous Small Sources

1K-5K MT CO2e - Mid-size Medical Facilities, Federal Justice Facilities, Oil and Gas Extraction Facilities, Mineral Extraction/Processing Facilities, Educational Facilities Miscellaneous Manufacturing Facilities, Mid-size Hotels

5K-10K MT CO2e - Large Medical Facilities, Oil and Gas Extraction/Refining Facilities, Mineral Extraction/Processing Facilities, Mid-size Educational Facilities, Electronics Manufacturing Facilities, Large Hotels

> 10K MT CO2e - Large Oil and Gas Extraction Facilities, Large Landfills, Large Mineral Extraction/Processing Facilities, National Defense Facilities, Large Educational Facilities

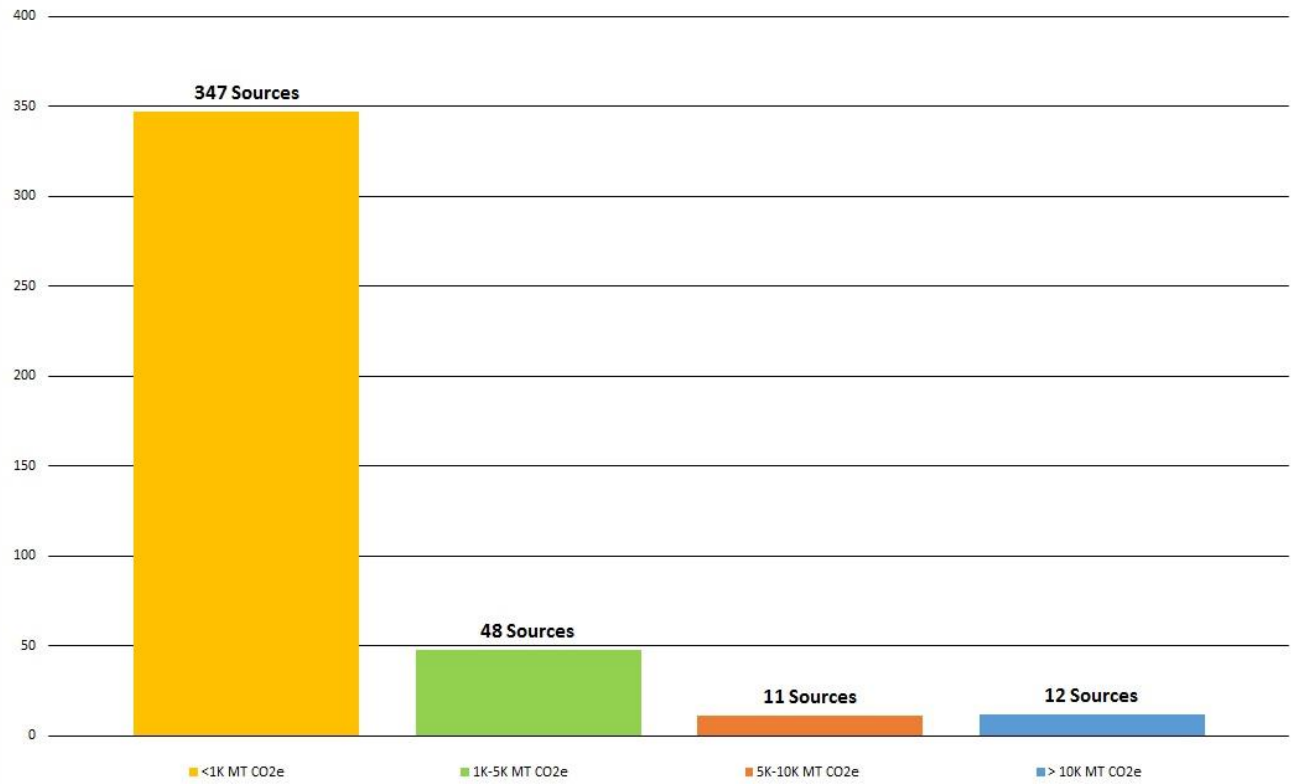


Figure 5-2

Santa Barbara County, CA
Total Emissions (MT/yr) by Source GHG Bracket (2013)

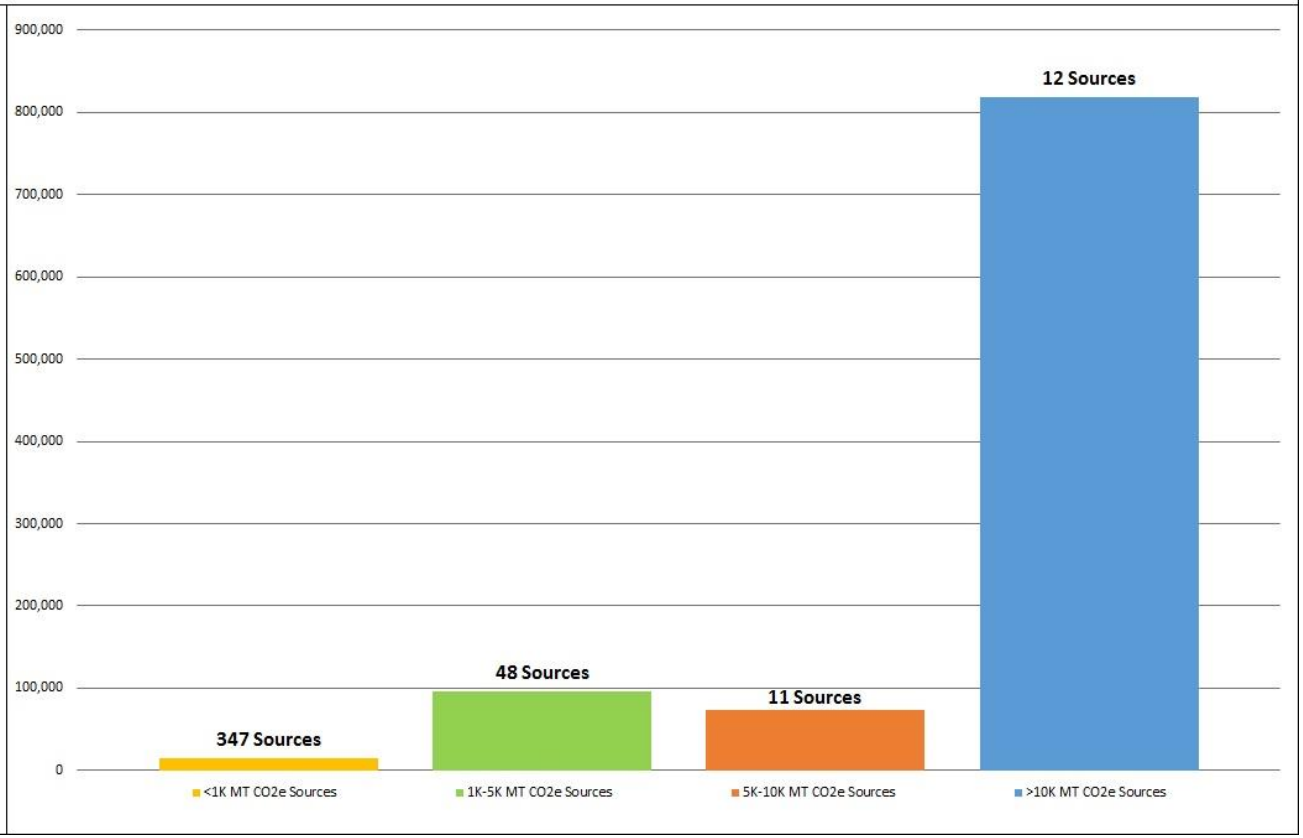
Typical Source Category by GHG Bracket:

<1K MT CO2e - Emergency Standby Generators, Small Oil and Gas Extraction Facilities, Additional Miscellaneous Small Sources

1K-5K MT CO2e - Mid-size Medical Facilities, Federal Justice Facilities, Oil and Gas Extraction Facilities, Mineral Extraction/Processing Facilities, Educational Facilities Miscellaneous Manufacturing Facilities, Mid-size Hotels

5K-10K MT CO2e - Large Medical Facilities, Oil and Gas Extraction/Refining Facilities, Mineral Extraction/Processing Facilities, Mid-size Educational Facilities, Electronics Manufacturing Facilities, Large Hotels

> 10K MT CO2e - Large Oil and Gas Extraction Facilities, Large Landfills, Large Mineral Extraction/Processing Facilities, National Defense Facilities, Large Educational Facilities



As discussed in Sections 3.0 and 6.0 of this staff report, several other air districts have developed bright line GHG thresholds based on a "capture rate" approach. The goal of this approach is to capture the largest GHG emitters and require environmental review and mitigation for those sources, and also to avoid burdensome environmental review and mitigation for smaller sources that do not have a large potential for mitigation.

In order to employ the "capture rate" approach, the air districts developed their own datasets of stationary source GHG emissions. In one instance, the dataset represented the permit actions that were done during a certain period of time (Bay Area AQMD used this approach). Other datasets represented the stationary source GHG emissions inventory for a specific year or set of years (for example, South Coast AQMD used this approach). A table summarizing the characteristics of each of the air districts' datasets is provided in Section 6.1, Table 6-1, of this report.

In 2010, Santa Barbara County APCD staff compiled two different datasets for stationary source GHG emissions. One of the datasets represented the GHG emissions from permit applications processed between 2005 and June, 2010. The other dataset was the actual GHG emissions that occurred at District-permitted stationary sources in 2007. The "permit applications" dataset showed a great deal of variation from year-to-year, and may not represent the breadth and the scale of projects that could potentially be proposed. In effect, it is a "snapshot" of past permit application activity that does not necessarily provide a reliable prediction of what is to come. The stationary source "actual emissions" dataset included a broader scope of projects types and sizes, and included projects of a larger size that could potentially be proposed in Santa Barbara County. Since that time period, the District has compiled stationary source "actual emissions" inventories for additional years, including 2011, 2012, and 2013.

The "actual emissions" stationary source GHG inventories for Santa Barbara County vary somewhat from year to year, but do not vary widely. The first stationary source GHG emission inventory that the District prepared for the 2010 Clean Air Plan, for inventory year 2007, totaled 1,005,564 MT and included permitted stationary sources offshore in the Outer Continental Shelf (OCS). Other GHG inventory years have varied by less than 10% from that value, and the 2013 stationary source GHG inventory is 1,001,607 MT. Because the "actual emissions" inventory includes a broader range of stationary source categories, includes the full range of all projects including larger-sized projects, and does not vary widely from year to year, this was the inventory that was chosen to be used as the dataset when examining the "capture rate" for Santa Barbara County stationary sources.

Utilizing the 2013 stationary source data set for Santa Barbara County, District staff determined the amount of emissions that would be captured, on a mass and a percent basis, for five numeric threshold levels ranging from zero to 25,000 MT. Staff also examined, for five different capture rates ranging from 80% to 98%, the mass emissions level that would achieve the desired capture rate. Please refer to Table 5-1 for calculation results.

Table 5-1: Hypothetical Bright-Line Significance Thresholds[3]

Threshold Level (MT CO2e)	*Percentage of Emissions Captured*	*Number of Sources Within Santa Barbara County*		*Total County-Wide Emissions Within Category*
		Above Threshold	*Below Threshold*	
Zero	100.0%	418	0	1,001,607
1,000	98.6%	71	347	987,481
5,000	89.1%	23	395	891,978
10,000	82.4%	12	406	818,506
25,000	74.1%	7	411	730,578

Percent Capture Rate	*Mass Emissions Level (MT CO2e)*	*Number of Sources Within Santa Barbara County*		*Total Emissions Within Category*
		Above Threshold	*Below Threshold*	
80% Capture	16,315	8	410	750,985
85% Capture	7,422	17	401	858,126
90% Capture	3,974	25	393	900,130
95% Capture	1,754	44	374	950,701
98% Capture	1,149	65	353	981,139
100% Capture	Zero	418	0	1,001,607

Note:
All values are approximate.

5.3 Accuracy of the Emission Inventory

In general, the emission inventory data for the larger sources is high quality. These sources typically meter all of the fuel they burn and calculate GHG emissions from direct measurements of fuel use. District permits require regular calibrations of meters and detailed recordkeeping and reporting to ensure the data is accurate.

Smaller sources typically have less stringent monitoring, recordkeeping, and reporting requirements, so there is greater uncertainty in their reported emissions. Some of these sources do not directly meter fuel use, but instead report emissions assuming they operate full time throughout the year. This means that the relative contribution of smaller sources is overestimated by the emission inventory and the actual emissions from sources less than 10,000 Metric tons per year is less than what is reported in the inventory.

[3] This figure has been revised since the original March 9, 2015 publishing, see April 9, 2015 Addendum.

6.0 Proposed Options for Consideration

At the December 3, 2014 public workshop, the District provided four options under consideration as greenhouse gas significance thresholds. Flow charts and examples of emission reduction, or mitigation, scenarios were presented and discussed for these options:

- Zero Threshold;
- Bright Line Threshold of 10,000 metric tons per year;
- Performance-Based Measures and Percent Reduction Consistent with Goals of AB 32, the California Global Warming Solutions Act; and
- Percent Reduction from Business-As-Usual.

After the December workshop, District staff reviewed public comment, and did additional research and analysis of the threshold options. Two of the options listed above were selected for further consideration; the "Zero Threshold" and the "Performance-Based Measures" options were not selected. The "Zero Threshold" option had wide support, but the District's analysis determined it would create an administrative burden in implementation. For the "Performance-Based Measures" option, a concept developed by District staff that has not been implemented before, feedback received in public comment pointed out various flaws and obstacles to this threshold approach..

The "Zero Threshold" option, described more fully in Section 4.0, had wide support from the public-at-large and from several organizations. The concept of "zero net emissions" as a GHG threshold of significance is supported by science and helps to achieve GHG reductions by requiring all new projects to essentially be carbon neutral. In addition, processes and controls implemented to achieve GHG reductions down to zero often have co-benefits in reductions of air pollutants that are harmful to human health.

However, the zero threshold approach is challenging to implement when applied to small sources of greenhouse gas emissions, and would create an administrative burden. As indicated in Section 5.0, Table 5-1, District-permitted sources that emit between zero and 10,000 MT/yr of GHGs include numerous small sources (347 sources, or 83% of the GHG-emitting sources, emit less than 1,000 MT/yr). Many of these sources are small businesses and public entities. This would mean additional agency staff time for permitting and to enforce the mitigation requirements, review monitoring reports, verify that mitigation is surrendered on an annual basis, and verify that the mitigation met required standards as laid out in permit conditions. These requirements would be a financial and administrative burden not only to the project proponents, but also to the agencies tasked with enforcing the requirements. It should be noted that these issues with the zero threshold approach were also identified and discussed in the CAPCOA *CEQA and Climate Change* white paper (CAPCOA, 2008).

In addition, these projects would be subject to environmental review requirements under CEQA unless they could demonstrate that their emissions were fully mitigated at the time of project application

submittal. Additional environmental review can be very costly for the project applicant, as they may be required to pay all related consultant fees and CEQA lead agency fees and/or staff time. If large numbers of small GHG-emitting projects are required to go through more extensive environmental review, the CEQA lead agency may need to increase fees in order to hire more staff. Again, this adds to the agency's staffing burden as well as to the project proponent's financial burden.

As is demonstrated visually by the bar charts in Figure 5-2, the potential for emission reductions in the "less than 10,000 MT/yr" stationary source category is, overall, very small in comparison to the mitigation potential for larger stationary source projects in the "greater than 10,000 MT/yr" category represented by the blue bar. There are a total of approximately 400 sources in the "less than 10,000 MT/yr" category that would have to individually go through the financial and administrative burdens mentioned previously. Because there is such a small amount of emissions in the "less than 10,000 MT/yr" stationary source category, as shown in Figure 5-2, there is very little opportunity for additional mitigation from these sources. To demonstrate this mathematically, there are a total of 406 sources in this category, with a total of 183,101 MT/yr GHG emissions, resulting in an average mitigation potential of 450 MT/yr per stationary source. Each project would potentially require mitigation funding, additional environmental review, and mitigation monitoring and reporting to achieve that small amount of mitigation. In the "greater than 10,000 MT/yr" stationary source category, there are a total of 12 stationary sources in this category, with a total of 818,506 MT/yr GHG emissions, resulting in an average mitigation potential of 68,208 MT/yr per stationary source. The additional burden of mitigation funding, additional environmental review, and mitigation monitoring and reporting is much more readily justified when there is a much greater potential to achieve GHG reductions to mitigate the impact. In comparison to a non-zero bright line threshold, a "zero threshold" option would not achieve substantial GHG emissions reductions from the additional small projects that would be subject to mitigation, but would result in an administrative burden for project proponents and agencies.

The District, in implementing its core programs, in partnering with other agencies and community partners, and in reviewing and commenting on new development projects, will continue to emphasize the need to design projects to be GHG-efficient and sustainable. It is incumbent on our agency to encourage and nurture projects in our community that work towards the goals of clean air and climate protection. Additional discussion of local GHG mitigation projects and concepts is provided in Section 7.0 (Mitigation) of this report.

The "Performance-Based Measures" threshold option was an option that District staff developed that would require projects to demonstrate that they were more GHG-efficient than the statewide benchmark for the industry (the Cap and Trade benchmark). This option was developed by District staff and has not, to our knowledge been applied elsewhere. The feedback received in public comment pointed out various flaws and obstacles to this threshold approach. Therefore, the District decided not to move the threshold approach forward.

This section provides a discussion of the two options that are being presented for consideration – the "Bright Line Threshold" and the "AB 32 Consistency Threshold." Descriptions of both options include:

- Summary of the basis for the threshold approach;
- Applicable sections of CEQA;
- Description of the threshold and how it is applied; and
- Other substantial evidence in support of the threshold option.

The information that the District developed as part of the public review process and the extensive input from the public, further described in Section 4.0 of this report, provides additional information relative to the two options.

It should be noted that under all threshold scenarios, a project's GHG emissions (direct and indirect) are considered to be cumulative in nature. This is because any GHG emissions contribute to the cumulative impact of global climate change. A project's GHG emissions are not considered to be a project-specific impact that directly affects the health of the environment and the community immediately adjacent to the project site. However, reducing GHG emissions in some cases may produce co-benefits in reductions of other air pollutants.

6.1 Bright Line Threshold of 10,000 MT/yr

This section describes the basis for, and the implementation of, the "Bright Line Threshold of 10,000 metric tons per year, or MT/yr" option. This approach establishes a strictly numeric emissions threshold (defined amount of MT/yr) and requires mitigation to below the numeric threshold to make a finding of less than significant. In other words, projects with emissions over that numeric threshold would need to reduce emissions to below that threshold for a less than significant finding.

The CAPCOA *CEQA & Climate Change* white paper (CAPCOA, 2008) in Chapter 7 discusses the concept of establishing a "non-zero" threshold that minimizes the expenditure of resources on projects that do not yield much in terms of GHG reductions. This concept is based on the idea that an individual project being reviewed under CEQA is assessed to determine whether the project's GHG emissions represent a "cumulatively considerable" contribution to the impact of global climate change. The paper explores a range of conceptual approaches that could be used to develop GHG significance criteria, including numerous approaches that aim to capture and require mitigation of the largest GHG emitters, and exclude the smaller GHG emitters that will not yield much in terms of GHG reductions. The "Bright Line Threshold of 10,000 MT/yr follows the same basic concept.

6.1.1 Basis for Bright Line of 10,000 MT/yr Threshold

Policy Objectives

Establishing a bright line threshold is based on several objectives.

1. To capture the projects with the higher emissions and require them to proceed with environmental review and mitigation, while allowing projects with lower emissions to avoid extensive environmental review and mitigation. This objective is designed to maximize the mitigation or emission-reduction potential that exists with larger sources, and to minimize the administrative burden on smaller GHG sources. Requiring relatively small emitting sources to monitor, report, and mitigate their contribution to the impact towards climate change may have high costs, and will yield very small reductions in the impact overall.

2. To establish a threshold that is easy for District staff, other agency staff, and project proponents to understand and implement.

3. To be consistent with many other air districts in the State of California.

4. To establish a threshold that is supported by substantial evidence and does not require excessive costs to the implementing agency and the project applicant.

5. To identify a level that encourages project applicants to design their projects in the most energy- and GHG-efficient way possible, with the incentive of avoiding potentially burdensome and costly environmental review.

Applicable CEQA Guidelines Sections

The following sections of the CEQA Guidelines are pertinent to this threshold option, and provide specific language that inform and support this type of approach:

Section 15064.4, Determining the Significance of Impacts from Greenhouse Gas Emissions

This section describes that a lead agency

> *"…should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project…"*(15064.4(a)).

The bright line threshold approach requires a scientific, fact-based approach to estimating the amount of greenhouse gas emissions, both direct and indirect, resulting from a project.

> *"The lead agency has discretion to select the model or methodology it considers most appropriate provided it supports its decision with substantial evidence"* (15064.4(a)(1)).

The methodology to implement a bright line threshold of 10,000 MT/yr, as described in this report and elsewhere in the record, has been carefully considered by District staff and has already been implemented by many agencies around the state and in Santa Barbara County.

> *"A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:*

> *(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;*
>
> *(2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project."* (15064.4(b)).

The bright line threshold approach involves a comprehensive assessment of a project's existing, or "baseline" GHG emissions (if applicable), as well as the proposed project's additional GHG emissions that are expected to occur as a result of project approval and implementation. The bright line threshold approach is a straightforward assessment that involves comparing the proposed project's GHG emissions to a numeric threshold of significance.

Section 15064.7, Thresholds of Significance

The public review process that is described in Section 4.0 (Public Review Process) of this report was conducted with attention and adherence to this section of the CEQA Guidelines, as described below:

> *"Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects."* (15064.7(a)).

The bright line threshold of 10,000 MT/yr was developed based on extensive research and review of the impact itself as well as other agency documents, actions, policies, and guidance. A detailed discussion of the Santa Barbara County GHG emissions data is provided in Section 5.0 of this report; a discussion of Santa Barbara County data, as well as data from other agencies, is provided further along in this section of the report.

> *Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence."*(15064.7(b)).

The bright line threshold of 10,000 MT/yr was developed through a public review process as discussed in Section 4.0. The process has involved, and will continue to involve, extensive input every step of the way. The threshold will eventually be adopted by resolution of the Air Pollution Control District Board. This report, as well as additional documentation in the record, supports the adoption of the threshold and provides evidence that could be used in support of the threshold.

> *When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.* (15064.7(c)).

As described in Section 3.0 (Background) of this report, several other agencies have adopted and implemented a bright line threshold of 10,000 MT/yr, and those threshold proposals were supported by substantial evidence. Each of the air districts that adopted bright line thresholds of 10,000 MT/yr adopted the thresholds in a public process and provided justification documents that included evidence to support the threshold approach. The air districts that adopted a GHG threshold based on a "capture rate" approach developed data sets, specific to the air districts' region, that are referenced in the respective justification documents. Santa Barbara District staff have reviewed these justification

documents, examined the various datasets involved, and have discussed application of the thresholds with other air district staff in a variety of contexts over the last several years. This was done in order to gain a thorough understanding of the approaches taken, how the datasets were developed, and how the "capture rate" approach was done. References for all of those justification documents are provided in Section 10.0, References, of this report.

The District and other Santa Barbara County agencies have applied a bright line threshold of 10,000 MT/yr. In what was a "case by case" determination, the County of Santa Barbara used a bright line 10,000 MT/yr threshold in an EIR for the *Santa Maria Energy Oil Drilling and Production Plan and Laguna County Sanitation District Phase 3 Recycled Water Pipeline* (County of Santa Barbara, 2013). As a CEQA responsible agency for this project, the District provided consultation and review of the air quality impact analysis, including climate change/greenhouse gas impacts. The portion of the air quality section of this EIR that provides information on GHG significance thresholds is included as a technical appendix to this report and provides additional information and evidence in support of a bright line 10,000 MT/yr threshold.

District staff is not aware of any legal challenges to projects that have used a bright line threshold of 10,000 MT/yr for greenhouse gas impacts.[4]

[4] The Bay Area Air Quality Management District revised its CEQA Guidelines in June, 2010 and those revisions were the subject of a lawsuit that is not settled. For the status of that case, please refer to http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES.aspx.

Data to Support 10,000 MT/yr as the Appropriate Level for a Bright Line Threshold

As described in Section 3.0 (Background) of this report, several air districts developed and analyzed their own data sets of stationary source GHG emissions to support the finding that 10,000 MT/yr of GHG emissions is an appropriate threshold level. The table below shows the variety of data sets and the capture rates achieved by air districts using this stationary source threshold. "Capture of Emissions" refers to the percentage of the total GHG emissions of stationary sources that are covered, or "captured" by using the 10,000 MT/yr threshold. "Capture of Permitted Sources" refers to the number of stationary sources of air pollution that are captured using this threshold, and reflects the fact that in many areas the majority of GHG emissions from stationary sources are contributed by a small number of sources.

Table 6-1

Bright Line 10,000 MT/yr Threshold Capture Analysis Comparison by Air District

District	*Inventory Used*	*Fuel Types*	*GHG Pollutants*	*Indirect Emissions Included?*	*Capture of Emissions*	*Capture of Permitted Sources*
Sacramento Metropolitan AQMD	2011 GHG emissions inventory for combustion sources from active stationary source permits	All	All	No	83%	73 out of 4,211 total permitted sources, or 2%
San Diego County APCD	2006-2009 GHG emissions inventory for combustion sources from permitted facilities	All	CO2 and CH4 only	No	91.3%	28 out of 925 sources reporting use (≈ 3%)
San Luis Obispo County APCD	2009 GHG emissions inventory for combustion sources from all permitted facilities	All	CO2 only	No	94%	2%
Bay Area AQMD	Average of 2005, 2006 and 2007 emissions inventory of combustion sources for all permit applications	All	CO2 only	No	95%	10%
South Coast AQMD	2006-2007 reported annual natural gas consumption for permitted facilities	Natural gas only	CO2 only	No	90%	143 out of 1,297 reporting sources; or 11%
Santa Barbara County APCD	2013 emission inventory of combustion sources (including fugitive methane emissions from oil & gas facilities) for all permit applications	All	All	No	82.4%	12 out of 418 total permitted sources, or ≈ 3%

As discussed in Section 5.0 (GHG Inventory and Data for SB County Stationary Sources) of this report, Santa Barbara County's stationary source GHG emissions are estimated to be approximately 1 million MT CO2e/yr, with some variation year to year. Of the 418 stationary sources included in the 2013 inventory year, which is a representative inventory year for Santa Barbara County, 12 of the sources emitted more than 10,000 MT and represented approximately 82.4% of the total emissions (818,505 MT).

If the threshold were lowered to 5,000 MT CO2e/yr, this would capture approximately 11 more sources, but would only capture 73,472 MT more of GHG emissions (89.1% of County-wide emissions). As described earlier in Section 6.0, and also as demonstrated in Figures 5-1 and 5-2, lower threshold levels do capture a larger number of sources within the inventory. However, these smaller sources have a very low amount of potential for GHG mitigation on a per-project basis, because their GHG emissions are very small as compared to the entire inventory. It should also be noted that Santa Barbara County's stationary source inventory is relatively small in comparison to other larger air districts in California. This is demonstrated in the Santa Maria Energy EIR in Figure 5.1-1a at Page 5.1-8, which shows the three largest air districts in California all having stationary source GHG emission inventories between 20 and 30 million MT/yr, as compared to Santa Barbara County's inventory of approximately 1 million MT/yr (County of Santa Barbara, 2013).

As mentioned in Section 3.3 of this report, the ARB implements a Mandatory Reporting Regulation that requires annual verification and reporting of GHG emissions from industrial facilities statewide. Some industrial sources are required to report at any emissions level; others are required to report if their combustion source GHG emissions exceed 10,000 MT/yr. These reporting requirements and thresholds were designed similarly to capture the large GHG emitters in the state.

Based on this information, and the fact that many air districts and agencies around the state have already established and implemented a 10,000 MT/yr threshold level, it is possible that establishing a lower level, such as 5,000 MT/yr or 1,000 MT/yr, would place Santa Barbara County sources at an economic disadvantage as compared to other sources in the State of California. A lower threshold would also impose an administrative and economic burden on small sources and on land use agencies, with diminishing potential to reduce the impact of GHG emissions and climate change. Therefore, consistent with the District's stated policy objectives, an emissions level of 10,000 MT/yr is recommended for consideration as a bright line threshold level.

6.1.2 Implementation of a Bright Line 10,000 MT/yr Threshold

The following section describes the "mechanics" of the bright line threshold and provides some examples of how the threshold would be applied to a few different project scenarios.

Threshold Mechanics

The bright line threshold establishes a strictly numeric emissions threshold (defined amount of MTCO2e/yr) and requires mitigation to below the numeric threshold to make a finding of less than significant. This approach is simple to understand and to convey to others. It has been used on a case-by-case basis by several agencies in Santa Barbara County, and has been used by a variety of agencies in the State of California. The flow chart in Figure 6-1 displays how the threshold is applied to projects.

Using this threshold approach, projects that are exempt from CEQA do not require any additional analysis of GHG emissions/climate change impacts. Projects that are subject to environmental review under CEQA should undergo a quantitative analysis to determine the level of GHG emissions associated with the proposed project, including both direct GHG emissions (onsite stationary sources, including point and area sources and fugitive emissions), and indirect GHG emissions (including emissions associated with transportation sources attributed to the project, emissions from electricity use, water conveyance, wastewater conveyance and treatment, and waste disposal) as applicable to the project proposal and the discretionary decision.

Emission factors and quantification tools (such as the CalEEMod emissions estimation model) are readily available to help project proponents and CEQA lead agencies conduct this assessment. The District has developed a guidance document titled, *Scope and Content of Air Quality Sections in Environmental Documents*, which provides extensive information and guidance for quantifying project GHG emissions levels. This document is available online at the District's website, www.ourair.org/landuse.

It should be noted that during the District's public review process for these *Environmental Review Guidelines* revisions, District staff conveyed that the agency infrequently plays the role of a CEQA lead agency, and when it does, it may be for a discretionary action with a narrower scope, such as permitting modified equipment at an existing source, or permitting an individual piece of equipment at a new or existing commercial or institutional facility. Under such circumstances, the District's lead agency permit action may not involve the approval of any indirect GHG sources such as transportation, electricity, or water conveyance GHG emissions sources.

Much more frequently, the District plays a responsible agency role in a project where a more comprehensive land use decision is being made by an agency with jurisdiction over land use decisions that involve direct and indirect GHG emissions sources. In all cases, all GHG emissions sources related to the discretionary action, including direct and indirect emissions, should be quantified and compared to the adopted threshold as required by CEQA (CEQA Guidelines Section 15064(d)).

If the project's total emissions are below the 10,000 MT/yr threshold level, no additional environmental review is required. The lead agency can proceed with a determination that the project is exempt for this impact area, and proceed with a Notice of Exemption as long as no significant impacts exist in other issue areas.

If the project's total emissions exceed the bright line threshold level of 10,000 MT/yr, this triggers the need for additional environmental review and mitigation. If the project proponent can demonstrate that GHG emissions can be reduced to a level that is less than 10,000 MT/yr through project design elements and/or mitigation, then the project may proceed with a Negative Declaration or a Mitigated Negative Declaration. The CEQA lead agency must condition the project to ensure that the 10,000 MT/yr threshold level is not exceeded for the duration of the project.

During the public review process, a number of commenters expressed concern about the concept of projects being approved at a level that is just below the 10,000 MT/yr threshold level (for example, 9000 MT), and then having another project proposed sometime in the future that adds more GHG emissions (for example, another 9,000 MT) at the same stationary source. This concept, sometimes called project "segmentation" or "piecemealing", is a legitimate concern that warrants careful attention on the part of the CEQA lead agency. The project description for each land use approval should clearly identify all

reasonably foreseeable consequences of the proposed project (CEQA Guidelines Section 15378(a). Therefore, the project description should address all operational phases of the project, their duration, and the specific equipment and emissions associated with each operational phase, to capture the whole of the project. Another important point is that the ARB GHG Mandatory Reporting Regulation and the Cap and Trade Regulation require that emissions for stationary sources be reported and be subject to regulation cumulatively for all devices at a "facility". This avoids the concept of "piecemealing" for sources that are subject to these regulations. The regulations specifically define oil and gas production facilities as all of the equipment within the "hyrdrocarbon basin" that is under common ownership or common control (CARB Cap and Trade Regulation, Section 95802(a)(144)).

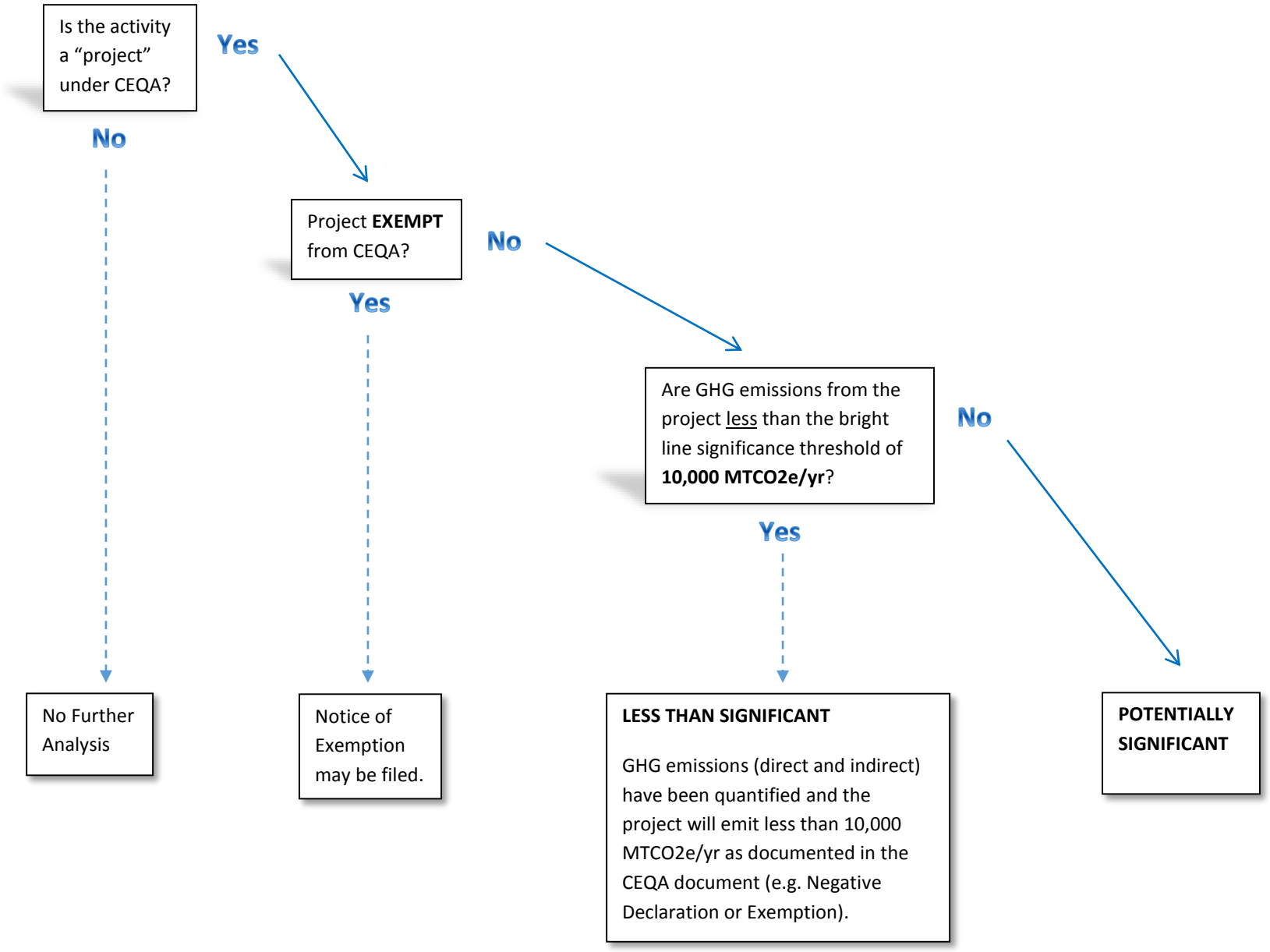
Mitigation options for greenhouse gas/climate change impacts are discussed in more detail in Section 7.0 (Mitigation) of this report.

If the project's total emissions exceed the bright line threshold level of 10,000 MT/yr and the project cannot be redesigned or mitigated to reduce emissions below the bright line level, then the project's GHG impact is considered to be potentially significant, and the lead agency must proceed with environmental review in the form of an Environmental Impact Report, or EIR. During the EIR process, the project is required to demonstrate that the impact will be mitigated to a level that is less than significant – which, in this case, would be to a level that is less than 10,000 MT/yr.

For projects subject to the Cap and Trade regulation (emitting greater than 25,000 MT/yr), the purchased allowances, that are above and beyond the CARB freely allocated allowances under the Cap and Trade regulation, would count towards CEQA mitigation. This is consistent with what was done for the Santa Maria Energy project EIR (County of Santa Barbara, 2013). For a visual representation of how this would work in practice, see Figure 6-3. Compliance obligations above and beyond what is freely allocated by CARB according to the benchmark calculation and the "industry assistance" factors in the Cap and Trade program represent a GHG reduction (i.e., environmental benefit) through one of the following mechanisms:

a) Verified GHG emission offset projects done under a CARB approved protocol;
b) Reductions in emissions that would have occurred elsewhere (i.e., purchased or acquired from another cap and trade source); or
c) Allowances purchased at auction; auction revenues fund GHG reduction projects statewide.

Figure 6-1 Flow Chart for "Bright Line 10,000 MT/yr" Threshold Option



Examples of Projects Applying a Bright Line Threshold of 10,000 MT/yr

This section provides examples of different scenarios for projects subject to a bright line threshold of 10,000 MT/yr. It should be noted that although mitigation amounts are discussed, mitigation is discussed in more detail in Section 7.0 (Mitigation) of this report. These examples are included to provide an understanding of the potential for climate change mitigation under the different threshold scenarios. In each of the scenarios, it is assumed that there are no other issue areas that trigger additional environmental review or mitigation under CEQA.

Three examples are provided:

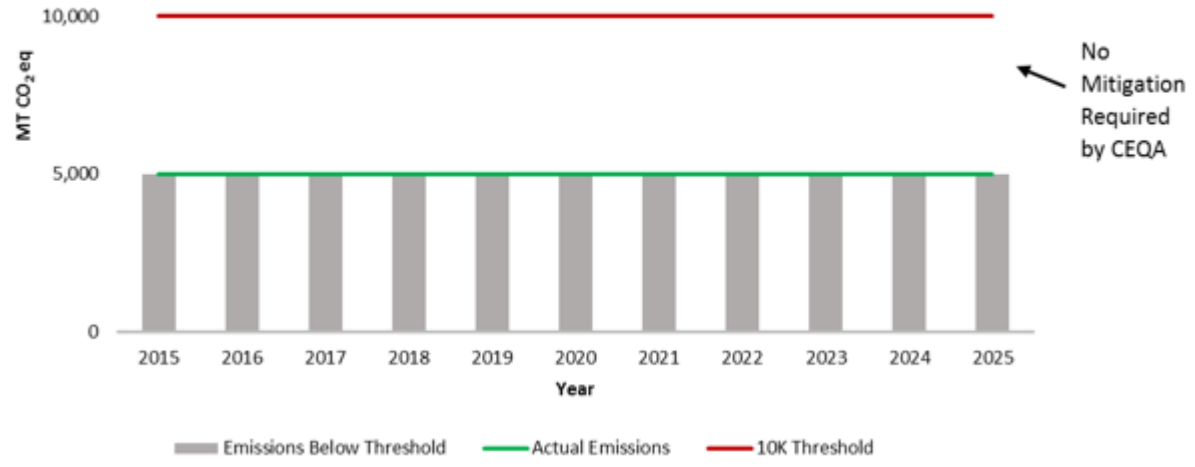
1. A project that emits less than 10,000 MT/yr and is considered less than significant.
2. A project that emits greater than 10,000 MT/yr, but less than 25,000 MT/yr. This project is not subject to the Cap and Trade program, but is considered significant and subject to mitigation requirements. The project is required to mitigate emissions down to the bright line level of 10,000 MT/yr.
3. A project that emits greater than 25,000 MT/yr and is considered significant and subject to mitigation requirements. The project is required to mitigate emissions down to the bright line level of 10,000 MT/yr, and is also subject to the Cap and Trade program.

Example 1:

In the first example, a project's emissions are below the bright line threshold. The project's direct and indirect emissions have been quantified and determined to be less than 10,000 MT/yr. No mitigation is required. The CEQA lead agency may proceed with project approval and post a Notice of Exemption under CEQA.

Figure 6-2

Example 1 – Project Not Subject to Mitigation with a Bright Line 10,000 MT/yr Threshold



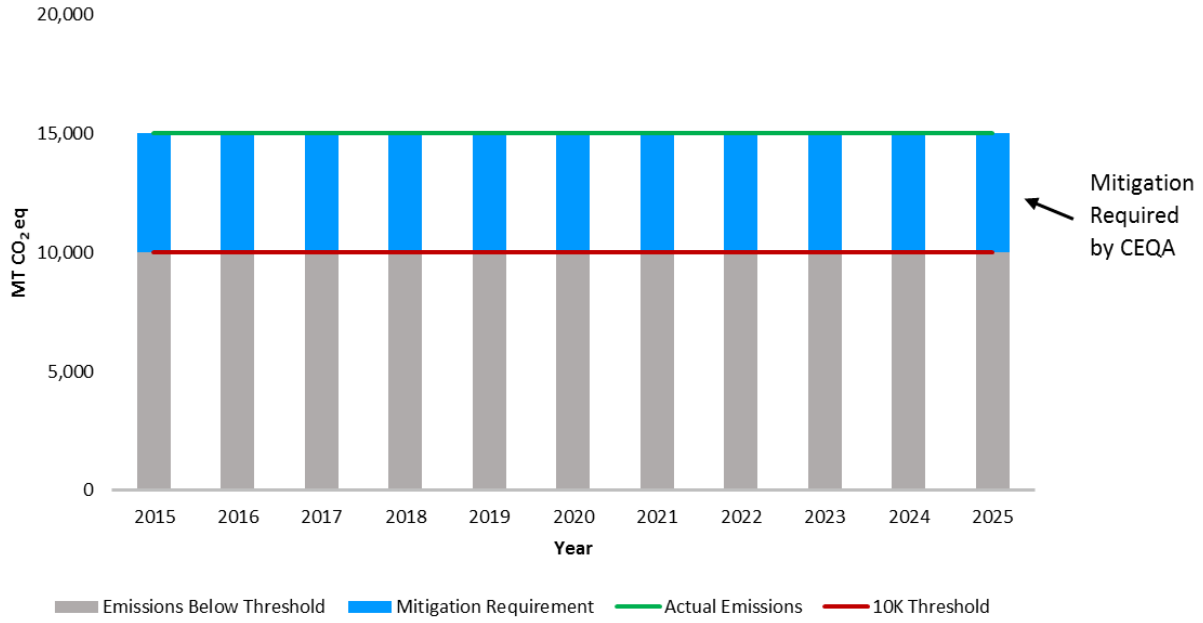
Example 2:

In the second example, a project's emissions are above the bright line threshold. The project's direct and indirect emissions have been quantified and determined to be 15,000 MT/yr, and the project life is expected to be 30 years. The figure below indicates the amount of mitigation that will be required, for the duration of the project's operation, to lead to a "less than significant with mitigation incorporated" finding in the CEQA document. In this example, if the project were to emit 15,000 MT/yr, the required mitigation would be 5,000 MT/yr for the duration of the project.

Assuming a project life of 30 years, **this equates to approximately 155,000 MT for the entire project life.**

Figure 6-3

Mitigation Scenario for Example 2 – Project Subject to a Bright Line 10,000 MT/yr Threshold



Example 3:

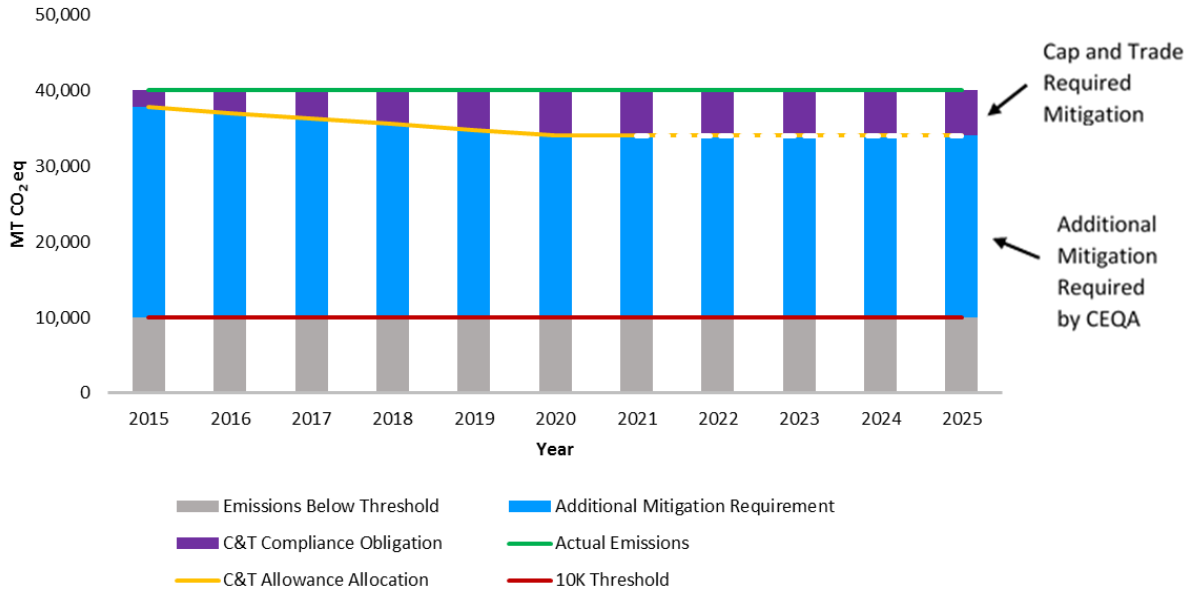
In the third example, a project's emissions are above the bright line threshold. The project's direct and indirect emissions have been quantified and determined to be 40,000 MT/yr, and the project life is expected to be 30 years. The figure below indicates the amount of mitigation that will be required, for the duration of the project's operation, to lead to a "less than significant with mitigation incorporated" finding in the CEQA document. In this example, if the project were to emit 40,000 MT/yr, the required mitigation would be 30,000 MT/yr, for the duration of the project.

Assuming a project life of 30 years, **this equates to 900,000 MT for the entire project life.**

Figure 6-3 depicts that Cap and Trade purchased allowances, that are above and beyond those that are freely allocated according to the industry benchmark, count towards CEQA mitigation. In this example, Cap and Trade reductions are assumed to remain at 2020 levels after 2020. If the Cap and Trade Regulation is extended beyond 2020 and achieves additional reductions through a continually declining cap, those reductions would receive full credit under this proposed threshold. This consideration is consistent with the approach adopted by the County when it permitted the Santa Maria Energy project in 2014.

Figure 6-4

Mitigation Scenario for Example 3 – Project subject to a Bright Line 10,000 MT/yr Threshold



6.2 AB 32 Consistency, with a 10,000 MT/yr Screening Threshold and Cap and Trade as a Qualified GHG Reduction Plan

This section describes the basis for, and the implementation of, the "AB 32 Consistency" threshold option. This approach utilizes a 10,000 MT/yr screening threshold, and relies on the ARB's Cap and Trade program as a qualified greenhouse gas reduction plan. Under this approach, projects that do not participate in the Cap and Trade program are required to achieve a percent reduction target from projected stationary source business-as-usual (BAU) emissions. The "percent reduction" amount is 15.3%, consistent with the most recent update to the ARB's AB 32 Scoping Plan. **This threshold option includes the understanding that if additional GHG reduction targets are identified by CARB or by state legislation, the District will review the threshold and revise it as appropriate to reflect the additional GHG reductions needed to remain consistent with California's long-term GHG reduction goals.**

As stated previously at the beginning of Section 6.0, a project's GHG emissions (direct and indirect) are considered to be cumulative in nature, with a project's GHG emissions contributing to the cumulative impact of global climate change. A project's GHG emissions are not considered to be a project-specific impact that directly affects the health of the environment and the community immediately adjacent to the project site.

This distinction is very important for the "AB 32 Consistency" threshold option, because this option relies heavily on language in the CEQA Guidelines that reference consideration and mitigation of cumulative impacts.

The CAPCOA *CEQA & Climate Change* white paper (CAPCOA, 2008) in Chapter 7 discusses the concept of establishing a "non-zero" threshold that minimizes the expenditure of resources on projects that do not yield much in terms of GHG reductions. This concept is based on the idea that an individual project being reviewed under CEQA is assessed to determine whether the project's GHG emissions represent a "cumulatively considerable" contribution to the impact of global climate change. The paper explores a range of conceptual approaches that could be used to develop GHG significance criteria, including approaches that are grounded in existing mandates and their associated GHG reduction targets. This is the approach that the "AB 32 Consistency" threshold option uses.

6.2.1 Basis for AB 32 Consistency Threshold

Policy Objectives

This threshold is based on the following objectives:

1. To establish a threshold that is based on consistency with the State of California's GHG reduction program that was enacted by AB 32, is laid out in the AB 32 Scoping Plan, and is being implemented by the State Air Resources Board and the Scoping Plan implementing regulations.

2. To establish a threshold that is consistent with CEQA case law, and follows the legal precedents that have been established for this type of threshold approach.

3. To minimize the administrative burden on smaller GHG sources. Requiring relatively small emitting sources to monitor, report, and mitigate their contribution to the impact may have high costs and will yield very small reductions in the impact overall.

4. To identify a level that encourages project proponents to design their projects in the most energy- and GHG-efficient way possible, with the incentive of avoiding potentially burdensome and costly environmental review.

Applicable CEQA Guidelines and CEQA Statute Sections

A threshold that relates a project's adherence to the requirements and goals of California's AB 32 Scoping Plan is supported by the following sections of the CEQA Guidelines:

Section 15064, Determining the Significance of the Environmental Effects Caused by a Project

> "*When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."* (15064(h)(1)).

This language indicates that, with respect to cumulative impacts, a project's significance is determined by ascertaining whether the project's contribution to the cumulative impact is "cumulatively considerable," and clarifies the meaning of "cumulatively considerable."

> *"A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, ...plans or regulations for the reduction of greenhouse gas emissions) that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation, or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project."* (15064(h)(3)).

This language in the CEQA Guidelines gives a clear indication that a project's compliance with a plan, program, or regulation that has jurisdiction over the resources/impact (in this case, the state's AB 32 Scoping Plan and the impact of GHG emissions) can lead to a determination that the project's incremental contribution to the cumulative impact are not "cumulatively considerable," and are therefore less than significant. However, the cautionary statement in the last sentence of this section indicates that compliance with a plan, program, or regulation is not a guarantee that the impacts will be less than significant.

Section 15064.4, Determining the Significance of Impacts from Greenhouse Gas Emissions

> *"A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:*
>
> *…*
>
> (*3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project"* (15064.4(b)).

The AB 32 Consistency threshold approach, as well as the consideration of the Cap and Trade Program as a qualified GHG Reduction Program, relies heavily on this language in the CEQA Guidelines. This language gives a clear indication that local climate action plans and other qualified GHG reduction programs, such as Cap and Trade, may be considered when determining a project's contribution to the cumulative impact of greenhouse gases and climate change. By demonstrating that an individual project will be constructed and operated in compliance with all AB 32 required measures, and will achieve GHG reductions from a "Business as Usual" scenario that is consistent with the current AB 32 emissions reduction goals, a project may be determined to be less than significant.

Section 15183.5 Tiering and Streamlining the Analysis of Greenhouse Gas Emissions

> "*Lead agencies may analyze and mitigate the significant effects of greenhouse gas emissions at a programmatic level, such as in a general plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may tier from and/or incorporate by reference that existing programmatic review..."* (15183.5(a)).
>
> *"Plans for the Reduction of Greenhouse Gas Emissions. Public agencies may choose to analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions or similar document. A plan to reduce greenhouse gas emissions may be used in a cumulative impacts analysis as set forth below. Pursuant to sections 15064(h)(3) and 15130(d), a lead agency may determine that a project's incremental contribution to a cumulative effect is*

not cumulatively considerable if the project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances.

(1) Plan Elements. A plan for the reduction of greenhouse gas emissions should:

(A) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;

(B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;

(C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;

(D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

(E) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels;

(F) Be adopted in a public process following environmental review.

(2) Use with Later Activities. A plan for the reduction of greenhouse gas emissions, once adopted following certification of an EIR or adoption of an environmental document, may be used in the cumulative impacts analysis of later projects. An environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project. If there is substantial evidence that the effects of a particular project may be cumulatively considerable, notwithstanding the project's compliance with the specified requirements in the plan for the reduction of greenhouse gas emissions, an EIR must be prepared for the project. (15183.5(b)).

This section gives more detailed information on what attributes a local climate action plan or other GHG reduction program must have in order to meet the intent of CEQA, and be considered "qualified". The language indicates that if a project complies with the emission reduction measures identified in a GHG reduction program, and those measures collectively achieve the specified emission reduction goals of the program, an individual project can utilize this streamlining mechanism and be found to be less than significant. Through use of this streamlining provision, certain projects that demonstrate compliance

with a qualified GHG reduction program can be considered less than significant, as long as they are shown to meet the program's GHG reduction goals.

The "AB 32 Consistency" threshold option relies on the concept of tying a project's GHG emission reduction characteristics to the state's GHG emission reduction goals, sometimes described as "tiering." For stationary sources that are subject to the Cap and Trade program (sources emitting greater than 25,000 MT/yr), the projects are considered to be less than significant because they are implementing specific AB 32 emission reduction measures, in the form of a market-based GHG reduction program. For sources that are not required to participate, the projects are considered to the less than significant because they are reducing their project-specific emissions in a manner that is consistent with the most recent AB 32 "Business as Usual" emissions projections, and the established reduction targets (at this time, a 15.3% reduction is identified as the amount needed to meet the 2020 emissions reduction target).

Section 15064.7, Thresholds of Significance

The public review process that is described in Section 4.0 (Public Review Process) of this report was conducted with attention and adherence to this section of the CEQA Guidelines, as described below:

> *"Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects."* (15064.7(a)).

The AB 32 Consistency threshold was developed based on extensive research and review of the impact itself as well as other agency documents, actions, policies, and guidance. The development of the AB 32 Consistency threshold also involves consideration of CEQA case law.

> *Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence."*(15064.7(b)).

The AB 32 Consistency threshold was developed through a public review process as discussed in Section 4.0. The process has involved, and will continue to involve, extensive input every step of the way. The threshold will eventually be adopted by resolution of the Air Pollution Control District Board. This report, as well as additional documentation in the record, supports the adoption of the threshold and provides evidence that could be used in support of the threshold.

> *When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.* (15064.7(c)).

As described in Section 3.0 (Background) of this report, one other air district, the San Joaquin Valley Air Pollution Control District, has adopted and implemented a threshold of significance that is similarly tied to consistency with the State's AB 32 Scoping Plan and goals.

CEQA Statute - Public Resources Code Section 21083.05

> *"The Office of Planning and Research and the Natural Resources Agency shall periodically update the guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions as required by this division, including, but not limited to, effects associated with transportation or energy consumption, to incorporate new information or criteria established by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code."*

This particular section of the CEQA statute was revised by the State Legislature in 2012, and provides direction to OPR and the Resources Agency to periodically update the CEQA Guidelines to reflect new information or criteria established by the ARB pursuant to the AB 32 implementing regulations in the Health and Safety Code. The language specifically references effects associated with transportation and energy consumption, which are two broad sectors where AB 32 reduction measures are focused and are expected to lead to significant long-term reductions.

This language is pertinent to the "AB 32 Consistency" threshold approach because it informs us of the intent to periodically track progress related to implementation of AB 32 measures and emission reduction goals. The concept of tying a project's impacts to the state's GHG reduction goals should also proceed with a similar assumption – that as the State updates its GHG reduction goals and updates the assumed efficacy of specific AB 32 reduction measures, so too should the "AB 32 Consistency" threshold approach be updated. The discussion in section 6.2.2 (Implementation of an AB 32 Consistency Threshold with a 10,000 MT/yr Screening Threshold and Cap and Trade as a Qualified GHG Reduction Plan) provides more details related to this concept. Should the State decide to extend its GHG reduction goals to a date past 2020, this concept would apply.

The CEQA Guidelines and Statutes sections referenced above provide justification for the "AB 32 Consistency" threshold option.

Because this threshold option also includes a screening threshold of 10,000 MT/yr, many of the CEQA sections identified for the "Bright Line 10,000 MT/yr" threshold also provide justification for the screening threshold presented herein. Please refer to Section 6.1.1, "Basis for Bright Line 10,000 MT/yr Threshold" for a full discussion of the sections of the CEQA Guidelines that support this type of a threshold.

Consideration of the ARB's Cap and Trade Program as a Qualified GHG Reduction Program

The AB 32 Scoping Plan, updated in 2014, identifies the Cap and Trade program as one of the main measures that will help the state achieve its 2020 emission reduction goals. Once all of the transportation fuels are folded into the Cap and Trade Program, the program will essentially apply to approximately 85% of California's GHG emissions (CARB, 2014, at Pg. 86). The table on Page 93 of the 2014 Scoping Plan update specifically shows that of the additional AB 32 measures that have not already been implemented, there are a total of 78 million MT of GHG reductions needed to meet the 2020 target. Of those 78 million MT, the Cap and Trade program is anticipated to achieve approximately 23

million MT (CARB, 2014, at Pg. 93). This constitutes approximately 30% of the additional emissions reductions needed to achieve the 2020 target.

As described previously in Section 3.0 (Background), the Cap and Trade program aims to reduce GHG emissions from the industrial sector through a market-based approach, by placing a price on carbon, leading to more efficient low-carbon operations. The program is designed to drive efficiencies and allow companies the flexibility to make independent business decisions on how they choose to comply. Ultimately, the program operates with a declining emissions cap overall for the businesses subject to the regulation. The Cap and Trade program, as part of the AB 32 Scoping Plan, was examined in the ARB's Functional Equivalent Document under CEQA, and therefore underwent the required CEQA review and certification before it was promulgated. The Cap and Trade program is currently in the beginnings of implementation, with the first tier of regulated facilities under the cap being required to surrender their compliance obligations in November, 2015.

Under the "AB 32 Consistency" threshold option, the District would consider that sources subject to the compliance obligations set forth in the Cap and Trade regulation are reducing their emissions in the required amounts needed to achieve the state's GHG reduction goals. This leads to a finding that the project's GHG emissions are not cumulatively considerable, and the impacts are therefore less than significant.

It should be noted that if the District makes such a finding when approving a particular project, that finding can be disputed as allowed by CEQA if there is substantial evidence in the record indicating that the impact is still cumulatively considerable.

Sources that are not required to participate in the Cap and Trade program are addressed separately under this threshold option, and must demonstrate that they are reducing their emissions consistent with the state's emission reduction goals under AB 32. This is done utilizing an analysis that demonstrates that the project is reducing its "Business as Usual" emissions by an amount that is consistent with the AB 32 reduction goals. Additional discussion of the "Business as Usual" reduction percentage, and the required analysis, is presented later in this section.

Data to Support 10,000 MT/yr as a Screening Threshold

The AB 32 Consistency threshold option also includes a screening threshold of 10,000 MT/yr. Please refer to Section 6.1.1, "Basis for Bright Line 10,000 MT/yr Threshold" for a full discussion of the "Data to Support 10,000 MT/yr as the Appropriate Level for a Bright Line Threshold."

CEQA Case Law that Informs an "AB 32 Consistency" Approach to a GHG Threshold

As discussed in Section 3.0 (Background) of this report, several court cases have involved a challenge to CEQA threshold for greenhouse gases that involves a comparison of a project's impacts to a "Business As Usual" analysis that is tied to, and consistent with, the goals of the AB 32 Scoping Plan.

It is important to note here that there is more case law relative to AB 32 Consistency methods, simply because these methods have been challenged more in the courts.

Specifically, the *CREED v. City of Chula Vista* case, and the *Friends of Oroville v. City of Oroville* cases have given broad deference to lead agencies to utilize a threshold that is tied to AB 32 goals, and involves a comparison of project emissions to a "Business As Usual" scenario. Both of these cases have been through a trial court and a state appeals court. In the case of *CREED v. City of Chula Vista*, the appeals court decision was petitioned for review by the California Supreme Court, and the petition was denied; therefore, this case established an important legal precedent.

As commenters have pointed out, and as discussed in Section 3.8 of this report, there are more CEQA court cases involving the AB 32 Consistency/Business As Usual approach to determining GHG impact significance that are still outstanding. Of note is the *Center for Biological Diversity v. California Fish & Game* case currently pending review in the Supreme Court. The outcome of this court case may provide additional information on the appropriateness of an AB 32 Consistency/Business As Usual approach to determining GHG impact significance.

Discussion of 15.3% as the Percent Reduction Amount

As mentioned previously, under the AB 32 Consistency threshold option, projects that emit greater than 10,000 MT/yr, and are not subject to the Cap and Trade program, must conduct an analysis that demonstrates that project operations will result in an emissions reduction that is consistent with the AB 32 Scoping Plan's emission reduction goals (a "Business as Usual" analysis). The mechanics of a "Business as Usual" analysis will be discussed later in this report, in Section 6.2.1. The discussion here relates to the basis for the determination that 15.3% is the appropriate metric for a comparison of a project's reduction goals to the most recent AB 32 Scoping Plan reduction goals, included in the 2014 Scoping Plan update.

In the 2008 AB 32 Scoping Plan, CARB estimated that a 29% reduction from BAU was required to meet 2020 targets. This was based on a 2020 "baseline" emissions rate of approximately 596 million MT, and an assessment that 2020 emissions, with implementation of planned measures, would be 422 MT (CARB, 2008, at Pg. 21, Figure 3).

In 2010, ARB updated their forecast (CARB, 2011 "Status of Scoping Plan Recommended Measures"):

> *"The 2020 emissions baseline used in the 2008 Scoping Plan is 596 MMTCO2e. This estimate of statewide 2020 emissions was developed using pre-recession 2007 IEPR data and reflects GHG emissions expected to occur in the absence of any reduction measures in 2010. ARB staff re-evaluated the baseline in light of the economic downturn and updated the projected 2020 emissions to 545 MMTCO2e. Two reduction measures (Pavley I and the Renewables Portfolio Standard (12% - 20%) not previously included in the 2008 Scoping Plan baseline were incorporated into the updated baseline, further reducing the 2020 statewide emissions projection to 507 MMTCO2e.*
>
> *"The updated forecast of 507 MMTCO2e is referred to as the AB 32 2020 baseline. Reduction of an estimated 80 MMTCO2e are necessary to reduce statewide emissions to the AB 32 Target of 427 MMTCO2e by 2020. "*

This equates to a 15.8% reduction from BAU. The change from 29% to 15.8% is a result of two things. The economic downtown led to predictions of a less dramatic emissions growth scenario statewide. Also, it assumes that certain AB 32 measures have already been implemented – the Pavley 1 vehicle emissions standards (related to a more fuel efficient vehicle fleet statewide) and the Renewable Portfolio Standard (related to a more renewable electricity supply, statewide, by 2020).

In the 2014 AB 32 Scoping Plan update, CARB revised these values yet again to reflect updated IPCC Global Warming Potential values for some GHGs. The following table is from Page 93 of the 2014 Scoping Plan. The values in this table show that the difference between the CARB *"AB 32 Baseline 2020 Forecast Emissions (2020 BAU)"* and the "*2020 Limit"* is 78 tons (509 minus 431), which equates to a 15.3% reduction. Again, these figures assume full implementation of the Pavley 1 and the Renewable Portfolio Standard Scoping Plan measures.

Meeting the 2020 Emissions Target

Category	2020 ($MMTCO_2e$)**
AB 32 Baseline 2020 Forecast Emissions (2020 BAU)	509
Expected Reductions from Sector-Based Measures	
Energy	25
Transportation	23
High-GWP	5
Waste	2
Cap-and-Trade Reductions	23*
2020 Limit	431

* Cap-and-Trade emission reductions depend on the emission forecast.
** Based on AR4 GWP values.

Based on this information, 15.3% is the most appropriate percent reduction value to use at this point for an AB 32 Consistency approach. However, it is important to note that the 15.3% target relates to the AB 32 goals for 2020, and does not reflect any additional consideration of reductions needed to get to future target years such as 2050 or another interim target year.

There are many pieces of information that indicate that a future year target, for a year beyond 2020, will eventually be developed by the Air Resources Board and will become codified:

- Health & Safety Code Section 38551 specifically requires the state board (CARB) to *"…make recommendations to the Governor and the Legislature on how to continue reductions of greenhouse gas emissions beyond 2020."*
- Governor's Executive Orders S-3-05, S-21-09, and B-16-12 all include references to a 2050 emissions target of 80% below 1990 levels.
- The 2014 update to the AB 32 Scoping Plan does not include specific numeric targets for post-2020 years, but includes expansive language and information on the types of measures needed

to reach a 2050 emissions level of 80% below 1990 levels. It also indicates that a steeper reduction trajectory will be needed to meet 2050 goals (CARB, 2014, Figure 6 at Pg. 33).

- There are currently bills proposed in the legislature that relate to the development of post-2020 GHG emissions "targets" for California.

If new targets are established, CARB may need to again assess the progress of measures to date, and anticipated growth in emissions out to the target date. This will then define a new "percent reduction from BAU" value that likely assumes implementation of even more AB 32 measures.

With the AB 32 Consistency threshold option, the threshold includes a requirement to continue to track AB 32 implementation, and to revise the threshold as appropriate to reflect changes in expected GHG reductions from the Cap and Trade program and other AB 32 programs past 2020.

6.2.2 Implementation of an AB 32 Consistency Threshold with a 10,000 MT/yr Screening Threshold and Cap and Trade as a Qualified GHG Reduction Plan

The following section describes the "mechanics" of the AB 32 Consistency threshold and provides some examples of how the threshold would be applied to a few different project scenarios.

Threshold Mechanics - **Overview**

This approach utilizes a 10,000 MT/yr screening threshold, and considers ARB's Cap and Trade program to be a qualified greenhouse gas reduction plan. Under this approach, projects that do not participate in the Cap and Trade program are required to achieve a percent reduction target from projected stationary source business-as-usual (BAU) emissions. The "percent reduction" amount is 15.3%, consistent with the most recent update to the ARB's AB 32 Scoping Plan. The flow chart in Figure 6-1 displays how the threshold is applied to projects.

Using this threshold approach, projects that are exempt from CEQA do not require any additional analysis of GHG emissions/climate change impacts. Projects that are subject to environmental review under CEQA should undergo a quantitative analysis to determine the level of GHG emissions associated with the proposed project, including both direct GHG emissions (onsite stationary sources, including point and area sources and fugitive emissions), and indirect GHG emissions (including emissions associated with transportation sources attributed to the project, emissions from electricity use, water conveyance, wastewater conveyance and treatment, and waste disposal) as applicable to the project proposal and the discretionary decision. Emission factors and quantification tools (such as the CalEEMod emissions estimation model) are readily available to help project proponents and CEQA lead agencies conduct this assessment. The District has developed a guidance document, titled *Scope and Content of Air Quality Sections in Environmental Documents*, which provides extensive information and guidance for quantifying project GHG emissions levels. This document is available online at the District's website, www.ourair.org/landuse.

It should be noted that during the District's public review process for *these Environmental Review Guidelines* revisions, District staff conveyed that the agency infrequently plays the role of a CEQA lead agency, and when it does, it may be for a more narrow scope discretionary action, such as permitting modified equipment at an existing source, or permitting an individual piece of equipment at a new or existing commercial or institutional facility. Under such circumstances, the District's lead agency permit action may not involve the approval of any indirect GHG sources such as transportation, electricity, or water conveyance GHG emissions sources.

Much more frequently, the District plays a responsible agency role in a project where a more comprehensive land use decision is being made by an agency with jurisdiction over land use decisions that involve direct and indirect GHG emissions sources. In all cases, all GHG emissions sources related to the discretionary action, including direct and indirect emissions, should be quantified and compared to the adopted threshold as required by CEQA (CEQA Guidelines Section 15064(d)).

If the project's total emissions are greater than 25,000 MT/yr and the stationary source project is subject to the Cap and Trade regulation, the project is considered to be less than significant based on the understanding that the Cap and Trade program is a qualified GHG reduction program as defined in the CEQA Guidelines.

Threshold Mechanics – 10,000 MT Screening Threshold

If the project's total emissions are below the 10,000 MT/yr screening threshold level, no additional environmental review is required. The lead agency can proceed with a determination that the project is exempt for this impact area, and proceed with a Notice of Exemption as long as no significant impacts exist in other issue areas.

If the project's total emissions exceed the screening threshold level of 10,000 MT/yr, this triggers the need for additional environmental review and mitigation. If the project proponent can demonstrate that GHG emissions can be reduced to less than 10,000 MT/yr through project design elements and/or mitigation, then the project may proceed with a Negative Declaration or a Mitigated Negative Declaration. The CEQA lead agency must condition the project to ensure that the 10,000 MT/yr threshold level is not exceeded for the duration of the project.

Mitigation options for greenhouse gas/climate change impacts are discussed in more detail in Section 7.0 (Mitigation) of this report.

Threshold Mechanics – 15.3% Reduction from Business As Usual

If the project's total emissions exceed the screening threshold level of 10,000 MT/yr and the project cannot be redesigned or mitigated to reduce emissions below the screening level, then the project's GHG impact should be assessed using a "Business as Usual," or BAU, analysis.

A BAU analysis should be done with very careful consideration of what constitutes a realistic BAU scenario. This is discussed in more detail below.

A BAU analysis involves a comparison of the ***proposed project's*** anticipated GHG emissions to what the project's GHG emissions would be in the absence of additional AB 32 measures. There are several important guidelines to follow when doing a BAU comparison:

- The most recent "percent reduction" amount of 15.3%, from the 2014 AB 32 Scoping Plan update, is based on the most recent CARB 2020 baseline projections that assume full implementation of some AB 32 measures (the Pavley 1 motor vehicle standards and the Renewable Portfolio Standard). Therefore, a BAU analysis that uses the 15.3% reduction figure must also assume full implementation of these measures in the estimate of BAU emissions.
- The BAU analysis should consist of a comparison of the *project's emissions as proposed in the permit application*, to the BAU emissions scenario. The analysis should not consist of an emissions scenario that is hypothetical and that has not been requested for approval.
- A comparison of a hypothetical project, sometimes called a "straw man" project that has not been actually proposed by the applicant, and may not be approvable under existing codes and standards, leads to an "inflated" BAU analysis, and should not be done.
- Court cases have provided additional indications that a project's BAU scenario should be within existing legal constraints, should be practical and credible, and should include the application of local planning and zoning laws.
- In assessing any future GHG emission reductions that may be achieved through AB 32 measures for a BAU analysis, it should be noted that there is a limited amount of AB 32 measures that apply directly to stationary source combustion devices, and the Cap and Trade program may be the only program that is expected to achieve reductions in that sector.

If, after comparing the project's proposed GHG emissions to a BAU emissions scenario, it is determined that the project will result in a reduction of 15.3% or greater from the BAU emissions scenario, then the impact is found to be less than significant, and no additional mitigation is deemed necessary.

If the difference between the proposed project emissions and the BAU emissions scenario is less than 15.3%, then additional mitigation or GHG reductions must be identified to reduce the project's emissions to result in a percent reduction of 15.3% or greater between the proposed project and the BAU scenario. If the project proponent can demonstrate that GHG emissions will be reduced consistent with the 15.3% reduction level, then the project may proceed with a Negative Declaration or a Mitigated Negative Declaration. The CEQA lead agency or a responsible agency must condition the project to ensure that the threshold level is not exceeded for the duration of the project.

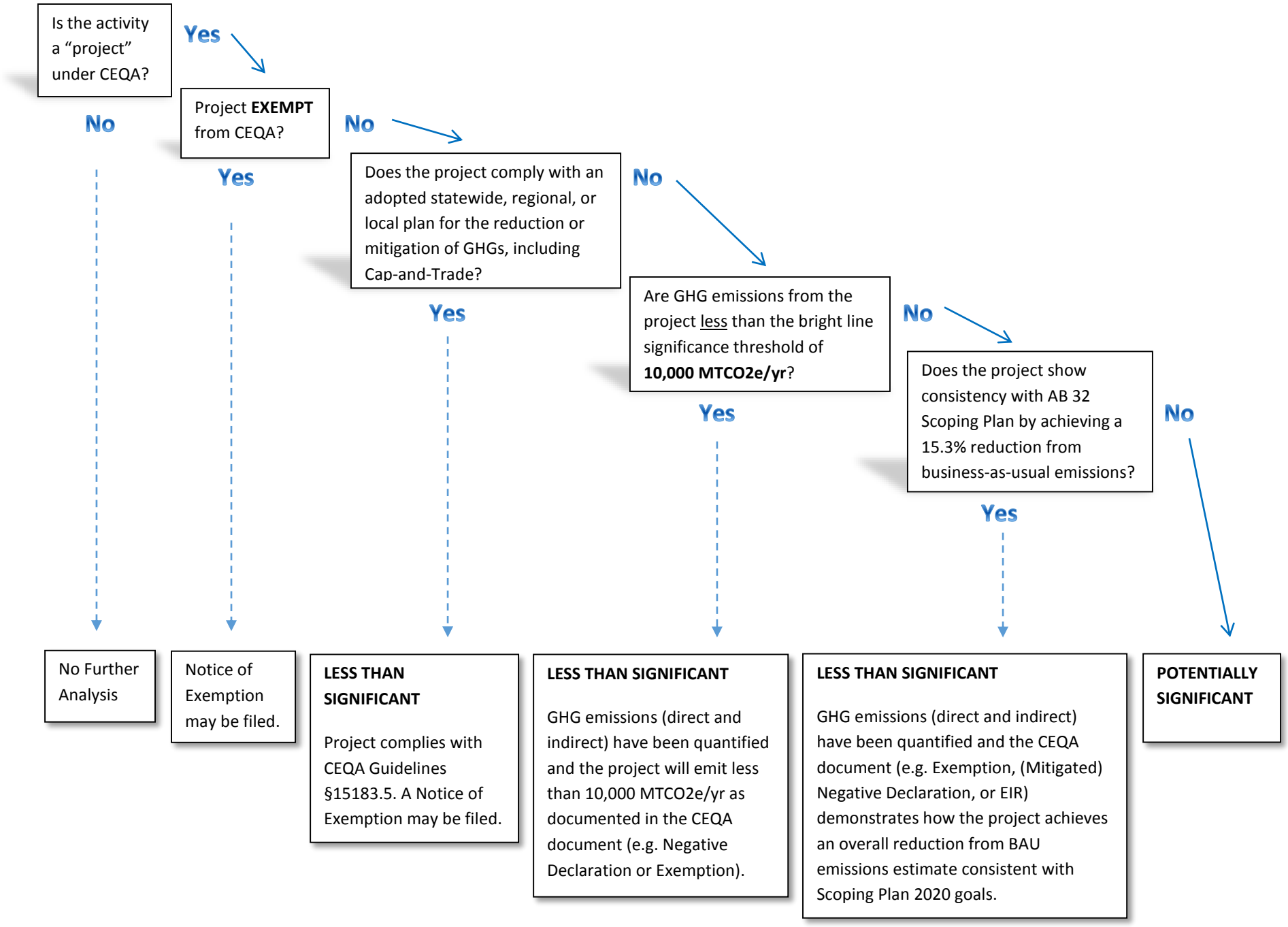
Threshold Mechanics – Projects Subject to Cap and Trade

As discussed earlier, if the project's total emissions are greater than 25,000 MT/yr and the stationary source project is subject to the Cap and Trade regulation, the project is considered to be less than significant based on the understanding that the Cap and Trade program is a qualified GHG reduction program as defined in the CEQA Guidelines.

An additional consideration, that may need to be addressed on a case-by-case basis, is how to treat projects that are anticipated to be subject to the Cap and Trade regulation eventually, but will not reach

the Cap and Trade emission levels for a period of several months or even years. In such cases, it's likely that the project will need to have a dual-threshold approach, where mitigation to 15.3% below Business as Usual is required until the project becomes subject to Cap and Trade compliance levels. Similarly, a project may initially emit at Cap and Trade levels, but eventually fall below the Cap and Trade emissions levels to a point where Cap and Trade requirements no longer apply.

Similarly, if the Cap and Trade program is discontinued or sunsets, then a "backup" mitigation scenario, such as a 15.3% reduction from BAU, may need to be imposed.


Is the activity a "project" under CEQA?
Yes
No
Project EXEMPT from CEQA?
Yes
No
Does the project comply with an adopted statewide, regional, or local plan for the reduction or mitigation of GHGs, including Cap-and-Trade?
Yes
No
Are GHG emissions from the project less than the bright line significance threshold of 10,000 MTCO2e/yr?
Yes
No
Does the project show consistency with AB 32 Scoping Plan by achieving a 15.3% reduction from business-as-usual emissions?
Yes
No
No Further Analysis
Notice of Exemption may be filed.
LESS THAN SIGNIFICANT
Project complies with CEQA Guidelines §15183.5. A Notice of Exemption may be filed.
LESS THAN SIGNIFICANT
GHG emissions (direct and indirect) have been quantified and the project will emit less than 10,000 MTCO2e/yr as documented in the CEQA document (e.g. Negative Declaration or Exemption).
LESS THAN SIGNIFICANT
GHG emissions (direct and indirect) have been quantified and the CEQA document (e.g. Exemption, (Mitigated) Negative Declaration, or EIR) demonstrates how the project achieves an overall reduction from BAU emissions estimate consistent with Scoping Plan 2020 goals.
POTENTIALLY SIGNIFICANT

Examples of Projects Applying an AB 32 Consistency Threshold with a 10,000 MT/yr Screening Threshold and Cap and Trade as a Qualified GHG Reduction Plan

This section provides examples of different scenarios for projects subject to an AB 32 Consistency threshold with a screening threshold of 10,000 MT/yr and consideration of the Cap and Trade program as a qualified GHG reduction plan. It should be noted that although mitigation amounts are discussed, mitigation is discussed in more detail in Section 7.0 (mitigation) of this report. These examples are included to provide an understanding of the potential for climate change mitigation under the different threshold scenarios. In each of the scenarios, it is assumed that there are no other issue areas that trigger additional environmental review or mitigation under CEQA.

Three examples are provided:

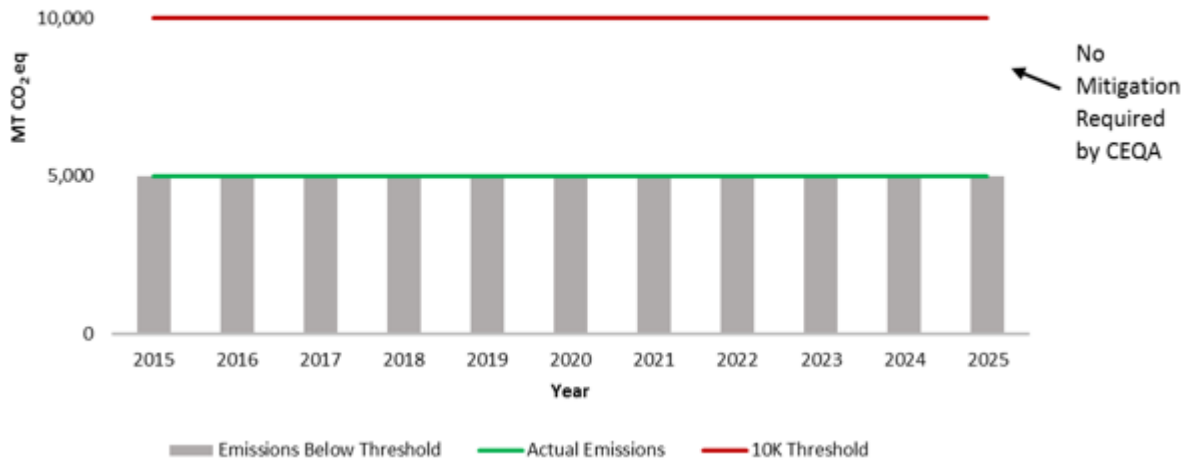
1. A project that emits less than 10,000 MT/yr and is considered less than significant.
2. A project that emits greater than 10,000 MT/yr, but less than 25,000 MT/yr. This project is not subject to the Cap and Trade program, but is considered significant and subject to a BAU analysis, and to mitigation requirements if the BAU analysis does not demonstrate that emissions are reduced by 15.3 from a BAU scenario.
3. A project that emits greater than 25,000 MT/yr and is subject to the Cap and Trade program

Example 1:

In the first example, a project's emissions are below the 10,000 MT/yr screening threshold. The project's direct and indirect emissions have been quantified and determined to less than 10,000 MT/yr. No mitigation is required. The CEQA lead agency may proceed with a Notice of Exemption under CEQA.

Figure 6-6

Example 1 – Project Not Subject to Mitigation with a 10,000 MT/yr Screening Threshold Under AB 32 Consistency Threshold Approach



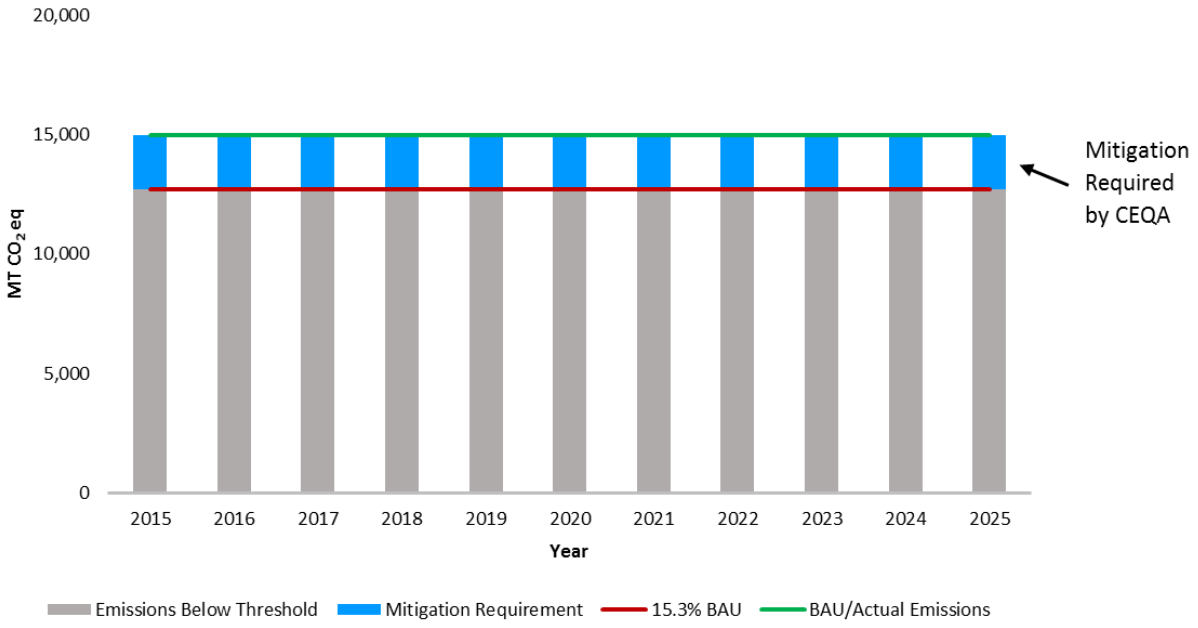
Example 2:

In the second example, a project's emissions are above the 10,000 MT/yr screening threshold, but less than 25,000 MT/yr. The project's direct and indirect emissions have been quantified and determined to be 15,000 MT/yr, and the project life is expected to be 30 years. The figure below indicates the amount of mitigation that will be required, for the duration of the project's operation, to lead to a "less than significant with mitigation incorporated" finding in the CEQA document. In this example, assuming that the project does not involve any "percent reductions from BAU" based on the project description, then the 15.3% reduction would have to be achieved via GHG mitigation.

If the project were to emit 15,000 MT/yr, the maximum amount of required mitigation would be 15.3% of 15,000 MT/yr. In this example, assuming a project life of 30 years, **this equates to approximately 2,295 MT/yr, or 68,850 MT over the entire project life. If the project demonstrates a 15.3% or greater reduction from BAU, no mitigation is required.**

Figure 6-7

Mitigation Scenario for Example 2 – Project Subject to a 15.3% Reduction from BAU Threshold Under AB 32 Consistency Threshold Approach



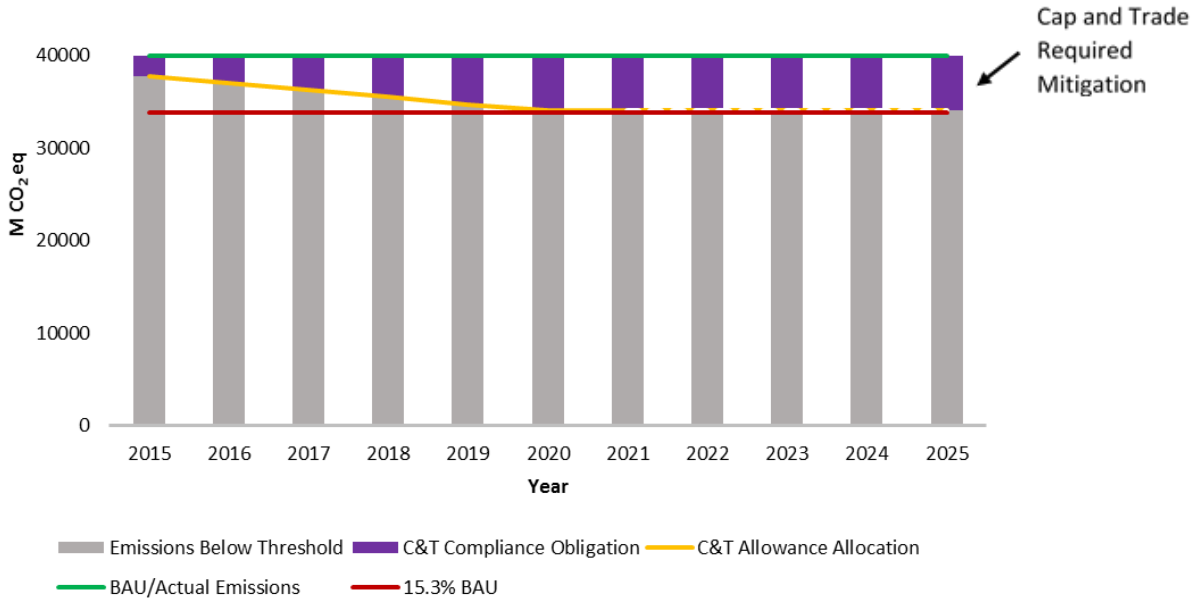
Example 3:

In the third example, a project's emissions are greater than 25,000 MT/yr and the project is subject to Cap and Trade. The project's direct and indirect emissions have been quantified and determined to be 40,000 MT/yr, and the project life is expected to be 30 years. The figure below portrays what the project's estimated emissions reductions (i.e., their compliance obligation) would be relative to the Cap and Trade benchmark. Because the Cap and Trade regulation only goes to 2020 at this point in time, any portrayal of the emission reduction requirements beyond 2020 are speculative. In this example, it is assumed that the Cap and Trade program continues beyond 2020, and that the "cap adjustment factor" of 0.851 for 2020 continues for the life of the project (30 years). It is also assumed that the project is emitting at an efficient level as defined by the Cap and Trade benchmark value that is established for the specific industry.

This equates to an **average of 5,713 MT/yr, or 171,400 MT over the entire project life.**

Figure 6-8

Mitigation Scenario for Example 3 – Project Subject to the Cap and Trade Program Under AB Consistency Threshold Approach



6.3 Summary of Threshold Options

Sections 6.1 and 6.2 provide a thorough description of each of the threshold options and how they are applied, and the basis for each of the threshold options is supported by substantial evidence.

Bright Line Threshold of 10,000 MT/yr

The Bright Line 10,000 MT/yr threshold option is a threshold that has been adopted by several California air districts, is being applied statewide and locally by CEQA lead agencies, and is relatively

straightforward to explain and implement. As of this publishing, District staff is not aware of any project that has applied a bright line 10,000 MT/yr threshold that has been challenged under CEQA for its GHG impact assessment.

As shown in Table 6-2 below, use of the Bright Line 10,000 MT/yr threshold option would yield a greater amount of GHG mitigation than the AB 32 Consistency threshold option. In some cases, reductions of GHG emissions could provide co-benefits in reductions of other air pollutants.

Use of the Bright Line 10,000 MT/yr would generally require mitigation above and beyond that which is required by the State's AB 32 Scoping Plan, measures, and implementing regulations.

AB 32 Consistency Threshold

The AB 32 Consistency threshold option is similar to thresholds adopted by two California air districts (San Joaquin Valley APCD, East Kern APCD).

This threshold approach has been challenged in several lawsuits, and those lawsuits have informed how the threshold should be applied. Careful attention must be given to the BAU analysis that is done for each project, to avoid depicting an unrealistic or hypothetical BAU analysis this is not reasonable and supported by case law precedents. The AB 32 Consistency threshold is based on compliance with existing statewide measures and regulatory schemes that are designed to achieve the State's GHG reduction goals. The threshold includes a commitment to revise the threshold as appropriate to reflect additional GHG reductions to remain consistent with California's long-term GHG reduction goals.

As shown in Table 6-2, use of the AB 32 Consistency threshold option may yield some mitigation for projects that emit between 10,000 MT and 25,000 MT/yr. However, if projects can effectively demonstrate that they meet the 15.3% reduction from BAU requirement, no mitigation is required.

For larger projects that are subject to Cap and Trade, the AB 32 Consistency threshold option does not yield any additional mitigation above and beyond what is required by the State's AB 32 Scoping Plan, measures, and implementing regulations.

This threshold option includes the assertion that the state's Cap and Trade program is a qualified GHG reduction plan, and that additional CEQA mitigation is not required beyond compliance with Cap and Trade. However, the CEQA Guidelines explicitly state that, *"If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project."* (15064(h)(3)).

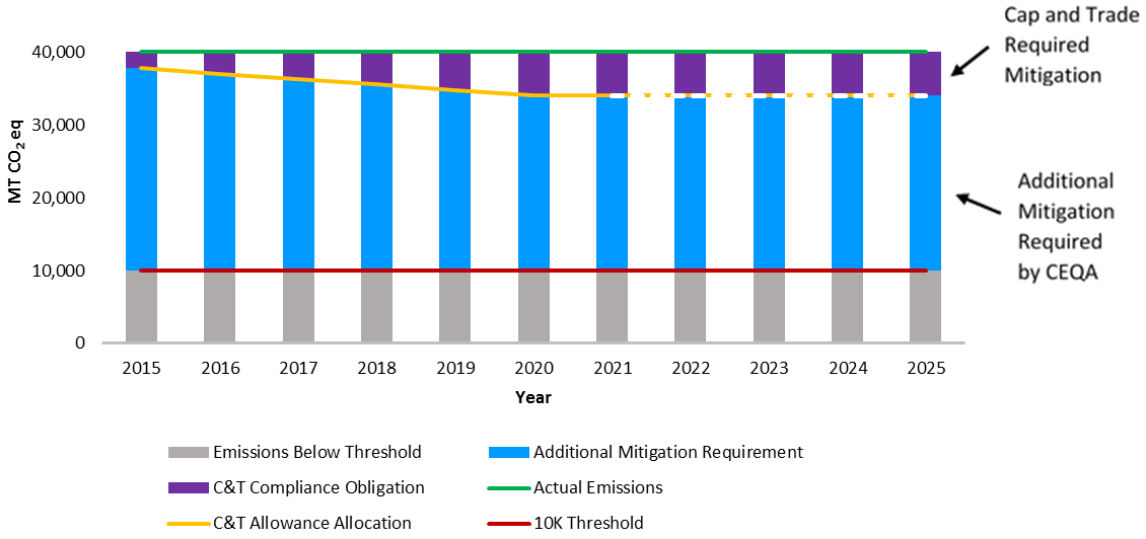
Comparison of Mitigation under the Two Threshold Options

The graphs below, taken from the preceding sections, provide examples of the mitigation requirements for a project with emissions of 40,000 MTCO2e/year analyzed under each option.

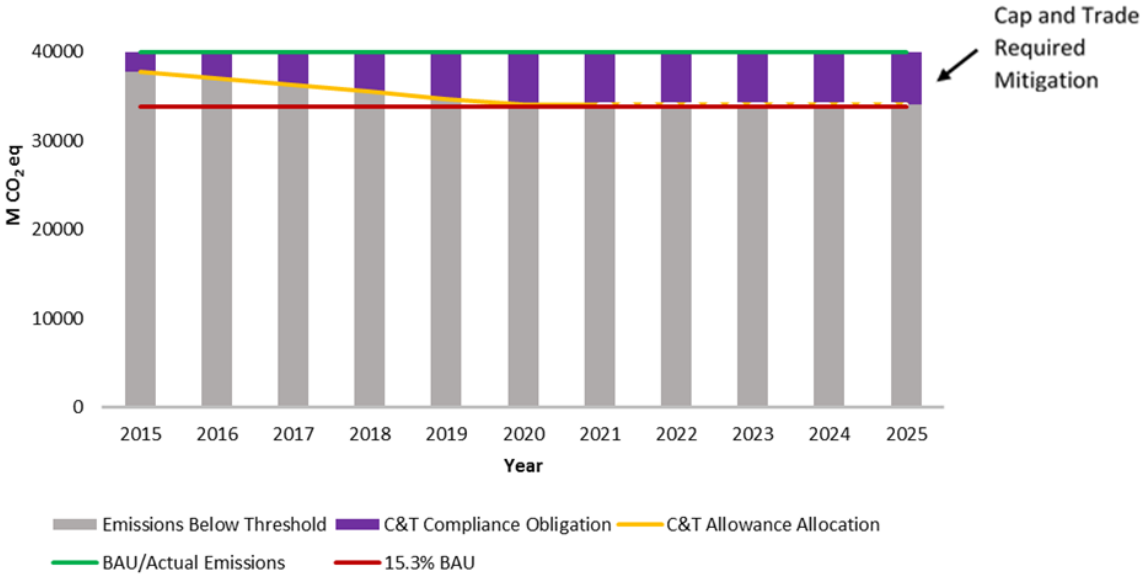
Figure 6-9[5]

Comparison of Mitigation Examples

Project subject to a Bright Line 10,000 MT/yr Threshold



Project subject to the Cap and Trade Program (Under AB Consistency Threshold Approach)



[5] This figure has been revised since the original March 9, 2015 publishing, see March 17, 2015 Addendum.

The table below summarizes the data for the examples that were provided in Sections 6.1 and 6.2. The table indicates that the Bright Line threshold option will require a much greater mitigation obligation for larger sources that emit greater than 10,000 MT/yr. With the AB 32 Consistency threshold option, little to no additional mitigation is required under CEQA, and the largest sources subject to the Cap and Trade program will not require mitigation beyond the Cap and Trade program.

Table 6-2

Comparison of Mitigation Requirements

Project Scenario/ Option	Stationary Source Emissions (Annual)	Threshold Level (Annual)	Purchased C&T Allowances[1] (Project Lifetime)	Additional Mitigation Required (Project Lifetime)	Total Mitigation Required (C&T Purchased Allowances[1] + Add'l, Project Lifetime)	Total Project Lifetime Emissions
AB 32 Consistency (15.3% down from BAU) - Project 10K-25K	15,000	12,705	N/A	68,850	**68,850**	450,000
Bright Line (10,000 MT) - Project 10K-25K	15,000	10,000	N/A	150,000	**150,000**	450,000
AB 32 Consistency - Project Subject to Cap and Trade (C& T)	40,000	Declining cap per C&T regulation	171,400	0	**171,400**	1,200,000
Bright Line (10,000 MT) - Project Subject to C&T	40,000	10,000	171,400	728,600	**900,000**	1,200,000

[1] Purchased C&T Allowances are defined as the amount of additional allowances/offsets that are required by the Cap and Trade program, above and beyond those that are directly (freely) allocated to the covered entity as established in Section 95891, Allocation for Industry Assistance, of the Cap and Trade regulation.

Table assumptions:

- thermal oil & gas project (100% allowance allocation in C&T),
- emissions in metric tons of carbon dioxide equivalent,
- 2020 cap adjustment factor in C&T remains constant after 2020,
- project emitting at the C&T benchmark value,
- BAU equals "Facility Emissions (Annual)" value, with 15.3% reduction from BAU, no mitigation required,
- project life of 30 years.

7.0 Mitigation

As discussed in Section 6.0, both of the options for GHG significance thresholds may result in GHG mitigation requirements for projects that apply the threshold. Section 6.3, Table 6-2, demonstrates through example scenarios the potential for the two threshold options to result in GHG mitigation requirements.

During the public review process for the *Environmental Review Guidelines* update, several individuals expressed a concern and an interest in how GHG mitigation can and should occur relative to the CEQA process. This section provides lead agencies with guidelines on mitigation when required by the CEQA process.

Basic Mitigation Requirements

The following list provides basic requirements for mitigation under CEQA, as identified in the CEQA Guidelines and informed by case law:

- Mitigation should directly relate to the impact, and should contribute to a reduction in that impact.
- Mitigation should be roughly proportional to the impact.
- A project may be required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact (CEQA Guidelines 15130).
- Mitigation should not be deferred – there should we a well-defined mechanism for ensuring the mitigation will occur, and consequences if it does not occur. Typically, either mitigation is done up-front, as part of the permit approval process, or through a condition requiring an approved mitigation monitoring and reporting plan.
- If GHG emissions "offsets" will be used to achieve the required mitigation, those offsets should be real, quantifiable, surplus, enforceable, and permanent.

Specific CEQA Guidelines language related to GHG mitigation is included below:

<u>Section 15126.4 (c), Mitigation Measures Related to Greenhouse Gas Emissions</u>

> "*…lead agencies shall consider feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects of greenhouse gas emissions. Measures to mitigate the significant effects of greenhouse gas emissions may include, among others:*
>
> *(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;*
>
> *(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;*

(3) Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;

(4) Measures that sequester greenhouse gases;

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions."

Section 15130, Discussion of Cumulative Impacts

"*…A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact..."* (15130(a)(3)).

Section 15183.5, Tiering and Streamlining the Analysis of Greenhouse Gas Emissions

"*…Public agencies may choose to analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions or similar document…a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances."* (15183.5(b)).

"*…An environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project.*(15183.5(b)(2)).

Because GHG impacts are global and cumulative in nature, and the impact does not relate to the health of the community in close proximity to the project, mitigation to reduce the impact does not necessary have to occur locally. However, as an air district tasked with protecting the community from the effects of air pollution, it is preferable that mitigation be done locally, for several reasons:

- Local GHG reduction projects may include the co-benefit of reducing emissions of unhealthy pollutants, including criteria pollutants and toxic air contaminants.
- Local GHG reduction projects in the transportation sector can also foster community health and facilitate alternate forms of transportations, consistent with clean air goals, public health goals, and the goals of other local agencies and communities.
- Using mitigation requirements to fund local projects fosters community engagement and allows community members to realize the benefits of mitigation in a more tangible way.

- In order to meet the state's longer-term climate stabilization goals, transformative change must occur in the transportation and energy sectors. These changes will require rebuilding and replacement of infrastructure that could potentially be funded by CEQA mitigation.

Several other air districts have expressed a preference for local GHG mitigation and have identified a hierarchy for GHG mitigation. Throughout the public review process, numerous commenters expressed a similar sentiment. District staff suggests that the following order of preference be considered when determining appropriate mitigation for GHG impacts:

1. Onsite efficiencies such as reductions in fuel and energy use, waste reduction/re-use, water conservation, reduction in vehicle/truck trips; onsite GHG reduction projects such as installation of renewable energy sources or carbon sequestration projects;
2. GHG reduction projects at nearby facilities, preferably within the same jurisdictional boundaries;
3. GHG reduction projects elsewhere in the state of California;
4. GHG reduction projects elsewhere in the U.S.

District staff have been involved and engaged in multiple community efforts that relate to air quality improvements and GHG reductions. Some examples include participation in a local Renewable Energy Task Force that is examining the feasibility of local Community Choice Aggregation entity for electric power; being a project "client" for a UCSB Bren School group project that is researching costs and reduction potential for local Santa Barbara County GHG "offsets"; studying and planning for hydrogen fuel cell vehicle infrastructure; planning for and funding electric vehicle charging stations in the county; and, participating in CAPCOA efforts to develop protocols and encourage projects for use with the CAPCOA Greenhouse Gas Reduction Exchange (GHG Rx – see Section 3.6 of this staff report for more information).

As part of the Santa Maria Energy environmental review and project approval process, a permit condition required the development, review, and approval of a *GHG Reporting and Reduction Plan* (URS, 2014). This plan was developed by a consultant for Santa Maria Energy, LLC, and was reviewed by Santa Barbara County and District staff prior to its approval. The plan lays out all of the GHG emission sources at the facility, identifies how GHG emissions will be monitored and calculated, how and when emissions reporting will occur, and how and when mitigation will be surrendered. The plan identifies a methodology for integrating the CEQA-required mitigation with the GHG reductions that will result from the source's participation in the Cap and Trade program. This document serves as an example of how ongoing GHG mitigation requirements can be tracked and enforced.

In order to further explore the topic of GHG Mitigation and provide additional ideas and guidance for how mitigation can be done, the District is in the process of preparing a GHG mitigation "white paper" that will be made available as a resource. District staff acknowledge the need to retain flexibility when determining the appropriate mitigation, and this guidance paper is not intended to dictate how every CEQA lead agency must design their mitigation requirements. The white paper will include a description of the types of GHG offset registries and protocols that are currently available to provide GHG

mitigation, and will also provide information on what should be included in a GHG mitigation monitoring and reporting plan.

8.0 Other Revisions to Environmental Review Guidelines

Revisions to the Main Text of the *District Guidelines*

Throughout the document, minor technical and non-technical updates are proposed in order to reflect consistency with current CEQA Guidelines, practice, and case law.

Examples of technical changes include the following:

- Updated the text to include the acknowledgement that a California Department of Fish and Wildlife CEQA Filing Fee may be required,
- Clarified that an NOP is filed with the Clerk of the Board of Supervisors rather than the County Clerk,
- Deleted the language regarding sending a copy of the Notice of Completion to the State Clearinghouse because the lead agency is not required to,
- Added a description of a Notice of Determination to the EIR section of Article VII.

Examples of minor non-technical updates include:

- Updated the address of our agency to our current address,
- Added CEQA Guidelines section citations where appropriate,
- Added website hyperlinks for environmental filing fees,
- Changed formatting (font consistency, alignment, capitalization, punctuation),
- Corrected spelling and grammatical errors; and,
- Updated the formatting of the flow charts in Figure 1 and Figure 2.

The District also proposes to update the document to include more discussion and clarification of the treatment of cumulative impacts under CEQA. For example, the discussion of mitigation in Article VII now includes language on the fair share mitigation concept to address a cumulatively considerable impact. The cumulate impact evaluation section of Article VII is proposed to be updated to include a reference to Article V.F.2 that defines the significance determination criteria for GHG emissions.

Revisions to Appendix A

The District proposes two main revisions to Appendix A of the District CEQA Guidelines. First, equipment limits have been revised to be consistent with the GHG significance threshold. Second, the list of exempt projects have been revised, added, and deleted to reflect current permitting practices, terminology, and applicable APCD rules. The last time this appendix was edited was 15 years ago; therefore many of these edits are necessary adjustments that are long overdue.

More detail on some of the Appendix A revisions is provided below:

- The Btu/hr limit has been changed to reflect the Bright Line 10,000 MT/yr GHG Threshold or the 10,000 MT/yr screening threshold utilized with the AB 32 Consistency Threshold. Staff determined this limit would be approximately 20 MMBtu/hr with the combustion device operating at 100% load and using generic emission factors from the ARB Mandatory Reporting Regulation.
- The health risk assessment requirement text has been deleted because the meaning of this language could be misinterpreted. Since any project could present a potential for human health risk but not a significant risk, the original text could be misleading. Any project that presents a significant human health risk, as defined by the health risk threshold in the District's *Environmental Review Guidelines*, would not be exempt from CEQA.
- The level at which projects are exempt from CEQA has been changed from the de minimis level to the Best Available Control Technology (BACT) level. The current wording sets the level of CEQA review at the de minimis emissions value of 2.4 lb/day, and thus subjects every project to CEQA review. Projects under the de minimis value are exempt from obtaining a permit per Rule 202.D.6. Projects applying for an Authority to Construct (ATC) permit that do not trigger the BACT process are considered projects that comply with established defined prohibitory rules, do not trigger offset thresholds, and do not trigger requirements for an Air Quality Impact Analysis (AQIA). The revision makes CEQA application to permitting more logical and practical.
- A usage limit was included in the general solvent usage exemption in order to clarify that only general solvent usage under 1,500 gallons per year is exempt.
- Some of the added project exemptions can be summarized as the following: contaminated soil removal, registered agricultural engines, diesel-fired emergency/standby engines that comply with the applicable ATCM, loading racks that are connected to a vapor control system, wineries that produce less than 20,000 cases per year, and solvent cleaning machines with usage of 1,500 gallons of solvent per year.

Staff has ensured that all additional projects added to Appendix A, or revisions to projects in Appendix A, will remain below all of APCD's adopted CEQA thresholds of significance. It should be noted that the fair argument standard always applies, i.e. if a fair argument is made that the project may cause a significant adverse impact on the environment, a project may not be considered exempt from CEQA.

Next Steps

Once these revisions have been adopted by the APCD Board, APCD is committed to revising our guidance document, titled *Scope and Content of Air Quality Sections in Environmental Documents*, to provide additional guidance on how to apply the adopted GHG threshold. This guidance document can be revised as emission factors, quantification tools, and CEQA procedures are updated.

Summary of Changes to *Environmental Review Guidelines*

For quick reference, below is a summary of changes to each article:

GENERAL
- Formatting for consistency throughout the document

COVER
- Add full name of agency
- Update agency address

ARTICLE I
- Elaboration of APCD's permit jurisdiction

ARTICLE III
- Additional definitions
- Clarification of the definition of 'Environmental Officer'

ARTICLE IV
- Grammatical corrections
- Revision/simplification of CEQA process flowcharts
- Elaboration of applicant involvement in the environmental review process

ARTICLE V
- Addition of a greenhouse gas threshold to the thresholds of significance
- Elaboration of purpose of and procedure for Notice of Preparations

ARTICLE VI
- Elaboration of public review and approval procedures for Negative Declaration
- Procedural clarification of Notice of Determinations for final Negative Declarations

ARTICLE VII
- Elaboration of cumulative impact evaluations for projects emitting regional pollutants
- Addition of evaluation criteria for cumulative contribution of a project to global climate change
- Clarification on the procedures for Notice of Completions
- Addition of procedures for Notice of Determinations for Environmental Impact Reports

ARTICLE IX
- Updating of Department of Fish and Game filing fees

APPENDICES
- Updates to Appendix A including APCD's list of CEQA exempt projects and equipment or operations exempt form CEQA
- Grammatical correction in Appendix B
- Procedural clarifications in Appendix C forms I & II
- Updates to Appendix C forms I & II to maintain consistency with Appendix A

9.0 Definitions of Terms and Acronyms

Terms:

AB 32 Scoping Plan: The Scoping Plan is a direct response to AB 32. This plan describes the approach that California will take to reduce greenhouse gases to achieve the goal of reducing emissions to 1990 levels by 2020. *See additional discussion in Section 3.3.*

Air Pollution Control District/Air Quality Management District (APCD/AQMD): A local/regional agency with jurisdiction over stationary sources of air pollution. The Santa Barbara County APCD jurisdictional area is the same as the geographical boundaries of Santa Barbara County.

Assembly Bill 32 (AB 32) a.k.a. The Global Warming Solutions Act of 2006: AB 32 sets 2020 greenhouse gas emissions reduction goal into law and directs ARB to develop a scoping plan.

Baseline: This term can mean different things depending on the context of its use:

- CEQA baseline – This refers to a project's environmental setting, without the approval of the proposed project. The precise "CEQA baseline" scenario that is applied to a project may vary from one case to the next, but it is generally the site conditions at the time a Notice of Preparation of an EIR is issued by the CEQA lead agency. In some situations, CEQA case law can help to define what the appropriate assumption for the CEQA baseline is.
- "Business As Usual" baseline – The California Air Resources Board has used this term to represent California's forecasted GHG emissions, assuming a certain level of growth, and assuming that additional GHG reducing measures are not enacted by the state. *See additional discussion in Section 6.2.*

Best Available Control Technology (BACT): BACT is a term used to describe up-to-date methods, systems, techniques, and processes applied to new and modified sources of air pollution in order to achieve the most feasible air pollution emission control.

Business As Usual (BAU): In the context of the AB 32 Scoping Plan is essentially defined as the state of California's emissions forecast, assuming a certain level of growth, and assuming that additional GHG reducing measures are not enacted by the state. *See additional discussion in Section 6.2.*

CalEEMod: An emissions estimation model developed by South Coast Air Quality Management District.

California Air Pollution Control Officers Association (CAPCOA): This is non-profit association made up of the air pollution control officers from the 35 local/regional air quality agencies found in California. CAPCOA is a means to bring focus on shared air quality matters at the statewide level.

California Air Resources Board (ARB or CARB): The State's lead air quality agency consisting of an eleven-member board appointed by the Governor and several hundred employees. CARB is responsible for attainment and maintenance of the state and federal air quality standards, and is fully responsible

for motor vehicle pollution control. CARB oversees county and regional air pollution management programs.

California Environmental Quality Act (CEQA): A California law, which sets forth a process for public agencies to make informed decisions on discretionary project approvals. The process aids decision makers to determine whether any environmental impacts are associated with a proposed project. It requires environmental impacts associated with a proposed project to be eliminated or reduced, and that air quality mitigation measures are implemented. *See additional discussion in Section 3.1.*

Cap and Trade: This a regulatory approach used to control air pollution that sets a limit, or cap, on allowed emissions. The regulation establishes a hard and declining cap on approximately 85 percent of total statewide GHG emissions. *See additional discussion in Section 3.3.*

CEQA Lead Agency: The public agency with principal responsibility for carrying out or approving a project.

CEQA Responsible Agency: These are all public agencies other than the Lead Agency that have discretionary approval power over the project.

Criteria Pollutants: The Federal Clean Air Act required the Environmental Protection Agency to set air quality standards for common and widespread pollutants after preparing "criteria documents" summarizing scientific knowledge on their characteristics and potential health and welfare effects. Today there are standards for six "criteria pollutants" for which State and/or National Ambient Air Quality Standards exist. These criteria pollutants include ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide(SO_2), lead (Pb), and suspended particulate matter (PM_{10} and $PM_{2.5}$). The USEPA and CARB periodically review new scientific data and may propose revisions to the standards as a result.

Federal Clean Air Act (FCAA or CAA): A federal law passed in 1970 and amended in 1977 and 1990, which forms the basis for the national air pollution control effort. Basic elements of the act include national ambient air quality standards for major air pollutants, air toxics standards, acid rain control measures, and enforcement provisions.

Global Warming Potential (GWP): This is a measure of radiative forcing potential of greenhouse gases relative to that of carbon dioxide. GWP is useful to compare the atmospheric effects of different greenhouses gases without directly calculating the changes in atmospheric concentrations.

Greenhouse Gases (GHG): These are gases (both natural and anthropogenic) that absorb and emit infrared radiation. This process increases the greenhouse effect in the earth's atmosphere adding to global climate change. The most common GHGs in the atmosphere are water vapor (H_2O), carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and ozone (O_3). Additional GHGs identified include fluorinated gases such as hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

Intergovernmental Panel on Climate Change (IPCC): This is an international, scientific body under the auspices of the United Nations that assesses the scientific, technical and socio-economic information relevant to the risk of human-induced climate change.

Mitigation: A change or alternative to the proposed project, which reduces or eliminates its significant adverse environmental impacts. Mitigation can be in the form of traditional offsets, transportation-based mitigation measures that are directly associated with the project under consideration, or mitigation fees to be used to secure off site mitigation.

MT CO2e (also abbreviated as MT or MT/yr): Metric tons of carbon dioxide equivalent. This measurement allows for comparison between Global Warming Potential (GWP) of greenhouse gases (GHG).

Offsets, or **GHG Offsets**, or **GHG Emission Reduction Credits (ERCs):** An offset is a credit that represents a reduction or removal of greenhouse gases by an activity that can be measured, quantified, and verified. Individual offset projects can be implemented to generate offset credits, which can then be sold and used by a covered entity as a compliance instrument in the Cap-and-Trade Regulation.

Prevention of Significant Deterioration (PSD): A program used in development of permits for new or modified industrial facilities in an area that is already in attainment. The intent is to prevent an attainment area from becoming a non-attainment area. This program, like New Source Review, can require Best Available Control Technology and, if a standard is projected to be exceeded, emission offsets.

Project: In terms of CEQA, a project is defined as a discretionary action with potential physical effects on the environment. CEQA Guidelines Section 15060(c) and 15378 further clarify what constitutes a project that is subject to CEQA.

Senate Bill 97 (SB 97): Enacted in 2007, SB 97 requires that greenhouse gas emissions be analyzed as part of the CEQA process. *See additional discussion in Section 3.2.*

Stationary source: For the purposes of this staff report and the updates to the *Environmental Review Guidelines*, this term is defined as all of the equipment, processes and operations at a facility that are subject to APCD permit requirements. A stationary source is further defined by common ownership and contiguous property boundaries. State and federal air quality regulations offer more specific, legal definitions for the term “stationary source”.

U.S. Environmental Protection Agency (USEPA or EPA): The federal agency charged with setting policy and guidelines, and carrying out legal mandates for the protection of national interests in environmental resources.

Volatile Organic Compounds (VOCs): This term is generally used similarly to the term "reactive organic compounds" but excludes ethane, which the federal government does not consider to be reactive. VOCs are hydrocarbon compounds that exist in the ambient air and contribute to the formation of smog

and/or may themselves be toxic. VOCs often have an odor, and some examples include gasoline, alcohol, and the solvents used in paints.

Acronyms:

APCD: Air Pollution Control District

AQMD: Air Quality Management District

ARB: California Air Resources Board

BACT: Best Available Control Technology

BAU: Business As Usual

BPS: Best Performance Standards

CAA: Federal Clean Air Act

CAPCOA: California Air Pollution Control Officers Association

CARB: California Air Resources Board

CEQ: Council on Environmental Quality

CEQA: California Environmental Quality Act

ECAP: Energy and Climate Action Plan

EIR: Environmental Impact Report

EPA: U.S. Environmental Protection Agency

ERCs: Emission Reduction Credits

ERG: Environmental Review Guidelines

ERM: Emission Reduction Measures

GHG: Greenhouse Gas

GWP: Global Warming Potential

IPCC: Intergovernmental Panel on Climate Change

MND: Mitigation Negative Declaration

ND: Negative Declaration

NEPA: National Environmental Policy Act

OCS: Outer Continental Shelf

OPR: California Governor's Office of Planning and Research

PSD: Prevention of Significant Deterioration

SBCAPCD: Santa Barbara County Air Pollution Control District

USEPA: U.S. Environmental Protection Agency

VAFB: Vandenberg Air Force Base

VOCs: Volatile Organic Compounds

Online Resources:

ARB: http://www.arb.ca.gov/html/gloss.htm

UNFCCC: http://unfccc.int/resource/cd_roms/na1/ghg_inventories/english/8_glossary/Glossary.htm

EPA: http://epa.gov/climatechange/glossary.html

IPCC (4th Assessment Report) http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-annexes.pdf http://www.ipcc.ch/pdf/assessment-report/ar4/wg3/ar4-wg3-annex1.pdf

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Cap and Trade Regulation California Code of Regulations (CCR) Title 17, Division 3, Chapter 1, Subchapter 10, Article 5. California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to Allow for the Use of Compliance Instruments Issued by Linked Jurisdictions. ARB

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Court Cases:

Center for Biological Diversity (CBD) v. California Department of Fish and Game (CDFG) (2012) County of Los Angeles Superior Court. September 20, 2012. http://www.biologicaldiversity.org/programs/urban/pdfs/Newhall_Statement_of_Decision.pdf

Center for Biological Diversity (CBD) v. California Department of Fish and Game (CDFG) (2014) 2nd District Appellate Court. March 20, 2014.

Center for Biological Diversity (CBD) v. California Department of Fish and Game (CDFG) (2014) California Supreme Court. Case No. S217763. Still in review.

Citizens for Responsible Equitable Environmental Development (CREED) v. City of Chula Vista (2011) 4th District Appellate Court. June 10, 2011.

Cleveland National Forest Foundation v. San Diego Association of Governments (SANDAG) (2014) 4th District Appellate Court. November 24, 2014. http://www.biologicaldiversity.org/programs/climate_law_institute/transportation_and_global_warming/pdfs/37-2011-00101593-CU-TT-CTL_roa88_12-03-12_Order_Af.pdf

Friends of Northern San Jacinto Valley v. County of Riverside (2012) Superior Court of California, County of Riverside. April 11, 2012. http://www.northfriends.org/%5bProposed%5d-Statement-of-Decision.pdf

Friends of Oroville v. City of Oroville (2013) 3rd District Appellate Court. August 19, 2013. http://scholar.google.com/scholar_case?case=13942166720604580193&hl=en&as_sdt=6&as_vis=1&oi=scholarr

Friends of Northern San Jacinto Valley v. County of Riverside (2012) Superior Court of California, County of Riverside. April 11, 2012. http://www.northfriends.org/%5bProposed%5d-Statement-of-Decision.pdf

Utility Air Regulatory Group v. EPA (No. 12-1146), http://www.supremecourt.gov/opinions/13pdf/12-1146_4g18.pdf

March 17, 2015 Addendum to
Revisions to District Environmental Review Guidelines Staff Report,
District Community Advisory Council, March 25, 2015 Meeting

The following sections of the Staff Report have been revised since the original publishing on March 9, 2015.

Section 3.8 CEQA Case Law, Page 3-10:

Section 3.8 is revised as follows to remove discussion of the SANDAG case (*Cleveland National Forest Foundation v. San Diego Association of Governments (SANDAG)* (Nov. 2014) 231 Cal.App.4th 1056). The California Supreme Court granted a petition for review of the case on March 11, 2015, which vacates the Court of Appeal decision (*Cleveland Nat. Forest Foundation v. San Diego Ass'n of Governments*, --- P.3d ----, 2015 WL 1063948 (Cal. Mar 11, 2015) (NO. S223603):

3.8 CEQA Case Law

District staff is aware of two published CEQA court cases that have involved an AB 32 consistency/percent reduction from Business as Usual type of approach. One of them was also denied for review by the State Supreme Court. These court cases established precedents for how the impact of climate change and greenhouse gas emissions may be addressed under CEQA. These two cases are:

- *Citizens for Responsible Equitable Environmental Development (CREED) v. City of Chula Vista*, replacement of a Target store (4th District Appellate Court; California Supreme Court denied petition for review)
- *Friends of Oroville v. City of Oroville*, replacement of a Walmart store (3rd District Appellate Court)

Both of these court cases gave deference to the CEQA lead agency in utilizing a GHG significance threshold that was tied to consistency with the State's GHG reduction goals through implementation of the AB 32 Scoping Plan. They also provided additional reasoning and guidance for how a "percent reduction from Business as Usual" analysis may be conducted.

~~One additional case of note is *Cleveland National Forest Foundation v. San Diego Association of Governments (SANDAG)* (Nov. 2014) 231 Cal.App.4th 1056, regarding the SANDAG Regional Transportation Plan/Sustainable Communities Strategy. The Court held that SANDAG abused its discretion by omitting from an EIR any analysis of the plan's consistency with the "state climate policy" reflected in Governor's executive order calling for continual GHG reductions, which included achieving by 2050 an 80% reduction below 1990 GHG levels. The EIR acknowledged the plan would lead to an overall increase in GHG compared to the baseline emissions of 2010, but did not analyze whether this conflicted with the Executive Order. SANDAG contended this was not required by CEQA, but the Court found that this failure to analyze did not reflect a reasonable, good faith effort at full disclosure. The Court did not suggest the plan must achieve the EO's 2050 goal, but rather the concern was the EIR's failure to recognize, much less analyze and mitigate the~~

~~conflict between the plan's long-term GHG increase and "the state climate policy goal, reflected in the Executive Order, of long-term emissions reductions."~~

Section 6.3 Summary of Threshold Options, Page 6-33:

Section 6.3 has been revised because the wrong graph was inadvertently placed into this section. The correct graph is now shown in Figure 6-9:

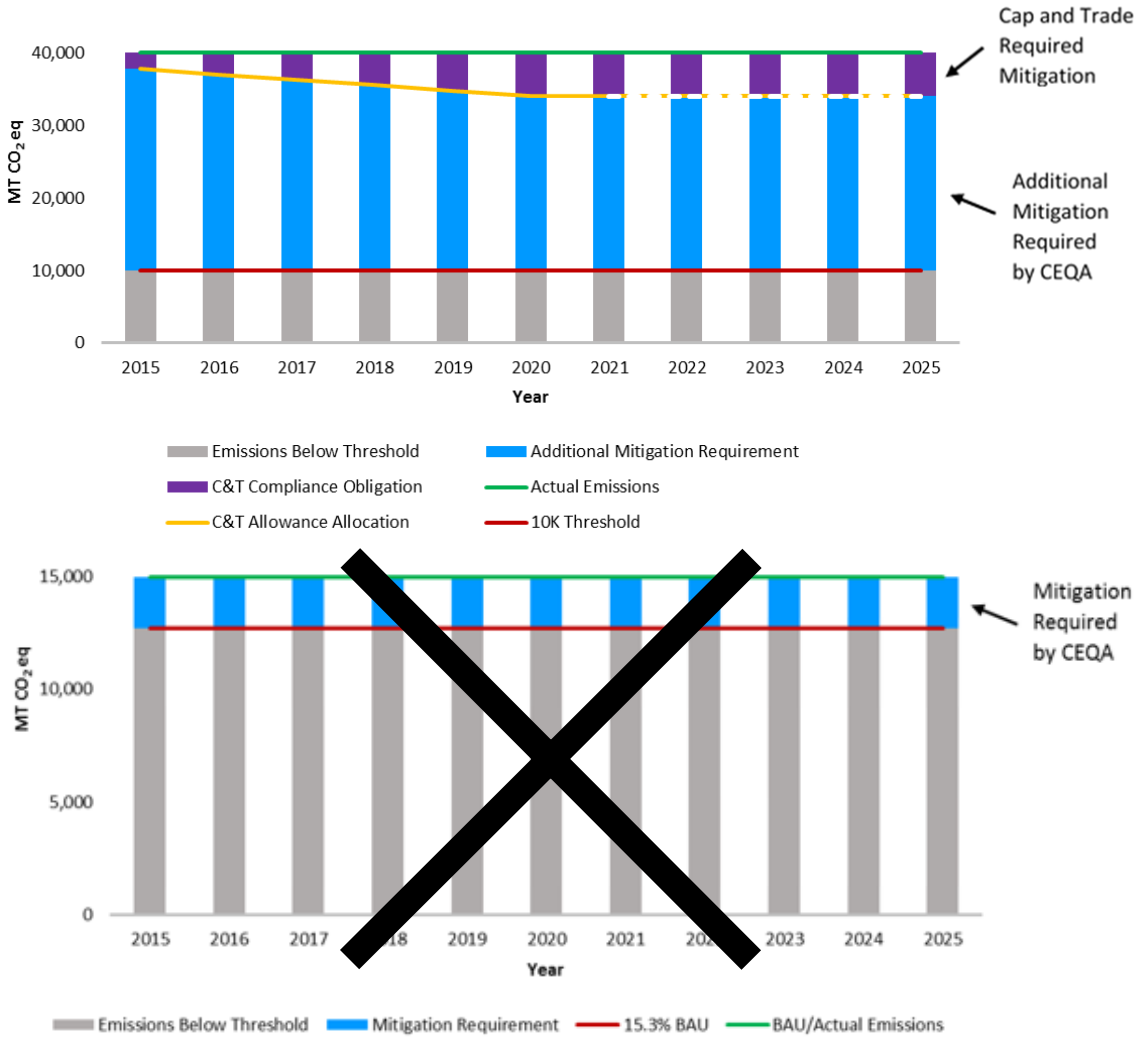
Comparison of Mitigation under the Two Threshold Options

The graphs below, taken from the preceding sections, provide examples of the mitigation requirements for a project with emissions of 40,000 MTCO2e/year analyzed under each option.

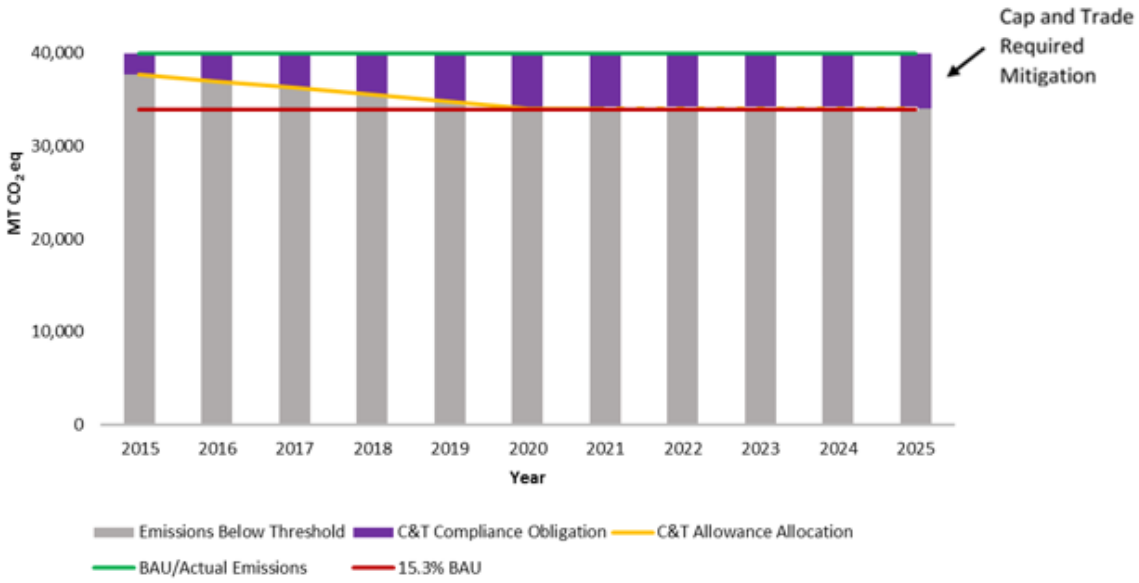
Figure 6-9

Comparison of Mitigation Examples

Project subject to a Bright Line 10,000 MT/yr Threshold



Project subject to the Cap and Trade Program (Under AB Consistency Threshold Approach)



The table below summarizes the data for the examples that were provided in Sections 6.1 and 6.2. The table indicates that the Bright Line threshold option will require a much greater mitigation obligation for larger sources that emit greater than 10,000 MT/yr. With the AB 32 Consistency threshold option, little to no additional mitigation is required under CEQA, and the largest sources subject to the Cap and Trade program will not require mitigation beyond the Cap and Trade program.

April 9, 2015 Addendum to
Revisions to District Environmental Review Guidelines Staff Report, District Community Advisory Council, March 25, 2015 Meeting

Table 5-1, on Page 5-5 of the Staff Report, has been revised as follows to correct an error and to provide further clarification of the values in the table.

Table 5-1: Hypothetical Bright-Line Significance Thresholds

Threshold Level (MT CO2e)	*Percentage of Emissions Captured*	*Number of Sources Within Santa Barbara County*		*Total County-Wide Emissions Within Category*
		Above Threshold	*Below Threshold*	
Zero	100.0%	418	0	1,001,607
1,000	98.6%	71	347	987,481
5,000	89.1%	23	395	891,978
10,000	82.4%	12	406	818,506
25,000	74.1%	7	411	730,578

Percent Capture Rate	*Mass Emissions Level (MT CO2e)*	*Number of Sources Within Santa Barbara County*		*Total Emissions Within Category*
		Above Threshold	*Below Threshold*	
80% Capture	16,315	8	410	750,985
85% Capture	7,422	17	401	858,126
90% Capture	3,974	25	393	900,130
95% Capture	1,754	44	374	950,701
98% Capture	1,149	65	353	981,139
100% Capture	Zero	418	0	1,001,607

Note:
All values are approximate.

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98% Capture	9	65	981,139
100% Capture	Zero	418	1,001,607

Note:
All values are approximate.

Attachment 1:

Environmental Review Guidelines Revisions (in strike-out underline)

ENVIRONMENTAL REVIEW GUIDELINES

FOR THE

SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT

Guidelines for the Implementation of the
California Environmental Quality Act of 1970, as amended

Adopted by the
Santa Barbara County Air Pollution Control District Board
October 19, 1995
Revised November 16, 2000

Revised XX XX, 2015

Prepared by
Technology and Environmental Assessment Division
Santa Barbara County Air Pollution Control District
~~26 Castilian~~
260 San Antonio Drive
~~Goleta,~~Santa Barbara CA ~~93117~~93110

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ENVIRONMENTAL REVIEW GUIDELINES

FOR THE

SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT

TABLE OF CONTENTS

ARTICLE I - INTRODUCTION AND PURPOSE

A. Introduction

The Santa Barbara County Air Pollution Control District (APCD) is a local government agency whose mission is to protect the people and the environment of Santa Barbara County from the effects of air pollution.

The APCD assumes the following roles in the implementation of CEQA.

1~~)~~. As a lead agency, the APCD analyzes and prepares environmental documents on its own discretionary activities, such as, air quality plans, rule development activities and discretionary APCD permits which do not require a land use or other agency permit.

2~~)~~. As a responsible agency under CEQA, the APCD reviews environmental documents prepared by other lead agencies or jurisdictions to reduce or avoid impacts to air quality and to ensure that the lead agency's environmental document is adequate to fulfill the CEQA requirements for APCD permits. The APCD's permit jurisdiction area encompasses the unincorporated areas of Santa Barbara County, areas such as Universities, military bases, and the cities of Santa Maria, Guadalupe, Lompoc, Buellton, Solvang, Santa Barbara and Carpinteria, as well as offshore sources.

3~~)~~. As a concerned agency, the APCD provides guidance to mitigate adverse impacts to air quality from development projects in the county as well as offshore sources.

B. Purpose

The purpose of these APCD Environmental Review Guidelines is to inform APCD staff, other governmental agencies, applicants and the public of definitions, procedures, and forms to be used by the APCD in the implementation of the California Environmental Quality Act [CEQA (Public Resources Code Section 21000 *et seq*.)] and to supplement the State CEQA Guidelines, (14 Cal. Admin. Code Section 15000 *et seq*.).

ARTICLE II - INCORPORATION OF STATE CEQA GUIDELINES

The full text of the State Guidelines (14 Cal. Admin. Code Section 15000 *et. seq*.) for the implementation of the California Environmental Quality Act (PRC § 21000 *et. seq*.), as they may be amended from time to time, is incorporated by reference into this Article of the APCD Guidelines as if fully set out, and shall supersede any inconsistent provisions of these Guidelines.

ARTICLE III - DEFINITIONS

The following words, where not defined in the State Guidelines, shall have the meaning ascribed to them in these definitions. These definitions, listed alphabetically, are intended to supplement definitions used in the State CEQA Guidelines.

APCD	The Santa Barbara County Air Pollution Control District.
Board	The governing board of the Santa Barbara County Air Pollution Control District.
Concerned Agency	Any public agency which has "jurisdiction by law", (as defined in § 15366) or special expertise; must be consulted by the lead agency in preparing an EIR, even if the agency has no discretionary authority over the project. The APCD is a local agency with jurisdiction by law over the air resources of the county.
Control Officer	Air Pollution Control Officer.
County Clerk	Clerk of the Board at the County of Santa Barbara, 105 E. Anapamu, Room 407, Santa Barbara, CA 93101
Day	Calendar day, unless stated otherwise.
Decision Maker	The APCD Board or Air Pollution Control Officer responsible for taking final action on a project under federal law, state law or Air Pollution Control District Rules and Regulations.
EA	Environmental Assessment prepared by a federal agency under NEPA. This document is similar to an Initial Study under CEQA.
EIS	Environmental Impact Statement, prepared pursuant to NEPA.
Environmental Officer	APCD Control Officer or designee.
FONSI	Finding of No Significant Impact prepared by a federal agency under NEPA.
Lead Agency	The public agency which has the principal responsibility for carrying out, approving, or causing the approval by a decision-making body of a project. The lead agency is normally the agency with general governmental powers, such as the county or a city, not the APCD. The APCD may assume the role of the lead agency under certain circumstances (§ 15052).
NEPA	National Environmental Policy Act of 1969
Responsible Agency	The public agency which has discretionary approval over a project for which a lead agency is preparing or has prepared an EIR or Negative Declaration (§15381).

ARTICLE IV - RESPONSIBILITIES FOR PREPARATION OF ENVIRONMENTAL DOCUMENTS

A. APCD Projects for which no APCD Permit is Required

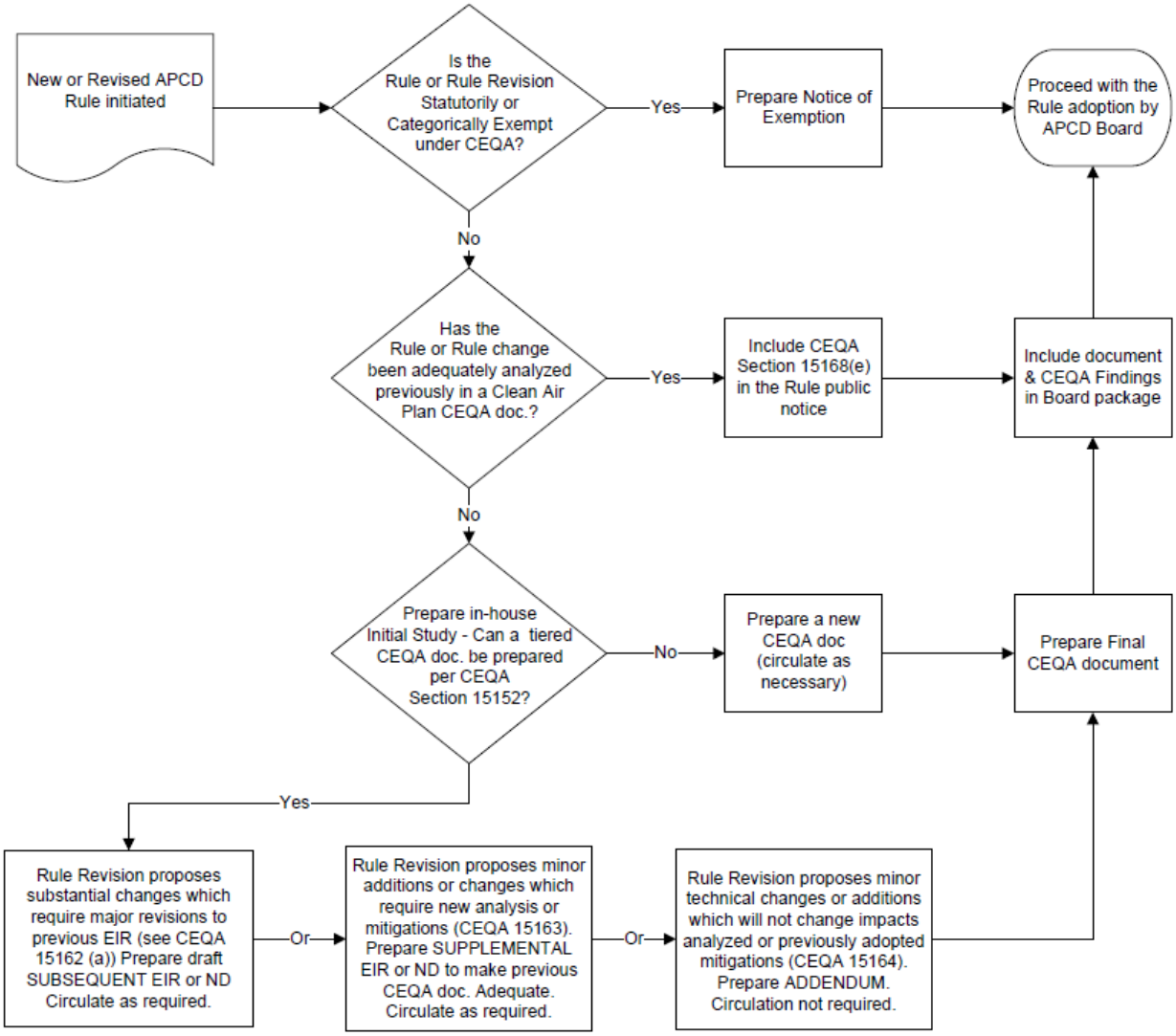
When the APCD plans to carry out a project, for which APCD is the lead agency, (e.g., APCD air quality plans or rules) the Environmental Officer shall ensure compliance with the CEQA process (see Figure 1). The APCD may determine that the project is exempt from CEQA. For exempt projects, the Environmental Officer will prepare and post a Notice of Exemption with the County Clerk within 5 days after project approval by the decision maker. For non-exempt projects, the Environmental Officer will prepare an Initial Study, and determine the type of environmental document required for the project based on published/adopted thresholds of significance or guidelines. APCD will prepare or cause to be prepared, the environmental document (EIR, Negative Declaration, or supplemental document). If required, the Environmental Officer may conduct a hearing on the environmental document and recommend findings to the decision maker as to its adequacy under CEQA. The approval or certification of the environmental document is the responsibility of the Board.

B. Private or Public Projects for which an APCD Permit is Required

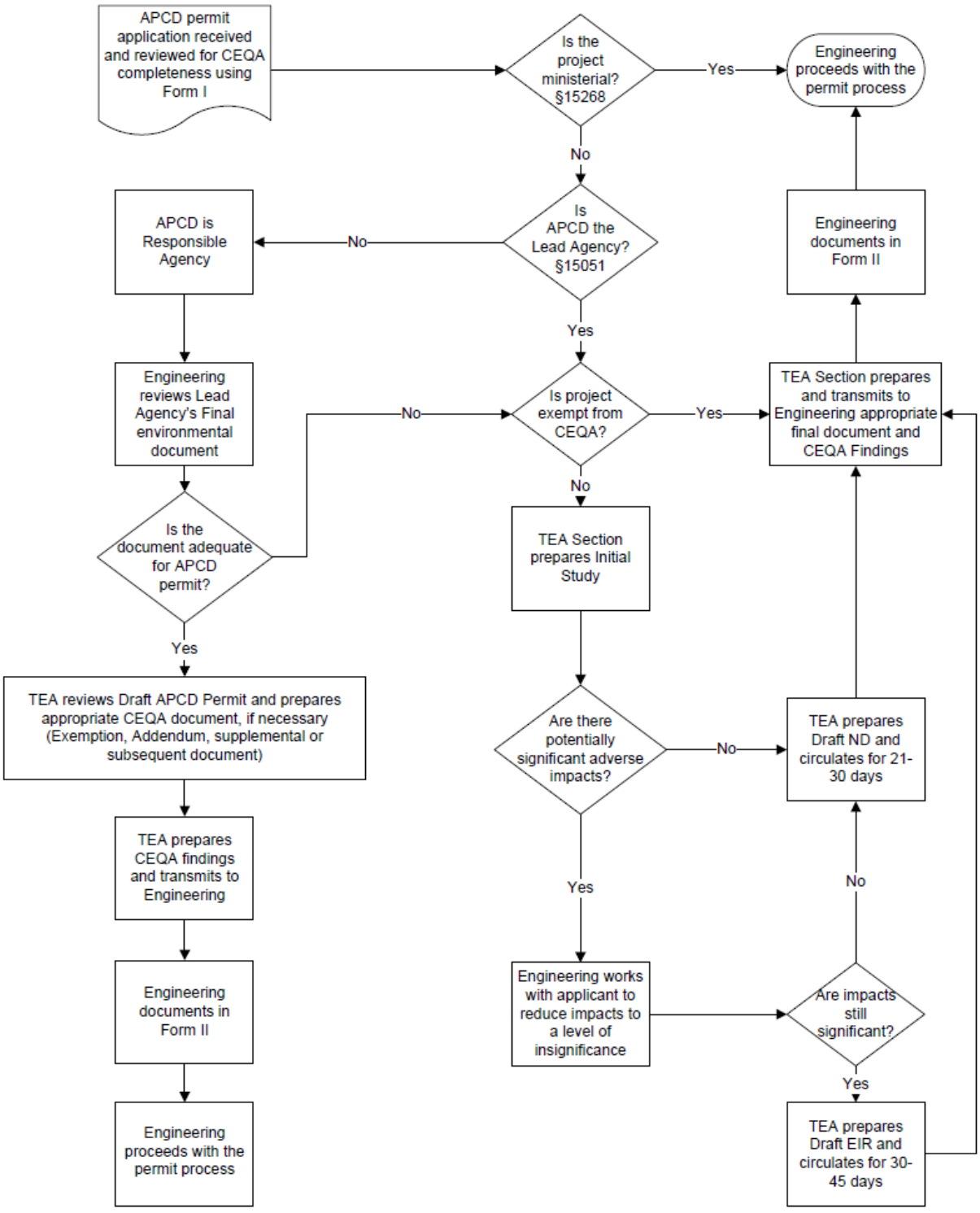
Where a private or public project is subject to a discretionary approval by the APCD (e.g., Authority to Construct permits), the APCD is either a responsible agency or the lead agency under CEQA (see Figure 2). CEQA does not apply to ministerial projects or to projects that are exempt from APCD permits pursuant to APCD Rule 202. APCD discretionary permit actions on federal facilities are subject to CEQA. ~~Federal government actions that do not require an APCD permit are not subject to CEQA.~~

When a project requires compliance with both CEQA and NEPA, and the APCD is a lead agency under CEQA, the APCD will use the federal Environmental Impact Statement (EIS) or Finding of No Significant Impact (FONSI), provided the federal document is prepared before the APCD's environmental document and it complies with the State CEQA Guidelines. Where appropriate, the APCD will prepare the air quality analysis for submission to the federal agency preparing the EIS or FONSI, for inclusion in the environmental assessment. Pursuant to §15222, if the federal document will not be ready by the time the APCD will need to consider an EIR or ND, the APCD will try to prepare a joint ND/FONSI or EIR/EIS involving the federal agency. When APCD is a responsible agency under CEQA, permit processing will be concurrent with the lead agency process, whenever feasible. APCD as responsible agency is prohibited from requiring proof of CEQA compliance as a prerequisite for determining application completeness (Govt. Code § 65941 [b]). Processing shall begin, upon the applicant's request, as soon as adequate information is available (Govt. Code § 64941 [c]).

CEQA PROCESS FOR APCD RULES
Figure 1



CEQA PROCESS FOR APCD PERMITS
Figure 2



The lead agency's certified final EIR or approved final Negative Declaration (ND), if one has been prepared, will be required prior to the issuance of the APCD permit in order to comply with Section 15096 (f) of the State CEQA Guidelines. The APCD decision on the application will be made within the time limits of the Permit Streamlining Act, Govt. Code Section 65940 *et seq.*, and APCD Rules and Regulations. The Control Officer prior to issuing the final permit will make CEQA findings.

When APCD is the lead agency under CEQA, APCD will review the permit application submitted by the applicant and determine if the project is exempt. For exempt projects, the Environmental Officer may, at the applicant's request, prepare and post a Notice of Exemption with the County Clerk within 5 days after project approval by the decision maker. For non-exempt projects, the Environmental Officer will prepare an Initial Study and determine the type of environmental document to be prepared. APCD will prepare or cause to be prepared, the environmental document.

If required, the Environmental Officer will conduct a hearing on the environmental document and recommend findings to the Control Officer as to its adequacy under CEQA (if the Environmental Officer is not the Control Officer). The approval or certification of the environmental document will be the responsibility of the Control Officer.

C. Applicant Involvement in Environmental Review Process

The APCD shall consult with the applicant at key points throughout the process as described below, to ensure accuracy of project information and to obtain timely input of the applicant's views on the analysis and process.

1. Pre-application Consultations. As described in Article V, Section B of these Guidelines, at the request of potential applicants prior to application, the APCD shall provide consultation about CEQA environmental review considerations at the public information counters or through paid staff consultations and pre-application conferences.

2. Application Review. As part of the preliminary review of applications for completeness in the first 30 days following application submittal, the APCD shall begin consideration of CEQA environmental review issues and convey a preliminary assessment to the applicant. Examples of information at this stage could include an initial determination of whether a project is exempt from CEQA; additional project description or environmental setting information or technical studies that will be needed in order to analyze the project under CEQA; identification of possible significant environmental impacts; a preliminary assessment of probable environmental document type (e.g., ND, EIR, Supplement, Addendum, etc.); and preliminary identification of project redesigns, mitigation measures and/or alternatives that could be taken to avoid or lessen apparent environmental effects, including measures that might sufficiently reduce potentially significant effects such that the project may qualify for a mitigated negative declaration rather than an EIR.

3. Initial Study. During preparation of the Initial Study, the APCD shall consult with the applicant as necessary to confirm the accuracy of the project description and to request any additional information regarding the environmental circumstances of the site or

surrounding area, and to discuss any issues regarding impact analysis or document type arising from early consultation with affected agencies. As described in Article V, Section J of these Guidelines, the applicant shall be notified of the initial study determination and may request a consultation/ appeal meeting to discuss clarification of the Initial Study analysis or appeal of the Initial Study determination. On projects for which potentially significant impacts are identified, the APCD shall consult with the applicant regarding any measures that could be incorporated into the project to sufficiently lessen impacts such that the project could qualify for a mitigated negative declaration rather than an EIR. The applicant must agree to such mitigation measures in writing prior to release of a draft mitigated negative declaration for public review.

4. Scoping. The applicant shall receive a copy of any Notice of Preparation and/or notice of a scoping hearing for the environmental document. The APCD shall consult with the applicant regarding any document scoping issues and any problems that arise from consultation with affected agencies and the public.

5. Draft EIR Preparation. The APCD staff shall consult with the applicant during preparation of the draft environmental document as necessary to confirm the project description, project objectives, and identification of alternatives; to discuss the progress of the analysis and any problems or conflicts that arise; and to discuss the feasibility of identified mitigation measures.

6. Public Review Period. The applicant shall receive a copy of notices of document availability, public comment period, and any environmental hearings. The APCD staff shall consult with the applicant regarding public and agency comments received, and applicant comments on the draft document.

7. Final EIR. The APCD staff shall consult with the applicant, as appropriate, to discuss the progress of preparation of responses to comment, final EIR, and CEQA findings.

ARTICLE V - INITIAL EVALUATION OF PROJECTS

A. Applicability

CEQA applies to activities that may result in a direct or reasonably foreseeable indirect physical change in the environment. A project subject to CEQA means the whole of an action resulting in such an environmental effect that a public agency undertakes, funds, and/or permits by a discretionary permit.

B. Early Consultation on CEQA Determinations

Upon request of a potential project applicant, the APCD will provide consultation prior to filing of a project permit application regarding CEQA environmental review considerations, including the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment. Such consultations are conducted through the regular APCD permit process pre-application meeting.

When a project is also subject to NEPA, and the APCD plans to use federal environmental document or to prepare a document jointly with the federal agency, the APCD shall consult with the federal agency as soon as possible.

C. Adequacy of Project Description

The information required to adequately describe a proposed project for the purpose of environmental review must be provided in the application for an APCD permit. These information requirements include all the details needed to review routine projects. Large or complex projects may require additional information in order to complete an accurate environmental assessment.

Detailed information on site conditions, particularly any unique characteristics such as environmentally sensitive habitats or geologic hazards is required. Design features or measures incorporated into the proposed project intended to avoid, reduce, or otherwise mitigate project impacts should be described.

For projects which may utilize or generate hazardous materials, or which may pose a threat to public health or safety, information regarding the engineering basis and design of the project facilities and the effects of project operations is required.

For projects which require permits from other agencies such as the U.S. Forest Service, U.S. Minerals Management Service, California Coastal Commission, State Department of Fish and Game, County or city departments, etc., information needed by such departments or agencies may be required to accompany an application to the APCD. Any information submitted to other agencies shall be consistent with that submitted to the APCD.

Prior to the application completeness determination, the Environmental Officer will identify any deficiencies in the project description for purposes of environmental review, and notify the permit engineer. The Control Officer will deem the application incomplete where the project description is inadequate. The applicant must provide the additional information requested and may submit a revised application.

D. Determining if a Project is Exempt from CEQA

1. APCD, as the lead agency will determine whether the proposal is not a project, or is an emergency, categorically or statutorily exempt, or ministerial project under CEQA (Appendix A lists projects that are considered exempt from CEQA by the APCD). The APCD will determine if the project is exempt within 30 days of permit application completeness. For APCD projects (rules and plans), the determination that the project is exempt will be made, for consideration by the Control Officer, at least 30 days prior to final action by the Board.
2. A Notice of Exemption (NOE) should be filed with the Clerk of the Board, within five days after project approval, for those classes of exemption identified in ~~Appendix A and~~ the State CEQA Guidelines. For APCD permits determined to be exempt, an NOE may be filed upon request of the applicant.
3. If filed, the NOE will be posted in the office of the Clerk within 24 hours of receipt, and will remain posted for a period of 30 days, then returned to the APCD.
4. The APCD, as the lead agency may, at its discretion, also file a NOE if it can be seen with certainty that the project does not have the potential to cause a significant effect on the environment (CEQA Section 15061(b) (3)).
5. A determination by the APCD that a project is not exempt may not be appealed; a determination that a project is exempt may be reviewed by the decision maker at the time of consideration of the project, and if the decision maker disagrees with the determination of exemption, the decision maker will require the preparation of an Initial Study.

E. Initial Study

For non-exempt projects for which APCD is the lead agency, the applicant may be required to submit additional environmental information upon request by the APCD as part of the application. Within 30 days of a determination of application completeness, the APCD will determine whether or not the project may have a significant effect on the environment.

If the Initial Study shows that there is no substantial evidence that the project will cause a significant effect on the environment, the APCD shall prepare a Negative Declaration or Addendum to a prior ND or EIR.

The APCD shall prepare a Mitigated Negative Declaration if the Initial Study determines that the project may result in a significant effect, but revisions to the project proposal made by or

agreed to by the applicant before the draft Negative Declaration is released for public review would avoid or mitigate the effects to a point where clearly no significant effect would occur, and there is no substantial evidence before the agency that the project as revised may have a significant effect.

If the Initial Study determines that the project may result in a significant effect on the environment, the APCD shall: (1) prepare an EIR, or (2) use a previously prepared EIR which adequately analyzes the current project, or (3) determine that some effects were adequately analyzed by a prior EIR or ND, and prepare a subsequent document (EIR, supplement or Addendum) focusing on effects not analyzed adequately in the previous document~~).~~

F. Environmental Thresholds of Significance

Thresholds of significance are intended to supplement provisions in the State Guidelines for determining significant effects including Sections 15064, 15065, 15382 and Appendix G, incorporated herein. Thresholds are measures of environmental change, which are either quantitative, or as specific as possible for topics that are resistant to quantification such as aesthetics, cultural resources, and biology.

Air Quality significance criteria are applied during the CEQA review of projects for which the APCD is lead agency and recommended for CEQA review of all other projects in the county, for which the APCD is responsible agency or concerned agency.

1. Air Quality

A proposed project will not have a significant air quality effect on the environment, if:

Operation of the project will:

- emit (from all project sources, mobile and stationary~~,~~) less than the daily trigger for offsets set in the APCD New Source Review Rule~~,~~ for any pollutant~~;~~ and
- emit less than 25 pounds per day of oxides of nitrogen (NOx) or reactive organic compounds (ROC) from motor vehicle trips only; and
- not cause or contribute to a violation of any California or National Ambient Air Quality Standard (except ozone); and
- not exceed the APCD health risk public notification thresholds adopted by the APCD Board; and
- be consistent with the adopted federal and state Air Quality Plans.

2. Climate Change and Greenhouse Gases

Global climate change is a cumulative impact; a project contributes to this impact through its incremental contribution combined with the cumulative increase of all other sources of greenhouse gases.

The APCD's greenhouse gas (GHG) threshold is defined in terms of carbon dioxide equivalent (CO2e), a metric that accounts for the emissions from various GHGs based on their global warming potential. If annual emissions of GHGs exceed these threshold levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant adverse environmental impact.

A proposed stationary source project will not have a significant GHG impact, if operation of the project will:

TO BE DECIDED – DECISION-MAKERS TO CONSIDER EITHER "A" OR "B":

A. 10,000 MT/YR BRIGHTLINE THRESHOLD

- Emit less than the bright line threshold of 10,000 metric tons per year (MT/yr) CO2e.

B. THRESHOLD BASED ON CONSISTENCY WITH AB 32

- Emit less than the screening significance level of 10,000 metric tons per year (MT/yr) CO2e, or
- Show compliance with an approved GHG emission reduction plan or GHG mitigation program which avoids or substantially reduces GHG emissions (sources subject to the AB 32 Cap-and-Trade requirements pursuant to Title 17, Article 5 (California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms) would meet the criteria), or
- Show consistency with the AB 32 Scoping Plan GHG emission reduction goals by reducing project emissions 15.3% below Business As Usual (BAU).

Stationary source projects include equipment, processes and operations that require an APCD permit to operate.

Project GHG emissions include direct and indirect sources emissions. Direct emissions occur as a result of the project onsite combustion sources such as engines, boilers, heaters and onsite mobile equipment, and also offsite sources directly related to the project such as emissions from worker commute trips and haul truck trips. Indirect emissions occur as a result of a project's actions but are produced from sources not owned or controlled by the project such as offsite emissions from electricity generation, water conveyance, and waste disposal.

The APCD's determination on whether or not the project may have a significant effect on other environmental issues may be based in part on published/adopted thresholds of significance and guidance provided by the jurisdiction in which the project is located. For issue areas for which there are no thresholds, the guidance provided in the State CEQA Guidelines shall provide the basis for determining significance.

Thresholds of significance provide general guidance for determining significant impacts, but are not ironclad definitions of significant impacts. Each project must be judged individually for its potential for significant impacts, based on specific circumstances and evidence.

A project which has no effect above threshold values individually or cumulatively will generally be determined not to have any significant effect, and a negative declaration will be prepared as provided by Article VI below. Projects that have an effect above a threshold of significance will generally require an EIR, unless mitigation is identified and the applicant accepts modifications to the project. If modifications are sufficient to mitigate impacts to a less than significant level a Mitigated Negative Declaration may be prepared.

G. Mitigation Measures

Measures capable of reducing or avoiding potentially significant impacts will be identified during the preliminary evaluation of non-exempt projects. A broad range of potential mitigation measures should be considered to maximize the potential for project modifications that mitigate adverse impacts and enable projects to qualify for Negative Declarations. The list of mitigation measures identified at the Initial Study stage must later be refined and specified to meet the standards for inclusion in environmental documents (ref. Articles VI.B and VII.C).

Staff reports, NDs, and EIRs will address monitoring of mitigation measures in a Mitigation Monitoring and Reporting Plan (MMRP), in compliance with Public Resources Code Section 21080.6.

H. Notice of Preparation

Following an Initial Study determination that an environmental impact report will be required, APCD will prepare and distribute a Notice of Preparation (NOP) of the EIR. The NOP will be sent to the State Clearinghouse (for APCD plans, rules and for permits of regional significance) and Responsible and Trustee Agencies and involved federal agencies, and may be sent to other interested agencies, groups and individuals. The NOP will be sent by electronic mail, in addition to certified mail to provide notice that an EIR will be prepared and to obtain comment on the EIR scope of analysis. The ~~NOP~~Notice of Preparation is sent to provide notice that an EIR will ~~also~~be prepared and to obtain comment on the EIR scope of analysis, and shall be filed with the ~~County~~ Clerk of the Board of Supervisors. The NOP will be posted in the office of the Clerk within 24 hours of receipt, and will remain posted for 30 days, then returned to APCD.

I. Scoping Meetings

The APCD may hold a scoping meeting on potentially controversial projects or cases where it is not clear whether a project may have a significant effect. Early consultation with the public is helpful in determining whether an EIR will be required and what issues it should address.

1. Purposes

a. To allow for public and agency input on the environmental effects of a project at the earliest possible time in the process.
b. To focus project-related impact assessment on significant environmental issues and their mitigation.
c. To determine the focus of EIRs, based on public input and published thresholds of significance.
d. To identify feasible mitigation measures.
e. To identify realistic and feasible alternatives for refinement within EIRs.

2. Applicability

Public scoping meetings may be recommended by the Environmental Officer and be conducted by the Control Officer or designee if the project has one or more of the following features:

a. It is located in a controversial area.
b. Public concern has already been expressed over environmental effects of the project, or of a Best Available Control Technology (BACT) determination.
c. It will require an amendment to the current State Implementation Plan.
d. It is clear that it may have a significant effect in one issue area, but not clear in other areas.

3. Notice

Scoping meetings should occur as early as practicable, and generally within 30 days of the Initial Study determination or prior to the close of the Notice of Preparation period. Noticing for public scoping meetings will include the APCD Community Advisory Council, the APCD Board, responsible agencies and trustee agencies, interested and affected agencies, as well as residents within 1,000 feet of the project site, and organizations and members of the public expressing interest. Public notice will be given 10 days prior to the scoping meeting and should identify the issues of concern. Electronic copy and printed copy mailings may contain a copy of the draft Initial Study or summary scoping paper-.

4. Use

Subsequent to the scoping meeting, APCD will make any appropriate changes to the Initial Study and advise the applicant whether a Negative Declaration (ND) or a Mitigated ND or an Environmental Impact Report (EIR) is required.

J. Consultation/Appeal Process For Initial Study Determinations

The purpose of this procedure is to provide an opportunity for an applicant, once an initial study has been prepared, to correct pursuant to State CEQA Guidelines Section 15063(g) inaccurate information and/or to provide evidence that the conclusions of the initial study may be incorrect. Where a determination is made by the APCD that an EIR is required, the applicant will be immediately notified of this determination by certified mail.

Within five (5) working days following receipt of notification of the Initial Study Determination, the applicant may request and receive a meeting with the Control Officer or designated representative for the purpose of consultation to clarify or correct the Initial Study analysis or to appeal the Initial Study finding. The request for an Initial Study consultation / appeal meeting shall be made in writing, and shall specify the basis for the Initial Study appeal.

The focus of the consultation/appeal will be as follows:

1. The applicant may provide information to correct factual errors in the Initial Study.
2. The applicant may submit additional information to assist in deciding whether to prepare an EIR or ND.
3. The applicant may propose modifications to the project description to mitigate potentially significant adverse impacts to less-than-significant levels, thereby enabling the project to qualify for a mitigated ND.

Any changes to the findings of the Initial Study based upon the consultation will be supported by substantial evidence to show a material error or incorrect conclusion in the Initial Study or modifications to the project. Such evidence supporting errors or incorrect conclusions should be documented by engineering reports or certified by a competent professional in the appropriate field, and should consist of new material not already considered in the Initial Study.

Upon consideration of the information submitted, the Control Officer, shall affirm, reverse or modify the conclusions of the Initial Study and provide a copy to the applicant. This determination is not appealable.

ARTICLE VI - NEGATIVE DECLARATIONS

A. Responsibility for Preparation

For APCD rules and plans, the APCD will prepare the proposed and final negative declaration or contract with a qualified consultant. For all private projects, the receipt of an additional deposit, pursuant to APCD Rule 210, from the applicant is required before APCD can prepare or contract with a qualified consultant to prepare a draft ND. Contractors may be used when workload exceeds available staff resources or when the proposed ND requires more than routine analysis.

B. Mitigation Measures

Where the identification of mitigation measures enables an applicant or APCD to modify a project during the initial study to mitigate all potentially significant impacts to a less than significant level before an EIR is prepared, a Mitigated Negative Declaration incorporating those mitigations into the project description will be prepared. Mitigation measures in Negative Declarations must meet the standards for adequacy described in Article VII, Section C of these Guidelines. Furthermore, mitigations forming the basis of a finding of no significant impact must be accepted in writing by the project proponent, and incorporated into the project description before the proposed negative declaration is released for public review. Mitigation measures must be made fully enforceable through permit conditions or other agreements.

C. Mitigation Monitoring and Reporting Program

When adopting a mitigated Negative Declaration, a Mitigation Monitoring and Reporting Program will also be adopted which incorporates mitigation measures meeting the standards for adequacy described above and a monitoring component for each measure described in Article VII, Section C of these Guidelines. The APCD will be responsible for ensuring that monitoring and reporting is carried out as indicated after the project is approved.

D. Review Period

1. Within 10 working days of completion of a proposed ND, APCD will initiate a 20-day public review period. If a State Clearinghouse review is required, the public review period for the ND will be 30 days. Should issues related to new environmental information, changed environmental circumstances, or applicant changes to the project description occur, an extended public review period may be required at the discretion of the Control Officer.

2. The APCD may hold a public hearing on the proposed ND. If a public hearing is proposed on a ND, the Environmental Officer will conduct the hearing prior to the close

of the review period. Notice will be given by posting on the APCD public bulletin board, by publishing a display or legal advertisement in newspapers of general circulation in the project area and by direct mailings to interested parties. The APCD will prepare and maintain a master notification list for its projects. The notice will include: a brief description of the proposed project and location; a summary listing of potentially significant but mitigable impacts anticipated to result from the project; identification of the preparer of the draft ND; the length of the review period in which comments will be received by the APCD; the date, time and place of the public comment hearing on the ND, and the places where copies of the ND and documents referenced in the ND are available. The Environmental Officer will hold the public hearing for the purpose of receiving comments by interested agencies, the public and the applicant on the accuracy and adequacy of the proposed ND.

Comments from the public and the applicant received during the public hearing or review period will be considered and where appropriate will be incorporated into the final draft ND. ~~The final draft ND will be presented to the Control Officer or Board after the close of the public review period for the ND as part of the project action.~~

E. Findings and Recommendation for Approval

If, after the comment period and public hearing, the Environmental Officer determines that there is no substantial evidence that the project may have a significant effect, a final ND will be prepared. All comments received during the review period will be incorporated into the final proposed ND and transmitted to the decision maker, with a proposed finding that there is no substantial evidence that the project will have any significant effect, and a recommendation for approval of the document. There will be no administrative appeal from the hearing officer's proposed findings on the Negative Declaration, but objections raised during the public hearing will be deemed preserved and may be raised before the discretionary decision maker. After the close of the public review period, the proposed final ND for any private project will be presented to the Control Officer and for any APCD project will be presented to the Board. The decision maker will consider the ND at the time the project is considered for approval.

F. Determination by Hearing Officer that ND is Inadequate

If, after review, the Environmental Officer determines that there is substantial evidence that the project may have a significant effect, an EIR will be prepared pursuant to Article VII. In such a case, the time limit for preparation of the environmental document will be one year from the date the application was found complete for processing.

G. Determination by Decision maker that ND is Inadequate

If, upon review of the project, the decision maker determines that the ND is inadequate, the APCD will prepare appropriate revisions to the ND or prepare an EIR. Consideration of the

project will be deferred until the ND is approved or an EIR is certified, consistent with mandatory time lines for action.

H. Notice of Determination

~~Upon~~Within five working days of the approval of a public or private project for which a final ND has been prepared, the APCD will file a Notice of Determination (NOD) with the ~~County Clerk.~~ Clerk of the Board of Supervisors. A California Department of Fish and Wildlife's CEQA Filing Fee No Effect Determination Form signed by the Environmental Officer must be filed along with the NOD after the payment of any applicable fees as described below in Article IX. The notice shall be posted in the office of the Clerk within 1 working day of its receipt, and shall remain posted for a period of 30 days, after which it will be returned to the APCD, which must retain the notice for 1 year If the project requires discretionary approval from a State agency, APCD will within 5 working days of APCD approval file the NOD with the Office of Planning and Research.

ARTICLE VII - PREPARATION OF ENVIRONMENTAL IMPACT REPORTS

A. Responsibility for Preparation

For APCD rules and plans, the APCD will prepare the draft and final EIR or contract with a qualified consultant. The APCD rarely uses private consultants. For a private project, the applicant is required to deposit fees pursuant to Rule 210, before APCD staff can prepare, or contract with a qualified consultant to prepare, a draft and final EIR. The consultant selection procedure is outlined in Appendix B.

B. Focus of EIR Analysis

EIRs shall focus on analysis of potentially significant impacts. Impacts that will be less than significant may be summarized briefly or reference may be made to the Initial Study analysis of impacts determined to be less than significant. Where appropriate, the APCD will prepare a focused EIR pursuant to Sections 15188 and 15189 of the State CEQA Guidelines.

C. Mitigation Measures

Mitigation measures conceived during the initial evaluation of projects must be refined in EIRs to ensure their feasibility, specificity and enforceability. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological considerations, including considerations of employment opportunities for highly trained workers, as mandated by CEQA. With regard to enforceability, the EIR must address monitoring of mitigation measures pursuant to Public Resources Code Section 21080.6. Mitigations will be explicitly written in language that can be directly applied as conditions of approval by the decision maker. APCD will be responsible for reviewing and approving the air quality aspects of the compliance program. Where another agency would be responsible for implementing a mitigation measure, the environmental document will identify a mechanism to link the timing and funding of the mitigation to the approval of the project.

With regard to cumulative impacts, an EIR may determine that a project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measures or measures designed to alleviate the cumulative impact.

D. Analysis of Project Alternatives

1. All EIRs will include a discussion of viable project alternatives. Development of project alternatives should focus on options that have the potential to reduce significant environmental impacts and attain project objectives. While consideration of a broad spectrum of alternatives is encouraged early in the process, the range of options should be narrowed to those which are consistent with the following principles:

a. consistency with the current State Implementation Plan, and other environmental plans and goals of the community.

b. reduction of significant adverse environmental effects.

c. compatibility with sensitive land uses such as schools.

d. feasibility.

Determination of the feasibility of alternatives will take into account economic, legal, social, and technological considerations, including considerations of employment opportunities for highly trained workers, as mandated by CEQA.

2. An expanded discussion of project alternatives will be required in EIRs when it is demonstrated that one or more significant and unavoidable adverse environmental impacts would result, and when feasible project alternatives may effectively reduce Class I environmental impacts to acceptable levels. The alternatives analyzed should include process alternatives (including pollution prevention), innovative technologies, offsite mitigation, reduced or modified scope of operations at the same site, and alternative sites.

E. Cumulative Impact Evaluation

1. Significance Criteria: Unless otherwise specified in published/adopted thresholds of significance and guidelines, a project's potential contribution to cumulative impacts is assessed utilizing the same significance criteria as those for project specific impacts.

2. Geographic Scale of Cumulative Impact Assessment: Various methods are utilized for assessing a project's contribution to cumulative impacts, dependent upon the nature of the impact and its areal extent. In general, the EIR preparer uses a specific cumulative project list accompanied by a map depicting these projects' locations in relation to the resource to be impacted. To evaluate the cumulative air quality impacts of localized pollutants, the contribution of the project emissions in conjunction with existing and proposed projects in the local area may be considered.

   Projects which have the potential to cause impacts at a regional scale may create the need for a countywide assessment of cumulative impacts. While detailed cumulative project lists and maps are the preferred method for assessing cumulative impacts, due to the scope and nature of some impacts, other methods such as modeling or provision of background data may be more appropriate. In cases where the extent of impacts is extensive and difficult to define, such as regional air quality, provision of a detailed cumulative list is normally beyond the scope of an individual document.

   To evaluate cumulative air quality impacts of projects emitting regional pollutants, the contribution of project emissions to regional levels should be compared with existing programs and plans, including the most recent Clean Air Plan or State Implementation Plan.

   For guidance on cumulative impact assessment of global climate change/greenhouse gases, including the significance determination criteria, see Article V.F.2.

3. Impact Identification: The cumulative impact discussion within an EIR should identify whether the project's contribution to a particular cumulative impact is adverse or significant. As previously stated, cumulative impacts may be classified either through specific standards or through incorporation of cumulative background data within the standard.

   The decision to prepare a ND implies that a project's impacts are insignificant on both a project specific and cumulative level. However, where a cumulative impact is identified and the ND contains recommended mitigation measures to reduce the project's contribution to cumulative effects, information must be provided to substantiate the recommended mitigations.

F. Classification of Impacts

   All EIRs will contain a Summary Impact Table to assist decision makers with adoption of Statements of Overriding Considerations and Findings. Such tables should be organized as follows:

   ~~a~~1. Class I Impacts - Significant unavoidable adverse impacts for which the decision maker must adopt a Statement of Overriding Considerations.

   ~~b~~2. Class II Impacts - Significant adverse environmental impacts that can be feasibly mitigated or avoided for which the decision maker must adopt CEQA Findings and mitigation measures.

   ~~c~~3. Class III Impacts - Adverse impacts found not to be significant for which the decision maker does not have to adopt Findings under CEQA.

   ~~d~~4. Class IV Impacts - Beneficial impacts of the project.

G. Review Period

   l. When the APCD proposes to offer the draft EIR for public review, it will ~~publish~~file a Notice of Completion of Draft EIR and indicate the public comment period.

   2. Notice will be ~~given by posting~~filed with the Office of Planning and Research and posted on the APCD public bulletin board, by publishing a legal or display advertisement in a newspaper of general circulation in the project area, and by direct mailings to interested parties. ~~Where applicable, a copy of the Notice of Completion and required form will be sent to the State Clearinghouse along with 10 copies of the draft EIR.~~

   3. The notice will include: a brief description of the proposed project and location; a listing of impacts addressed in the document; the length of the review period (a minimum of 30 days unless the review includes the State Clearinghouse, in which case it will be 45 days) in which comments will be received by the APCD; the date, time and place of the public comment hearing on the EIR, and the places where copies of the EIR and documents referenced in the EIR are available for public review.

4. APCD may hold a public hearing on draft EIRs. The hearing will be held within 30-45 days of the publication of the Notice of Completion. At the hearing, comments by interested agencies, the public and the applicant are solicited on the accuracy and adequacy of the draft EIR. These comments may include critiques of any part of the document including impact summary tables, forecasts of environmental effects, proposed mitigation measures and project alternatives. Comments on the merit of the project rather than its potential environmental effects and their mitigation are not appropriate, and should be reserved for the decision-making hearing. The preparer of the draft may informally respond to comments at the hearing. Written responses to comments must be provided in the Final EIR.

H. Findings and Recommendation for Approval

If, after the close of the comment period and public hearing, the Environmental Officer determines that the draft EIR is adequate, the EIR will be finalized by the APCD. All minor revisions, comments and responses identified during the review period and public hearing will be incorporated into the document and transmitted to the decision maker with a recommendation that the final EIR be certified.

I. Determination by Environmental Officer that EIR is Inadequate

If, after review, the Environmental Officer determines that the draft EIR is inadequate and requires major revisions, beyond the responses made at the hearing, which trigger the requirement for recirculation under CEQA (Section 15088.5), the document will be returned to the APCD for revision. If recirculation of the document for public review is required, a new Notice of Completion will be prepared as provided above.

J. Determination by Decision Maker that EIR is Inadequate

If, upon review of the prepared final EIR and the project, the decision maker determines that the EIR is inadequate, the EIR will be appropriately revised unless the decision maker denies the project. When the Control Officer certifies an EIR, that certification can be appealed to the APCD Board. Consideration of the project will be deferred until the EIR is certified by the decision maker(s) consistent with mandatory timelines for action. If the APCD must act on the project prior to the time a revised EIR could be certified, the applicant may request that the project be denied without prejudice. In this case, the applicant may re-file pursuant to the applicable APCD Rules and Regulations.

K. Changes to Findings by Decision Makers

If the decision making body disagrees with the conclusions set forth in the EIR regarding the significance of environmental impacts or feasibility of mitigation measures and alternatives, the decision making body will correct them and set forth its reasons for the correction.

L. Notice of Determination

Within five working days of the approval of a project for which a final EIR has been certified, the lead agency shall file a Notice of Determination with the Clerk of the Board of Supervisors. A signed California Department of Fish and Game's CEQA Filing Fee No Effect Determination Form must be filed along with the NOD after the payment of any applicable fees as described below in Article IX. The notice will be posted in the office of the Clerk within 1 working day of its receipt and remain posted for a period of 30 days, after which it will be returned to the APCD which must retain the notice for 1 year If the project requires discretionary approval from a State agency, APCD will within 5 working days of APCD approval file the NOD with the Office of Planning and Research.

ARTICLE VIII - TIME LIMITS

A. Timely Compliance

The APCD will carry out its responsibilities for preparing and reviewing environmental documents as set forth in the Permit Streamlining Act (GC 65950 et seq.). For the convenience of the reader, the time limits are summarized below. In general, the APCD will carry out the environmental review as expeditiously as possible to avoid unnecessary delays in the processing of applications for permits and other instruments for use.

B. Negative Declarations

NDs must be completed and ready for approval within 180 days from the date the permit application was deemed complete for processing by the APCD. As a lead agency under CEQA, the APCD will take action on the permit within three months of the approval of the ND. As a responsible agency, the APCD will take action on the permit within 180 days from the date the lead agency approves the project or 180 days from the APCD application completeness date, whichever is longer.

C. Environmental Impact Reports

EIRs must be completed and ready for approval within 365 days from the date that the permit application was deemed complete for processing.

As a lead agency under CEQA, the APCD will take action on the permit within six months of the ~~adoption~~certification of the EIR. As a responsible agency, the APCD will take action on the permit within 180 days from the date the lead agency approves the project or 180 days from the date the APCD application was ~~called~~deemed complete, whichever is longer. If the lead agency does not approve the project, the APCD will deem the APCD permit application, for that project, withdrawn.

D. Time Limits for Public Projects

Only applications for Authority to Construct permits are subject to time limits described in the Permit Streamlining Act. These timelines do not apply to APCD plans and rules.

E. Provisions for Time Extensions

In the event that compelling circumstances justify additional time and the project applicant consents, a reasonable extension of the time periods specified in Sections A - C above may be applied by the APCD.

ARTICLE IX - FEES

As authorized under Public Resources Code Section 21089, the APCD, as the lead agency, may charge and collect a reasonable fee in order to recover the estimated costs incurred in preparing an EIR or negative declaration and for procedures necessary to comply with CEQA. Under APCD Rule 210, the APCD is authorized to assess fees for review and preparation of environmental documents required under CEQA or NEPA in which the APCD is lead agency, responsible agency or trustee agency.

The Department of Fish and Wildlife may charge and collect filing fees, as provided in Section 711.4 of the Fish and Wildlife Code. Filing Fees must be paid at the time of filing a Notice of Determination. Information regarding Environmental Filing Fees is available at the Department of Fish and Wildlife Web site at www.dfg.ca.gov/ and the OPR Web site at www.opr.ca.gov.

In the event the applicant fails or refuses to deposit such fees as are determined to be required, the Control Officer may suspend processing or the project may be denied without prejudice pursuant to state CEQA Guidelines Section 15109 and the governing provisions of APCD Rule 210. In such a case, it will be presumed that without preparation of adequate environmental documents required findings for project approval cannot be made.

ARTICLE X - SEVERABILITY

If any portion of these Guidelines is held unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions.

ARTICLE XI - FORMS

APCD will maintain the following forms for use in implementation of these Guidelines.

1. Notice of Exemption
2. Initial Study
3. Notice of Proposed Negative Declaration and Public Hearing
4. Notice of Preparation
5. Notice of Completion
6. Notice of Determination
7. CEQA Compliance for APCD Permits (see Appendix C)

APPENDIX A

APCD LIST OF EXEMPT PROJECTS

The State CEQA Guidelines provide that certain categories of projects are exempt from environmental review except in certain instances (e.g., unusually sensitive location or other circumstances. See CEQA Guidelines Section 15300.2). Projects that are exempt from APCD permits pursuant to APCD Rule 202 are not subject to CEQA review by the APCD.

Projects not listed below may still be considered exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines. ~~**No project may be exempt from CEQA, whether or not it is on this list, if a fair argument can be made that the project may cause a significant adverse impact on the environment.**~~

No discretionary project approval may be exempt from CEQA, whether or not it is on this list, if substantial evidence supports a fair argument that the project may cause a significant adverse impact on the environment (reference: CEQA Guidelines Sections 15064.f.1 and 15384).

1. APCD Projects Exempt from CEQA

Pursuant to CEQA Guidelines Section 15300.4, the following list of projects will be considered by the APCD to be exempt from CEQA~~, unless~~. A project will not be considered exempt from CEQA pursuant to this list if, as defined by APCD Rules and Regulations, an Air Quality Impact Analysis~~,~~ is required or emission offsets ~~or a health risk assessment is required~~are triggered at the source for the first time.

a. ~~Modifications of~~ Projects at new or existing sources or facilities~~, which do not involve any increases in emissions above the *de minimis* level~~ with a potential to emit less than the Best Available Control Technology (BACT) thresholds specified in APCD ~~Rule 202 D.6 or physical modifications.~~Regulation VIII.

b. Projects to install air pollution control or abatement equipment.

c. Projects undertaken for the sole purpose of bringing an existing ~~facility~~source into compliance with newly adopted regulatory requirements of the APCD or any other local, state or federal agency.

d. Projects ~~submitted~~undertaken by existing sources ~~or facilities~~ pursuant to a loss of a previously valid exemption from the APCD's permitting requirements.

e. Projects ~~submitted~~undertaken pursuant to the requirement of an order for abatement issued by the APCD's Hearing Board or a judicial enforcement order.

f. Projects ~~relating~~undertaken exclusively ~~to~~for the repair, maintenance or minor modification of existing ~~facilities, equipment or source~~sources involving negligible or no expansion of use beyond that previously existing.

g. The replacement of existing sources ~~or facilities~~ where the replacing source ~~or facility~~ will be located on the same site as the ~~source or facility~~ replaced source and will have substantially the same purpose and capacity as the ~~source or facility~~ replaced source.

h. Source Compliance Demonstration ~~Period~~Periods, and extensions thereof.

i. Permits to Operate, and reevaluations thereof.

j. Applications to deposit emission reductions in the emissions bank pursuant to Regulation VIII~~, if adopted~~.

2. Equipment or Operations Exempt from CEQA

In addition, the following equipment or operations will be considered by the APCD to be exempt from CEQA~~, unless~~. A project will not be considered exempt from CEQA pursuant to this list if, as defined by APCD Rules and Regulations, an Air Quality Impact Analysis~~,~~ or emission offsets ~~or a health risk assessment is required:~~are triggered at the source for the first time.

a. Abrasive Blasting ~~Unit~~ - Portable ~~Unit~~Units

b. Abrasive Blasting - Cabinet ~~Unit~~Units

c. Autobody Shops - Car Painting/Touch-up

d. Agriculture Milling Operations

e. Asphaltic Concrete Facilities - Modifications to or addition of any one of the following equipment items at existing facilities: screening equipment, mixing and drying equipment (particulate emissions only), weight hoppers, or dust silos, each of which is controlled by a baghouse or dust collection system.

f. Bake Ovens

g. ~~Boiler - Gas Fired < 30~~Boilers rated 20 MMBtu/hr* or less, using any fuel.

~~Boiler - Oil Fired < 30 MMBtu/hr.~~

h. Bulk Fuel Storage and Transfer ~~Plant~~Plants

~~Contaminated Site Remediation for underground storage tanks at gas stations~~

i. Contaminated Site – Onsite remediation of contaminated groundwater or soil using vapor extraction and treatment or water extraction and treatment.

j. Contaminated Site – Removal and trucking of contaminated soil.

~~i.~~k. Coffee Roasters

~~Degreasers - Cold Solvent~~

~~Degreasers - Vapor~~

~~j.~~l. Diesel Fuel Storage and Transfer

~~k.~~m. ~~Dryer/Kiln -~~ Industrial ~~< 10~~Dryers/Kilns - rated 20 MMBtu/hr* or less, using any fuel.

* All references to MMBtu/hr in this appendix are for the heat input rating.

~~l.~~n. Dry Cleaning ~~- Perchloroethylene~~

~~Dry Cleaning - Stoddard Solvent~~

o. Engines – Agricultural engines registered per APCD Rule 1201.

p. Engines – Diesel-fired emergency/standby engines that comply with the applicable state Air Toxics Control Measure (ATCM).

~~m.~~q. Farm Service Pesticide Storage and Transfer ~~Plant~~Plants

~~n.~~r. Fiberglassing Operations

~~o.~~s. Fixed-roof tanks in oilfield service with a rated capacity of less than 10,000 barrels that are connected to a vapor control system that meets or exceeds the requirements of APCD Rule 325 or 326.

t. Loading racks in oilfield service that are connected to a vapor control system that meet the requirements of APCD Rule 346.

~~p.~~u. Fugitive hydrocarbon emitting components (e.g., valves and flanges) ~~where the total number of component leak-paths being added is less than 1500 and~~ that meet or exceed the requirements of APCD Rule 331 and less than 1,500 component leak-paths are being added.

~~q.~~v. Gas Utility Odorant and Metering ~~Station~~Stations

~~r.~~w. Gas Utility Pressure Regulation ~~Station~~Stations

~~s.~~x. Gasoline Fueling ~~Station~~Stations

~~t.~~y. Graphic Arts Printing

~~u.~~z. Hypergolic Fuel Storage and Transfer

~~v.~~aa. Oilfield Steam ~~Generator < 30~~Generators rated 20 MMBtu/hr* or less, using any fuel.

~~w.~~bb. Plastic Bag Manufacturing Operations

~~x.~~cc. Portable equipment ~~which meets the requirements of proposed APCD Rule 213, if adopted~~rated 20 MMBtu/hr* or less specifically permitted for use at various locations.

~~y.~~dd. Process Heaters ~~< 30~~rated 20 MMBtu/hr* or less, using any fuel.

~~z.~~ee. General Solvent Usage - ~~General~~ 1,500 gallons of solvent per year or less (includes wipe cleaning and blending operations ~~using 1,500 gallons per year or less~~)

~~aa.~~ff. Sour Water ~~Well~~Wells

~~bb.~~gg. Surface Coating - Miscellaneous Operations

~~cc.~~hh. Surface Coating - Graphic Arts

~~dd.~~ii. Surface Coating - Metal ~~Container~~Containers, Closure and Coil

* All references to MMBtu/hr in this appendix are for the heat input rating.

~~ee.~~jj. Surface Coating - Miscellaneous Metal Parts and Products

~~ff.~~kk. Surface Coating - Paper, Fabric, and Film

~~gg.~~ll. Surface Coating - Plastic Parts and Products

~~hh.~~mm. Semiconductor Manufacturing Operations

~~ii.~~nn. Ready Mix Concrete Facilities - Modifications to or addition of any one of the following equipment items at existing facilities: cement/ fly ash silos or cement /fly ash weight hoppers, aggregate weight hoppers and conveyor belts, each of which is controlled by a baghouse or dust collection system.

~~jj.~~oo. Rocket Engine Flushing

~~kk.~~pp. Non-metallic Mineral Processing Facilities - Modifications to or addition of any one of the following equipment items at existing facilities: aggregate bins and hoppers (particulate emissions only), in process cyclones, conveyor belts, stacker belts, primary/secondary crushers, or primary screening equipment, each of which is controlled by a baghouse or wet suppression system.

~~ll.~~qq. Thermal Oxidizers ~~< 10MMBtu/hr~~rated 20 MMBtu/hr* or less, using any fuel.

~~mm.~~rr. Tire Retreading Operations.

ss. Wineries with a production rate of less than or equal to 20,000 cases per year.

tt. Solvent cleaning machines as defined in APCD Rule 321 with usage of 1,500 gallons of solvent per year or less.

* All references to MMBtu/hr in this appendix are for the heat input rating.

APPENDIX B

USE OF PRIVATE CONSULTANTS

Upon completion of an Initial Study and document scoping process leading to EIR preparation, ~~the~~ APCD staff shall prepare and issue a request for proposals to several (usually three) of the best qualified and available consultants from among authorized consultants.

The applicant shall receive a copy of the request for proposals and list of consultants to receive it. The applicant may choose to have the request for proposals sent to one or two additional authorized consultants. A copy of the consultant proposals shall be forwarded to the applicant for review and comment to staff.

The staff shall rate the proposals and identify any inadequate proposals. Staff shall discuss recommendations with the applicant.

The applicant shall select an EIR consultant from among the proposals rated as adequate, and the APCD shall hold and manage the contract with the EIR consultant.

If a CEQA document is prepared under contract to the APCD, the contract shall be executed within 45 days from the date on which a notice of preparation is sent out. The APCD may take longer to execute the contract if the project applicant and APCD mutually agree to an extension of the time limit (ref. PRC Section 21151.5 (b)).

APPENDIX C
SANTA BARBARA COUNTY APCD PERMITS --CEQA COMPLIANCE

FORM I. Completeness Review Form

This form ~~must~~will be completed by the permit engineer for ALL Authority to Construct and Permit to Operate applications **prior to deeming the application complete**. The completed form and all supporting documentation ~~must~~will be included in the Permit Evaluation File.

A. General Information:

Application Number: _____

Project Name: _____

Project Description:

_____
_____
_____
_____

B. Determination of Completeness:

Check the corresponding action to be taken to determine that the application is complete for CEQA purposes.

1. **Ministerial** Exemption

____This permit application is not subject to CEQA because the evaluation is a ministerial action conducted using fixed standards and objective measurements (**e.g., PTOs**). No discretion or judgment is required in the granting of this permit.

2. APCD is **Responsible Agency**: Project is Subject to Negative Declaration or EIR by Another Agency

___This permit application is subject to a ND or EIR prepared (or under preparation) by another agency. The APCD has received the necessary information indicating that another agency is acting as the Lead Agency. Therefore, the application may be deemed complete for CEQA purposes*.

* The completeness letter should include the following:

The APCD is a "Responsible Agency" under the California Environmental Quality Act (CEQA). As such a copy of the final certified EIR or approved final Negative Declaration, if one has been prepared by the "Lead Agency" under CEQA, must be received and reviewed by the APCD prior to the issuance of the final permit, to ensure consistency with CEQA Section 15096 (f).

3. APCD is **Lead Agency**: Project is **Exempt** from CEQA

___ This permit application is exempt from CEQA because the project, as a whole, is listed in the APCD List of Exempt Projects (see **Appendix A** of the APCD CEQA Guidelines) AND because the project has no potential for causing a significant adverse environmental impact.

___ The project is not listed in the APCD List of Exempt Projects AND it can be seen with certainty that the project will not have a significant adverse effect on the environment. Consequently the permit application is exempt by virtue of a **General Exemption** under CEQA Section 15061 (b) (3).

4. APCD is **Lead Agency**: Project is **Not Exempt** from CEQA

___The APCD has received from the applicant, a completed, signed and dated environmental questionnaire and any other information necessary for preparing a negative declaration or EIR, if required. Therefore, the application may be deemed complete for CEQA purposes.

Permit Engineer:_____ Date:_____
(Signature)
Permitting Section Supervisor:_____ Date:_____
(Signature)

SANTA BARBARA APCD PERMITS --CEQA COMPLIANCE

FORM II. Permit Issuance Form

This form must be completed by the permit engineer for ALL APCD Authority to Construct and PTO applications **prior to issuance of the final permit.** The completed form and all supporting documentation must be included in the Permit Evaluation File.

A. General Information:

Application Number: _____

Project Name: _____

Project Description (include CEQA issues, if any):

_____
_____
_____
_____

B. Final Action:

Check the appropriate action that was taken by the CONTROL OFFICER prior to issuing the permit.

1. Ministerial Action

___This permit application is exempt from CEQA because the permit evaluation is a ministerial action. CEQA does not apply to ministerial actions. No further action is necessary.

2. APCD is **Responsible Agency**: Project is Subject to Negative Declaration or EIR by Another Agency

___This project was subject to approval by another agency (Lead Agency) and the project has been approved. Final action on the APCD permit was taken only after review and consideration of the information in the Lead Agency's certified final EIR or adopted final Negative Declaration by the Control Officer, or authorized APCD representative of the Control Officer.•

___ This project was denied by the Lead Agency. The APCD permit application is deemed withdrawn.

• Acting on behalf of the Control Officer, the permit engineer should review the ND or EIR and incorporate any mitigation measures for air quality impacts or project alternatives over which the APCD has regulatory discretion. The final permit cannot be issued until the adopted ND or certified EIR has been reviewed by the APCD for consistency.

3. APCD is **Lead Agency**: Project is **Exempt** from CEQA

This permit application is exempt from CEQA because:

_____the project, as a whole, is listed in the APCD List of Exempt Projects (**Appendix A** of APCD CEQA Guidelines: *state the exemption*) AND because the project has no potential for causing a significant adverse environmental impact.

_____A **General Exemption** under CEQA Section 15061 (b) (3) applies (e.g., if the project is not listed in the APCD Categorical Exemption List AND it can be seen with certainty that the project will not have a significant adverse effect on the environment). A Notice of Exemption must be prepared, signed by the Environmental Officer and filed with the Clerk of the Board.

4. APCD is **Lead Agency**: Project is **Not Exempt** from CEQA

___ This permit was found not to be exempt from CEQA and no other agency will be conducting a CEQA review for the project. The APCD has prepared and adopted a Negative Declaration or certified an EIR for the project. The final action by the APCD was taken only after the information contained in the final EIR or ND was considered and any significant adverse environmental effects associated with the proposed project were mitigated to the maximum extent feasible.

Permit Engineer: _____ Date: _____

Permitting Section Supervisor: _____ Date: _____
(*Signature)*

Santa Barbara County APCD Permits -- CEQA Compliance Form Instructions

CEQA compliance for a project subject to APCD permit requirements includes two steps:

1) Determining whether any CEQA-related information is required from the applicant to deem the application complete (use Form I). This may also be identified at the pre-application stage, if there is one .

2) Determining and documenting CEQA compliance for each and every permit application prior to issuing a permit by completing the Permit Issuance Form (use Form II).

These forms are designed to be used by the permit engineer in implementing the requirements of the California Environmental Quality Act (CEQA) for APCD's permitting activities when the APCD is the **lead or responsible agency** under CEQA. The APCD is generally a responsible agency for the portions of development projects requiring APCD permits. Most of the APCD permits are considered to be exempt from CEQA (see APCD CEQA Guidelines, Appendix A: APCD List of Exempt Projects). In most cases the environmental document prepared by the lead agency is adequate for the APCD permitting action. Certain APCD permit modifications may require supplemental CEQA documents. Questions concerning CEQA compliance and these forms can be directed to the APCD CEQA Section Staff.

The following instructions correspond to the questions on the Completeness Review Form (Form I):

B.1 Generally only PTOs will fall into this category. If the permit engineer is unsure if an ATC application is ministerially exempt, the APCD CEQA Section staff may be consulted.

B.2 Projects subject to APCD permits often also require a land use or other permit from other agencies. The permit engineer should check the application (**Form APCD-01, Question #10 to see if it is checked "Yes"**) or request from the applicant information regarding what other agencies will be requiring permits for the project and who the "Lead Agency" will be. The APCD permit processing should begin as soon as adequate information is available to deem the application complete, even if the lead agency has not completed the environmental document (Govt. Code § 65941 (b), amended 1993), and if the applicant so requests (Govt. Code §65951, amended 1993).

B.3 A project is determined to be **exempt from CEQA by virtue of being listed in Appendix A**. However, if **any** component of the project is **not** listed in Appendix A **or** if the project requires offsets, or an Air Quality Impact Analysis ~~or Health Risk Assessment~~, then the project cannot be considered exempt.

To determine whether a project qualifies for a **General Exemption,** the permit engineer must prepare an environmental questionnaire known as the **Initial Study Checklist**. The exemption determination must be based on a review of the Initial Study Checklist and should show:

a) that there is no potential for a significant adverse environmental impact on any environmental media from the project;
b) ~~a formal health risk assessment,~~an Air Quality Impact Assessment (AQIA) or Offsets will not be required; and,
c) no unusual circumstances such as location, or cumulative impacts from successive projects of the same type in the same place over time, will occur or result in significant adverse environmental impacts.

The APCD CEQA Section staff can assist in preparing the Initial Study Checklist and in making the exemption determination.

B.4 The determination of when the APCD must prepare a Negative Declaration or an EIR will occur as a result of one of the following two actions:

(1) It is clear when the permit application is submitted that an EIR or ND is required. In this case, the permit engineer should refer the project to the APCD CEQA Section Supervisor as soon as possible but in no event later than **ten calendar days** of receiving the application. APCD Engineering staff may meet with the applicant to discuss possible revisions by the applicant to the project description that would avoid significant impacts.

(2) If the APCD determines that the project does **not** qualify for a General Exemption and the project has the potential to result in a significant impact the permit engineer should inform the APCD CEQA Section Supervisor as soon as the determination has been made.

The following instructions correspond to the questions on the Permit Issuance Form (Form II):

B.1 If the project was determined to be ministerially exempt in the Application Completeness Form (Form I, Question B.1), the project is also ministerially exempt for the purpose of permit issuance.

B.2 The APCD Permit should be issued only after the Lead Agency has approved the project. This information can be provided by the applicant. Also, see the footnote at the bottom of Form II. If the lead agency has denied the project, the Permit Streamlining Act requires a responsible agency to deem the application as withdrawn.

B.3 Use the type of exemption granted in response to Question B.3 of Form I. Once a project has been determined to be exempt, no further action is required under CEQA when the permit is issued. However, to reduce the statute of limitations period on legal challenges to the decision to exempt the project from CEQA from 180 days to 30 days, a Notice of Exemption (NOE) may be filed. The APCD CEQA Section staff can prepare the NOE form.

B.4 This action is taken only after the final EIR or Negative Declaration has been certified or adopted by the APCD.

Attachment 2:

Technical Appendices

Technical Appendix 1:

SB 97 CEQA Guidelines Amendments

December 30, 2009

The Natural Resources Agency has adopted the following CEQA Guidelines Amendments described in the Notice of Proposed Action dated July 3, 2009, and Notice of Proposed Changes dated October 23, 2009, in response to public comments. The revisions are marked as follows: new additions are underlined and deletions are indicated by ~~strikeout~~.

Sections Amended:

15064, 15064.7, 15065, 15086, 15093, 15125, 15126.2, 15126.4, 15130, 15150, 15183 Appendix F, Appendix G

Sections Added:

15064.4, 15183.5, 15364.5

Sections Repealed:

None

Title 14. Natural Resources
Division 6. Resources Agency
Chapter 3. Guidelines for Implementation of the California Environmental Quality Act
Article 5. Preliminary Review of Projects and Conduct of Initial Study

§ 15064. Determining the Significance of the Environmental Effects Caused by a Project.

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the lead agency and each responsible agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (Friends of B Streetv.City of Hayward(1980) 106 Cal. App. 3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No Oil, Inc.v.City of Los Angeles(1974) 13 Cal. 3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (Friends of B Streetv.City of Hayward(1980) 106 Cal. App. 3d 988).

(4) The existence of public controversy over the environment effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h)(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) that ~~which~~ provides specific requirements that will avoid or substantially lessen the cumulative problem ~~(e.g. water quality control plan, air quality plan, integrated waste management plan)~~ within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan**,** regulation or program, the lead agency should explain how implementing the particular requirements in the plan**,** regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21003, 21065, 21068, 21080, 21082, 21082.1, 21082.2, 21083, 21083.05, and 21100, Public Resources Code; No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68; San Joaquin Raptor/Wildlife Center v. County of Stanislaus (1996) 42 Cal.App.4th 608; Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359; Laurel Heights Improvement Assn. v. Regents of the University of California(1993) 6 Cal.4th 1112; and Communities for a Better Environment v. California Resources Agency(2002) 103 Cal.App.4th 98.

Title 14. Natural Resources
Division 6. Resources Agency
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Article 5. Preliminary Review of Projects and Conduct of Initial Study

§15064.4. Determining the Significance of Impacts from Greenhouse Gas Emissions.

(a) The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in section 15064. A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have discretion to determine, in the context of a particular project, whether to:

(1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use. The lead agency has discretion to select the model or methodology it considers most appropriate provided it supports its decision with substantial evidence. The lead agency should explain the limitations of the particular model or methodology selected for use; and/or

(2) Rely on a qualitative analysis or performance based standards.

(b) A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:

(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;

(2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.

(3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21001, 21002, 21003, 21065, 21068, 21080, 21082, 21082.1, 21082.2, 21083.05, 21100, Pub. Resources Code; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099; *Communities for a*

Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98; *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm*. (2001) 91 Cal.App.4th 1344; and *City of Irvine v. Irvine Citizens Against Overdevelopment* (1994) 25 Cal.App.4th 868.

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§ 15064.7. Thresholds of Significance.

(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.

(c) When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21000, 21082 and 21083, Public Resources Code.

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Article 5. Preliminary Review of Projects and Conduct of Initial Study

§ 15065. Mandatory Findings of Significance.

(a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

(1) The project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.

(2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(b)(1) Where, prior to the commencement of ~~preliminary~~ public review of an environmental document, a project proponent agrees to mitigation measures or project modifications that would avoid any significant effect on the environment specified by subdivision (a) or would mitigate the significant effect to a point where clearly no significant effect on the environment would occur, a lead agency need not prepare an environmental impact report solely because, without mitigation, the environmental effects at issue would have been significant.

(2) Furthermore, where a proposed project has the potential to substantially reduce the number or restrict the range of an endangered, rare or threatened species, the lead agency need not prepare an EIR solely because of such an effect, if:

(A) the project proponent is bound to implement mitigation requirements relating to such species and habitat pursuant to an approved habitat conservation plan or natural community conservation plan;

(B) the state or federal agency approved the habitat conservation plan or natural community conservation plan in reliance on an environmental impact report or environmental impact statement; and

(C)1. such requirements avoid any net loss of habitat and net reduction in number of the affected species, or

2. such requirements preserve, restore, or enhance sufficient habitat to mitigate the reduction in habitat and number of the affected species to below a level of significance.

(c) Following the decision to prepare an EIR, if a lead agency determines that any of the conditions specified by subdivision (a) will occur, such a determination shall apply to:

(1) the identification of effects to be analyzed in depth in the environmental impact report or the functional equivalent thereof,

(2) the requirement to make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects on the environment,

(3) when found to be feasible, the making of changes in the project to substantially lessen or avoid the significant effects on the environment, and

(4) where necessary, the requirement to adopt a statement of overriding considerations.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21001(c) and 21083, Public Resources Code; San Joaquin Raptor/Wildlife Center v. County of Stanislaus (1996) 42 Cal.App.4th 608; Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1024; and Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98.

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Article 7. EIR Process

§ 15086. Consultation Concerning Draft EIR.

(a) The lead agency shall consult with and request comments on the draft EIR from:

(1) Responsible agencies,

(2) Trustee agencies with resources affected by the project, and

(3) Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to section 15083.5.

(4) Any city or county which borders on a city or county within which the project is located.

(5) For a project of statewide, regional, or areawide significance, the transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project. "Transportation facilities" includes: major local arterials and public transit within five miles of the project site, and freeways, highways and rail transit service within 10 miles of the project site.

(6) For a state lead agency when the EIR is being prepared for a highway or freeway project, the ~~State~~ California Air Resources Board as to the air pollution impact of the potential vehicular use of the highway or freeway and if a non-attainment area, the local air quality management district for a determination of conformity with the air quality management plan.

(7) For a subdivision project located within one mile of a facility of the State Water Resources Development System, the California Department of Water Resources.

(b) The lead agency may consult directly with:

(1) Any person who has special expertise with respect to any environmental impact involved,

(2) Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.

(3) Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation.

(d) Prior to the close of the public review period, a responsible agency or trustee agency which has identified what that agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decision, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21081.6, 21092.4, 21092.5, 21104 and 21153, Public Resources Code.

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Chapter 3. Guidelines for Implementation of the California Environmental Quality Act
Article 7. EIR Process

§ 15093. Statement of Overriding Considerations.

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits**,** including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Sections 21002 and 21081, Public Resources Code; San Francisco Ecology Center v. City and County of San Francisco (1975) 48 Cal. App. 3d 584; City of Carmel-by-the-Sea v. Board of Supervisors (1977) 71 Cal. App. 3d 84; Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212; Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433; City of Marina v. Board of Trustees of Cal. State Univ (2006) 39 Cal.4th 341.

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Article 9. Contents of Environmental Impact Reports

§ 15125. Environmental Setting.

(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

(b) When preparing an EIR for a plan for the reuse of a military base, lead agencies should refer to the special application of the principle of baseline conditions for determining significant impacts contained in Section 15229.

(c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.

(d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, regional blueprint plans, plans for the reduction of greenhouse gas emissions, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the coastal zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountains.

(e) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21060.5, 21061 and 21100, Public Resources Code; E.P.I.C. v. County of El Dorado, (1982) 131 Cal. App. 3d 350; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus

(1994) 27 Cal.App.4th 713; Bloom v. McGurk (1994) 26 Cal.App.4th 1307.

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§ 15126.2. Consideration and Discussion of Significant Environmental Impacts.

(a) The Significant Environmental Effects of the Proposed Project. An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there. Similarly, the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

(b) Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented. Describe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

(c) Significant Irreversible Environmental Changes Which Would be Caused by the Proposed Project Should it be Implemented. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified. (See Public Resources Code section 21100.1 and Title 14, California Code of Regulations, section 15127 for limitations to applicability of this requirement.)

(d) Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21002, 21003 and 21100, Public Resources Code; Citizens of Goleta Valley v. Board of Supervisors, (1990) 52 Cal.3d 553; Laurel Heights Improvement Association v. Regents of the University of California,(1988) 47 Cal.3d 376; Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359; Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112; and Goleta Union School Dist. v. Regents of the Univ. Of Calif (1995) 37 Cal. App.4th 1025.

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§ 15126.4. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (Stevens v. City of Glendale (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. Nollan v. California Coastal Commission,483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. Dolan v. City of Tigard, 512 U.S. 374 (1994). Where the mitigation measure is an ad hoc exaction, it must be "roughly proportional" to the impacts of the project. Ehrlich v. City of Culver City (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;

2. Incorporation of sites within parks, greenspace, or other open space;

3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.

4. Deeding the site into a permanent conservation easement.

(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

(c) Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with section 15126.4(a), lead agencies shall consider feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects

of greenhouse gas emissions. Measures to mitigate the significant effects of greenhouse gas emissions may include, among others:

(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;

(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;

(3) Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;

(4) Measures that sequester greenhouse gases;

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

Note: Authority: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 5020.5, 21002, 21003, 21083.05, 21100 and 21084.1, Public Resources Code; Citizens of Goleta Valley v. Board of Supervisors, (1990) 52 Cal.3d 553; Laurel Heights Improvement Association v. Regents of the University of California, (1988) 47 Cal.3d 376; Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359; Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112; ~~and~~ Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; San Franciscans Upholding the Downtown Plan v. City & Co. of San Francisco (2002) 102 Cal.App.4th 656; Ass'n of Irritated Residents v. County of Madera (2003) 107 Cal.App.4th 1383; Environmental Council of Sacramento v. City of Sacramento (2006) 142 Cal.App.4th 1018.

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§ 15130. Discussion of Cumulative Impacts.

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065~~(c)~~(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:
(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted ~~general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact~~ local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such ~~planning~~ document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents ~~such as~~, including, but not limited to, general plans,

specific plans, regional transportation plans, plans for the reduction of greenhouse gas emissions, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by

reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section15183(j).

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21003(d), 21083(b), 21093, 21094 and 21100, Public Resources Code; Whitman v. Board of Supervisors, (1979) 88 Cal. App. 3d 397; San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692; Laurel Heights Homeowners Association v. Regents of the University of California(1988) 47 Cal.3d 376; Sierra Club v. Gilroy (1990) 220 Cal.App.3d 30; Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421; Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist. (1994) 24 Cal.App.4th 826; Las Virgenes Homeowners Fed'n v. County of Los Angeles (1986) 177 Cal.App.3d 300; San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus (1994) 27 Cal.App.4th 713; Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services (1995) 38 Cal.App.4th 1574; *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786; and Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98; and *Ass'n of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383.

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Article10. Considerations in Preparing EIRs and Negative Declarations

§ 15150. Incorporation by Reference.

(a) An EIR or negative declaration may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Where all or part of another document is incorporated by reference, the incorporated language shall be considered to be set forth in full as part of the text of the EIR or negative declaration.

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

(c) Where an EIR or negative declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(e) Examples of materials that may be incorporated by reference include but are not limited to:

(1) A description of the environmental setting from another EIR.

(2) A description of the air pollution problems prepared by an air pollution control agency concerning a process involved in the project.

(3) A description of the city or county general plan that applies to the location of the project.

(4) A description of the effects of greenhouse gas emissions on the environment.

(f) Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21003, 21061, 21083.05 and 21100, Public Resources Code.

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§ 15183. Projects Consistent with a Community Plan, General Plan, or Zoning.

(a) CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

(b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

(1) Are peculiar to the project or the parcel on which the project would be located,

(2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent,

(3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or

(4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

(c) If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.

(d) This section shall apply only to projects which meet the following conditions:

(1) The project is consistent with:

(A) A community plan adopted as part of a general plan,

(B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or

(C) A general plan of a local agency, and

(2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.

(e) This section shall limit the analysis of only those significant environmental effects for which:

(1) Each public agency with authority to mitigate any of the significant effects on the environment identified in the EIR on the planning or zoning action undertakes or requires others to undertake mitigation measures specified in the EIR which the lead agency found to be feasible, and

(2) The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.

(f) An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an EIR. Such development policies or standards need not apply throughout the entire city or county, but can apply only within the zoning district in which the project is located, or within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance. Where a city or county, in previously adopting uniformly applied development policies or standards for imposition on future projects, failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decisionmaking body of the city or county, prior to approving such a future project pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the city or county decides to apply the standards or policies as permitted in this section.

(g) Examples of uniformly applied development policies or standards include, but are not limited to:

(1) Parking ordinances,

(2) Public access requirements,

(3) Grading ordinances.

(4) Hillside development ordinances.

(5) Flood plain ordinances.

(6) Habitat protection or conservation ordinances.

(7) View protection ordinances.

(8) Requirements for reducing greenhouse gas emissions, as set forth in adopted land use plans, policies, or regulations.

(h) An environmental effect shall not be considered peculiar to the project or parcel solely because no uniformly applied development policy or standard is applicable to it.

(i) Where the prior EIR relied upon by the lead agency was prepared for a general plan or community plan that meets the requirements of this section, any rezoning action consistent with the general plan or community plan shall be treated as a project subject to this section.

(1) "Community plan" is defined as a part of the general plan of a city or county which applies to a defined geographic portion of the total area included in the general plan, includes or references each of the mandatory elements specified in Section 65302 of the Government Code, and contains specific development policies and implementation measures which will apply those policies to each involved parcel.

(2) For purposes of this section, "consistent" means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan.

(j) This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR. If a significant offsite or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that offsite or cumulative impact.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21083.05 and 21083.3, Public Resources Code.

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§15183.5. Tiering and Streamlining the Analysis of Greenhouse Gas Emissions.

(a) Lead agencies may analyze and mitigate the significant effects of greenhouse gas emissions at a programmatic level, such as in a general plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may tier from and/or incorporate by reference that existing programmatic review. Project-specific environmental documents may rely on an EIR containing a programmatic analysis of greenhouse gas emissions as provided in section 15152 (tiering), 15167 (staged EIRs) 15168 (program EIRs), 15175-15179.5 (Master EIRs), 15182 (EIRs Prepared for Specific Plans), and 15183 (EIRs Prepared for General Plans, Community Plans, or Zoning).

(b) Plans for the Reduction of Greenhouse Gas Emissions. Public agencies may choose to analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions or similar document. A plan to reduce greenhouse gas emissions may be used in a cumulative impacts analysis as set forth below. Pursuant to sections 15064(h)(3) and 15130(d), a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances.

(1) Plan Elements. A plan for the reduction of greenhouse gas emissions should:

(A) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;

(B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;

(C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;

(D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

(E) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels;

(F) Be adopted in a public process following environmental review.

(2) Use with Later Activities. A plan for the reduction of greenhouse gas emissions, once adopted following certification of an EIR or adoption of an environmental document, may be used in the cumulative impacts analysis of later projects. An environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project. If there is substantial evidence that the effects of a particular project may be cumulatively considerable notwithstanding the project's compliance with the specified requirements in the plan for the reduction of greenhouse gas emissions, an EIR must be prepared for the project.

(c) Special Situations. As provided in Public Resources Code sections 21155.2 and 21159.28, environmental documents for certain residential and mixed use projects, and transit priority projects, as defined in section 21155, that are consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in an applicable sustainable communities strategy or alternative planning strategy need not analyze global warming impacts resulting from cars and light duty trucks. A lead agency should consider whether such projects may result in greenhouse gas emissions resulting from other sources, however, consistent with these Guidelines.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Section 65457, Gov. Code; Sections 21003, 21061, 21068.5, 21081(a)(2), 21083.05, 21083.3, 21081.6, 21093, 21094, 21100, 21151, 21155, 21155.2, 21156, 21157, 21157.1, 21157.5, 21157.6, 21158, 21158.5, 21159.28, Pub. Resources Code; *California Native Plant Society v. County of El Dorado* (2009) 170 Cal.App.4th 1026; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099.

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§ 15364.5. Greenhouse Gas

"Greenhouse gas" or "greenhouse gases" includes but is not limited to: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Section 38505(g) Health and Safety Code; Section 21083.05, Public Resources Code.

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Appendix F

Energy Conservation

I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

(1) decreasing overall per capita energy consumption,

(2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and

(3) increasing reliance on renewable energy sources.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy (see Public Resources Code section 21100(b)(3)). Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, ~~lifetime~~ cost~~s~~ effectiveness may be determined more by energy efficiency than by initial dollar costs. A lead agency may consider the extent to which an energy source serving the project has already undergone environmental review that adequately analyzed and mitigated the effects of energy production.

II. EIR Contents

Potentially significant energy implications of a project ~~should~~ shall be considered in an EIR to the extent relevant and applicable to the project. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances specific items may not apply or additional items may be needed. Where items listed below are applicable or relevant to the project, they should be considered in the EIR.

A. Project Description may include the following items:

1. Energy consuming equipment and processes which will be used during construction, operation and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.

2. Total energy requirements of the project by fuel type and end use.

3. Energy conservation equipment and design features.

4. Identification of ~~Initial and life-cycle~~ energy ~~costs or~~ supplies that would serve the project.

5. Total estimated daily vehicle trips to be generated by the project and the additional energy consumed per trip by mode.

B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

C. Environmental Impacts may include:

1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project~~'s life-cycle~~ including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials maybe discussed.

2. The effects of the project on local and regional energy supplies and on requirements for additional capacity.

3. The effects of the project on peak and base period demands for electricity and other forms of energy.

4. The degree to which the project complies with existing energy standards.

5. The effects of the project on energy resources.

6. The project's projected transportation energy use requirements and its overall use of

efficient transportation alternatives.

D. Mitigation Measures may include:

1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.

2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation and reduce solid-waste.

3. The potential for reducing peak energy demand.

4. Alternate fuels (particularly renewable ones) or energy systems.

5. Energy conservation which could result from recycling efforts.

E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.

F. Unavoidable Adverse Effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

G. Irreversible Commitment of Resources may include a discussion of how the project preempts future energy development or future energy conservation.

H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the project's energy costs over the project's lifetime ~~of the project~~.

I. Growth Inducing Effects may include the estimated energy consumption of growth induced by the project.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21000-21176. Public Resources Code.

Title 14. Natural Resources
Division 6. Resources Agency
Chapter 3. Guidelines for Implementation of the California Environmental Quality Act
Article 20. Definitions

Appendix G

Environmental Checklist Form

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

1. Project title:_____

2. Lead agency name and address:
   _____
   _____
   _____

3. Contact person and phone number:
   _____

4. Project location: _____

5. Project sponsor's name and address:
   _____
   _____
   _____

6. General plan designation: _____ 7. Zoning:_____

8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
   _____
   _____
   _____
   _____

9. Surrounding land uses and setting: Briefly describe the project's surroundings:
   _____
   _____
   _____
   _____

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

_____
_____
_____
_____

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature	Date
Printed Name	For

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.

   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

   a) the significance criteria or threshold, if any, used to evaluate each question; and

   b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION
Issues:

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
I. AESTHETICS -- Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐
II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☐
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☐
~~d~~e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☐
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐
IV. BIOLOGICAL RESOURCES -- Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☐
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☐
ii) Strong seismic ground shaking?	☐	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☐
iv) Landslides?	☐	☐	☐	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☐
VII. GREENHOUSE GAS EMISSIONS -- Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☐
VIII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐
~~VIII.~~ IX. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐
~~I~~X. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?	☐	☐	☐	☐
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☐
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☐
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
~~XIII~~XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☐
Fire protection?	☐	☐	☐	☐
Police protection?	☐	☐	☐	☐
Schools?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Parks?	☐	☐	☐	☐
Other public facilities?	☐	☐	☐	☐
~~XIV~~XV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) ~~Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?~~ Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐
b) ~~Exceed, either individually or cumulatively, a~~ Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
~~f) Result in inadequate parking capacity?~~	☐	☐	☐	☐
~~g~~f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities ~~supporting alternative transportation (e.g., bus turnouts, bicycle racks)~~?	☐	☐	☐	☐
XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☐

Note: Authority cited: Sections 21083 and ~~21087~~ 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*~~,~~ (1988) 202 Cal.App.3d 296 ~~(1988)~~; *Leonoff v. Monterey Board of Supervisors*~~,~~ (1990) 222 Cal.App.3d 1337 ~~(1990)~~; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Technical Appendix 2:

AB 32 Legislation

Assembly Bill No. 32

CHAPTER 488

An act to add Division 25.5 (commencing with Section 38500) to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 27, 2006. Filed with Secretary of State September 27, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 32, Nunez. Air pollution: greenhouse gases: California Global Warming Solutions Act of 2006.

Under existing law, the State Air Resources Board (state board), the State Energy Resources Conservation and Development Commission (Energy Commission), and the California Climate Action Registry all have responsibilities with respect to the control of emissions of greenhouse gases, as defined, and the Secretary for Environmental Protection is required to coordinate emission reductions of greenhouse gases and climate change activity in state government.

This bill would require the state board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program, as specified. The bill would require the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020, as specified. The bill would require the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions, as specified. The bill would authorize the state board to adopt market-based compliance mechanisms, as defined, meeting specified requirements. The bill would require the state board to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by the state board, pursuant to specified provisions of existing law. The bill would authorize the state board to adopt a schedule of fees to be paid by regulated sources of greenhouse gas emissions, as specified.

Because the bill would require the state board to establish emissions limits and other requirements, the violation of which would be a crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Division 25.5 (commencing with Section 38500) is added to the Health and Safety Code, to read:

DIVISION 25.5. CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006

PART 1. GENERAL PROVISIONS

Chapter 1. Title of Division

38500. This division shall be known, and may be cited, as the California Global Warming Solutions Act of 2006.

Chapter 2. Findings and Declarations

38501. The Legislature finds and declares all of the following:

(a) Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

(b) Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the state.

(c) California has long been a national and international leader on energy conservation and environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, natural resource conservation, and greenhouse gas emission standards for passenger vehicles. The program established by this division will continue this tradition of environmental leadership by placing California at the forefront of national and international efforts to reduce emissions of greenhouse gases.

(d) National and international actions are necessary to fully address the issue of global warming. However, action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.

(e) By exercising a global leadership role, California will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce emissions of greenhouse gases. More importantly, investing in the development of innovative and pioneering technologies will assist California in achieving the 2020 statewide limit on emissions of greenhouse gases established by this division and will provide an opportunity for the state to take a global economic and technological leadership role in reducing emissions of greenhouse gases.

(f) It is the intent of the Legislature that the State Air Resources Board coordinate with state agencies, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this division.

(g) It is the intent of the Legislature that the State Air Resources Board consult with the Public Utilities Commission in the development of emissions reduction measures, including limits on emissions of greenhouse gases applied to electricity and natural gas providers regulated by the Public Utilities Commission in order to ensure that electricity and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements.

(h) It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality.

(i) It is the intent of the Legislature that the Climate Action Team established by the Governor to coordinate the efforts set forth under Executive Order S-3-05 continue its role in coordinating overall climate policy.

Chapter 3. Definitions

38505. For the purposes of this division, the following terms have the following meanings:

(a) "Allowance" means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(b) "Alternative compliance mechanism" means an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emission reduction, and that is approved by the state board. "Alternative compliance mechanism" includes, but is not limited to, a

flexible compliance schedule, alternative control technology, a process change, or a product substitution.

(c) "Carbon dioxide equivalent" means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

(d) "Cost-effective" or "cost-effectiveness" means the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential.

(e) "Direct emission reduction" means a greenhouse gas emission reduction action made by a greenhouse gas emission source at that source.

(f) "Emissions reduction measure" means programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this division, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

(g) "Greenhouse gas" or "greenhouse gases" includes all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexaflouride.

(h) "Greenhouse gas emissions limit" means an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the state board, expressed in tons of carbon dioxide equivalents.

(i) "Greenhouse gas emission source" or "source" means any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established under this division will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit.

(j) "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state.

(k) "Market-based compliance mechanism" means either of the following:

(1) A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.

(2) Greenhouse gas emissions exchanges, banking, credits, and other transactions, governed by rules and protocols established by the state board, that result in the same greenhouse gas emission reduction, over the same time period, as direct compliance with a greenhouse gas emission limit or emission reduction measure adopted by the state board pursuant to this division.

(*l*) "State board" means the State Air Resources Board.

(m) "Statewide greenhouse gas emissions" means the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

(n) "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the maximum allowable level of statewide greenhouse gas emissions in 2020, as determined by the state board pursuant to Part 3 (commencing with Section 38850).

Chapter 4. Role of State Board

38510. The State Air Resources Board is the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases.

PART 2. MANDATORY GREENHOUSE GAS EMISSIONS REPORTING

38530. (a) On or before January 1, 2008, the state board shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program.

(b) The regulations shall do all of the following:

(1) Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions.

(2) Account for greenhouse gas emissions from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state. This requirement applies to all retail sellers of electricity, including load-serving entities as defined in subdivision (j) of Section 380 of the Public Utilities Code and local publicly owned electric utilities as defined in Section 9604 of the Public Utilities Code.

(3) Where appropriate and to the maximum extent feasible, incorporate the standards and protocols developed by the California Climate Action Registry, established pursuant to Chapter 6 (commencing with Section 42800) of Part 4 of Division 26. Entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and have developed a greenhouse gas emission reporting program, shall not be required to significantly alter their reporting or verification program except as necessary to ensure that reporting is complete and verifiable for the purposes of compliance with this division as determined by the state board.

(4) Ensure rigorous and consistent accounting of emissions, and provide reporting tools and formats to ensure collection of necessary data.

(5) Ensure that greenhouse gas emission sources maintain comprehensive records of all reported greenhouse gas emissions.

(c) The state board shall do both of the following:

(1) Periodically review and update its emission reporting requirements, as necessary.

(2) Review existing and proposed international, federal, and state greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this part and other programs, and to streamline reporting requirements on greenhouse gas emission sources.

PART 3. STATEWIDE GREENHOUSE GAS EMISSIONS LIMIT

38550. By January 1, 2008, the state board shall, after one or more public workshops, with public notice, and an opportunity for all interested parties to comment, determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020. In order to ensure the most accurate determination feasible, the state board shall evaluate the best available scientific, technological, and economic information on greenhouse gas emissions to determine the 1990 level of greenhouse gas emissions.

38551. (a) The statewide greenhouse gas emissions limit shall remain in effect unless otherwise amended or repealed.

(b) It is the intent of the Legislature that the statewide greenhouse gas emissions limit continue in existence and be used to maintain and continue reductions in emissions of greenhouse gases beyond 2020.

(c) The state board shall make recommendations to the Governor and the Legislature on how to continue reductions of greenhouse gas emissions beyond 2020.

PART 4. GREENHOUSE GAS EMISSIONS REDUCTIONS

38560. The state board shall adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions from sources or categories of sources, subject to the criteria and schedules set forth in this part.

38560.5. (a) On or before June 30, 2007, the state board shall publish and make available to the public a list of discrete early action greenhouse gas emission reduction measures that can be implemented prior to the measures and limits adopted pursuant to Section 38562.

(b) On or before January 1, 2010, the state board shall adopt regulations to implement the measures identified on the list published pursuant to subdivision (a).

(c) The regulations adopted by the state board pursuant to this section shall achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from those sources or categories of

sources, in furtherance of achieving the statewide greenhouse gas emissions limit.

(d) The regulations adopted pursuant to this section shall be enforceable no later than January 1, 2010.

38561. (a) On or before January 1, 2009, the state board shall prepare and approve a scoping plan, as that term is understood by the state board, for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020 under this division. The state board shall consult with all state agencies with jurisdiction over sources of greenhouse gases, including the Public Utilities Commission and the State Energy Resources Conservation and Development Commission, on all elements of its plan that pertain to energy related matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service, petroleum refining, and statewide fuel supplies to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the state board are complementary, nonduplicative, and can be implemented in an efficient and cost-effective manner.

(b) The plan shall identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the state board finds are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020.

(c) In making the determinations required by subdivision (b), the state board shall consider all relevant information pertaining to greenhouse gas emissions reduction programs in other states, localities, and nations, including the northeastern states of the United States, Canada, and the European Union.

(d) The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California's economy, environment, and public health, using the best available economic models, emission estimation techniques, and other scientific methods.

(e) In developing its plan, the state board shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and shall recommend a de minimis threshold of greenhouse gas emissions below which emission reduction requirements will not apply.

(f) In developing its plan, the state board shall identify opportunities for emission reductions measures from all verifiable and enforceable voluntary actions, including, but not limited to, carbon sequestration projects and best management practices.

(g) The state board shall conduct a series of public workshops to give interested parties an opportunity to comment on the plan. The state board shall conduct a portion of these workshops in regions of the state that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both.

(h) The state board shall update its plan for achieving the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions at least once every five years.

38562. (a) On or before January 1, 2011, the state board shall adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

(b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.

(2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.

(3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.

(4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

(5) Consider cost-effectiveness of these regulations.

(6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.

(7) Minimize the administrative burden of implementing and complying with these regulations.

(8) Minimize leakage.

(9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

(c) In furtherance of achieving the statewide greenhouse gas emissions limit, by January 1, 2011, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum

technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.

(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:

(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.

(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.

(e) The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.

(f) The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.

(g) After January 1, 2011, the state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.

38563. Nothing in this division restricts the state board from adopting greenhouse gas emission limits or emission reduction measures prior to January 1, 2011, imposing those limits or measures prior to January 1, 2012, or providing early reduction credit where appropriate.

38564. The state board shall consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs.

38565. The state board shall ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California and provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

PART 5. MARKET-BASED COMPLIANCE MECHANISMS

38570. (a) The state board may include in the regulations adopted pursuant to Section 38562 the use of market-based compliance mechanisms to comply with the regulations.

(b) Prior to the inclusion of any market-based compliance mechanism in the regulations, to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution.

(2) Design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.

(3) Maximize additional environmental and economic benefits for California, as appropriate.

(c) The state board shall adopt regulations governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emission limits and mandatory emission reporting requirements to achieve compliance with their greenhouse gas emissions limits.

38571. The state board shall adopt methodologies for the quantification of voluntary greenhouse gas emission reductions. The state board shall adopt regulations to verify and enforce any voluntary greenhouse gas emission reductions that are authorized by the state board for use to comply with greenhouse gas emission limits established by the state board. The adoption of methodologies is exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

38574. Nothing in this part or Part 4 (commencing with Section 38560) confers any authority on the state board to alter any programs administered by other state agencies for the reduction of greenhouse gas emissions.

PART 6. ENFORCEMENT

38580. (a) The state board shall monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by the state board pursuant to this division.

(b) (1) Any violation of any rule, regulation, order, emission limitation, emissions reduction measure, or other measure adopted by the state board pursuant to this division may be enjoined pursuant to Section 41513, and the violation is subject to those penalties set forth in Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(2) Any violation of any rule, regulation, order, emission limitation, emissions reduction measure, or other measure adopted by the state board pursuant to this division shall be deemed to result in an emission of an air contaminant for the purposes of the penalty provisions of Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(3) The state board may develop a method to convert a violation of any rule, regulation, order, emission limitation, or other emissions reduction measure adopted by the state board pursuant to this division into the number of days in violation, where appropriate, for the purposes of the penalty provisions of Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(c) Section 42407 and subdivision (i) of Section 42410 shall not apply to this part.

PART 7. MISCELLANEOUS PROVISIONS

38590. If the regulations adopted pursuant to Section 43018.5 do not remain in effect, the state board shall implement alternative regulations to control mobile sources of greenhouse gas emissions to achieve equivalent or greater reductions.

38591. (a) The state board, by July 1, 2007, shall convene an environmental justice advisory committee, of at least three members, to advise it in developing the scoping plan pursuant to Section 38561 and any other pertinent matter in implementing this division. The advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.

(b) The state board shall appoint the advisory committee members from nominations received from environmental justice organizations and community groups.

(c) The state board shall provide reasonable per diem for attendance at advisory committee meetings by advisory committee members from nonprofit organizations.

(d) The state board shall appoint an Economic and Technology Advancement Advisory Committee to advise the state board on activities that will facilitate investment in and implementation of technological research and development opportunities, including, but not limited to, identifying new technologies, research, demonstration projects, funding opportunities, developing state, national, and international partnerships and technology transfer opportunities, and identifying and assessing research and advanced technology investment and incentive opportunities that will assist in the reduction of greenhouse gas emissions. The committee may also advise the state board on state, regional, national, and

international economic and technological developments related to greenhouse gas emission reductions.

38592. (a) All state agencies shall consider and implement strategies to reduce their greenhouse gas emissions.

(b) Nothing in this division shall relieve any person, entity, or public agency of compliance with other applicable federal, state, or local laws or regulations, including state air and water quality requirements, and other requirements for protecting public health or the environment.

38593. (a) Nothing in this division affects the authority of the Public Utilities Commission.

(b) Nothing in this division affects the obligation of an electrical corporation to provide customers with safe and reliable electric service.

38594. Nothing in this division shall limit or expand the existing authority of any district, as defined in Section 39025.

38595. Nothing in this division shall preclude, prohibit, or restrict the construction of any new facility or the expansion of an existing facility subject to regulation under this division, if all applicable requirements are met and the facility is in compliance with regulations adopted pursuant to this division.

38596. The provisions of this division are severable. If any provision of this division or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

38597. The state board may adopt by regulation, after a public workshop, a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this division, consistent with Section 57001. The revenues collected pursuant to this section, shall be deposited into the Air Pollution Control Fund and are available upon appropriation, by the Legislature, for purposes of carrying out this division.

38598. (a) Nothing in this division shall limit the existing authority of a state entity to adopt and implement greenhouse gas emissions reduction measures.

(b) Nothing in this division shall relieve any state entity of its legal obligations to comply with existing law or regulation.

38599. (a) In the event of extraordinary circumstances, catastrophic events, or threat of significant economic harm, the Governor may adjust the applicable deadlines for individual regulations, or for the state in the aggregate, to the earliest feasible date after that deadline.

(b) The adjustment period may not exceed one year unless the Governor makes an additional adjustment pursuant to subdivision (a).

(c) Nothing in this section affects the powers and duties established in the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(d) The Governor shall, within 10 days of invoking subdivision (a), provide written notification to the Legislature of the action undertaken.

SEC. 2 No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that

may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Technical Appendix 3:

First Update to the Climate Change Scoping Plan (Executive Summary)

First Update to the

Climate Change Scoping Plan

Building on the Framework

Pursuant to AB32
The California Global Warming Solutions Act of 2006

Edmund G. Brown Jr.
Governor

Matt Rodriquez
Secretary, California Environmental Protection Agency

Mary D. Nichols
Chairman, Air Resources Board

Richard W. Corey
Executive Officer, Air Resources Board

Executive Summary

California is a collection of farmers, surfers, factory workers, outdoor enthusiasts, tech geeks, truckers, world-class researchers, celebrity actors, and many more—who come from all around the world to live and work in one of the most beautiful, vibrant, and ecologically and culturally diverse places on Earth. We are sustained, in more ways than one, by the mountains, deserts, rivers, streams, forests, farmlands, rangelands, coastline, and temperate climate that form our natural environment and characterize our great State.

These resources, and their natural beauty, enable our continued economic and cultural growth. They attract a wide array of businesses and workers who want to live here. They are a primary reason that California is: the eighth largest economy in the world; home to the most small businesses, Fortune 500 companies, and fastest-growing businesses in the United States; the national leader in global trade and direct investment; and tops in the United States in many economic sectors, including agriculture, biotech, clean energy, entertainment, high-tech, manufacturing, tourism, and more.

Accordingly, Californians of all backgrounds and political persuasions have supported policies and planning to protect our natural environment and the high quality of life it provides. The result is a decades-long, broad commitment to ensuring clean air and water, an efficient and productive use of energy and resources, a healthy workforce, and vital cities and towns. Our collective will to protect the environment is a valuable resource in itself, whose benefits enhance economic growth and prosperity in our state and help shape California's distinct identity.

With climate change threatening our resources, economy, and quality of life, California is squarely focused on addressing it and protecting our natural and built environments. Just as California has done dozens of times before on other environmental issues, it is leading on climate change, with an approach that will enable better, lasting economic growth and allow the California lifestyle to endure.

The 2006 adoption of Assembly Bill 32 propelled California further into an international leadership role in the fight against global climate change. By building on decades of successful actions to cut pollution and promote cleaner and more efficient energy, AB 32 solidified California's commitment to tackling climate change in a comprehensive way.

Since 2006, the State has continued to steadily implement a set of actions that are driving down greenhouse gas (GHG) emissions, cleaning the air, diversifying the energy and fuels that power our society, and spurring innovation in a range of advanced technologies. These efforts have put California on course to achieve the near-term 2020 emissions limit, and have created a framework for ongoing climate action that can be built upon to maintain and continue reductions beyond 2020 as required by AB 32.

California's approach to climate change is not simply about reducing greenhouse gas emissions. It is built upon the principle that economic prosperity and environmental sustainability are one and the same. And it continues the State's long and successful legacy of building a world-class economy in concert with some of the most effective environmental and public health policies on the planet.

By remaining steadfastly committed to this approach, we can not only do our part to tackle climate change, we can also forge a cleaner, healthier, and more sustainable future for all Californians.

In the words of Governor Brown, our collective challenge is to "build for the future, not steal from it." That is what this Plan is designed to do.

First Update to the Climate Change Scoping Plan

This First Update to California's Climate Change Scoping Plan (Update) was developed by the Air Resources Board (ARB) in collaboration with the Climate Action Team and reflects the input and expertise of a range of state and local government agencies. The Update reflects public input and recommendations from business, environmental, environmental justice, and community-based organizations provided in response to the release of prior drafts of the Update, a Discussion Draft in October 2013 and a draft Proposed Update in February 2014.

Progress to Date

California is on track to meet the near-term 2020 greenhouse gas limit and is well positioned to maintain and continue reductions beyond 2020 as required by AB 32. The set of actions the State is taking is driving down greenhouse emissions and moving us steadily in the direction of a cleaner energy economy. Many of these actions have been bold, ambitious, and truly trail-blazing. Some are more recent, while others precede the passage of AB 32.

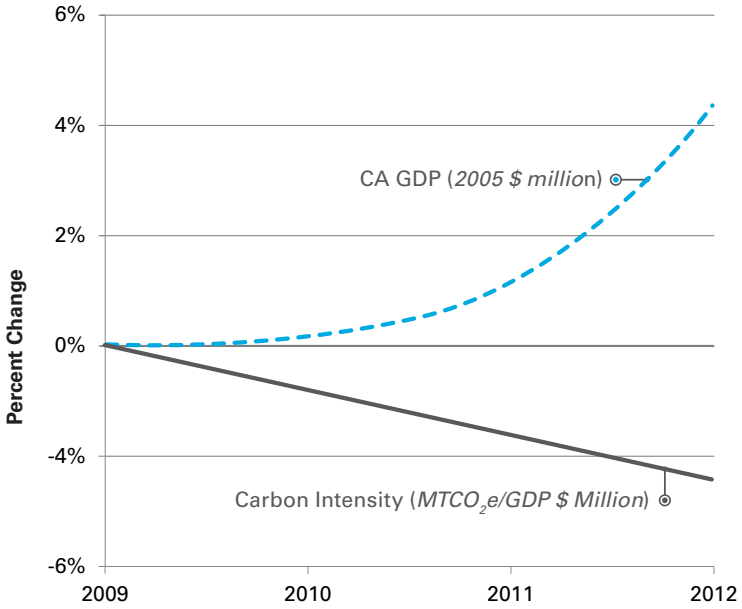
Collectively, these actions are evidence of California's ability to show that it is possible to break the historical connection between economic growth and associated increases in energy demand, combustion of carbon-intensive resources, and pollution. We have shown it is possible to break this chain by relying on cleaner technologies, more efficiency, and more renewable energy sources. And we know that preventing the worst impacts of climate change will require accelerated development and diffusion of these technologies across the world. Stable, flexible, yet durable policies like those developed under AB 32 are key.

Cleaner and More Efficient Energy

California continues to be a global leader in energy efficiency. Since energy efficiency efforts began 40 years ago, Californians have saved $74 billion in reduced electricity costs. As the State's first priority for providing for its energy needs, ongoing efficiency efforts—like new green building standards now in effect for homes and businesses and new standards for appliances, televisions, and other "plug loads"—continue to reduce energy use and emissions, make our businesses and economy more efficient, and cut energy costs.

California has also made tremendous strides in harnessing its abundant renewable energy resources. Currently, about 23 percent of the State's electricity comes from renewable power. This will increase to at least 33 percent by 2020 under new requirements set in place by Governor Brown and the Legislature in 2011. Renewable energy is rapidly coming down in cost and is already cost-effective in California for millions of homes and businesses, and in certain utility applications. Once thought of as exotic and alternative, renewable energy technologies have now become an integral part of California's energy mix.

Figure ES1: 2009-2012 CA GDP & Carbon Intensity Trends



'Carbon Intensity,' the amount of carbon pollution related to the State's economy, has fallen steadily over the last three years. California is getting more economic growth for each ton of greenhouse gases emitted overall.

Source: DOF & 2012 GHG Inventory

Cleaner Transportation

California has taken a number of innovative actions to cut emissions from the transportation sector. Collectively, the State's set of vehicle, fuels, and land use policies will cut in half emissions from passenger transportation and drivers' fuel costs over the next 20 years.

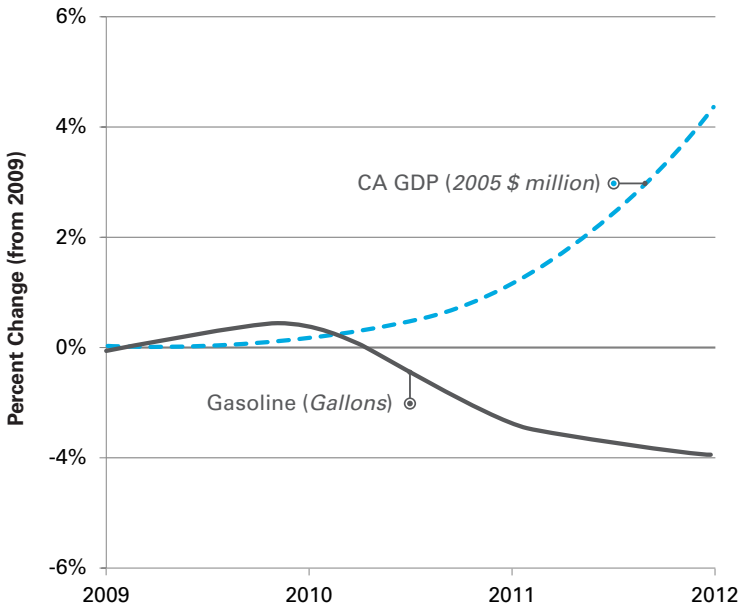
California's Low Carbon Fuel Standard (LCFS) is beginning to drive the production of a broad array of cleaner fuels. Since its launch in 2011, the regulation has generated a multitude of unique approaches for cleaner fuels. The LCFS is driving the necessary transition to cleaner fuels and is providing California businesses and consumers with more choices for the fuels they use. Companies in California and elsewhere are rising to the challenge by finding innovative ways to produce cleaner, low carbon fuels.

The cars on California's roads are also undergoing a transformation. California's vehicle GHG standards—authorized by AB 1493 (Pavley) in 2002, first approved in 2004, and extended in 2012—are delivering both carbon dioxide (CO_2) reductions and savings at the pump. These standards are now federal law and the benefits of California's policies will be realized nationwide, dramatically scaling up emission reductions. The transition to a fleet of lower-emitting, more-efficient vehicles in California will continue beyond 2020, as these rules cover model years through 2025, and turnover of the fleet will deliver additional benefits from these rules for many more years. Most recently, ARB is working with the U.S. EPA and the U.S. Department of Transportation's National Highway Traffic and Safety Administration (NHTSA) on national GHG standards and corresponding fuel efficiency standards for medium- and heavy-duty trucks.

California's pioneering zero emission vehicle (ZEV) regulation is also driving a transformation of the fleet. As a result of ARB's ZEV program and Governor Brown's Executive Order B-16-12, California will see 1.5 million zero emission vehicles on the State's roads by 2025. Each day, more and more zero emission vehicles and cleaner, more efficient cars are driving on our streets and highways—visible signs of the transformation of California's transportation sector.

California is also making major strides toward reducing the number of miles people drive, through more sustainable local and regional housing, land use, and transportation planning. To date, seven Metropolitan Planning Organizations have adopted Sustainable Community Strategies. In addition to helping drive GHG emission reductions, these plans will help create more livable communities that offer greater housing and transportation options; improved access to resources and services; safer, more vibrant neighborhoods; and healthier lifestyles where people can live, work, and play without having to travel long distances or sit through congestion.

Figure ES2: 2009-2012 CA GDP & ON-Road Gasoline Use Trends



The amount of gasoline used in California has steadily declined since 2009 while the the State's economy grew by five percent over the same time period.

Source: DOF & BOE

Cap-and-Trade Program

Last year, California successfully launched the most comprehensive greenhouse gas Cap-and-Trade Program in the world. As the emissions cap is gradually reduced over time, and as additional sources are brought under the cap to include the vast majority of emissions in the State, the program will ensure that California remains on track to continually reduce emissions and meet the 2020 limit. Looking out into the future, the Cap-and-Trade Program will play a critical role in keeping California on the right emissions reduction trajectory to meet ongoing reduction targets at the lowest possible cost. The program is also sending a clear signal that investment in clean, low carbon technologies will pay off. This includes the millions of households and small business customers of the State's largest electric utilities who will see a twice a year "Climate Credit" on their electricity bills. In April 2014, this credit averaged $35 throughout the State. Investing this credit in simple items that improve energy efficiency, such as energy efficient LED light bulbs, can help customers save even more.

On January 1, 2014, California linked its Cap-and-Trade Program with Québec's. By successfully linking cap-and-trade programs across jurisdictions and increasing opportunities for emission reductions, this linkage represents another important step in California's efforts to collaborate with other partners around the globe to address climate change.

Building on the Framework

Through AB 32, California has established an effective framework for climate action. This Update includes an in-depth discussion of climate change science, reflecting the Intergovernmental Panel on Climate Change's recently released Fifth Assessment and input from a distinguished team of scientific expert reviewers. The science clearly highlights the need for action—greenhouse gas emissions must be cut 80 percent below 1990 levels by mid-century to stave off the worst impacts of climate change. Setting a mid-term target and sector-specific targets will help guide our path.

Reaching our ultimate objective—reducing California's greenhouse gas emissions to the scientifically recognized level necessary for climate stabilization— will require California to keep building on the framework by continuing to pursue the maximum technologically feasible and cost-effective actions that will steadily drive down greenhouse gas emissions over the coming decades. It is also clear that many of these same actions are needed to reduce emissions of smog-forming and toxic pollutants to meet federal air quality requirements and ensure that all Californians have healthful air.

This Update lays out a set of new actions that will move the State further along the path to a low-carbon, sustainable future, including specific recommended actions with lead agency assignments and anticipated due dates. Some of the actions are near-term, while others are focused on longer-term efforts that will provide major benefits well into the future.

Every major economic sector in the State will need to play an increasing role in this effort. Success will require the creation of new policies in some sectors, and expanding and refining existing policies in others. We must continue working to find the right combination of policy-based "push" and incentive-based "pull" to accelerate commercial markets for clean energy and efficiency. And we have to coordinate and align public investments in ways that most effectively leverage private resources.

The Great Unifier

Climate change presents an unprecedented set of challenges for California. We are already experiencing its impacts and know that they will only increase. But it can also be a great unifier. It gives us the opportunity to focus on doing more with less; to work across programmatic, policy and political boundaries; and to figure out ways to achieve various goals more quickly and more effectively. The task is to continue building on the steps we have already taken by further integrating climate thinking and sustainability programming into the range of actions we take to grow the economy, protect the environment and public health, and plan for the future.

The strategies we pursue to cut greenhouse gas emissions from our cars, trucks, buses, trains and industries can support ongoing efforts to improve air quality up and down the State, especially in our most heavily impacted communities. Efficiency and conservation programs in the water sector needed to cut emissions will also drive critically needed efforts to enhance supply and reliability priorities. We can cut emissions from our waste stream while also increasing home-grown sources of low-carbon energy and fuels. And we can manage our natural lands and valuable agricultural resources in ways that both achieve climate objectives and enhance their long-term sustainability.

With strategic investment and coordinated policy-making, California can slash emissions from trucks and trains while at the same time building a world-class goods movement and freight-delivery system. We can modernize our rail and passenger transportation systems to move people in ways that both reduce greenhouse gases and increase mobility options and safety. We can take actions to cut emissions of potent short-lived climate pollutants that will also deliver key public health benefits. And we can align strategies that both support reduction goals and bolster our ability to deal with the impacts of climate change already underway.

The reality is that while climate change demands it, these and myriad other examples described in this Update are exactly the types of actions California must take in any case to build for our future.

Mid-Term Target

As supported by many of California's climate scientists and economists, a key step needed to build on California's framework for climate action is to establish a mid-term statewide emission reduction target. Cumulative emissions drive climate change, and a continuum of action is needed to reduce emissions not just to stated limits in 2020 or 2050, but also every year in between. The target will ensure that the State stays on course and expands upon the successes we have achieved to date so that we can achieve our long-term objective of reducing California's greenhouse gas emissions to the scientifically recognized level necessary for climate stabilization. A mid-term target, informed by climate science, will be critical in helping to frame the additional suite of policy measures, regulations, planning efforts, and investments in clean technologies that are needed to continue driving down emissions. It will also send a clear signal that California is solidifying its commitment to a low-carbon future, giving businesses the long-term certainty they need to plan for the future.

Each of the major sectors highlighted in this Update must play a role in supporting the statewide effort to continue reducing emissions. As steps are taken to develop a statewide target, sector targets will also be developed that reflect the opportunities for reductions that can be achieved through existing and new actions, policies, regulations and investments.

Sector-Specific Actions

Energy

The actions outlined in this Update support California's efforts to build a state-of-the-art energy generation, supply and distribution system that is clean, affordable and reliable. Many of the actions expand upon existing policy frameworks that have made our State a global leader in areas like energy efficiency, demand response, and renewable energy generation. Others reflect the need to incorporate new and rapidly evolving technologies like energy storage, demand response, and a smarter grid into the fabric of California's energy system.

A core element of the Update is the development of a comprehensive greenhouse gas reduction program for the State's electric and energy utilities by 2016. This approach will enable California to pull together and coordinate a range of policies, technologies, and investments needed to achieve the most cost-effective emission reductions across the sector, in line with meeting mid-term and long-term statewide targets. It also will give utilities, electricity providers and a range of other businesses the flexibility and the right incentives to pursue the most innovative strategies to cut emissions.

Transportation, Land Use, Fuels, and Infrastructure

Over the past several decades, California has pioneered a host of innovative policies in the transportation sector that have cut air pollution and greenhouse emissions. This Update builds on a set of existing policies and lays out new strategies that will continue to push down emissions and scale up clean, advanced technologies across the entire transportation sector. It calls for targeted investment in critical infrastructure projects that will be necessary to keep California on track to meet our ongoing climate objectives. And it recognizes the need to closely integrate climate planning with efforts to meet California's air quality goals.

Meeting California's long-term air quality and climate objectives will require the State to continue building on efforts underway to put more low and zero-emission vehicles on the road. These efforts also need to be expanded to include an increasing focus on cleaner medium- and heavy-duty vehicles. At the same time, we must continue working to figure out the right mix of policies and incentives for increasing reductions in the carbon content of transportation fuels. And we must invest in building the cleanest, most advanced systems and infrastructure to move people and goods in the State. Key approaches to this include high speed rail and the Sustainable Freight Initiative.

Agriculture

California's agricultural industry provides hundreds of thousands of jobs and tens of billions of dollars in economic value to the State each year. The long-term sustainability of the sector is vital to California's economic future. This Update describes a set of actions to ensure California's agricultural sector continues to thrive in the face of a changing climate and plays a key role in the State's efforts to continue reducing greenhouse emissions.

There is a range of opportunities for greenhouse gas emission reductions and sequestration in the agriculture sector. Technological advancements allow for more precise irrigation techniques, which cut energy costs and preserve valuable water resources. Strategic approaches to conservation will keep valuable agricultural lands in operation and help eliminate greenhouse gas emissions that result from conversion. And capturing methane from agriculture operations will provide climate benefits while also affording opportunities to produce bioenergy and biofuels. The coordinated effort to develop the right mix of policies and incentives described in this Update will help keep California's agriculture sector thriving into the future.

Water

Water is the lifeblood of our State and economy, and integrally connected to our food supply and energy systems. With the declaration of a drought emergency, the State needs to employ a range of approaches that will cut emissions, maximize efficiency and conservation, and enhance water quality and supply reliability, while also addressing growing climate resiliency requirements.

A greater focus on integrated policy design in the water sector is needed as California implements strategies that will support our State's longer-term climate objectives. State policy and regulatory frameworks must be developed that allow for, and incentivize, effective regional integrated planning and implementation. We need to employ pricing policies that will maximize efficiency and conservation efforts in the water sector, and put in place mandatory conservation measures to reduce greenhouse gas emissions and maintain water supply reliability during drought periods.

Waste

California's goal of reaching 75 percent recycling and composting by 2020 provides an opportunity to achieve substantial GHG emission reductions across the waste sector, while providing other significant economic and environmental co-benefits. Much of what is traditionally considered "waste" can be a resource for other uses. California must take advantage of waste materials to generate energy to power our homes and cars, and to improve our working lands.

Compostable organics represent over a third of California's disposed waste, and are the primary source of fugitive methane emissions at landfills. A new organics management approach for California that will divert this material to minimize emissions at landfills and provide feedstock for critically needed alternatives to agricultural amendments and for low carbon fuel manufacturing.

Achieving the 75 percent waste diversion goal will require substantial expansion of the collection, recycling, and manufacturing industries within California. This Update sets forth a series of actions to support this industrial growth and calls on California to manage its waste at home in ways that will support greenhouse gas emission reductions, environmental co-benefits, and job growth.

Natural and Working Lands

Three-quarters of California's landmass comprises biologically diverse landscapes such as forests, woodlands, shrublands, grasslands and wetlands. These natural and working lands provide a multitude of economic and environmental benefits, and must play an increasingly important role in California's efforts to prepare for and adapt to the impacts of climate change. Natural and working lands must also play a key role to help achieve California's long-term climate objectives. We have to start investing now in strategies that ensure these lands are managed in ways that maximize their carbon benefits while also ensuring landscape resilience; protecting and enhancing the State's water supplies; safeguarding the State's wildlife, fish, and plants; and promoting sustainable rural communities.

This Update describes a series of policies, actions, and strategic investments to enhance, protect, and conserve California's natural and working lands in ways that will provide important climate benefits as well as a more resilient California that is better prepared for climate risks such as more frequent and severe wildfires, varying and unpredictable water availability, and stressors on species and natural communities. A key element of this approach is the development of a "Forest Carbon Plan" by 2016 that will set mid and long-term greenhouse gas reduction planning targets, and identify funding and investment needs.

Short-Lived Climate Pollutants

Over the past several decades, California's actions to improve air quality and protect public health have resulted in significant reductions in potent short-lived climate pollutants, which include black carbon, methane, and hydrofluorocarbons. These pollutants remain in the atmosphere for shorter periods of time and have much larger global warming potentials compared to CO_2.

While we must continue taking steps to rapidly reduce CO_2 emissions, additional efforts to cut emissions of short-lived climate pollutants can yield immediate climate benefits. In addition, fast and sustainable actions to reduce these emissions can help to achieve other benefits though avoided impacts on agriculture, water availability, ecosystems, and human health. The reduction of methane would reduce background tropospheric ozone concentrations, which would help with progress towards healthy air quality and avoid crop yield losses and forest damage due to the direct action of ozone on plant growth. Black carbon impacts cloud formation and precipitation, and black carbon deposits on glaciers and snowpack accelerate melting. Reducing black carbon and methane emissions will help reduce the risk for premature deaths, air pollution-related hospitalizations, and associated medical expenses each year.

California is committed to continuing to reduce emissions of short-lived climate pollutants, particularly where efforts will result in air quality and public health co-benefits. ARB will develop a short-lived climate pollutant strategy by 2015 that will include an inventory of sources and emissions, the identification of additional research needs, and a plan for developing necessary control measures.

Green Buildings

Buildings in California represent a significant source of greenhouse gas emissions. Over the past five years, California has solidified its commitment to green building; leading the way with State buildings, improving building standards, continuing to raise the bar with voluntary programs at the local level, and greening existing buildings. We must continue to build on this approach by ensuring successful implementation of current initiatives and expanding the long term focus towards zero-carbon buildings.

This Update describes a set of actions to continue cutting emissions from California's building sector including the development of a comprehensive greenhouse gas emission reduction program for new construction, existing building retrofits, and operation and maintenance. This Update describes a set of actions to continue cutting emissions from California's building sector including the development of a comprehensive greenhouse gas emission reduction program for new construction, existing building retrofits, and operation and maintenance of certified green buildings.

Courage, Creativity, and Boldness

Climate change has presented us with unprecedented challenges—challenges that cannot be met with traditional ways of thinking or conventional solutions. As Governor Brown has recognized, meeting these challenges will require "courage, creativity, and boldness."

It will require California to continue to lead the world in pioneering effective strategies toward a cleaner, more sustainable economy. It will require us to continue sharing our successful approaches to climate policy with others, including continuing to partner and collaborate with other state, national, and global leaders as we work toward common goals. And it will require further engaging California's citizens, businesses, and its most creative minds to continue building a state that provides low carbon, high-quality lifestyles.

As we take these steps, we understand that we don't have all of the answers today. But, we are on the right path. We have a framework for action in place that is driving down emissions, spurring innovation across a range of clean and advanced technology sectors, improving the air Californians breathe, and creating more livable communities. By building on this framework with the set of actions outlined in this Update, we can do our part to meet the challenge of global climate change, and in the process, continue to build the clean, sustainable future that all Californians deserve.

Technical Appendix 4:

Santa Maria Energy Production Plan and Development Plan
Final Environmental Impact Report
(Section 5.1 Air Quality – Section 5.1.1 County Environmental Thresholds)

COUNTY OF SANTA BARBARA
Planning and Development
www.sbcountyplanning.org

FINAL
Environmental Impact Report
Santa Barbara County EIR No. 12EIR-00000-00003
State Clearinghouse No. 2011091085

Santa Maria Energy
Oil Drilling and Production Plan

Laguna County Sanitation District
Phase 3 Recycled Water Pipeline

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5.0 SIGNIFICANT ENVIRONMENTAL IMPACT DISCUSSIONS

5.1 AIR QUALITY

PREFACE: On April 24 and May 1, 2013, the County Planning Commission considered the proposed projects and directed staff to provide additional information regarding potential GHG emission thresholds for the proposed Final EIR prior to a final decision on the SME project. This information was provided in a Draft Recirculation Document which was released for a 30-day public review period on July 15, 2013 and which included only those portions of this Air Quality section that pertain to the analysis of greenhouse gas emissions for the SME project. Comments on the Draft Recirculation Document and responses to those comments are presented in Section 15.0 of this September 2013 Final EIR. Changes to the text of the Draft Recirculation Document are noted herein with underline/strike-through type. Other changes to the April 2013 Final EIR accepted by the County Planning Commission have been incorporated into this September 2013 Final EIR without underline/strike-through type.

This section describes environmental and regulatory settings related to air quality in the Project area; identifies air quality impacts of the proposed Project, its principal alternatives, and cumulative impacts from this and other projects in the region; and recommends mitigation measures to reduce those impacts.

Emission rates were generated using standard emission factors and use rates contained within the CalEEMod modeling program (v2011.1.1), as applicable as well as emission factors prescribed by the SBCAPCD. Emission calculations are included in Appendix 12.2.B. This analysis is intended to provide a reasonable worst-case scenario of potential air emissions resulting from the proposed activities and recommends mitigation to reduce any significant impacts to less than significant levels.

For a list of References used in the preparation of this section, please refer to the Air Quality Appendix (Appendix 12.2.B).

5.1.1 COUNTY ENVIRONMENTAL THRESHOLDS

5.1.1.1 Operational Thresholds for Criteria Pollutants

The thresholds used to determine significance are based on the Santa Barbara County Environmental Thresholds and Guidelines Manual, SBC 2008. A proposed project will not have a significant air quality effect on the environment, if operation of the project will:

- Emit (from all project sources, mobile and stationary), less than the daily trigger for offsets set in the APCD New Source Review Rule (55 lbs/day for ROC, NO_x, SO_x and 80 lbs/day for PM), for any pollutant;
- Emit less than 25 pounds per day of oxides of nitrogen (NO_x) or reactive organic compounds (ROC) from motor vehicle trips only;
- Not cause or contribute to a violation of any California or National Ambient Air Quality Standard (except ozone);
- Does not allow land uses that create objectionable odors or does not expose sensitive receptors to objectionable odors;
- Not exceed the APCD health risk public notification thresholds adopted by the APCD Board for air toxics; and
- Be consistent with the adopted federal and state Air Quality Plans.

The CEQA Guidelines §15355 defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impact." The individual effects may be changes resulting from a single project and more than one projects (CEQA Guidelines §15355(a).) Cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time. (CEQA Guidelines §15355(b))

5.1.1.2 Construction Thresholds

Emissions from construction activities are normally short-term. Currently, neither the County nor the SBCAPCD have daily or quarterly quantifiable emission thresholds established for short-term construction emissions. PM_{10} impacts from dust emissions should be discussed and standard mitigation measures implemented, e.g., watering, as required in the Scope and Content of Air Quality Sections in Environmental Documents (SBCAPCD 2011) and the County Environmental Thresholds and Guidelines Manual (SBC 2008). Quantitative thresholds of significance are not currently in place for short-term or construction emissions. However, the SBCAPCD requires construction projects that would emit more than 25 tons per year to obtain emission offsets under Rule 804 and would consider these emissions to be significant under CEQA. SBCAPCD Rule 202 (related to permits and offset requirements and exemptions), Section D.16, requires that:

Notwithstanding any exemption in these rules and regulations (Rule 202), if the combined emissions from all construction equipment used to construct a stationary source which requires an Authority to Construct have a projected actual in excess of 25 tons of any pollutant, except carbon monoxide, in a 12 month period, the owner of the stationary source shall provide offsets…

5.1.1.3 GHG Emission Thresholds

Climate Change under CEQA differs from most other types of impacts in that, by definition, it is only examined as a cumulative impact that results not from any one project under CEQA, but rather from greenhouse gas (GHG) emissions "…generated globally over many decades by a vast number of different sources." (Kostka, 2007, §20.83; Hegerl, 2007.) Accordingly, climate change is treated herein as a cumulative impact, subject to the CEQA Guidelines for conducting cumulative impact analyses. CEQA Guidelines direct that a project's contribution to a significant cumulative impact will be rendered less than significant if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact (§15130(a)(3)). Such determinations must be based on analysis in the environmental document with evidence to demonstrate that mitigation required of a project represents the project's "fair-share" contribution.

Recently, the California Natural Resources Agency amended the Guidelines for Implementation of the California Environmental Quality Act in 2009, placing specific requirements on CEQA lead agencies for the treatment of greenhouse gas emissions in environmental documents. Under CEQA, lead agencies must "…make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project" (Section 15064.4 was added to the CEQA Guidelines on October 23, 2009). These amendments further obligate the lead agency to consider if the estimated amount of greenhouse gas (GHG) emissions from a proposed project exceed a threshold of significance that the lead agency determines to apply to the project, and consider the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

Neither Santa Barbara County nor the Santa Barbara County Air Pollution Control District (APCD) have adopted thresholds for determining if the projected GHG emissions of a proposed project constitute a

considerable contribution to global climate change, and therefore would be classified as a cumulative significant impact. Absent such thresholds, the CEQA lead agency must make such significance determinations on a case-by case basis. California does not have one, statewide-accepted significance threshold as of yet. Several approaches have been discussed and, to some extent, implemented (CAPCOA 2008, pp. 23-57; Crockett 2011, pp. 213-245). Some have been, or are being, litigated. These approaches are numerous but generally fall into one of two categories for addressing stationary sources of GHG emissions: Numeric "Bright Line" thresholds or a specified reduction in "Business as Usual" (BAU) thresholds.

Numeric Bright-Line Thresholds

Numeric bright line thresholds are specific numeric thresholds above the baseline operations that, if exceeded, would produce a significant cumulative impact. To date, bright line thresholds have ranged from zero to 100,000 metric tonnes of CO_2 equivalent ($MTCO_2E$) annually. With the exception of a threshold of zero, sources that produce emissions below the threshold are considered insignificant, and thus do not have to reduce their GHG emissions, based on their relatively small individual and cumulative contributions. The Bright Line threshold approach has the advantage of being easy to apply; however, it more strictly regulates larger sources than smaller sources.

Multiple agencies/districts have applied bright line thresholds. For example, the South Coast Air Quality Management District (SCAQMD), the Bay Area Air Quality Management District (BAAQMD) and the San Luis Obispo Air Pollution Control District (SLOAPCD) have established ~~a~~ 10,000 $MTCO_2E$ per year CEQA interim significance thresholds for stationary sources.

Additionally, the California Air Resources Board (CARB) and the Federal EPA have established reporting and regulatory thresholds. These are:

- CARB has established a 10,000 $MTCO_2E$ per year threshold for mandatory reporting for combustion and process source emissions (the mandatory reporting rule also requires reporting for certain industries regardless of emissions levels or 25,000 $MTCO_2E$ per year for petroleum processing combined sources of stationary combustion, process, fugitive, and vented emissions)
- CARB has established a 25,000 $MTCO_2E$ per year threshold for applying the Cap-and-Trade program for stationary sources;
- Federal EPA has established a 25,000 $MTCO_2E$ per year threshold for mandatory reporting;
- Federal EPA has established a 100,000 ton per year permitting threshold for large stationary sources under the Prevention of Significant Deterioration (PSD) and Title V Operating Permit programs;

Each of these is discussed below.

CARB Reporting and Cap-and-Trade Thresholds

The CARB regulation for the Mandatory Reporting of Greenhouse Gas Emissions was originally approved in 2007 and was revised in 2010 and 2012. CARB has issued reports on the reporting entities and their corresponding GHG emission levels annually. In 2010, about 85-90 percent of industrial sources were captured by the reporting rule (based on the most recent CARB Reporting Rule reports for 2010 and 2011 emissions (CARB, 2012 and CARB, 2013 excel databases) and Emission Inventory reports for 2010 available at the time of this EIR (CARB, 2013b). CARB proposed to use the 10,000 $MTCO_2E$ for combustion and process source emissions as a reporting threshold, not as a CEQA significance threshold that would be used to define mitigation requirements.

Cap-and-Trade is designed to reduce the emissions from a substantial percentage of GHG sources (about 85% of GHG emissions will come under the program (CARB, 2011c, p. 1)) within California through a market trading system. An operator is required to participate in the Cap-and-Trade program if its facility emits more than 25,000 $MTCO_2E$ annually.

Federal Reporting and Permit Thresholds

In 2009, the Federal EPA established a 25,000 $MTCO_2E$ per year threshold for reporting GHG emissions to the Federal government under Title 40 CFR Part 98. The requirement applies to direct greenhouse gas emitters, fossil fuel suppliers, industrial gas suppliers, and facilities that inject CO_2 underground for sequestration or other reasons. EPA estimates that 85-90 percent of the total U.S. GHG emissions from over 8,000 facilities are covered by the reporting rule (USEPA, 2013, p.1).

The 100,000 tons of CO_2E level (note: not metric tonnes) has been adopted by the Federal EPA as the limit above which a Prevention of Significant Deterioration ("PSD") and a Title V operating permit are required. The 100,000 ton level is cited in the Mojave Air Pollution Control District CEQA Guidelines as a CEQA threshold of significance.

A Zero CEQA Threshold

In its role as CEQA lead agency, the California State Lands Commission assesses the significance of a project's contribution to the cumulatively significant impact of global climate change on a case-by-case basis. In some cases, such as the Venoco Ellwood Marine Terminal Lease Renewal FEIR (CSLC 2009), the Commission has applied a zero-emission threshold, while it has selected different approaches on other projects, such as the Venoco Platform Holly Power Cable Replacement Project Mitigated Negative Declaration (December 2012), where it applied a 10,000 $MTCO_2E$/year threshold.

The zero threshold approach defines that a project would have a significant impact if its GHG emissions have a net increase over the baseline. This approach was included in CAPCOA's 2008 CEQA and Climate Change white paper (CAPCOA, 2008, p. 27). CAPCOA states that:

> If the zero threshold option is chosen, all projects subject to CEQA would be required to quantify and mitigate their GHG emissions, regardless of the size of the project or the availability of GHG reduction measures available to reduce the project's emissions. Projects that could not meet the zero-emission threshold would be required to prepare environmental impact reports to disclose the unmitigable significant impact, and develop the justification for a statement of overriding consideration to be adopted by the lead agency.

CAPCOA also states that:

> A zero threshold approach is based on a belief that, 1) all GHG emissions contribute to global climate change and could be considered significant, and 2) not controlling emissions from smaller sources would be neglecting a major portion of the GHG inventory.

CAPCOA also rates a zero threshold approach as being highly effective for GHG emission reduction effectiveness and consistency with AB 32 and S-03-05, but the approach receives low marks for technical, logistical and economic feasibility, cost effectiveness and the degree of uncertainties primarily due to the requirement that all projects, regardless of size, would have to comply and the potential infeasibility of mitigation.

The 10,000 $MTCO_2E$ CEQA Threshold

The 10,000 $MTCO_2E$ threshold has been adopted by three air quality districts in California. It was originally adopted as an interim threshold by the SCAQMD in 2008. The SCAQMD's 10,000 $MTCO_2E$

threshold is based on a goal of a 90 percent emission capture rate. Because most new stationary combustion sources were anticipated to utilize natural gas in SCAQMD, the 90 percent capture rate was based on combustion of natural gas at facilities that were required to report under their Annual Emissions Reporting program for the preceding 12-month period in 2006-2007. SCAQMD's interim threshold was expected to capture more than 90 percent of GHG emissions from stationary source projects. Key rationale for SCAQMD choosing a 90 percent capture rate included the following considerations:

- The policy would be consistent with Executive Order S-03-05 which required ~~a 90~~an 80 percent reduction of GHG emissions below then-current levels by 2050;
- The policy would be consistent with CARB's 2008 draft staff proposal (never adopted) that included a 90 percent capture efficiency target;
- The emission threshold is low enough to capture a substantial fraction of future stationary source projects that will be constructed to accommodate future statewide population and economic growth, while setting the threshold high enough to exclude small projects that will in aggregate contribute a relatively small fraction of the cumulative statewide GHG emissions;
- A 90 percent capture rate is more appropriate than a zero threshold as it will assure that all feasible GHG reductions will be implemented for a large majority of emissions, without overwhelming SCAQMD's ability to process environmental documents; and
- This approach was included in CAPCOA's 2008 CEQA and Climate Change white paper (CAPCOA, 2008, p. 33).

The SCAQMD also relied on and vetted the threshold through a stakeholder working group to receive input on establishing a GHG significance threshold. The working group recommended an interim threshold that achieved an emission capture rate of 90 percent of all new or modified stationary source projects (SCAQMD, 2008, Attachment E). Pursuant to CEQA Guidelines 15064.7, the SCAQMD Governing Board adopted the threshold for its use as a lead agency via a resolution on December 5, 2008. It was considered an interim to an anticipated CARB GHG threshold; however, a GHG threshold has not been adopted by CARB to date (SCAQMD, 2008, pp. 2, 4, & 5, and Attachment C).

Subsequent to the SCAQMD threshold adoption, the BAAQMD adopted a 10,000 $MTCO_2E$ interim threshold based on capturing approximately 95 percent of all GHG emissions for new or modified stationary sources. (The threshold was adopted as an interim threshold that would be reevaluated once the CARB's Scoping Plan measures, including the Cap-and-Trade program, are more fully implemented at the state level.) BAAQMD staff reports (BAAQMD, 2010, pp. 27 - 28) indicated that a 95 percent emission capture rate would capture only the large, significant projects. Permit applications for projects with emissions above the 10,000 $MTCO_2E$ threshold would account for less than 10 percent of stationary source permit applications which represent 95 percent of GHG emissions from new permits analyzed during a three year analysis period (2007-2009). BAAQMD staff concluded that compliance with the stationary source quantitative threshold of 10,000 $MTCO_2E$/yr would not be "cumulatively considerable" because projects would not hinder the state's ability to solve the cumulative greenhouse gas emissions problem pursuant to AB 32 (BAAQMD, 2010, pp. 30 - 31).

The BAAQMD stationary source interim thresholds were subsequently set aside by a trial court in a lawsuit, which found that the Air District had failed to comply with CEQA when it adopted the thresholds. The court did not determine whether or not the thresholds were based on substantial evidence and thus valid on the merits, only that the CEQA process should have been utilized in the adoption of the thresholds. Therefore, the BAAQMD does not recommend specific thresholds of significance for use by local governments at this time (BAAQMD, 2012, p. 2-5).

SLOAPCD established a 10,000 $MTCO_2E$ interim threshold based on an analysis of their stationary-source emission inventory year 2009 (SLOAPCD, 2012. p. 27). (Similar to the BAAQMD interim threshold, SLOAPCD adopted its threshold as an interim threshold that would be reevaluated once the CARB's Scoping Plan measures, including the Cap-and-Trade program, are more fully implemented at the state level.) The analysis showed facilities with emissions above 10,000 $MTCO_2E$ accounted for 94% of all combustion-related CO_2E emissions in 2009 in San Luis Obispo County (SLOAPCD, 2012. p. 27).

California does not yet have one distinct methodology for establishing a data set to determine a "percent-capture" level for the purpose of forecasting the size (i.e., the annual GHG emissions) of future projects that may be subject to CEQA review. Use of an existing emission inventory or data set is the simplest approach. Developing a data set based on historic project approvals requires a much larger effort and may require extensive primary research and refinement.

SCAQMD staff developed a GHG emissions data set based on annually reported natural gas usage, with a goal of determining a screening threshold level that would capture 90% of the GHG emissions related to new stationary source projects. The data set SCAQMD staff used was deemed to be the best information available at the time. As a result of the ongoing implementation of AB 32 requirements and other local initiatives, other GHG emission inventories and data sets have been developed for more recent years. These more recent inventories may include combustion emissions from natural gas combustion, additional fuel types, indirect GHG emissions from electricity, mobile source emissions, and GHG from fugitive methane releases. However, some of the more recent inventories do not include smaller sources (less than 25,000 $MTCO_2E$/year or less than 10,000 $MTCO_2E$/yr). This is the case for the data set based on the CARB GHG Mandatory Reporting Rule (MRR) reported emissions data.

SCAQMD staff acknowledged in its proposal that not all GHG emissions and source types were included in the data set used to determine a screening threshold of 10,000 $MTCO_2E$/year as follows:

> "Staff's interim GHG significance threshold proposal for stationary sources was developed using AQMD's AER Program ... because this is the only comprehensive data base available to SCAQMD staff. Staff then compiled reported annual natural gas consumption for 1,297 permitted facilities for 2006 through 2007 and rank-ordered the facilities to estimate the 90th percentile of the cumulative natural gas usage for all permitted facilities. Most GHG emissions from industrial facilities are generated from stationary sources, while a relatively small percent is generated by traffic, water usage, etc. Therefore, although staff's GHG significance threshold proposal was derived without considering offsite indirect GHG emissions, staff believes the interim GHG significance threshold for stationary source projects is appropriate because it is consistent with staff's overarching goal of capture 90 percent or more of the GHG emissions from industrial projects." (SCAQMD, 2008, Attachment D, pp. 2 - 3)

The GHG emissions that were reported to CARB for 2011 (hereafter referred to as the 2011 MRR data set), although more complete in terms of some emissions sources (fugitive methane emissions, process gas emissions, electricity emissions), is deficient for developing a threshold level as it includes very few sources that emit less than 25,000 $MTCO_2E$/year (only 69 for the South Coast AQMD region). The South Coast AQMD dataset includes a total of 1,297 sources, 58 of which are above 25,000 $MTCO_2E$/year and 1,239 of which are below 25,000 $MTCO_2E$/year. The CARB 2011 MRR data set includes a total of 132 sources in the South Coast AQMD region, 67 of which are above 25,000 $MTCO_2E$/year, and 65 of which are below 25,000 $MTCO_2E$/year. Both data sets have their limitations; by design, the MRR 2011 data set excludes a large portion of the projects in the region, and captures only the very largest projects.

SME has questioned the SCAQMD data set approach, contending that calculating a 90% capture rate through the use of the CARB GHG MRR~~MMR~~ (2011 date) would produce a much higher threshold –

estimated by SME to be 205,299 $MTCO_2e$ instead of 10,000 $MTCO_2E$. Determining a 90% capture level based on the 2011 MRR dataset essentially applies a filter to a data set that has already been filtered. SME derived a hypothetical threshold from the CARB dataset without the inclusion of approximately 1200 SCAQMD facilities.

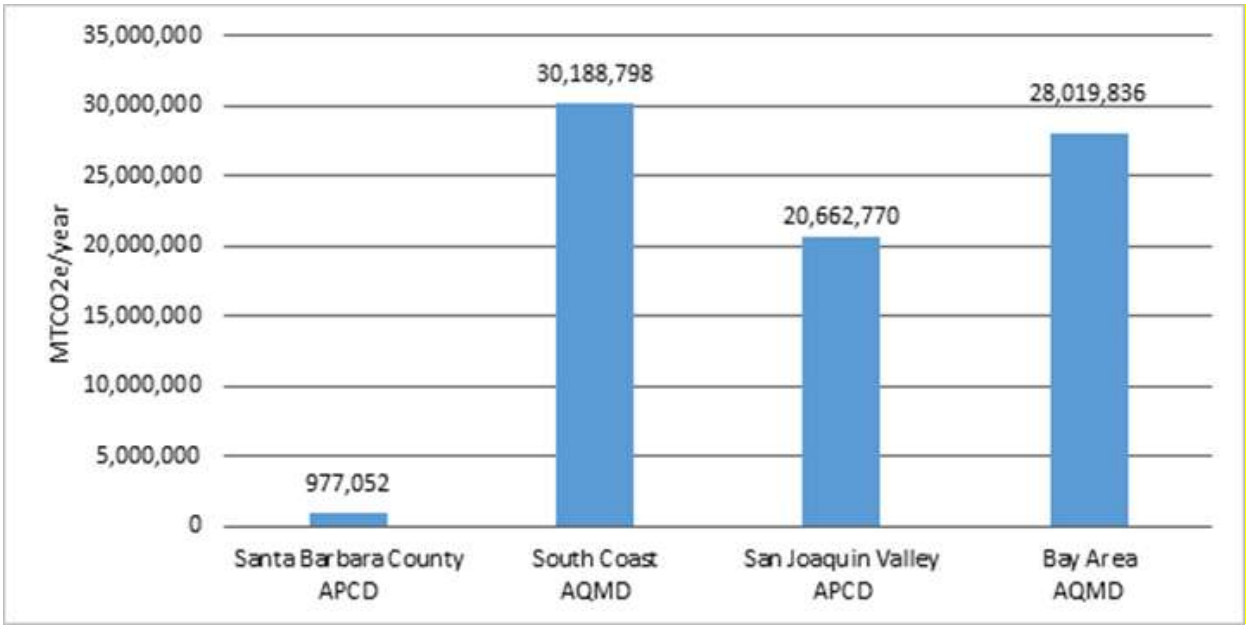
Based on one year (2011) of Santa Barbara County stationary source GHG data (total of 246 stationary sources), the Santa Barbara County APCD has made preliminary estimates of the 90 and 95 percent capture rates. The thresholds were estimated to be 10,000 $MTCO_2E$ and 3,000 $MTCO_2E$, respectively, for 90% and 95% capture. The APCD suggests using a larger data set and taking a regional view to establish a CEQA GHG threshold. For instance, inclusion of Santa Barbara County in the South Coast regional emissions inventory, which is about 33 percent of permitted sources in California, supports a 10,000 $MTCO_2E$ threshold for Santa Barbara County because the emissions inventory in Santa Barbara County is very small compared to the South Coast regional emissions.. As described above, the interim SCAQMD threshold is based upon a 90 percent capture rate calculated by SCAQMD, using the 2008 methodology.

The figure below compares Santa Barbara County APCD's stationary source emissions from 2011 to the GHG emissions reported to the California Air Resources Board in 2011 for sources in the South Coast AQMD, San Joaquin APCD, and Bay Area AQMD regions.

Although Santa Barbara County is a relatively large geographic region (approximately 2,700 square miles), the region is much less densely populated (2012 population estimate is 431,000) and has less commercial and industrial land uses than neighboring counties to the south. Correspondingly, the GHG emissions related to stationary sources are much smaller than other counties in the South Coast AQMD region. Using the values in the figure above, the GHG emissions in Santa Barbara County are approximately 3.2% of the GHG emissions for the South Coast AQMD region, which is made up of the most populated areas of Los Angeles, Riverside, and San Bernardino Counties, and all of Orange County. The collective South Coast AQMD region comprises a large and important regional economy in the United States, encompasses about 10,750 square miles, and has a population of approximately 16.8 million people. It is the second most populated urban area in the United States. The GHG emissions associated with Santa Barbara County's stationary source facilities are a very small portion of the GHG emissions in the Southern California region. If the GHG emissions from Santa Barbara County were folded into an inventory for the larger Southern California region, it is evident that the additional data would have little or no effect on the percent amount of GHG emissions "captured" by a 10,000 MT/yr stationary source threshold for that larger region.

Figure 5.1-1a Comparison of Air District Stationary Source GHG Emissions

Sources emitting more than 10,000 metric tons/yr



***Reference**: Santa Barbara County APCD and CARB, 2013a. The South Coast AQMD, San Joaquin Valley APCD, and Bay Area AQMD emissions numbers were derived from CARB Mandatory Reporting Rule emissions summaries and do ~~The Santa Barbara County emissions number does~~ not include emissions generated by biogenic fuels, such as landfill gas, wastewater treatment methane, and biomass facilities/power plants, and ~~does~~ do not include GHG emissions that will occur from energy embedded in fuels used by consumers.*

~~Although Santa Barbara County is a relatively large geographic region (approximately 2,700 square miles), the region is much less densely populated (2012 population estimate is 431,000) and has less commercial and industrial land uses than neighboring counties to the south. Correspondingly, the GHG emissions related to stationary sources are much smaller than other counties in the South Coast AQMD region. Using the values in the figure above, the GHG emissions in Santa Barbara County are approximately 3.2% of the GHG emissions for the South Coast AQMD region, which is made up of the most populated areas of Los Angeles, Riverside, and San Bernardino Counties, and all of Orange County. The collective South Coast AQMD region comprises a large and important regional economy in the United States, encompasses about 10,750 square miles, and has a population of approximately 16.8 million people. It is the second most populated urban area in the United States. The GHG emissions associated with Santa Barbara County's stationary source facilities are a very small portion of the GHG emissions in the Southern California region. If the GHG emissions from Santa Barbara County were folded into an inventory for the larger Southern California region, it is evident that the additional data would have little or no effect on the percent amount of GHG emissions "captured" by a 10,000 MT/yr stationary source threshold for that larger region.~~

There is no science-based reason for applying a more stringent threshold to the Santa Barbara County region than is applied in a larger region within the State of California. Rather, the stationary source threshold of 10,000 MT/yr adopted by the South Coast AQMD is a reasonable threshold to apply if a numeric, bright-line threshold were considered for this project, as allowed by CEQA Guidelines Section 15064.7(c).

BAU Thresholds

The essential rationale behind the BAU thresholds is that CEQA Guidelines Section 15064.4(b)(3) provides that when determining if cumulative impacts from GHG emissions are significant, a lead agency may consider whether a project complies with the regulations or requirements adopted pursuant to a statewide plan adopted for the reduction or mitigation of GHG. ~~CARB's *Climate Change Scoping Plan* (hereafter "Scoping Plan") is such a plan.~~ CARB prepared the *Climate Change Scoping Plan* (hereafter "Scoping Plan") ~~first Scoping Plan~~ in 2008 ~~(with a re-approval in August 2011)~~ as part of its mandate to implement Assembly Bill (AB) 32, the "California Global Warming Solutions Act" (Health & Safety Code sections 369500 et. seq.) and adopted *Attachment D: Final Supplement to the AB 32 Scoping Plan Functional Equivalent Document* in 2011 (hereafter "2011 Scoping Plan Supplement"). AB 32 mandates a reduction in California's GHG emissions to 1990 levels by 2020 (the 1990 level that serves as the 2020 target is 427 million $MTCO_2E$). This reduction is viewed as an aggressive, but achievable, mid-term target toward stabilization of the planet's climate in the latter half of the 21st century (CARB, 2008, pp. 4 and 117). Prior to the adoption of AB 32 process, former-Governor Schwarzenegger's issued Executive Order S-03-05 setting a long term goal for GHG reduction, calling for an 80 percent reduction of GHG emissions from 1990 levels by the year 2050, which results in a target level of 85.4 $MTCO_2E$. (Ibid.) The Scoping Plan indicates how emission reductions in California will be achieved through regulations, market mechanisms, and other actions, to reach the 2020 target. AB 32 represents California's solution to global climate change in legal terms, and also represents the state's solution in policy terms when combined with S-03-05. (Crockett, 2011, pp. 7 - 8.)

To achieve the AB 32 2020 mid-term goal of reducing GHG to 1990 emission levels, the Scoping Plans projected the reasonable expected GHG emissions growth through the year 2020 which is the "business-as-usual" (BAU) scenario, and then determined the GHG emission reductions that are expected or have occurred due to the emission reduction measures required by the Scoping Plan.

Since 2008, ARB has updated the projected BAU emissions based on current economic forecasts (i.e., as influenced by the economic downturn) and GHG-reduction measures already in place. The BAU projection for 2020 GHG emissions in California was originally, in the 2008 Scoping Plan, estimated to be 596 $MMTCO_2E$. ARB subsequently derived an updated estimate of emissions by considering the influence of the recent recession and reduction measures that are already in place. The 2011 Scoping ~~plan~~ Plan Supplement estimates the year 2020 emissions at 507 MMTCO2E (as the BAU estimate). CARB estimates that statewide emissions have to be reduced by 80 million $MTCO_2E$/year ~~form~~ from 2008 emission levels to meet the 2020 target emissions level.

The 2011 Scoping Plan Supplement concluded that achieving the 1990 levels by 2020 meant cutting approximately 16 percent, compared to the original 2008 Scoping Plan that estimated a 29% reduction (CARB, 2011a, p. 11). The 2011 Scoping Plan Supplement sets forth the expected GHG emission reductions from a variety of measures, including the Pavley I automobile standards and the Renewables Portfolio Standard, neither of which were assumed in the 2008 Scoping Plan (CARB, 2011b).

AB 32 requires that the Scoping Plan be revised every five years; the first five-year revision is scheduled to be heard by CARB for adoption in November of 2013. This first revision will provide an update on climate science and a report on progress toward the 2020 target, including achievements of the 2008 Scoping Plan and 2011 Scoping Plan Supplement ~~Scoping Plans~~, an update on the inventory of GHG emissions, and an update of the economy and its potential influence on future emissions forecasting. It will also address post-2020 goals, including Executive Order S-03-05.

BAU thresholds are based on a reduction from a "business-as-usual" scenario, where BAU emissions equate to the emissions that would have occurred in the absence of the mandated reductions under AB-32 programs. The definition of BAU is a critical aspect of determining the significance of a project. In the

CARB Scoping Plans, the BAU case is a representation of what the State of the California economy will be in the year 2020 assuming that none of the measures recommended in the Scoping Plan are implemented. The BAU should not be confused with a CEQA baseline analysis, where, for a new housing development project, for example, the baseline would be the empty field, while the BAU would be the development project "in the absence of any AB 32 programs." CAPCOA defines BAU as emissions that would occur "in the absence of mandated reductions" and does not equate the BAU with a CEQA baseline. A recent court case provides some guidance on what a BAU project scenario would be for a proposed project (*Friends of the Northern San Jacinto Valley et al. v. County of Riverside, 5/31/2012).* This court case ruled that a BAU scenario for a project should meet the following conditions:

- It should be within the existing legal constraints;
- It should be practical and credible;
- It should include the application of local planning and zoning laws;

The decision provides guidance on the selection of the BAU scenario from which a percent reduction would be calculated.

If the projected emissions levels from a source can be reduced to a percentage below BAU that is consistent with the Scoping Plan targets (e.g., 16 percent below BAU), cumulative impacts would be found to be mitigated to less than significant because it has implemented or funded its fair share of mitigation to alleviate the cumulative impact. Options for setting thresholds at reduction rates higher than 16% have relied on the necessity of addressing the long-term 2050 emission-reduction goal set in Executive Order S-03-05, as further discussed below.

The Scoping Plan relies on several command and control measures to reduce GHG pollution, such as regulation of landfills and certain commercial refrigerant operations, Pavley I automobile standards, regional transportation measures, energy efficiency, and many other measures. (CARB, 2008, p. 15.) A key part of the program, however, is Cap-and-Trade, which is applied to a number of sources, including all stationary sources with GHG pollution in excess of 25,000 tons annually. (Cap-and-Trade is discussed in more detail below, under State GHG Regulations and Programs.)

The SME project is required to participate in the Cap-and-Trade program by virtue of its total annual emissions that would surpass the threshold of 25,000 $MTCO_2E$. Between now and the year 2020, the Cap-and-Trade program statewide is estimated to account for a reduction of 18 million $MTCO_2E$ (or 22.5 percent) of the 80 million $MTCO_2E$ required to meet the AB 32 mid-term target. CARB estimates that, by 2030, a reduction in California's GHG emissions to below 300 million $MTCO_2E$ is needed to stay on course toward the long-term 2050 target; CARB also estimates that the Scoping Plan measures would produce a reduction to 284 million $MTCO_2E$ by 2030 (CARB, 2008, pp. 118 - 120). For its part, a comprehensive Cap-and-Trade program of regional or national scope could lower emissions in those sectors of the economy subject to the program from 365 million $MTCO_2E$ in 2020 to around 250 million $MTCO_2E$ in 2030. According to the Plan: "By tightening the cap over time, it is expected that facilities in the industrial and natural gas sectors would achieve reductions well beyond those needed to meet the 2020 emissions cap." (*Ibid*, pp. 118 - 120.)

There are multiple possibilities under the BAU approach in terms of reductions from the BAU scenario and demonstrating consistency with the AB 32's target. These include:

- Reliance on only AB 32 Scoping Plan programs. CARB has adopted the Scoping Plan that shows the State will achieve the 1990 GHG emission levels by 2020 with the implementation of the Scoping Plan programs (i.e. for stationary sources, this would primarily be the Cap-and-Trade

program). No additional reductions are needed. CARB also sees the Cap and Trade Program as an important facet in achieving the longer term State goal of reducing statewide GHG emissions to a level 80% below 1990 emission levels by 2050.

- A 29 percent reduction, as is currently the adopted approach in San Joaquin Valley APCD (SJVAPCD) and East Kern County APCD (EKCAPCD) areas, where the reduction is based on the original 2008 Scoping Plan reduction requirements to achieve the year 2020 targets. This threshold level is discussed in CAPCOA's CEQA and Climate Change Paper (CAPCOA 2008);
- A 16 percent reduction where the reduction is based on the revised 2011 Scoping Plan Supplement reduction requirements;
- A 50 percent reduction from BAU, with an increased reduction over what is required to achieve the AB-32 target for 2020. This threshold level is discussed in the CAPCOA's CEQA and Climate Change Paper (CAPCOA 2008) and Alexander Crockett's "Addressing the Significance of Greenhouse Gas Emissions under CEQA: California's Search for Regulatory Certainty in an Uncertain World," (Crockett, 2011, p. 14); and
- A 90 percent reduction from BAU, where an even greater reduction over what is required to achieve the AB 32 target for 2020 is based on the presumption that new development should contribute an even greater percent reduction from business-as-usual.

Each of these is discussed below

Reliance on AB 32 Scoping Plan for Projects Subject to Cap and Trade

This threshold relies entirely on the Scoping Plan programs to achieve the required reductions. These programs are numerous, but for stationary sources, are composed primarily of the Cap-and-Trade program. The Cap-and-Trade program includes all stationary sources in California that emit more than 25,000 MTCO2E per year. According to CARB, this would capture most of the GHG emissions from stationary sources in the State. Participants in the program are required to reduce emissions or purchase/obtain "allowances" so that the total GHG emissions from all covered sources in California would not increase over time, with a reduction in the "cap", or total emissions, occurring over time as part of the regulation. This would enable the State-wide GHG emissions from the majority of stationary sources to be reduced each year until the 2020 goals are achieved. The program beyond the year 2020 has not been developed at this time, but CARB indicates that it most likely would continue and the Cap-and-Trade program would be used to achieve the 2050 goals also. More information is included in section 5.1.2.2 Regulatory Setting below.

Percent Reduction Below BAU

A number of approaches discussed below allow for an accelerated method to implement additional reductions earlier than the Scoping Plan Cap-and-Trade program prescribes. These approaches also attempt to address the need to ensure that the S-03-05 goal of an 80 percent reduction by 2050 (from 1990 emissions) is achieved.

29 or 16 Percent Reductions Below BAU

The approach stems from the CARB AB 32 Scoping Plan of 2008, which prepared and adopted a statewide greenhouse gas inventory for the years 2002 – 2004 and determined that an emission reduction of approximately 29 percent below business as usual was necessary to achieve 1990 emission levels by 2020. This is referred to as reducing emissions below the expected "BAU" scenario. ~~Due to a lawsuit, CARB re-approved the Scoping Plan in 2011 with revisions; including~~ The 2011 Scoping Plan supplement included new calculations that determined a lower reduction level of 16 percent rather than 29 percent was necessary to meet the goal of AB 32 by 2020. This recalculation was based on a lower statewide greenhouse gas inventory for the years 2006-2008, revised growth projections, and estimated increase of effectiveness of AB-32 greenhouse gas reduction measures already implemented (e.g., the

Pavley motor vehicle standards, and the Renewable Portfolio Standards for the generation of electricity). The BAU approach has been adopted or utilized as CEQA threshold by the SJVAPCD, Eastern Kern APCD (both prescribing a 29 percent reduction) and the City of Chula Vista (and upheld by *Citizens for Responsible Equitable Environmental Development, Petitioner and Appellant, v. City of Chula Vista)*.

AB 32 requires CARB to update the Scoping Plan every 5 years in order to achieve the maximum technologically feasible and cost-effective reductions of greenhouse gases. (Health & Safety Code sec. 38561(h).) CARB may consider the goals of EO S-03-05 as part of that process. Variability in the reduction percentage is anticipated as the Scoping Plan is revised multiple times between now and the year 2020, and it is anticipated that the reduction percentage would increase from 16 percent, as the economy is expected to recover over the next 5-10 years. At this time, however, the 16% threshold is identified in the revised 2011 Scoping Plan Supplement as necessary to meet the 2020 mid-term target, and the 29% threshold, which was identified in the 2008 Scoping Plan as necessary to meet the 2020 target, provides additional reductions to address the 2050 goal provided in Executive Order S-03-05.

50 Percent Reductions Below BAU

The use of a higher reduction than the Scoping Plan levels of 16 or 29 percent is based on the conclusion that new development should contribute a greater percent reduction from BAU because greater reductions can be achieved at lower cost from new projects than can be achieved from existing sources (CAPCOA 2008, pp. 33-34; Crockett, 2011, p. 14). In addition, Former Governor Schwarzenegger adopted E.O. S 3-05 which set a goal of reducing emissions to 80 percent below 1990 levels by 2050. CARB has partially addressed this goal in the Scoping Plan, which is the formal plan for implementing AB 32, as discussed later in this section. However, CARB indicates in the Scoping Plan that the programs adopted, including Cap-and Trade, would contribute to achieving the 2050 goals. It is assumed that, under Cap-and-Trade, additional reductions in allowances would continue to be required past 2020, along with land use and transportation achievements, in order to achieve the 2050 targets. "ARB believes, based on the review of emission reduction opportunities conducted for the Scoping Plan, that significant reduction opportunities exist in the industrial sector that are more readily achieved through market mechanisms than through direct measures [i.e., regulations]*."* (CARB, 2008, page C-17).

As the S-03-05 Executive order sets a goal of an 80 percent reduction by 2050, higher reduction levels than the 16 or 29 percent as detailed in the Scoping Plans would be required beyond 2020 in order to achieve that longer term goal. Reduction levels of between 50 percent (CAPCOA, 2008, pp. 33-34) and 90 percent could be utilized to account for a greater contribution by new development and the need to achieve these longer terms goals of S-03-05. CAPCOA specifically discusses the 50 percent reduction threshold, determining that it would have a high level of consistency with AB-32, a medium level of effectiveness but a medium/high level of uncertainty. (CAPCOA, 2008, pp. 33-34.)

90 Percent Below BAU

Establishment of a 90 percent BAU threshold is based in part on the SCAQMD Interim Threshold development where a reduction of 90 percent over the current (at the time of SCAQMD development) emissions would be required to achieve an 80 percent reduction by 2050 as defined in the S-03-05 Executive order.

EIR Significance Determination

If the projected project emissions are mitigated to a level that will be consistent with AB 32, then the cumulative GHG impacts contributed by the project will be found to be less than significant. This method is based on CARB's implementation of AB 32, including the Scoping Plans, as the statewide program that will achieve the State's emission reduction goal of achieving 1990 emission-levels by 2020, and further the State's progress towards meeting the 2050 policy target. These targets (as established by AB

32 and the Scoping Plans) have been established as goals that will reduce impacts from climate change, and contribute to reducing global atmospheric GHG to levels that are projected to produce less than significant impacts.

An alternative approach to assess significance is based on emissions captured. If the projected project emissions fall into the category that represents the smallest projects within the lead agency's jurisdiction – i.e., those projects that collectively make up a small amount of the region's total GHG emissions ~~only 5-10% of new projects~~, then the project's contribution to climate change would not be considered to be cumulatively considerable. For those projects with projected emissions that fall into the category of larger projects, GHG emissions would be considered to be a significant contribution to the cumulative impact of climate change, and all feasible alternatives or mitigation would be required.

The original draft EIR for this project identified that a mitigation of GHG emissions to a level equating to 29% below BAU, or more, would render the project's cumulative impact to be less than significant. The public review of the draft EIR resulted in some agreement with this choice of threshold, and some opposition; the latter contending that a 29% reduction from BAU was inadequate in light of thresholds used by other lead agencies that required larger reductions of GHG emissions. Planning and Development staff prepared a proposed Final EIR and proceeded to the County's Planning Commission with a recommendation to approve the project with a required reduction in the project's GHG emissions to 29% below BAU. The County's Planning Commission, on a 3-2 vote, disagreed with staff's recommendation and directed staff to apply a 50% below BAU threshold, and to recirculate the GHG component of the Air Quality section of the proposed Final EIR for public comment, including several additional thresholds options that were described during the hearing.

Accordingly, this ~~Draft Recirculation Document~~EIR now includes a range of options for establishing a CEQA threshold of significance for GHG emissions, specifically the 16, 29, 50 and 90 percent below BAU minus the baseline emissions and the zero or 10,000 $MTCO_2E$/year allowed increase over baseline threshold. The BAU approaches, as discussed above, would be consistent with AB 32 as they would achieve similar reductions to AB 32, although at different levels and different timeframes. The use of the zero or 10,000 $MTCO_2E$/yr threshold would also obtain mitigation and reduction levels comparable to the 90 percent BAU threshold for this project, and would therefore also be consistent with AB 32 (see subsequent analysis below Table 5.1-12 and 5.1-13).

Reductions, or mitigation measures, could include a wide variety of measures which could reduce GHG emissions, including:

- Onsite increased equipment efficiencies or operational modifications;
- Offsite programs implemented in the community;
- Purchased "credits" from a source that are verified by CARB or equivalent; or
- Allowances purchased as part of the Cap-and-Trade program.

The use of purchased Cap-and-Trade allowances is allowed to be counted towards the threshold in order to give credit for the reductions associated with the Cap-and-Trade program. Under the Cap-and-Trade program, these purchased allowances are estimated to, after a 5-10 year timeframe, contribute all of the required reductions under any of threshold approaches described above.