

SACRAMENTO METROPOLITAN



AIR QUALITY
MANAGEMENT DISTRICT

**California Environmental Quality Act
Guidelines Update**

**Proposed Particulate Matter CEQA
Thresholds of Significance**

March 19, 2015

Table of Contents

I. Introduction.....1

II. Regulatory Authority.....1

III. CEQA Requirements.....2

IV. Justification for Updating CEQA Thresholds3

V. Proposed Particulate Matter Thresholds of Significance3

VI. Justification and Supporting Evidence.....4

List of Tables

Table 1 Current Particulate Matter CEQA Thresholds.....1

Table 2 Proposed Particulate Matter CEQA Thresholds4

DRAFT

I. Introduction

The Sacramento Metropolitan Air Quality Management District (SMAQMD or Air District) is reviewing its California Environmental Quality Act (CEQA) thresholds of significance for NO₂, SO₂, CO, and fine and coarse particulate matter (PM_{2.5} and PM₁₀). The District is proposing to proceed first with revisions to its PM threshold, and will bring forward revisions to the other thresholds at a later date.

The current particulate matter thresholds are shown in Table 1.

Table 1 Current Particulate Matter CEQA Thresholds

Pollutant	Project Level	Cumulative*
PM _{2.5}	12 µ/m ³ (Annual)	none
PM ₁₀	50 µ/m ³ (24-Hour)	2.5 µ/m ³ (24-Hour)
	20 µ/m ³ (Annual)	1.0 µ/m ³ (Annual)

A substantial contribution to a nonattainment pollutant¹ is emissions equal to or greater than 5% of a California Ambient Air Quality Standard (CAAQS).

The District's thresholds provide guidance to other agencies when assessing air quality impacts under CEQA. In fact, the State CEQA Guidelines provide that "[w]hen 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." (CEQA Guidelines §15064.7(c).) To provide lead agencies with the expert assistance anticipated by the Guidelines, the District developed particulate matter significance thresholds, which were adopted by the SMAQMD Board of Directors March 28, 2002.²

After reviewing its existing PM standard and administrative record, staff determined that the standard should be revised. Rather than assessing significance by reference to a specific standard exceedance, as the 5% threshold does, staff is recommending that the Board link the standard to the offset threshold for stationary sources. This approach is consistent with the emission reduction strategy in the Federal Clean Air Act and the California Health and Safety Code for stationary sources of air pollution, and has also been adopted by thirteen other air districts throughout the state.

II. Regulatory Authority

The SMAQMD has direct and indirect regulatory authority over sources of air pollution in Sacramento County. The District is also required to "represent the citizens of the

¹ Sacramento County is nonattainment for state PM₁₀ standards.

² Resolution AQMD2002018.

Sacramento district in influencing the decisions of other public and private agencies whose actions may have an adverse impact on air quality within the Sacramento district.”³ Adopting CEQA significance thresholds that can be uniformly applied throughout the county is an ideal mechanism for achieving this goal, because it provides agencies with an unbiased and uniform measure of a project’s potential impact on air quality within the district.

III. CEQA Requirements

CEQA directs public agencies to consider the potential adverse environmental impacts of any project that a public agency proposes to carry out, fund or approve. To do this, lead agencies must either determine that a project is exempt from CEQA, or prepare a Negative Declaration or Environmental Impact Report (EIR) assessing the project’s potential impacts. An EIR must be prepared whenever it can be fairly argued, based on substantial evidence,⁴ that a project may have a significant effect⁵ on the environment, even if there is substantial evidence to the contrary (CEQA Guidelines §15064). CEQA requires that the lead agency consider not only a project’s direct effects on the environment, but also the cumulative impacts of the proposed project and other projects causing related impacts. When the incremental effect of a project is cumulatively considerable, the lead agency must discuss the cumulative impacts. (CEQA Guidelines §15064).

The “fair argument” standard refers to whether a fair argument can be made that a project may have a significant effect on the environment (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84). The fair argument standard is generally considered a low threshold requirement for preparation of an EIR. The legal standards reflect a preference for requiring preparation of an EIR and for “resolving doubts in favor of environmental review.” *Meija v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332. “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.” (CEQA Guidelines §15064(b)).

In determining whether a project may have a significant effect on the environment, CEQA Guidelines Section 15064.7 provides that lead agencies may adopt and apply “thresholds of significance.” 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

³ Health and Safety Code, § 40961.

⁴ “Substantial evidence” includes facts, reasonable assumptions predicated upon facts, or expert opinions supported by facts, but do not include argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. Cal. Pub. Res. C. §21080(c); see also CEQA Guidelines §15384.

⁵ A “significant effect” on the environment is defined as a “substantial, or potentially substantial, adverse change in the environment.” Cal. Pub. Res. C. §21068; see also CEQA Guidelines §15382.

and compliance with which means the effect normally will be determined to be less than significant" (CEQA Guidelines §15064.7).

While staying below a threshold of significance gives rise to a presumption of insignificance, thresholds are not conclusive, and do not excuse a public agency from the duty to consider whether other evidence supports a fair argument that an impact may nonetheless be significant. *Meija*, 130 Cal. App. 4th at 342. "A public agency cannot apply a threshold of significance or regulatory standard 'in a way that forecloses the consideration of any other substantial evidence showing there may be a significant effect.'" *Id.* This means that if a public agency is presented with factual information or other substantial evidence establishing a fair argument that a project may have a significant effect on the environment, the agency must prepare an EIR to study those impacts even if the project's impacts fall below the applicable threshold of significance.

Thresholds of significance must be supported by substantial evidence. This Report provides the evidence in support of the proposed thresholds of significance developed by the Air District. If adopted by the SMAQMD Board of Directors, the Air District will recommend that lead agencies within its jurisdiction use the proposed thresholds of significance in this Report when considering particulate matter air quality impacts of projects under their consideration.

IV. Justification for Updating CEQA Thresholds

Any analysis of environmental impacts under CEQA includes an assessment of the nature and extent of impacts expected to result from the project to determine whether the impact will be treated as significant or less than significant. CEQA gives lead agencies discretion in deciding whether to classify a particular environmental impact as significant. Ultimately, formulation of a standard of significance requires the lead agency to make a policy judgment about where the line should be drawn distinguishing adverse impacts it considers significant from those that are not significant. This judgment must, however, be based on scientific information and other factual data to the extent possible (CEQA Guidelines §15064(b)).

Because advances in science provide new or refined factual data, combined with advances in technology and the gradual improvement or degradation of an environmental resource, the point where an environmental effect is considered significant is fluid over time. Other factors influencing this fluidity include new or revised regulations and standards, and emerging, new areas of concern.

V. Proposed Particulate Matter Thresholds of Significance

The proposed particulate matter threshold is zero for projects that fail to apply Best Available Control Technology (BACT) (where applicable) or best management practices

for the control of particulate. Where BACT and best management practices have been incorporated into the project, the proposed significance thresholds are shown in Table 2. A project's emissions exceeding these thresholds would make a cumulatively considerable contribution to the area's PM levels.

Table 2 Proposed Particulate Matter CEQA Thresholds

Pollutant	Pounds/Day	Tons/Year
PM _{2.5}	82	15
PM ₁₀	80	14.6

VI. Justification and Supporting Evidence

District rules require stationary sources that emit pollutants in excess of certain levels to implement BACT and provide offsets. The PM BACT threshold is zero, and the offset threshold is 14.6 tons/year for PM₁₀ and 15 tons/year for PM_{2.5}.⁶

This new significance approach, keying thresholds to offset levels, has already been adopted by at least 13 other air districts.⁷ Adopting an approach that aligns with other air districts will help to ensure consistency in air quality analysis across the state, and will ensure that developers throughout the state are regulated uniformly.

The proposed District threshold adds a layer of protection by insuring that projects also implement reasonable control measures. Requiring projects to implement BACT (where applicable) and best management practices is reasonable because it mirrors the CAA approach to reducing emissions and attaining the federal CAA standards. In the District's case, since our BACT threshold is zero, the use of a zero threshold insures inclusion of established controls and places all sources on a level playing field with stationary sources.

This approach will prevent deterioration of ambient air quality and thus has nexus and proportionality to prevention of a regionally cumulative significant impact by insuring projects do not worsen our attainment status. These thresholds represent the emission levels above which a project's individual emissions would result in an individually or

⁶ District Rule 202, §§ 301, 302. Note: the PM₁₀ offset threshold is 7300 pounds per quarter, but for consistency with PM₁₀ threshold is expressed as 14.6 tons/year. The daily PM₁₀ offset threshold only applies to peaking power plants, but the threshold will apply to all sources. Rule 202 does not have daily offset thresholds for PM_{2.5}, so the daily threshold is the annual offset threshold divided by 365 days per year. It is worth noting that the Rule 202 specified calculation procedures for determining whether the offset thresholds are exceeded are different than calculations for CEQA review threshold analyses.

⁷ Twenty of the 35 air districts in California have adopted CEQA thresholds. Thirteen of the air districts adopted thresholds based on the new source review offset level: Antelope Valley APCD, Bay Area AQMD, Butte County AQMD, Feather River AQMD, Mendocino County AQMD, Mojave Desert AQMD, Monterey Bay Unified APCD, Placer County APCD, San Joaquin Valley APCD, Santa Barbara County APCD, South Coast AQMD, Tehama County APCD and Yolo-Solano AQMD.

cumulatively considerable contribution to Sacramento County's existing air quality conditions – in short, the thresholds will allow an evaluation of the incremental contribution of a project to a significant cumulative impact. These threshold levels are already a well-established approach to promoting review of emission sources to prevent deterioration of air quality. Using existing environmental programs to establish CEQA thresholds of significance under Guidelines section 15067.4 is an appropriate and effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other areas of environmental regulation.

DRAFT