

Letter 27

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Comment 27-1

Commenter supports broad tone and flexibility given to lead agencies. Specifically, the programmatic approach to analysis and mitigation of GHG emissions.

Response 27-1

The Natural Resources Agency notes Commenter's support. No further action is needed on this comment.

Comment 27-2

The Amendments may allow too much flexibility, which makes compliance difficult. To resolve the issue, commenter recommends the development of reasonable and achievable of statewide thresholds.

Response 27-2

The Natural Resources Agency acknowledges the Commenter's discomfort with the lack of statewide thresholds and, given the dynamic state of the science on this topic, the inherent risk that is involved with attempting to correctly consider, analyze, and mitigate the potential impacts associated with greenhouse gas emissions from a project. The proposed amendments, however, deliberately recognize a lead agency's ability to apply such thresholds where available and appropriate, but also recognize that a qualitative analysis may also be appropriate for a given project. (See, e.g., proposed Section 15064.4(a).)

First, no state agency has developed a statewide threshold of significance. Given the development of the proposed amendments and thresholds in several regional air districts, the California Air Resources Board has placed its CEQA threshold effort on hold.

Second, requiring application of a particular threshold in the CEQA Guidelines would represent a major departure from CEQA. CEQA leaves the determination of significance to the lead agency. (State CEQA Guidelines, § 15064.) The precise methodology used to determine significance is also left to lead agencies. (*Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 Cal.App.4th 357, 371-373.) Nothing in SB97 indicated that the legislature intended to change these existing CEQA concepts.

Finally, different thresholds of significance are applied throughout the state for different impact categories. For example, different air districts have different threshold levels of different pollutants. Thus, when acting as responsible agency for projects in different parts of the state, the commenter likely confronts environmental documents that use different thresholds. While greenhouse gases are global pollutants, local jurisdictions or regional agencies may determine that they have limited capacity for new greenhouse gas emissions within their own jurisdictions, for example, based on existing levels of emissions and projected growth, and so may decide that thresholds in their area should reflect that limitation. This circumstance is consistent with existing Guidelines section 15064(b), which acknowledges that the determination of significance may vary with a project's setting. For all of the following reasons, The Natural Resources Agency rejects this comment.

Comment 27-3

Commenter encourages Resources to work with CARB and local air districts to identify appropriate thresholds of significance for GHG emissions, to the extent possible for determining compliance through project-specific and plan-based approaches.

Response 27-3

See response to 27-2. For identical reasons, the Natural Resources Agency rejects the suggestion in this comment. While the Resources Agency appreciates and encourages programmatic and plan-based approaches to this sort of analysis, it seeks to encourage lead agencies to work towards developing the science and modeling to ensure thresholds are supportable, and therefore, will not be undertaking this task independently on behalf of lead agencies.