

**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 (4<sup>th</sup> District Appellate Court; California Supreme Court denied petition for review)
- *Friends of Oroville v. City of Oroville*, replacement of a Walmart store (3<sup>rd</sup> 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:

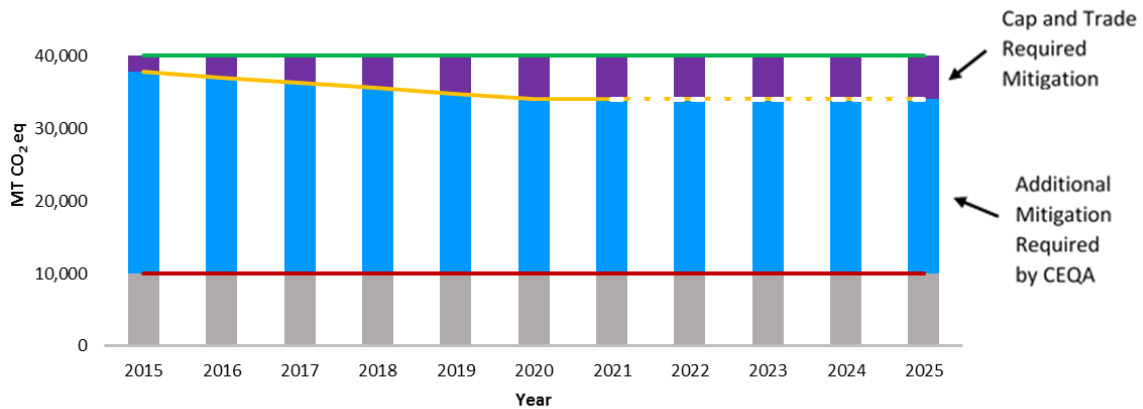
**Comparison of Mitigation under the Two Threshold Options**

The graphs below, taken from the preceding sections, provide examples of the mitigation requirements for a project with emissions of 40,000 MTCO<sub>2</sub>e/year analyzed under each option.

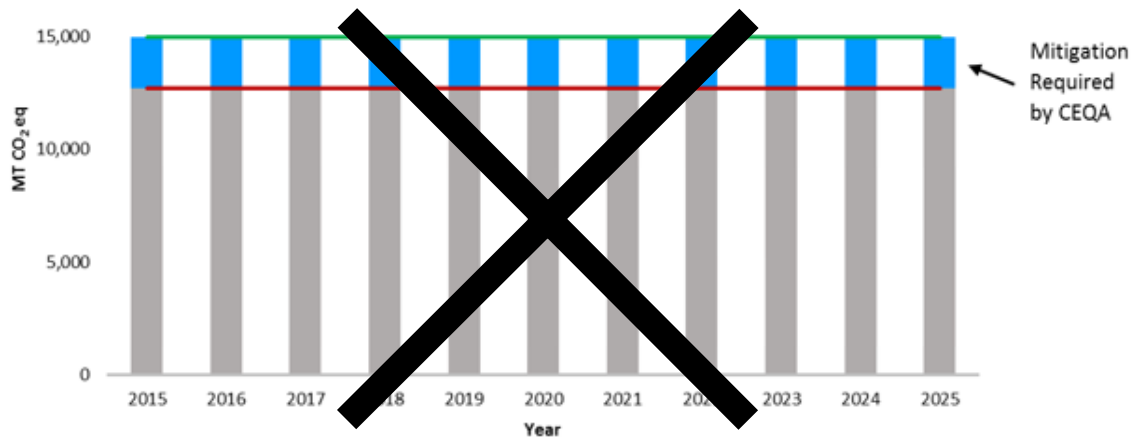
**Figure 6-9**

**Comparison of Mitigation Examples**

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

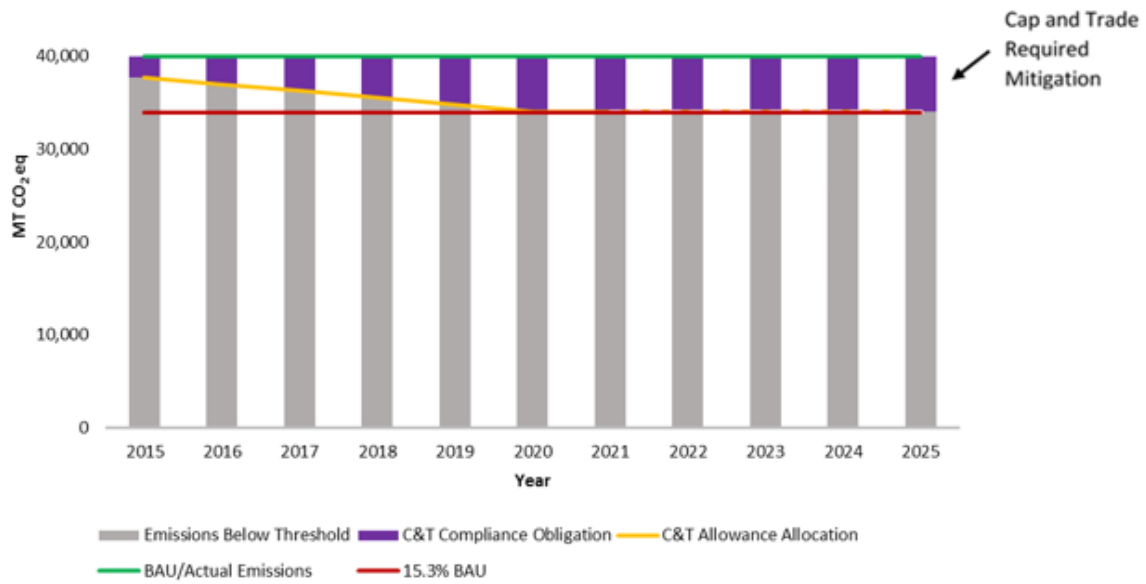


- Emissions Below Threshold
- Additional Mitigation Requirement
- C&T Compliance Obligation
- Actual Emissions
- C&T Allowance Allocation
- 10K Threshold



- Emissions Below Threshold
- Mitigation Requirement
- 15.3% BAU
- BAU/Actual Emissions

**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.