

APPENDIX E

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE AND PERMITTING REQUIREMENTS

Capture and Control System for Oil Tankers Project

Transportation and Toxics Division
California Air Resources Board
September 2, 2020



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Any proposed infrastructure installation may be subject to California Environmental Quality Act (CEQA) compliance, as well as permitting and other requirements. Such proposals must adhere to the requirements specified in this Appendix.

I. CEQA COMPLIANCE INFORMATION

The California Environmental Quality Act (CEQA) requires public agencies to identify the significant environmental impacts of their discretionary actions and to avoid or mitigate them, if feasible. Under CEQA, an activity that may cause either a direct or reasonably foreseeable indirect physical change in the environment is generally considered a project. An activity funded by a grant may be considered a project under CEQA if it will cause a direct or reasonably foreseeable indirect physical change in the environment. Agencies must comply with CEQA before they approve a project. For projects which are exempt from CEQA, agencies may prepare a Notice of Exemption (an example is provided for reference).

Before applicants submit an application, applicants must be certain that the project will be able to satisfy any and all CEQA requirements before grant execution can take place. Grant execution is required to take place on or before February 1, 2021. Applicants must complete a CEQA Worksheet (Appendix A, Attachment 8) for each proposed infrastructure installation. The California Air Resources Board (CARB or Board) must ensure that any required environmental review under CEQA has been completed prior to grant approval/execution. Thus, no grant can be approved/executed until the lead agency has determined that the project is exempt from CEQA requirements, or the lead agency has satisfied all CEQA requirements if the project is not exempt from CEQA.

As part of its application, the Applicant shall provide a detailed description of the project and all of its components, as well as information of whether the project will have any direct physical changes and reasonably foreseeable indirect changes to the surrounding environment. Because of CARB's role as a CEQA responsible agency (see section D below), CARB needs detailed information from project applicants about the project's components in order to properly evaluate each grant application under CEQA. In order to minimize or avoid adverse environmental impacts, CARB will only accept applications for proposed projects to be sited where similar infrastructure already exists (e.g., installing electrical supply equipment where electrical infrastructure already exists, or installing a hydrogen refueling capability at an existing fueling station or industrial facility).

Applicants must provide documentation from the lead agency showing the CEQA process has been completed. If no CEQA review is required by a local lead agency, applicants must provide documentation from the local lead agency explaining why no CEQA review is required.

As explained in greater detail in Attachment 8 to Appendix A, the Applicant must provide the following information as it pertains to the proposed project:

- A. Proposed Installation Location:** The Applicant must provide the specific address or equivalent location information for the proposed infrastructure installation.
- B. Permits:** The Applicant must identify the permits necessary for the project with the proposal narrative.
- C. Project Impacts:** The Applicant must describe the direct physical changes and reasonably foreseeable indirect changes to the surrounding environment that may result from the project. Please see Section 3 of Attachment 8 to Appendix A.
- D. CEQA Lead Agency:** The lead agency is the public agency that has the greatest responsibility for carrying out or approving a project and for preparing environmental review documents under CEQA. Where the award recipient is a public agency, the lead agency is typically the grantee. If there are multiple public agencies acting in concert for one project, then the agency which acts first on the project will normally be the lead agency. Where the award recipient is a private entity, the lead agency is the public agency that has the greatest responsibility for approving the project as a whole. When awarding grants, CARB is typically a Responsible Agency under CEQA, which means that it must make a CEQA finding based on review of the funded activities and any environmental documents created by the lead agency. The lead agency will be identified using the following process.
 - 1. Where the proposed project would require a discretionary approval from another permitting agency, the Applicant must identify the CEQA lead agency in the application and include documentation demonstrating that contact has been made with the lead agency with jurisdiction over the project for purposes of complying with CEQA. The documentation may be in the form of a letter from the lead agency that is stamped as received by the local agency.
 - 2. If CARB is the only agency with discretionary approval over the proposed project, then CARB will act as the lead agency and will work with the Applicant to satisfy CEQA requirements.
 - 3. Regardless of which agency is the lead agency for a proposed project, the Applicant shall be responsible for all costs associated with preparation of environmental review documents. The Applicant may also be required to retain a consultant to perform environmental studies as appropriate. CARB *WILL NOT* reimburse any Applicant for these costs. The Applicant shall also be responsible for all costs

associated with defending any legal challenge against the grant agreement or the environmental review documents prepared in support of entering into the grant agreement.

E. CEQA Compliance Where the Proposed Project Would require a Discretionary Approval From Another Permitting Agency (i.e., another permitting agency serves as the Lead Agency):

- 1. Exempt Projects:** If the lead agency determines that the proposed project is exempt from CEQA or not a “project” for purposes of CEQA, then the Applicant must submit proof of such a determination (i.e. resolution adopting the exemption when the lead agency approved the project). In addition, the Applicant must submit a copy of a legally adequate, properly filed Notice of Exemption after the 35th day after the date of such filing, or proof that more than 180 days have elapsed since the agency’s decision to carry out or approve the Applicant’s project, to CARB prior to grant execution. Additionally, the Applicant must provide detailed information on why the project meets the applicable statutory or categorical exemption and why no exceptions to the categorical exemptions apply (see CEQA guidelines section 15300.2). The Applicant shall provide substantial evidence, as that term is defined under the CEQA Guidelines (see, CCR, Title 14, § 15384), that support the lead agency’s exemption determination. For example, for a Class One Categorical Exemption (California Code of Regulations (CCR), Title 14 § 15301), the Applicant should provide documentation showing that the project is located at an existing facility that involves negligible or no expansion of an existing use.
 - i. Ministerial or “Common Sense” Exemptions:** If the lead agency exempts a proposed project under the “ministerial” or “common sense” exemptions (CCR, Title 14, § 15268 and § 15061, subd. (b)(3), respectively), the Applicant shall provide details on whether the project may also meet some other statutory or categorical exemption. For example, the Applicant should not simply state that a 100% renewable hydrogen project is exempt under the common sense exemption, where other exemptions may also be applicable.
- 2. Non-Exempt Projects:** For non-CEQA exempt projects, the Applicant must submit proof that all CEQA requirements have been satisfied, along with the appropriate CEQA documentation and lead agency approval documentation. The Applicant must provide CARB with a copy of the appropriate CEQA approval notice(s) to demonstrate that the project was properly approved under CEQA and that any statute of limitations for challenging the project approval and CEQA determination has run. If CARB would serve as the lead agency, the Applicant must satisfy the requirements in section (F) below.

3. If an Applicant fails to timely submit the required CEQA documentation as described above, CARB in its sole discretion may cancel the proposed grant and make a selection to the next-highest scoring project, and so on, until an agreement is reached, or exercise its right, in its sole discretion, throughout this process, to not award a grant. CARB reserves the right, in its sole discretion, to cancel this solicitation, re-solicit for a Grantee, or to direct funding to another project in the Funding Plan.
4. In accordance with CEQA requirements, CARB will review each project application and consider the facts and circumstances of each project application (including the project's reasonably foreseeable direct and indirect impacts) before determining whether the lead agency's CEQA review findings and documentation are adequate.

F. CEQA Compliance Where the Proposed Project Would Not Require a Discretionary Approval From Another Permitting Agency: If CARB is the only agency with discretionary approval over the proposed project, then CARB will act as the lead agency and will work with the Applicant to satisfy CEQA requirements. The applicant must provide CARB with detailed information regarding the project description, why the project would qualify for any CEQA exemptions, and why no exceptions would apply pursuant to CEQA Guidelines section 15300.2. In accordance with CEQA requirements, CARB will review each project application, and consider the facts and circumstances of each project application (including the project's reasonably foreseeable direct and indirect impacts) before determining the level of required environmental review. As noted above, the Applicant shall be responsible for all costs associated with preparation of environmental review documents. The Applicant may also be required to retain a consultant to perform environmental studies as appropriate. CARB will not reimburse any Applicant for these costs.

G. Other Relevant CEQA Information: The Applicant shall submit any other relevant CEQA documentation or information that will assist CARB in confirming CEQA compliance.

Within a proposal, the applicant is encouraged to fully document efforts completed or underway to achieve CEQA compliance. This includes, but is not limited to, CEQA compliance documentation, completed or schedule pre-application meetings with the local CEQA lead agency, or documentation of contact with CEQA lead agency.

NOTE REGARDING ENCUMBRANCE DEADLINES AND DISCLAIMER: The funds under this solicitation have strict encumbrance deadlines. The lead agency (which may be CARB if no other local discretionary approval is required) must complete environmental review under CEQA and approve each grant prior to the applicable encumbrance deadline. Thus, if a project cannot complete CEQA review in time to

meet the applicable encumbrance deadline, **CARB reserves the right to cancel the proposed grant and recommend funding the next highest scoring project that can complete CEQA review in time to meet the encumbrance deadline**, regardless of the Applicant's diligence in submitting CEQA information and materials. Further, CARB is not liable for any costs incurred during environmental review or as a result of cancelling the proposed grant.

II. PERMITTING

The Applicant must include information in their narrative that describes their plans to obtain permits for each proposed infrastructure installation. The Governor's Office of Business and Economic Development is available to provide permitting assistance. Contact information is available below:

Mr. Tyson Eckerle
Zero-Emission Vehicle Infrastructure Project Manager
Office of Business and Economic Development
1400 Tenth Street, 2nd Floor
Sacramento, CA 95814
Phone: 916-322-0563
Fax: 916-322-0693
Email: tyson.eckerle@gov.ca.gov

III. PHOTOGRAPHIC EVIDENCE OF THE INFRASTRUCTRE LAYOUT

The Application must provide photographic images with both date and time stamps of all intended infrastructure locations. Infrastructure site locations should be identified in any images submitted as part of a proposal.

EXAMPLE NOTICE OF EXEMPTION

To: County Clerks, Counties of
Sonoma, Marin, and Napa

From: San Andreas Transit Agency

Project Title: Electric Vehicles and Data Collection Project

Project Location: The following locations have been identified at existing facilities in California for participation in this proposed technology demonstration project: 1) 123 Sample Lane, Glen Ellen, CA, Sonoma County; 2) 321 Environmental Court, Mill Valley, CA, Marin County; 3) 467 Sky St., St. Helena, CA, Napa County.

Description of Nature, Purpose, and Beneficiaries of Project: The San Andreas Transit Agency has partnered with an original equipment manufacturer (OEM) to test and deploy heavy duty battery electric vehicles (HDBEV) and zero emission on-road and off-road equipment, and install onsite energy efficiency measures at five warehouse or freight facilities. The project is expected to include the following activities at the five facilities:

123 Sample Lane, Glen Ellen, CA: 1) Test and deploy four Smith heavy duty battery electric vehicles (HDBEVs), two battery electric vehicle (BEV) yard tractors, and 10 BEV forklifts; and 2) install one megawatt (MW) of solar panels, one 150 kilowatt (kW) charger, two 50 kW chargers, 12 Level 2 chargers for equipment, and one new transformer and electrical conduit and conduct minor trenching and restoration of any disturbed surface as necessary.

321 Environmental Court, Mill Valley, CA, Marin County: 1) Test and deploy seven commercial Class 8 HDBEVs for rental; and 2) install one 150 kW charger, two 50 kw chargers, one 80 kw mobile charger, and one new transformer and electrical conduit and conduct minor trenching and restoration of any disturbed surface as necessary.

467 Sky St., St. Helena, CA, Napa County: 1) Test and deploy one Smith HDBEV (pilot), eight commercial Class 8 HDBEVs for rental, and one Class 3 BEVs; and 2) install one 150 kw charger, four 50 kW chargers, two 80 kW mobile chargers, five Level 2 workplace chargers, and one new transformer and electrical conduit and conduct minor trenching and restoration of any disturbed surface as necessary.

The locations affected by the proposed project are at existing facilities located in industrial and commercial areas, which have already been graded, disturbed, paved, and have existing structures. The HDBEV and zero emission on-road and off-road equipment will replace service currently provided by diesel powered equipment. Installation and deployment of the charging infrastructure would require limited alteration activities such as minor trenching for electrical conduit, delivery and placement of prefabricated electric vehicle (EV) charging equipment, and minor paving and concrete activities to restore the disturbed surfaces and installation of solar panels will occur on top of existing facilities. Additionally, onboard data collectors will collect data (vehicle miles travelled, hours of operation, battery performance, etc.) on each truck and equipment. The information collected through the project will measure performance and provide data to help further research into electric vehicles and supporting infrastructure.

Public Agency Approving Project:
San Andreas Transit Agency

Agency Carrying Out Project:
San Andreas Transit Agency

Exempt Status:

CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule

CEQA Guidelines Section 15301(a) – Existing Facilities
CEQA Guidelines Section 15303(d) – New Construction or Conversion of Small Structures
CEQA Guidelines Section 15304(f) – Minor Alterations to Land
CEQA Guidelines Section 15306 – Information Collection

Reasons why project is exempt: San Andreas Transit Agency staff has reviewed the proposed project pursuant to: 1) CEQA Guidelines Section 15002(k) - General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 - Review for Exemption, procedures for determining if a project is exempt from CEQA. In addition, San Andreas Transit Agency staff contacted planning staff at each planning department with jurisdiction over the EV Charging sites and each treat these installations as ministerial (e.g., exempt from CEQA review). San Andreas Transit Agency staff has determined that it can be seen with certainty that there is no possibility that the proposed project to develop and demonstrate zero emission heavy-duty trucks, freight handling equipment, EV infrastructure and renewable energy may have a significant adverse effect on the environment. Therefore, the project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule. The project is also considered to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301(a) – Existing Facilities, because the proposed project involves only minor physical modifications or alterations to existing facilities involving electrical conveyances. Further, because implementation of the project may also involve improvements to electrical extensions and installation of solar panels on top of existing facilities requiring new construction or the conversion of small structures, the project is also considered to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303(d) – New Construction or Conversion of Small Structures. Similarly, because the project may involve minor trenching and backfilling where the surface will be restored, as well as solar panel installation on top of existing facilities, the project is also considered to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15304(f) – Minor Alterations to Land. Finally, because the overarching purpose of the project is to conduct research for the purpose of collecting data on the use of electric vehicles and EV charging units, the project is also considered to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15306 – Information Collection. Further, staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to the proposed project pursuant to CEQA Guidelines Section 15300.2 – Exceptions. Therefore, the proposed project is exempt from CEQA.

Date of Project Approval: San Andreas Transit Agency Governing Board Hearing: March 18, 2019

CEQA Contact Person: Phone Number: Email: Fax:

Rule Contact Person: Phone Number: Email: Fax:

Date Received for Filing: _____ Signature: _____

Giulia Patton, San Andreas Transit
Agency, CEQA Section