

APPENDIX E

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE AND PERMITTING REQUIREMENTS

Zero- and Near Zero-Emission Freight Facilities Project

Mobile Source Control Division
California Air Resources Board
March 21, 2018



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Each proposed infrastructure installation (e.g., electric vehicle supply equipment or hydrogen refueling station) 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 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 December 31, 2018. Applicants must complete a CEQA Worksheet (Appendix A, Attachment 9) for each proposed infrastructure installation. The California Air Resources Board (CARB or Board) must ensure that the appropriate level of 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.

As part of its application, the Applicant shall provide a detailed description of the project and all of its components, as well as 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 electric vehicle supply equipment where electrical infrastructure already exists, or installing a hydrogen refueling station 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, provide documentation from the local lead agency explaining why not.

The Applicant must provide the following information as it pertains to the proposed project:

- A. Proposed Station Location:** The Applicant must provide the specific address or equivalent location information for the proposed station, equipment, fill system(s), and/or dispensing unit(s).

- 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 9 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. 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, the Applicant must submit proof of such a determination as well as a legally adequate, properly filed Notice of Exemption or proof that more than 180 days have elapsed since the agency’s decision to carry out or approve the 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 facts that support the lead agency’s conclusion. 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 meets 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.
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, 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 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 STATION LAYOUT

The Application must provide photographic images with both date and time stamps of all intended locations. The images must show the station ingress and egress.

IV EXAMPLE NOTICE OF EXEMPTION

Notice of Exemption

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: Grantee
101 Main Street
Ventura, CA 93003

Project Title: Zero Emission Transit Project

Project Applicant: Company Zero

Project Location - Specific:
742 Evergreen Terrace, Ventura, CA 93003

Project Location - City: Ventura Project Location - County: Ventura

Description of Nature, Purpose and Beneficiaries of Project:

Company Zero will design, develop, and operate an all-electric, zero-emission, public transit buses in the city of Ventura. Project will install ten Level II EVSE in the adjacent parking lot of the existing site to support charging of the buses. The project will reduce production costs and accelerate the deployment of zero-emission, public transit buses throughout the State. The project will also leverage public funds with private capital to provide high paying jobs that will contribute to the local economy.

Name of Public Agency Approving Project: City/County/Air Districts, etc.

Name of Person or Agency Carrying Out Project: City and County of Sacramento

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 14 C.C.R. sects. 15301, 15303, 15304
- Statutory Exemptions. State code number: ____

Reasons why project is exempt:

The project consists of minor alteration of existing facilities and mechanical equipment involving negligible or no expansion of the facility beyond that existing. Interior modification work includes installation of

manufacturing equipment inside the existing building. Work on the fast charging system includes installation of conduit, wiring, electrical connections and mounting equipment. Minor trenching is required to bring power to the charging system. The project will not impact surrounding residential areas, traffic or right of way, or noise impacts because the project is located in an industrial area zoned for industrial use. The reconstruction and conversion of small structures for this project will not impact the scenic resources because the project is industrially zoned.

Lead or Responsible Agency

Contact Person: _____ Area Code/Telephone/Extension:

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? Yes

No

Signature: _____ Date: _____ Title:

Signed by Responsible Agency

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant