

Appendix I: Applicability Analysis for California Environmental Quality Act

The California Environmental Quality Act (CEQA) is a state law that requires public agencies to consider the environmental impacts of certain projects they undertake or approve. For projects that are subject to CEQA, the statute imposes specific legal requirements that agencies must follow before carrying out or approving the project. This appendix evaluates whether CEQA applies to this project – the Community Emissions Reduction Plan (CERP) for the Richmond-North Richmond-San Pablo area. As explained in more detail later in this discussion, Bay Area Air Quality Management District (Air District) staff have reviewed all aspects of the CERP and determined that it is exempt from CEQA, for multiple reasons.

First, as an overall matter, the CERP is being adopted to benefit the environment and the health of residents of the Richmond/San Pablo community, and all of the action items within the CERP support this goal. Therefore, adoption of the CERP is exempt from CEQA review under Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment. This exemption applies to actions taken by regulatory agencies, as authorized by law, to “assure the maintenance, restoration, enhancement, or protection of the environment.” The Air District is a regulatory agency charged with the protection of air quality in its jurisdiction. Because the goal of the CERP is to protect air quality and public health, its adoption fits within the category of actions subject to this exemption.

Second, all of the individual strategies set forth in the CERP would be exempt if they were implemented on their own, apart from adoption of the CERP. For example:

Strategies that would either not cause any physical changes to the environment or involve such minimal physical changes that it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. These strategies fall within the common sense exemption in CEQA Guidelines section 15061(b)(3). Examples include actions that involve encouraging local governments to establish vegetative buffer zones (Urban Greening actions 1.1, 1.3), advocating for municipalities to modify their zoning or land use regulations (Land Use actions 1.1, 1.3), and developing model policies or ordinances for possible future adoption by other entities (Mobile actions 1.2, 1.4, 4.2; Health action 3.4).

Strategies that call for feasibility and planning studies, which are exempt under Public Resources Code section 21150 and CEQA Guidelines section 15262. (“A project involving only feasibility or planning studies for possible future actions which the agency . . . has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors.”) Examples include preparing an initial feasibility assessment and needs analysis for a Truck Management Plan (Mobile action 3.1), conducting a study to identify areas that would benefit most from street sweeping initiatives (Mobile action 4.1), and investigating the feasibility of a Bay Area Indirect Source Rule or zero-emission vehicle zones (Marine & Rail action 1.4).

Strategies that would result only in the modification of existing facilities or the construction of new minor facilities, which are exempt under CEQA Guidelines sections 15301 (“Existing Facilities”; class 1) and 15303 (“New Construction or Conversion of Small Structures”; class 3). These

strategies include the installation of air filters and monitoring equipment, the construction of electric vehicle charging stations, or the maintenance of existing roadways.

Strategies that call for information collection, inspections, enforcement, education, and workplace regulations, which are exempt under CEQA Guidelines sections 15306 ("Information Collection"; class 6), 15309 ("Inspections"; class 9), 15321 ("Enforcement Actions by Regulatory Agencies"; class 21), 15322 ("Educational or Training Programs Involving No Physical Changes"; class 22), and 15324 ("Regulations of Working Conditions"). These categorical exemptions would exempt CERP strategies that include activities like air quality monitoring or other data collection, performance inspections or compliance checks, certain enforcement actions involving permit enforcement or revocation, development of webpages or community outreach campaigns, and changes to air district staffing or coordination practices.

The Air District also considered the strategies included in the CERP that will involve undertaking rulemaking activities to address specific air quality concerns. These rulemakings include proceedings to further reduce public health impacts from toxic air contaminants, to finalize a methodology to account for health risk from Particulate Matter (PM), and to address Nitrous Oxides (NO_x) emissions from combustion sources at petroleum refineries. These rulemaking proceedings could potentially be subject to CEQA review when they occur, depending on the nature of any rules the Air District may propose to adopt in them. At this point, however, the CERP merely calls for these proceedings to be initiated in the future, generally following a period of study to determine how to approach a particular issue. The CERP has not identified, let alone committed to, any particular type of new or more stringent rule or regulation that would be developed or adopted in these rulemaking proceedings. Given that it is uncertain what the result of those regulatory proceedings would be, it is not possible at this stage to determine whether they could result in significant environmental impacts. Therefore, CEQA review is not required because the nature and extent of any environmental impacts would be too speculative for evaluation at this point. When Air District initiates a specific rulemaking process, it will determine whether and what level of CEQA review is required.