



**SPUR**

San Francisco | San Jose | Oakland

March 17, 2022

Bay Area Air Quality Management District  
Attn. Alexander Crockett, Interim Chief Executive Officer/Air Pollution Control Officer  
375 Beale Street, Suite 600  
San Francisco, CA 94105

**Re: CEQA Thresholds for Evaluating the Significance of Climate Impacts – Comments**

Dear Mr. Crockett:

On behalf of the San Francisco Bay Area Planning and Urban Research Association (SPUR), I write to respectfully request that the Bay Area Air Quality Management District (BAAQMD) clarify, as it did in 2010, that the proposed CEQA thresholds of significance, if adopted, will apply prospectively only. **A clear effective date for the updated guidelines will provide certainty and support local governments' efforts to address the state's housing shortage.**

SPUR is a nonprofit public policy organization in the San Francisco Bay Area. We bring people together from across the political spectrum to develop solutions to the big problems cities face, including the need for affordable housing. Through research, education and advocacy, SPUR works to create an equitable, sustainable and prosperous region.

**In particular, we request that the air district, in its resolution adopting the draft thresholds and forthcoming updated guidelines, clearly indicate that the updated thresholds and guidelines are intended to apply to development projects in which the application was deemed complete at least six months after the date that the updated thresholds or guidelines are adopted.**

We recognize that the air district's recommended thresholds are guidelines and subject to formal adoption by lead agencies, however, BAAQMD can provide clear intent for their effective date, in order to clarify, and offer a measure of legal protection to critical housing projects undergoing environmental review at the time of the guidelines' adoption where issues regarding recirculation of an EIR or MND could be raised, and in the analogous situation where revisions to approved projects are being considered, and where subsequent CEQA review is being considered. In accordance with existing case law, many cities and counties have conducted analysis under the existing thresholds and guidelines and did not update or recirculate analysis to address the air district's mid-project release of the draft thresholds. (*See Chaparral Greens v. City of Chula Vista* (1996) 50 Cal. App. 4th 1150-51).

Incorporating an effective date for any updated guidelines would support existing case law favoring the finality of past environmental decisions based on regulations existing at the time when environmental review initially commenced. (*See Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal. App. 4th 1301, 1320; *Cleveland Nat'l Forest Found. v. San Diego Assn. of Governments* (2017) 17 Cal. App. 5th 413, 426; *Citizens Against Airport Pollution v. City of San Jose* (2014) 227 Cal. App. 4th 788.) Lead agencies, of course, would have the discretion to adopt any guidelines on an expedited schedule, but many

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local cities and counties, which are expediting review of housing development projects to comply with state laws, will find the air district's existing guidelines and thresholds to be satisfactory. The prospect of having to redo air quality analyses, which can entail tens of thousands of dollars and months if not years of delay, is concerning.

Accordingly, we request the air district, as it did in 2010, provide for an effective date of its updated guidelines and clarify that they apply to projects with applications that may be deemed complete at least six months after the air district formally updates its guidelines. We are requesting that the timing is tied to the date of when applications are deemed complete, in order to coincide with vesting dates under Senate Bill 330 and the Housing Accountability Act and to ensure that the air district's rules are coordinated with the existing statutory framework for processing housing projects.

Finally, we request that the thresholds clarify that "General Plans and Related Planning Documents" includes specific plans, master plans and other planning-level documents. This appears to be implied, but clarity in the air district's documents would be of great assistance.

Thank you for your careful consideration of these comments and requests.

Sincerely,

A handwritten signature in blue ink that reads "Michael Lane". The signature is written in a cursive, flowing style.

Michael Lane, State Policy Director  
SPUR