Policy Overview & Analysis

Warehousing is a complex industry with nuanced impacts to the environment, workers, residents, transportation networks, and local and regional economies. As a result, there is no single regulatory body that oversees the warehousing and logistics industry; rather, a patchwork of regulations from different local, regional, state, and federal agencies govern warehousing and logistics operations. This chapter details the agencies and regulations that are most relevant to the warehousing industry in Fontana and this study's scope. Regulations detailed relate to air quality, truck electrification, and worker protections.

State

The California Environmental Quality Act (1970)

The California Environmental Quality Act (CEQA) is a California statute, passed in 1970, that requires state and local government agencies to disclose the potential environmental impact of proposed projects, identify ways to avoid or mitigate environmental damage, document the public reasons for agency approval of projects with significant environmental effects, and enhance public participation in the planning process (Fontana Sierra Business Center Project Draft EIR). While CEQA can be effective at identifying environmental impacts and mitigation strategies, projects found to have a significant and unavoidable impact on the environment can still receive approval provided that they provide for mitigation measures. Despite environmental challenges, the act establishes a process for community involvement which can be critical in jurisdictions that have few established ties between residents and the government or have limited public participation in planning processes.

In March 2021, the California Department of Justice issued a guide for CEQA compliance for proposed warehouse projects (Becerra 2021). The document details best practices to help agencies comply with CEQA requirements while promoting "environmentally just" warehouse development. The document includes recommendations around proactive planning, community engagement, warehouse siting and design considerations, air quality and greenhouse gas emissions analysis and mitigation, noise impacts analysis and mitigation, traffic impacts analysis and mitigation, and strategies to offset other significant environmental impacts. Best practices from this document that Fontana has the opportunity to implement include:

- Adopt a good neighbor policy that sets a universal standard that all warehouses in the local jurisdiction must abide by
- Create a community advisory board of local residents to review and provide feedback on project proposals while they are in the preliminary planning stage
- Site warehouse facilities so that their property lines are at least 1,000 feet from sensitive receptors[1]
- Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use
- When analyzing cumulative impacts, consider the project's incremental impact in combination with past, present, and reasonably foreseeable future projects, even if the project's individual impact alone does not exceed the applicable significance thresholds
- Refrain from labeling compliance with CARB or air district regulations as a mitigation measure
- Limiting construction on days with an Air Quality Index forecast of greater than 100 for Particulate Matter (PM) or Ozone in the project area
- Adopting a lower significance threshold for incremental noise increases when baseline noise already exceeds total noise significance thresholds

Based on a review of existing environmental impact reports and project documents, Fontana could adopt several Department of Justice recommendations especially around community engagement. Projects that do not conform to these standards are more likely to have negative impacts on Fontana residents that could have been avoided or mitigated as well as face delays and legal challenges in the approval process.

Heavy-Duty Low NO_x Omnibus Regulation (CARB, 2021)

Heavy duty vehicles are responsible for 31% of Nitrogen Oxide (NO_x) emissions in California and a quarter of particulate matter emissions (California Air Resources Board, n.d.). NO_x contributes to ozone formation which can cause respiratory problems that may lead to premature death. Of note, the consulting firm Ramboll found that between 2004 and 2019, ozone concentrations in Fontana exceeded the federal standard between 47 and 85 days of the year (Lakshmi Jayaram, Hower, and Lester 2021).

Emerging regulations related to NO_x emissions and Ozone Concentration will be critical for Fontana to consider in future planning and development. In 2013 California established optional NO_x standards to encourage the production of heavy duty vehicles with technology

[1] As defined by CARB, sensitive receptors are subsets of the population (e.g. children, elderly, chronically ill) which may be more vulnerable to negative health outcomes when exposed to air pollution.

that could help reduce NO_x emissions below existing mandatory standards for model year 2010 or later heavy-duty engines (California Air Resources Board, n.d.). While the initial rule was optional, in 2020, the California Air Resources Board passed the Heavy-Duty Low NO_x Omnibus regulation that will require heavy-duty vehicle manufacturers to incorporate engine technology for vehicles sold in California to reduce NO_x emissions by 90 percent. The Air Resources Board analysis suggests that NO_x reductions from the regulation will be equivalent to taking 16 million light-duty cars off the road, resulting in 3,900 avoided premature deaths and 3,150 avoided hospitalizations, with statewide health benefits of $36.8 billion (California Air Resources Board n.d.).

While the regulation is expected to enable the South Coast Air Basin to meet federal ozone standards by 2021, there is also a need for federal action as heavy duty vehicles purchased outside of California are not subject to this regulation but travel through the region. Fontana could play a role in advocating for a similar federal rule, to ensure that all heavy-duty trucks traveling through the region are subject to California standards. This would bring health and environmental benefits to the city and ensure that Fontana's warehousing industry does not operate at a competitive disadvantage due to more stringent state regulations by having all states at a similar baseline.

Advanced Clean Trucks Regulation (CARB, 2021)

The Advanced Clean Trucks rule is designed to help California move towards an electrified, zero-emission truck fleet. Under the rule, manufacturers who produce Class 2b to Class 8 chassis or complete vehicles with internal combustion engines will be required to sell zero-emission trucks as an increasing percentage of their annual California sales between 2024 and 2035. By 2035, manufacturers will be required to hit the following sales quotas for zero emission vehicles (California Air Resources Board n.d.):

- 55% of Class 2b-3 trucks
- 75% of Class 4 -8 trucks
- 40% of truck tractors

The Air Resources Board estimates that once implemented, Advanced Clean Trucks will result in reductions of 27.9 tons of NO_x emissions and 0.85 tons of $PM_{2.5}$ emissions per day by 2040. The Air Resources Board also estimates a cumulative reduction of 17.9 million metric tons of Greenhouse Gas Emissions. Combined, these emissions savings will result in $8.9 billion in health savings from avoided premature mortality, emergency room visits, hospitalizations and lost workdays (California Air Resources Board n.d.). The regulation is also poised to provide economic benefits as the Air Resources Board estimates that the

regulation will create 7,500 jobs. Given Fontana's expertise and experience in warehousing and transportation, the city is uniquely positioned to capture a portion of economic activity related to this policy.

Regional

Warehouse Indirect Source Rule (SCAQMD, 2021)

The Indirect Source Rule (ISR), adopted by the South Coast Air Quality Management District (SCAQMD) in May, 2021, aims to reduce emissions from warehouses and trucks associated with warehouses. The rule applies to warehouses greater than 100,000 square feet and requires warehouse owners and operators to take action to reduce or mitigate their emissions (South Coast Air Quality Management District n.d.). Warehouse owners earn points for taking actions that include but are not limited to, relying on an electrified fleet, installing electric charging infrastructure, installing solar panels, and installing high quality air filters at neighboring schools.

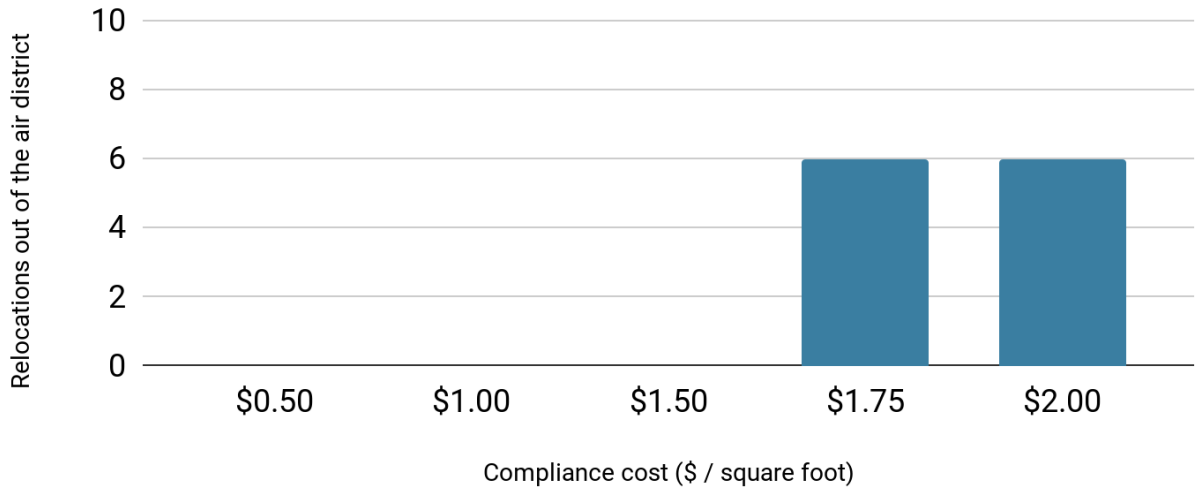
Under the regulation, warehouse owners must earn a set number of points every year, and this compliance obligation is based on the number of weighted annual truck trips to that warehouse and warehouse owners can elect to pay a mitigation in lieu of earning points (South Coast Air Quality Management District n.d.). SCAQMD prepared a number of studies analyzing the expected impact of the Indirect Source Rule on the environment, public health, and the economy. Key findings are summarized below and they suggest that the rule will address environmental and health concerns with minimal impact to economic growth. The California Truck Association has filed a lawsuit in 2021 against the Warehouse Indirect Source Rule arguing that the rule is outside the scope of the SCAQMD authority; and the Air Resources Board and California Attorney General Rob Bonta have expressed an intent to defend the rule. Given the anticipated benefits from the recommendations, it is recommended that localities across the South Coast district support SCAQMD and the California Attorney General in defending this rule.

Economic Growth

Local governments in the Inland Empire have expressed concern that stringent regulation of the warehousing industry will impact economic growth by causing businesses to move their warehouses leading to a loss in local jobs and government revenues. The question of warehouse relocation however, is also highly relevant to environmental and public health impacts; if warehouses relocate to a jurisdiction with fewer environmental requirements and rules, regions in SCAQMD's jurisdiction will continue to be subject to emissions from

trucks traveling through Southern California, but SCAQMD no longer has the regulatory authority to impose environmental requirements on these fleets (Industrial Economics, Incorporated and CALSTART 2020). Modeling by Industrial Economics Inc. on behalf of SCAQMD suggests that at maximum, 6 warehouses will relocate under the Indirect Source Rule, representing 0.2 percent of the 2,687 warehouses that would be impacted by the indirect source rule (Industrial Economics, Incorporated and CALSTART 2020) (Figure 2.01). The study also found that regions outside of SCAQMD that warehouses could relocate to do not have the capacity to absorb new warehouse activity.[2] It is forecasted that these regions will have 67 million square feet available for new warehousing activity in the medium term, which is less than 20% of the current warehousing capacity in the Inland Empire (Industrial Economics, Incorporated and CALSTART 2020).

Figure 2.01: Modeled Warehouse Relocations out of the South Coast Air District from ISR Costs



Source: Industrial Economics, Incorporated and CALSTART 2020.

Air Pollution and Public Health

The Warehouse Indirect Source Rule is expected to contribute to emissions reductions by encouraging the adoption of zero emission or near zero emission trucks and infrastructure to support an electrified fleet. SCAQMD's analysis suggests that by 2023 the rule will reduce $PM_{2.5}$ emissions by 0.22 tons per day, NO_x emissions by 124 tons per day, and Volatile Organic Compound (VOC) emissions by 64 tons per day. It is expected that emissions reductions will be even greater by 2031, and it's expected that the indirect source rule will reduce $PM_{2.5}$ emissions by 2.4 tons per day, NO_x emissions by 128 tons per day, and VOC

[2] Regions include Bakersfield, the Central Coast, the San Bernardino Desert, San Diego, Las Vegas, Phoenix, and Western Arizona

emissions by 72 tons per day (South Coast Air Quality Management District, 2021).

As a result of emissions reductions, the Indirect Source Rule is projected to have significant public health benefits. Between 2022 and 2031, the Indirect Source Rule is expected to result in 150 to 300 fewer deaths; 2,500 to 5,800 fewer asthma attacks; and 9,000 to 20,000 fewer work loss days from 2022 -2031 (South Coast Air Quality Management District, 2021). The expected monetized value of public health benefits is expected to range from $1.2 billion to $1.7 billion between 2022 and 2031. In reality, the Indirect Source Rule will deliver significantly higher benefits as mental health benefits and quality of life improvements for people living adjacent to warehouses have not been quantified.

Local, City of Fontana

All local policies are summarized and evaluated following this section.

Fontana General Plan (2018)

In 2018, Fontana updated its general plan to provide a vision for the city and guide local development through 2035. The plan lays out goals across fourteen categories including public health, circulation, noise and safety, sustainability, economic development, and land use that are of particular relevance to this project and the challenges presented by warehousing. The plan situates Fontana in the city's contemporary and historical context noting that Fontana is a maturing suburban community, future development will be primarily infill, many Fontana residents work elsewhere, and that improving educational outcomes will improve future employment prospects for Fontana's young people. We find that while Fontana's General Plan calls for environmental protection, improving labor conditions and improving health outcomes and the quality of life in Fontana, the reality of warehouse development conflicts with these goals. The city should consider additional warehouse and labor regulation to ensure that warehouse development does not undermine objectives detailed in the general plan.

The following significant goals in Fontana's General Plan are particularly relevant to warehouse development, and may be compromised during the development process.

- Fontana has healthy and safe development patterns (Building a Healthier Fontana, Goal 2)
- The City of Fontana considers health at all levels of decision making (Building a Healthier Fontana, Goal 3)
- The City of Fontana incorporates health considerations into the development review process (Building a Healthier Fontana, Goal 4)

- The City of Fontana has a comprehensive and balanced transportation system, with safety and multimodal accessibility the top priority of citywide transportation planning, as well as accommodating freight movement (Community Mobility and Circulation, Goal 1)
- Fontana's road network is safe and accessible to all users, especially the most vulnerable such as children, youth, older adults and people with disabilities (Community Mobility and Circulation, Goal 2).
- Fontana's commercial and mixed use areas include a multi-functional street network that ensures a safe, comfortable, and efficient movement of people, goods, and services to support a high quality of life and economic vitality (Community Mobility and Circulation, Goal 5).
- The City of Fontana participates in shaping regional transportation policies to reduce traffic congestion, pollution and greenhouse gas emissions (Community Mobility and Circulation, Goal 7).
- The City of Fontana protects sensitive land uses from excessive noise by diligent planning through 2035 (Goal 8, Noise and Safety)
- The City of Fontana provides a diverse and efficiently operated ground transportation system that generates the minimum feasible noise on its residents through 2035 (Goal 9, Noise and Safety)
- Fontana's Residents are protected from the negative effects of "spillover" noise (Goal 10, Noise and Safety)
- Fontana development patterns support a high quality of life and economic prosperity (Goal 2, Land Use and Urban Design)
- High-quality job producing industrial uses are concentrated in a few locations where there is easy access to regional transportation routes (Goal 5, Land Use and Urban Design)

Industrial Commerce Center Sustainability Standards Ordinance [*Proposed by the City of Fontana*]

Fontana recently proposed an ordinance that will increase regulation of the warehouse industry to meet or exceed all state and environmental standards for warehouse operations. The proposed ordinance also categorically exempts projects that comply with regulations contained in the ordinance from CEQA.

While the proposed ordinance rules exceed SCAQMD and Air Resource Board standards and repeat DOJ best practices, many prominent rules called for by the DOJ and

environmental justice groups have been omitted. In particular, the DOJ calls for a 1,000 foot buffer between warehouse facilities and sensitive receptors; this issue is unaddressed in Fontana's new proposed ordinance. Furthermore, while the ordinance calls for 3-minute idling restriction (in Section 9-72), which is more stringent than CARB standards, the DOJ best practices document suggests that truck and heavy equipment idling should not exceed two minutes. Additionally, the ordinance does not fully ameliorate the impacts of warehouses on an area. More can be done to negate noise, for example. The heightened presence of trucks will still bring air pollution to the areas, even with minimized idling. Finally, the ordinance does little to ensure compliance with warehouse operation rules.

The ordinance also creates a CEQA exemption for warehouse projects. This is extremely concerning with regards to community involvement as eliminating environmental review removes an avenue through which community members can provide input on a project. Given that Fontana has few established channels for engaging with community members on warehouse development, people living in Fontana have historically been forced to rely on CEQA to voice their concerns to the city as evidenced by the lawsuit filed by the California Department of Justice against the Slover Oleander Warehouse (see Chapter 5, Labor and Coalition Building for more information on community involvement in Fontana).

Eliminating CEQA for warehouses also poses environmental and public health concerns, as a key requirement of CEQA is that project impacts are evaluated on a cumulative basis in addition to a project by project impact basis. This is important in cities like Fontana where warehouse development is highly geographically concentrated, and disproportionately concentrated in residential communities that are home to low income people and people of color (see Figure 1.07 and 1.08 in Chapter 1). Furthermore, the southwestern neighborhoods that warehouses are concentrated in are already subject to disproportionate environmental harms (refer to Chapter 8, Air Quality and Pollution). Over 20 warehouses have been developed in the southwest portion of Fontana in the last 10 years and another three have been approved for construction (Bonta 2021), and comments by city staff indicate that 40 million square feet of warehouse space have been constructed of a total 70 million possible square feet of warehousing space . As noted by the Attorney General of California:

> " (a) project's cumulative impact is significant when its incremental addition to environmental impacts from past, current, and reasonably probable future projects is cumulatively considerable...A project's incremental addition to

existing environmental impacts may be cumulatively considerable even if its environmental impact is "individually limited" (Bonta 2021).

Eliminating CEQA review will make it difficult, if not impossible, to consider the impact of the warehousing industry as a whole.

Figure 2.02 Summary Table of Local Policies

Overview			Potential Impact			
Policy/Regulation	**Scale**	**Report Chapter**	**Air Quality**	**Economic Diversification**	**Road Safety**	**Community Engagement**
Warehouse Indirect Source Rule	Regional	Policy	++	++	n/a	n/a
Fontana General Plan	Local	Policy	n/a	+	+	-
Industrial Commerce Center Sustainability Standards Ordinance (proposed)	Local	Policy	- -	- -	+	- -

*Green indicates a beneficial impact of the policy, red indicates the policy may have a detrimental impact. The number of + or - signs indicates the expected magnitude of impact.

Policy Recommendations

Recommendation 2.1: Remove the categorical CEQA exemption from Fontana's Industrial Commerce Center Sustainability Standards Ordinance

In recent years, Fontana has clashed with community groups and the State of California on local warehouse development, leading to litigation against the city.[3] While litigation is time consuming and costly, CEQA has been one of the only channels through which local residents have power to intervene in Fontana's development process. Reinstating CEQA for industrial development is essential to allow for comprehensive environmental review, more governmental transparency and for the community to voice their input in development decisions.

Recommendation 2.2: Further strengthen environmental standards in the proposed Industrial Commerce Center Sustainability Standards Ordinance

Fontana should strengthen environmental standards in the Industrial Commerce Center Sustainability Ordinance to better protect community health. Fontana can strengthen the proposed Industrial Commerce Center Sustainability Standards Ordinance in the following ways:

[3] See Slover Oleander Development

1. Further align with California Department of Justice Recommendations on warehousing best practices. This includes adding rules that require at least a 1,000 foot buffer zone and restrict idling to two minutes.
2. Resolve ambiguous and unspecific language. Phrases such as "at the discretion of the planning director" occur throughout the ordinance (example Section 9-74) and give extensive latitude to city staff who may exercise judgement inconsistently, potentially undermining the environmental protections contained within the ordinance.
3. Specify enforcement mechanisms at the municipal level, and we recommend that Fontana collaborate with community groups already involved in supporting warehouse workers (e.g. the Warehouse Workers Resource Center) to jointly develop mechanisms for inspecting and enforcing warehouse regulations.
4. Extend the ordinance to include existing warehouses. Since Fontana already has a large existing industrial footprint, retroactively applying this ordinance is essential to genuinely mitigate the impacts of the industry on the surrounding community.

Recommendation 2.3: Adopt a good neighbor policy

The West Riverside Council of Governments (WRCOG) convened a Regional Air Quality Task Force (RAQTF) to study air quality issues and develop recommendations for policymakers confronted with the nuances of warehouse development. The Task Force produced the "Good Neighbor Guidelines for Siting New and/or Modified Warehouse/Distribution Facilities" which are designed to minimize the diesel particulate matter impacts from heavy duty trucks and mitigate other local impacts of warehousing (Western Riverside Council of Governments 2005). Good neighbor policies can also stipulate economic requirements including requiring community benefit agreements or project labor agreements. Municipalities across the South Coast Air Basin including Riverside and Moreno Valley have adopted Good Neighbor policies that are either identical to or based on WRCOG's original recommendations. While many rules in the proposed Industrial Commerce Center Sustainability Ordinance repeat DOJ best practices, prominent ones are left out, including siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors per CARB guidance.

In addition, unlike other cities in the Inland Empire, the ordinance calls for a categorical CEQA exemption for warehouse projects that follow regulations in the ordinance, which as described above, is cause for significant concern and undermines the spirit and intention of good neighbor policies.

Recommendation 2.4: Advocate for Federal clean truck legislation

California often leads the nation in vehicle emissions standards, providing a model for the rest of the nation to follow. Emission standards under the Heavy-Duty Low NO_x Omnibus Regulation will require that trucks sold in California incorporate technology to reduce NO_x emissions by 90 percent. However, without similar regulation from neighboring states or at the federal level, heavily polluting trucks will continue to traverse the state and the region.

Fontana should work with state legislators to advocate for the continued advancement of control technologies and attainment standards at the federal level. Federal clean truck legislation would offer Fontana two key advantages: firstly, it would contribute to improved air quality and reduced ozone formation through emission reductions, secondly it would ensure that Fontana and other cities in the Inland Empire do not operate at a competitive disadvantage due to California's more stringent environmental standards.

Recommendation 2.5: Support the Indirect Source Rule through current litigation by the California Truck Association

SCAQMD has demonstrated that warehouses in the South Coast Air Basin are limited in their ability to relocate due to the infrastructural advantages and abundant existing warehousing space in the Inland Empire, even if environmental regulations increase warehouse operating costs (IEc and CALSTART 2020).

Given the benefits that the rule is poised to deliver, the City of Fontana should support the state through the rules current litigation process by offering letters of support or other testimony. Supporting the state in litigation also presents a unique opportunity for the city to build bridges with environmental justice advocates who played a pivotal role in passing the rule and serve as partners in building a healthier, more economically inclusive, and more just future Fontana.

Recommendation 2.6: Implement a warehouse moratorium

A concern voiced by government officials in Fontana is that there is no existing localized air quality data. Thus, it is prudent for Fontana to implement a warehouse moratorium while additional work is undertaken to establish localized air quality monitoring systems that emphasize data collection at sensitive receptors near warehouses (see Chapter 5 - Labor and Coalition Building and Chapter 6 - Air Quality and Pollution Monitoring).

Many cities that border Fontana have implemented warehouse moratoria over the last two years. Colton, Jurupa Valley, and Riverside have all implemented temporary moratoria in

response to community concerns over the health and safety impacts of warehousing, and there is legal precedent for establishing moratoria on development while impacts are studied.[4] Fontana should follow suit and pause warehouse development until adequate mitigation work has occurred and it is clear that warehouses do not increase health risks for people who live, work, and play near warehouses.

[4] See Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302 (2002)

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