

State of California
AIR RESOURCES BOARD

**PUBLIC HEARING TO CONSIDER THE PROPOSED
ADVANCED CLEAN TRUCKS REGULATION**

Resolution 20-19

June 25, 2020

Agenda Item No.: 20-6-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 39000 of the Health and Safety Code declares that the people of the State of California have a primary interest in the quality of the physical environment in which they live, and that this physical environment is being degraded by the waste and refuse of civilization polluting the atmosphere, thereby creating a situation which is detrimental to the health, safety, welfare, and sense of well-being of the people of California;

WHEREAS, section 39003 of the Health and Safety Code charges the Board with the responsibility for systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, section 39500 of the Health and Safety Code designates CARB as the agency responsible for control of emissions from motor vehicles;

WHEREAS, in section 39650 of the Health and Safety Code, the Legislature declares that it is the public policy of the state that emissions of toxic air contaminants should be controlled to levels which prevent harm to the public health;

WHEREAS, sections 39655, 39658 and 39659 of the Health and Safety Code authorizes the Board to establish airborne toxic control measures for toxic air contaminants;

WHEREAS, section 39667 of the Health and Safety Code authorizes the Board to regulate emissions of toxic air contaminants from vehicular sources;

WHEREAS, section 43000 of the Health and Safety Code declares that dependence on petroleum based fuels in motor vehicles not only contributes to substantial degradation of air quality and risk to public health, but also impedes the state's

progress toward petroleum use reduction, and that the State has a responsibility to establish uniform procedures applicable to all motor vehicles for compliance with vehicle emissions standards which control and eliminate emissions of air pollutants from motor vehicles, which is the primary cause of air pollution in many parts of the state;

WHEREAS, in section 43000.5 of the Health and Safety Code, the Legislature declares that the burden for achieving needed reductions in vehicle emissions should be distributed equitably among various classes of vehicles, and the Board should take immediate action to implement both short- and long-range programs of across-the-board reductions in vehicle emissions and smoke;

WHEREAS, sections 43013, 43100, 43101, 43102, and 43104 of the Health and Safety Code authorize the Board to adopt emission standards, in-use performance standards, and test procedures to control air pollution caused by motor vehicles;

WHEREAS, section 43018 of the Health and Safety Code authorizes the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards for ambient air quality at the earliest practicable date;

WHEREAS, section 43105 of the Health and Safety Code provides that no new motor vehicle or engine required under Part 5 of Division 26 of the Health and Safety Code to meet emission standards shall be sold to the ultimate purchaser, ordered or delivered for sale to the ultimate purchaser, or registered in this state, if the manufacturer has violated emission standards or test procedures and has failed to take corrective action, which may include recall of vehicles or engines, specified by the Board in accordance with its regulations; and provides that the Board shall establish procedures for determining, and the facts constituting, compliance or failure of compliance pursuant to section 43105;

WHEREAS, section 43106 of the Health and Safety Code provides that each new motor vehicle or engine required under Part 5 of Division 26 of the Health and Safety Code to meet the emission standards established pursuant to section 43101 shall be, in all material respects, substantially the same in construction as the test motor vehicle or engine that has been certified by the Board in accordance with Article 1, Chapter 2, Part 5, Division 26 of the Health and Safety Code;

WHEREAS, the Legislature has enacted the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32); Stats 2006, chapter 488, Health and Safety Code section 38500 *et seq.*), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and requires a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020, and to maintain the emission levels and continue reductions thereafter;

WHEREAS, AB 32 added section 38501 to the Health and Safety Code, which expresses the Legislature's findings that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and the Legislature's intent that CARB coordinate with State agencies and consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing AB 32, and design emissions reduction measures to meet the statewide emissions limits for GHGs in a manner that minimizes costs and maximizes benefits for California's economy, maximizes additional environmental and economic co-benefits for California, and complements the State's efforts to improve air quality;

WHEREAS, section 38510 of the Health and Safety Code designates CARB as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

WHEREAS, section 38505 of the Health and Safety Code defines "greenhouse gas" (GHG) or "greenhouse gases" for purposes of Division 25.5 of the Health and Safety Code as including all of the following gases: carbon dioxide (CO₂), methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride;

WHEREAS, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources;

WHEREAS, Senate Bill 32, statutes of 2016, chapter 249 (SB 32), was signed into law to expand upon the California Global Warming Solutions Act of 2006 to reduce GHG emissions to 40 percent below the 1990 level by 2030;

WHEREAS, section 38566 of the Health and Safety Code directs the Board to adopt rules and regulations to achieve the maximum technologically feasible and cost effective GHG emissions reductions authorized by this division, the state Board shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030;

WHEREAS, in recognition of the devastating impacts of climate change emissions on California, Executive Order S-3-05 established the following GHG emission targets:

- By 2010, reduce GHG emissions to 2000 levels;
- By 2020, reduce GHG emissions to 1990 levels; and
- By 2050, reduce GHG emission 80 percent below 1990 levels;

WHEREAS, Executive Order B-16-12 reaffirmed a 2050 GHG emission reduction target for the transportation sector of 80 percent below 1990 levels;

WHEREAS, Executive Order B-30-15 established a 2030 GHG emission reduction target of 40 percent below 1990 levels, in order to ensure California meets its target of reducing GHG emissions to 80 percent below 1990 levels by 2050;

WHEREAS, Executive Order B-48-18, established a goal of at least 5 million zero-emission vehicles on California roads by 2030;

WHEREAS, Executive Order B-55-15 established a new statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and maintain net negative emissions thereafter;

WHEREAS, Governor Gavin Newsom in Executive Order N-19-19 directed CARB to consider strengthening existing or adopting new regulations to achieve the necessary greenhouse gas reductions from within the transportation sector;

WHEREAS, CARB's 2016 Mobile Source Strategy identifies several potential technology advancing measures needed to achieve California's air quality and climate goals, including measures to accelerate the deployment of zero-emission vehicles in last-mile delivery applications;

WHEREAS, the 2016 Sustainable Freight Action Plan directed state agencies' actions to accelerate use of clean vehicle and equipment technologies and fuels for freight through targeted introduction of zero and near-zero emission technologies;

WHEREAS, in March 2017, the Board adopted the State Strategy for the State Implementation Plan, which identifies the deployment of zero-emission transportation as a necessary component for California to achieve established near and long-term air quality and climate mitigation targets;

WHEREAS, in December 2017, the Board adopted California's 2017 Climate Change Scoping Plan, which recommends transition to zero-emission vehicles in the transportation sector as a measure to meet the State's GHG emissions and air quality goals and enable long-term de-carbonization of the transportation sector;

WHEREAS, Senate Bill 350, statutes of 2015, chapter 547 directed the California Public Utility Commission to take actions to support widespread transportation electrification;

WHEREAS, the California Public Utility Commission unanimously approved three large-scale medium- and heavy-duty transportation electrification programs to install infrastructure needed to support medium and heavy-duty electric vehicles operated by fleets. Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric have been authorized to spend \$236 million, \$343 million, and \$107 million, respectively over a five year period;

WHEREAS, the Low Carbon Fuel Standard (LCFS) regulation provides an opportunity for commercial fleets to generate credits for dispensing electricity or hydrogen, with a low-carbon intensity, into zero-emission vehicles. The credit value can offset some or all of the fuel cost and improves the total cost of ownership for zero-emission vehicles while stimulating the low carbon fuel market;

WHEREAS, dozens of truck and bus manufacturers exclusively sell zero-emission trucks and buses, and nearly all of the established medium- and heavy-duty vehicle manufacturers have announced plans to sell a wide range of zero-emission vans, trucks and buses in the United States;

WHEREAS, information collected from large entities and fleets is necessary to identify appropriate flexibilities and ensure a level playing field in developing fleet requirements and to accelerate the market with future zero-emission truck fleet rules;

WHEREAS, since 2016, CARB staff has held eight workshops, five workgroup meetings, and numerous individual meetings with stakeholders to provide information to the public and solicit feedback;

WHEREAS, on March 23, 2017, CARB adopted the Revised Proposed 2016 State Strategy for the State Implementation Plan (State SIP Strategy) and transmitted it to U.S. EPA for inclusion in the California SIP;

WHEREAS, the State SIP Strategy was developed to provide the emission reductions necessary to meet the national air quality standards throughout the State;

WHEREAS, the State SIP Strategy includes a commitment to develop and bring to the Board for consideration a measure entitled, "Last Mile Delivery" (now known as Advanced Clean Trucks) to achieve oxides of nitrogen (NOx) emission reductions throughout the State;

WHEREAS, the Advanced Clean Trucks regulation fulfills the State commitment to propose the measure for Board consideration and provides emission reductions toward the State's aggregate emission reduction commitment;

WHEREAS, the Initial Statement of Reasons (ISOR) presents, among other things, the rationale and basis for the Proposed Advanced Clean Trucks Regulation, as set forth in Appendix A to the ISOR released to the public on October 22, 2019, that identifies the data, reports, and information relied upon for these proposed regulations;

WHEREAS, the ISOR and proposed regulatory language and other required documents were made available to the public for comment for at least 45 days prior to the public hearing to consider the proposed regulatory action;

WHEREAS, the notice released to the public on October 22, 2019, stated that, if adopted by CARB, CARB plans to submit the proposed regulatory action to the U.S. EPA for approval as a revision to the SIP required by the federal Clean Air Act (CAA);

WHEREAS, CARB's regulatory program for considering the environmental impacts of the proposed adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60008);

WHEREAS, CARB prepared a draft environmental analysis under its certified regulatory program for the proposed regulation entitled *Draft Environmental Analysis Prepared for the Proposed Advanced Clean Trucks Regulation* (Draft EA), and circulated it as Appendix D to the Staff Report for 45 days from October 22, 2019, through December 9, 2019;

WHEREAS, the environmental analysis concluded that:

- Implementation of the proposed regulation has the potential to result in beneficial impacts to long-term energy demand, long-term air quality emissions, and long-term GHG emissions;
- Implementation of the proposed regulation has the potential to result in less than significant impacts to: odor impacts, short-term energy demand, short-term GHG emissions, short-term impact on mineral resources, population, employment, housing, public services, and recreation; and
- Implementation of the proposed regulation has the potential to result in potentially significant and unavoidable adverse impacts to: aesthetics, conversion of agricultural and forest resources, short-term air quality, biological resources, cultural resources, geology and soil, hazardous materials and impacts, hydrology and water quality, long-term mineral resources, noise, traffic and transportation, and demand for utility services.

WHEREAS, on December 12, 2019, the Board conducted a public hearing on the proposed Advanced Clean Trucks regulation and the Draft EA;

WHEREAS, following the public hearing staff considered written comments submitted during the public review period and whether to make any additional appropriate conforming modifications available for public comment for at least 15 days, pursuant to Government Code section 11346.8;

WHEREAS, following the public hearing, modified regulatory language and supporting documentation were circulated for a 30-day public comment period, with the changes

to the originally proposed text clearly indicated, according to the provisions of Government Code, section 11340.85, and California Code of Regulations, title 1, section 44, from April 28, 2020, through May 28, 2020;

WHEREAS, staff evaluated all comments received during the public comment periods, including comments on the Draft EA, in order to prepare written responses to EA comments as required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60008 and Government Code section 11346.9(a);

WHEREAS, staff prepared written responses to comments on the EA in a document entitled *Response to Comments on the Environmental Analysis Prepared for the Advanced Clean Trucks Regulation (Response to EA Comments)*;

WHEREAS, pursuant to CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60008 and Government Code section 11346.9(a), the Executive Officer presents to the Board the Final EA, along with the Response to EA Comments, for consideration for approval, and the finalized regulation for consideration for adoption;

WHEREAS, staff posted on the rulemaking page the Final EA, which includes minor revisions, and the Response to EA comments, on June 23, 2020;

WHEREAS, prior to the duly noticed public hearing held on June 25, 2020, staff presented the Final EA and the Response to EA Comments to the Board for consideration;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, in consideration of the ISOR, written comments, and public testimony, the Board finds that:

A new approach for requiring major truck manufacturers to sell zero-emission trucks in California and for large entities to report facility and vehicle use information is appropriate;

The Advanced Clean Trucks regulation contains elements to ensure a successful and orderly transition to a larger zero-emission transportation sector;

The Advanced Clean Trucks regulation is necessary for meeting the State's air quality goals and requirements to reduce NOx and PM emissions from on-road heavy-duty vehicles as prescribed by the revised 2016 State Implementation Plan.

The Advanced Clean Trucks regulation is necessary for meeting the State's climate goals by reducing GHG emissions as prescribed by legislation and several California Climate Executive Orders.

The Advanced Clean Trucks regulation will not have a significant statewide adverse economic impact that would directly affect businesses, including the ability of California businesses to compete with businesses in other states, or on represented private persons;

No alternative considered to date, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law of the proposed amendments, upon considering, among other things, the standardized regulatory impact analysis of the proposed amendments and the specific benefits of the proposed amendments that were identified in the Notice of this action; and

The proposed regulation and the amendments are consistent with the Board's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby certifies that the Final EA was completed in compliance with CARB's certified regulatory program to meet the requirements of CEQA, reflects the agency's independent judgment and analysis, and was presented to the Board whose members reviewed and considered the information therein before taking action to approve the regulations and the amendments.

BE IT FURTHER RESOLVED that the Board approves the Response to EA Comments.

BE IT FURTHER RESOLVED that in consideration of the Final EA, the Response to EA Comments, and the entirety of the record, the Board adopts the Findings and Statement of Overriding Considerations, set forth in Attachment A to this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts sections 1963, 1963.1, 1963.2, 1963.3, 1963.4, 1963.5, 2012, 2012.1, and 2012.2, title 13, California Code of Regulations.

BE IT FURTHER RESOLVED that the adopted regulatory text may be further revised with grammatical or other non-substantial changes, which will be added to the rulemaking record and indicated as such.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional sufficiently related modifications to the regulation are appropriate, and that if no additional modifications are appropriate, the Executive Officer shall take CARB's final step for final approval of the Board-approved regulations, as set forth in Appendix A, through submittal of the Board-approved rulemaking package to the Office of Administrative Law. If the Executive Officer determines that additional sufficiently related substantial modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information, for at least 15 days. The Board delegates to the Executive Officer the authority to both (1) either approve or disapprove proposed changes in regulatory language under Government Code section 11346.8(c), and (2) conduct any appropriate further environmental review associated with such changes, consistent with the Board's Certified Regulatory Program regulations, at California Code of Regulations, title 17, sections 60000-60008, for those sufficiently related substantial modifications. Alternatively, rather than taking action on the proposed modifications, the Executive Officer may instead present the modifications, and any appropriate further environmental review associated with the modifications, to the Board for further consideration, if the Executive Officer determines further Board consideration is warranted.

BE IT FURTHER RESOLVED that if there is a possibility that any further modifications to the regulation may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by the Board's regulations at California Code of Regulations, title 17, sections 60000-60008, and prepare written responses to any comments received raising significant environmental issues if required by the level of additional environmental analysis, to present to the Board for approval along with the final regulation, if the Executive Officer decides Board action is warranted to approve the modifications.

BE IT FURTHER RESOLVED that the Board hereby determines, pursuant to section 209 of the Federal Clean Air Act, that the requirements related to the control of emissions adopted as part of the amendments to the regulations adopted herein are, in the aggregate, at least as protective of public health and welfare as applicable federal standards, that California needs the adopted standards to meet compelling and extraordinary conditions of high concentrations of people and motor vehicles, vulnerability to climate change, and the geographic and climate conditions of the state, and that the adopted requirements are consistent with the provisions of sections 202(a) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the regulations to the Environmental Protection Agency with a request for a waiver or confirmation that the regulations are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the Clean Air Act, as appropriate.

BE IT FURTHER RESOLVED that CARB staff ensure that the Advanced Clean Trucks regulation, the proposed Low-NOx Omnibus rulemaking, and the proposed Zero-Emission Fleet Rules complement each other to ensure maximum emission reductions

from the medium- and heavy-duty sector. The goal of these regulations in combination is to transition California's medium-and heavy-duty fleet to zero-emission everywhere feasible and the cleanest possible combustion everywhere else.

BE IT FURTHER RESOLVED that CARB staff continue to take steps to determine how to best achieve a zero-emission California fleet of medium- and heavy-duty vehicles by 2045 everywhere feasible with an earlier transition for certain market segments, including a goal of:

- Drayage trucks, last mile delivery, and government fleets: 100 percent zero-emission vehicle fleets by 2035
- Refuse trucks and local buses: 100 percent zero-emission vehicle fleets by 2040
- Utility fleets: 100 percent zero-emission capable vehicles by 2040

BE IT FURTHER RESOLVED that CARB develop supporting regulations, with a goal for Board consideration in 2021, to ensure that fleets, businesses, and public entities that own or direct the operation of medium- and heavy-duty vehicles in California will purchase and operate zero-emission vehicles on a schedule that is consistent with this manufacturer rule and achieves a smooth transition to a zero-emission vehicle fleet by 2045 everywhere feasible. CARB shall ensure these upcoming regulations shall emphasize emissions reductions within disadvantaged communities to the maximum extent feasible.

BE IT FURTHER RESOLVED that CARB recognizes the importance of identifying and committing additional resources to addressing the need for infrastructure and supporting actions to make a full transition to a zero-emission transportation system. For that reason, CARB is committed to working with our sister state agencies, including the California Energy Commission, the California Public Utilities Commission, and the Governor's Office of Business Development as well as utilities, local permitting agencies, and fleets to expand infrastructure for the transition to zero-emission medium- and heavy-duty technologies.

BE IT FURTHER RESOLVED that CARB recognizes the importance of identifying and committing additional resources to addressing the need for workforce development and training associated with a transition to a zero-emission fleet. CARB recognizes that state investments that support California workers can expand the benefits of the regulation, and deliver much-needed jobs training and employment opportunities to communities across the state. For that reason, CARB is committed to working with our sister state agencies, such as the California Workforce Development Board and Employment Development Department, to invest in workforce development and training in the operation and maintenance of zero-emission medium- and heavy-duty vehicle technologies. CARB staff's efforts in this area will seek to leverage, to the maximum extent possible, existing and scalable curriculums already utilized by early adopters of zero-emission vehicles.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to submit the Advanced Clean Trucks regulation and other appropriate supporting documentation to U.S. EPA for inclusion in the SIP.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission.

BE IT FURTHER RESOLVED that the Board authorizes the Executive Officer to include in the SIP submittal any technical corrections, clarifications, or additions that may be necessary to secure U.S. EPA approval.

BE IT FURTHER RESOLVED that the Board hereby certifies pursuant to 40 CFR, section, 51.102, that the Advanced Clean Trucks regulation was adopted after notice and public hearing as required by 40 CFR, section 51.10.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to finalize the Final Statement of Reasons, submit the completed rulemaking package to the Office of Administrative Law, and transmit the Notice of Decision with the Response to EA Comments to the Secretary of the Natural Resources Agency for posting.

I hereby certify that the above is a true and correct copy of Resolution 20-19 as adopted by the California Air Resources Board.

/s/

Ryan Sakazaki, Board Clerk

Resolution 20-19

June 25, 2020

Identification of Attachments to the Board Resolution

Attachment A: Findings and Statement of Overriding Considerations, released to the public at the June 25, 2020, CARB hearing

ATTACHMENT A

FINDINGS and STATEMENT OF OVERRIDING CONSIDERATIONS

Introduction

The California Air Resources Board (CARB), as the lead agency for the *Proposed Advanced Clean Trucks Regulation* (Proposed Project), prepared a Draft Environmental Analysis (EA) in accordance with its certified regulatory program (Cal. Code Regs., tit. 17, §§ 60000 – 60008) to comply with the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, §21000, *et seq.*). The Draft EA, entitled *Draft Environmental Analysis prepared for the Proposed Advanced Clean Trucks Regulation*, included as Appendix D to the Staff Report (Initial Statement of Reasons) for the Proposed Project, provided an analysis of the potential environmental impacts associated with the Proposed Project. Following circulation of the Draft EA for a 45-day public review and comment period from October 22, 2019 through December 9, 2019, CARB prepared the *Final Environmental Analysis prepared for the Proposed Advanced Clean Truck Regulation* (Final EA) which includes minor revisions to the Draft EA. While minor modifications have been made to the EA to ensure it reflects the Proposed Project as accurately as possible, these changes merely clarify, amplify, or make insignificant modifications to the otherwise-adequate Draft EA. In general, the modifications to the Proposed Project expand the scope by increasing the number of zero-emission vehicles sold in California, which will in turn increase the environmental benefits related to greenhouse gas reductions and air quality improvements. The Draft EA's findings, overall significance conclusions, mitigation measures and alternatives adequately address the environmental review for the proposed modifications. Therefore, there is no significant new information that would require the EA to be recirculated. The Final EA was posted on CARB's webpage on June 23, 2020.

This statement of findings and overriding considerations was prepared to comply with CEQA's requirement to address the environmental impacts identified in the Final EA. (Pub. Resources Code, §§ 21081, 21081.6, Cal. Code Regs, tit. 14, §§ 15091, 15093.) The Final EA is based on the expected compliance responses of the regulated entities covered by the Proposed Project. Although the policy aspects and requirements of the Proposed Project do not directly change the physical environment, there are potential indirect physical changes to the environment that could result from reasonably foreseeable actions undertaken by entities in response to the Proposed Project. These indirect impacts are the focus of the programmatic-level impacts analysis in the Final EA.

Collectively, across all categories, the Final EA concluded that the reasonably foreseeable compliance responses associated with the Proposed Project could result in the following short-term and long-term impacts: beneficial impacts to energy demand, and greenhouse gases; less than significant impacts, or no impacts, to air quality, energy demand, greenhouse gases, land use planning, mineral resources, population and housing, public service, and recreation; and potentially significant [indirect/secondary] adverse impacts to aesthetics, agricultural and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality,

land use planning, mineral resources, noise, transportation and traffic, and utilities and service systems. The potentially significant and unavoidable adverse impacts are disclosed for both short-term, construction-related activities and long-term operational activities, which is why some resource areas are identified above as having both beneficial or less-than-significant impacts and potentially significant impacts.

CARB's certified regulatory program requires that before adoption of an action for which significant adverse environmental impacts have been identified during the review process, CARB consider feasible mitigation measures and alternatives that could substantially reduce the impacts. (Cal. Code Regs, tit. 17, §60004.2.) CEQA places the burden on the approving agency to affirmatively show that it has considered feasible mitigation and alternatives that can lessen or avoid identified impacts through a statement of findings for each identified significant impact. (Pub. Resources Code, §21081.) CEQA Guidelines section 15091 provides direction on the content of the statement of findings. That section states that one or more of the following findings should be identified for each impact:

- Changes or alterations have been required in, or incorporated into, such projects which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

The potential adverse impacts identified in this programmatic level EA are potential indirect impacts associated with the compliance responses reasonably foreseeable in response to the Proposed Project based on currently available information. The ability to determine site- or project-specific impacts of projects carried out by third parties and the authority to require feasible mitigation lies with those agencies with authority to approve such actions, e.g. local permitting authorities in city or county governments and local air districts. CARB does not have the ability to determine with any specificity the project level impacts, nor the authority to require project-level mitigation in approving the Proposed Project, as discussed in the findings below.

An agency may approve a project with unavoidable (unmitigated) adverse environmental impacts. When doing so, CEQA requires the agency to make a statement in the record of its views on the ultimate balancing of the merits of approving the project despite the environmental impacts in a "statement of overriding considerations" (Pub. Resources Code, §21081(b); Cal. Code Regs, tit. 14, §15093.) The following presents the CARB Board's (Board) statement of findings for each significant adverse impact identified in the Final EA, accompanied by a brief explanation, and its statement of overriding considerations.

STATEMENT OF FINDINGS

The Board has independently reviewed and considered the entire record, including the information contained in the Final EA, public testimony, written comments received, and the written responses to environmental comments, all of which are hereby incorporated by reference. The Board makes the following written findings for each significant adverse impact identified, accompanied by a brief explanation of the rationale for each finding. These findings are supported by substantial evidence in the record.

Aesthetics

Finding and Explanation

The Final EA found that the reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant short-term construction-related impacts and long-term operational impacts on aesthetic resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA includes Mitigation Measures 1-1 and 1-2, which identify existing statutes and regulations and operating permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 1-1 and 1-2 are within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 1-1 and 1-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the Final EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Impacts may be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval at a later stage. But at this stage, the Board lacks full details on the design of potential programs and associated required mitigation. Consequently, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Agriculture and Forest Resources

Finding and Explanation

The Final EA found that the reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on agriculture and forest resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA includes Mitigation Measure 2-1, which identifies existing statutes and regulations and construction and operating permit requirements as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 2-1 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 2-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the Final EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Impacts may be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval at a later stage. But at this stage, the Board lacks full details on the

design of potential programs and associated required mitigation. Consequently, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Air Quality

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant short-term construction-related impacts on air quality. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measure 3-1, which identifies existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 3-1 within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 3-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource

associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This impact potential is overridden by the project's benefits as set forth in the statement of overriding considerations.

Biological Resources

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on biological resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measures 4-1 and 4-2, which identify existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 4-1 and 4-2 are within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 4-1 and 4-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

The Final EA determined that it is unknown where and under which jurisdiction individual projects may be located. Thus, the authority to determine project-level impacts and applicable regulations lies with the permitting agency for individual projects. This programmatic analysis and CARB's lack of authority over certain aspects of project-level development do not allow CARB to require project-specific mitigation or guarantee its implementation, resulting in an

inherent uncertainty in the degree of mitigation ultimately implemented to reduce the potentially significant impacts.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This impact potential is overridden by the project's benefits as set forth in the statement of overriding considerations.

Cultural Resources

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on cultural resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measure 5-1, which identifies existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 5-1 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 5-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent

uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

The Final EA determined that it is unknown where and under which jurisdiction individual projects may be located. Thus, the authority to determine project-level impacts and applicable regulations lies with the permitting agency for individual projects. This programmatic analysis and CARB's lack of authority over certain aspects of project-level development do not allow CARB to require project-specific mitigation or guarantee its implementation, resulting in an inherent uncertainty in the degree of mitigation ultimately implemented to reduce the potentially significant impacts.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Geology and Soils

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on geology and soil resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measure 7-1, which identifies existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 7-1 is within the responsibility and jurisdiction of other public agencies, and that the

requirements and practices in Mitigation Measure 7-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Hazards and Hazardous Materials

Finding and Explanation

The Final EA found that the reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant short-term construction-related and long-term operational-related impacts on hazards and hazardous material resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA includes Mitigation Measures 9-1 and 9-2, which identify existing statutes and regulations and construction and operating permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 9-1 and 9-2 is within the responsibility and jurisdiction of other public agencies, and that the requirements

and practices in Mitigation Measures 9-1 and 9-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource is inherently uncertain.

Impacts may be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval at a later stage. But at this stage, the Board lacks full details on the design of potential programs and associated required mitigation. Consequently, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Hydrology and Water Quality

Finding and Explanation

The Final EA found reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on hydrology and water quality resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measures 10-1 and 10-2, which identify existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 10-1 and 10-2 are within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 10-1 and 10-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the

identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Land Use and Planning

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on land use and planning resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

Construction and operation of new manufacturing and recycling facilities may require the conversion of non-industrial land uses to industrial land uses. Potential environmental effects associated with land use change on agriculture and forestry, biology, geology and soils, and hydrology and their related mitigation measures are discussed in further detail under their respective impact discussions.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to land use associated with the proposed actions in the Proposed Project would be potentially significant

and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Mineral Resources

Finding and Explanation

The Final EA found that the Proposed Project could result in impacts to mineral resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measure 12-1, which identifies existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 12-1 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 12-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Noise

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on noise resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measures 13-1 and 13-2, which identify existing statutes and regulations and construction and operational permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 13-1 and 13-2 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 13-1 and 13-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Transportation and Traffic

Finding and Explanation

The Final EA found that reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant impacts on transportation and traffic resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The Final EA included Mitigation Measures 17-1 and 17-2, which identify existing statutes and regulations and construction permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measures 17-1 and 17-2 are within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 17-1 and 17-2 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource.

Consequently, at this stage without full details on the design of potential programs and associated required mitigation, while impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Utilities and Service Systems

Finding and Explanation

The Final EA found that the reasonably foreseeable actions associated with implementation of the Proposed Project could result in potentially significant long-term operational impacts on utilities and service systems resources. Implementation of the Proposed Project could result in an increase in manufacturing and associated facilities to increase the supply of zero-emission vehicles (ZEVs), along with construction of new hydrogen fueling stations and electric vehicle charging stations to support ZEV operations and associated increase in hydrogen fuel supply and transportation. Increased deployment of ZEVs would result in a corresponding decrease in deployment of gasoline and diesel fueled vehicles. Likewise, increased deployment of ZEVs would result in an increase in the production of electricity and hydrogen fuel, reduce rates of oil and gas extraction, and result in associated increases in lithium and platinum mining and exports from source countries or other states. This could result in increased rates of disposal of lithium batteries and hydrogen fuel cells; however, disposal would need to comply with California law, including but not limited to California's Hazardous Waste Control Law and implementing regulations. For lithium-ion batteries, it is anticipated they still have a useful life at the end of vehicle life, and are likely to be repurposed for a second life. To meet an increased demand of refurbishing or reusing batteries and fuel cells, new facilities or modifications to existing facilities could be constructed to accommodate recycling activities. Fleet turnover largely would be unaffected since the regulation is implemented at the time of normal vehicle purchase.

The EA includes Mitigation Measure 18-1, which identifies existing statutes and regulations and construction and operating permit requirements, as well as other recognized practices designed to reduce these potentially significant impacts. The Board finds that the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Therefore, the Board finds that the authority to implement Mitigation Measure 18-1 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 18-1 should be adopted by those agencies. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible. Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource is inherently uncertain.

Impacts may be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval at a later stage. But at this stage, the Board lacks full details on the design of potential programs and associated required mitigation. Consequently, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the impacts to this resource associated with the proposed actions in the Proposed Project would be potentially significant and unavoidable. This potential impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Cumulatively Considerable Impacts

The applicable plan containing the appropriate summary of projections for considering cumulative impacts of the Proposed Project is the 2016 State SIP Strategy. The analysis of cumulative impacts for the Proposed Project included a summary of the cumulative impacts found for each resource area in this plan, and a conclusion regarding whether the Proposed Project could result in a cumulatively considerable contribution to an existing significant cumulative impact.

The EA concluded the Proposed Project could result in a cumulatively considerable contribution to significant cumulative impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, transportation and traffic, and utilities and service systems. While suggested mitigation is provided within the respective resource areas of the EA analyses that could address the contribution of the Proposed Project to each of these potentially cumulatively considerable impacts, the Board finds that because these adverse impacts are potential indirect impacts associated with the compliance responses of covered entities, the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments. Public agencies with the requisite authority can and should implement the identified measures to the degree feasible.

Because the authority and responsibility to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EA does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to these resources. Consequently, while cumulative impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the Board takes a conservative approach in its post-mitigation significance conclusion and finds the cumulatively considerable contribution of the Proposed Project to existing significant cumulative impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, transportation and traffic, and utilities and service systems to be potentially significant and unavoidable.

Findings on Alternatives to the Project

In addition to the No-Project Alternative, the EA considered a reasonable range of potentially feasible alternatives that could potentially reduce or eliminate the significant adverse environmental impacts associated with the Proposed Project, while accomplishing most of the basic project objectives.

The Board finds the alternatives analysis is sufficient to inform the Board and the public regarding the tradeoffs between the degree to which the alternatives could reduce environmental impacts and the corresponding degree to which the alternatives could achieve the project objectives.

Based upon a full evaluation of the alternatives, and the entirety of the record, the Board finds that adoption and implementation of the Proposed Project is the most desirable, feasible, and appropriate action for achieving the objectives of the project, and the Board rejects the other alternatives because they either fail to meet most project objectives, or are infeasible based on consideration of the relevant factors identified in the EA and briefly described below. Please see the Final EA for more in-depth discussion and analysis regarding project alternatives.

Alternative 1: No Project Alternative –

Alternative 1 in the EA describes a reasonably foreseeable scenario if CARB did not approve the Proposed Project. Under the No Project Alternative, the Proposed Project would not occur. Existing conditions would continue, and truck sales would continue as they have been to date, resulting in no development of a ZE truck market in California.

The Board finds that the No-Project Alternative would fail to meet most of the project objectives listed in Chapter 2 of the Final EA. Under the No Project Alternative, criteria pollutant and GHGs emissions would not decrease. The No Project Alternative would also fail to fulfill either the AB 1493 mandate to achieve maximum feasible GHG reductions or the AB 32 mandate to reduce GHG emissions to 1990 levels by 2020. The No Project Alternative would not result in energy savings. The No Project Alternative would not help attain the California and national ambient air quality standards, and it would fail to ensure all Californians live, work, and play in a healthful environment free from harmful exposure to air pollution. For these reasons, the Board rejects this alternative.

Alternative 2: Less Stringent ZEV Sales Requirement –

This alternative includes a less stringent ZEV sales requirement than the Proposed Project. Under this alternative, three percent of regulated manufacturer sales would need to be ZEVs in Class 2b-7 ramping up to 15 percent in 2030. Class 2b-3 pickup trucks and all Class 8 vehicles would be excluded from the ZEV sales requirement. This alternative would result in fewer ZEV sales compared to the Proposed Project.

The Board finds that emissions reduction achieved under this alternative would not be as great as the reductions that would be achieved under the Proposed Project (Objective 2, 5, and 9). The less stringent ZEV sales requirement will result in less emissions reduction benefits compared with the Proposed Project and no new GHG reductions because the reductions are already attributed to the CA Phase 2 GHG regulation. In addition, the less stringent ZEV sales requirement may not develop a self-sustaining ZE truck market (Objective 1, 6, 8, and 10) This could prevent California from achieving the GHG reduction goal of AB 32 (Objective 3), particularly if CARB cannot develop other programs or regulations to reduce GHG emissions (Objective 4 and 7). As such, this alternative would partially achieve some of the project objectives identified under the Proposed Project, but not to the same degree as the Proposed Project. For these reasons, the Board rejects this alternative.

Alternative 3: More Stringent in Early Years ZEV Sales Requirement -

This alternative includes a more stringent ZEV sales requirement in the early years of the regulatory timeframe than the Proposed Project. Under this alternative, 15 percent of

regulated manufacturer sales would need to be ZEVs in class 2b-8 ramping up to 40 percent in 2030. No vehicle types are excluded from the ZEV sales requirement in this scenario.

The Board finds that this alternative could meet objectives related to more emission reductions (Objective 2, 5, and 9) and health benefits (Objective 11) from early years; however, it also bears some risks. First, it moves all infrastructure cost earlier which could be too much of a financial burden for fleets or manufacturers (Objective 12). Due to the increased ZEV percentage sales requirements, fleets and utilities will need to significantly accelerate the purchase of ZEVs and the rollout of ZEV infrastructure. Even though this alternative results in more ZEVs deployed than the proposed ACT regulation (Objective 1, 6, 8, and 10) and would result in more NO_x and PM_{2.5} emission reductions (Objective 4 and 7), having a more aggressive timeframe raises questions about feasibility for manufacturers, fleets, and utilities to comply with its requirements in its initial years and makes the emissions reductions less cost effective. For these reasons, the Board rejects this alternative.

Alternatives Considered but Rejected –

Four additional alternatives were considered during development of the alternatives to the Proposed Project. The first was “Balanced Heavy-Duty Truck and Bus Low NO_x Credit Policy Approach”, the second was “Total Truck Population ZEV Sales Requirement”, the third was “Fleet Rule Requirement” and the fourth was “EMA Sector Requirement”. The CEQA Guidelines Section 15126.6(c) includes three factors that may be used to eliminate alternatives from detailed consideration in an Environmental Impact Report (EIR): “(i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impact.” These alternatives were rejected because they do not meet the most basic of the project objectives or are either infeasible or would not result in additional NO_x, PM or GHG emission reductions.

STATEMENT OF OVERRIDING CONSIDERATIONS

CARB expects that many of the significant adverse impacts identified in the EA will be avoided or mitigated; however, since uncertainty exists as to the extent of mitigation that other agencies will require at the site- and project-specific level, the Board is conservatively considering the impacts to be potentially significant and unavoidable. The Board finds that despite the potential for adverse environmental impacts associated with the Proposed Project, other benefits of the proposed actions are determined to be overriding considerations that warrant approval of the Proposed Project and outweigh and override its unavoidable significant impacts. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every unavoidable impact. These benefits include:

1. Accelerating the deployment of vehicles that achieve the maximum emissions reduction possible from medium- and heavy-duty vehicles to assist in the attainment of national ambient air quality standards for criteria air pollutants (Health & Safety Code Sections 43000.5(b), 43018(a)).
2. Reducing the State’s dependence on petroleum as an energy resource and support the use of diversified fuels in the State’s transportation fleet (Health & Safety Code Section 43000(e), California Public Resources Code (PRC) Section 25000.5). In

addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries (PRC Section 25000.5(b), (c)).

3. Decreasing GHG emissions in support of statewide GHG reduction goals by adopting strategies to deploy medium- and heavy-duty zero-emission vehicles (ZEV) in California as identified in the Scoping Plan as "Last Mile Delivery", which was developed to reduce GHG emissions in California, as directed by AB 32. The CARB's 2017 Climate Change Scoping Plan and 2016 Mobile Source Strategy aim to accelerate development and deployment of the cleanest feasible mobile source technologies and to improve access to clean transportation. Implementation of the Proposed Project would also provide further GHG reductions pursuant to AB 1493 (Ch. 200, Stats. of 2002, Pavley).
4. Developing a regulation that is consistent with and meets the goals of the State Implementation Plan (SIP), providing necessary emission reductions from vehicular sources for all of California's nonattainment areas to meet federal ambient air quality standards (Health & Safety Code Sections 39002, 39003, 39602.5, 43000, 43000.5, 43013, 43018).
5. Maintaining and continuing reductions in emissions of GHGs beyond 2020, in accordance with AB 32 (Health & Safety Code Sections 38551(b), 38562, 38562.5, 38566); pursue measures that implement reduction strategies covering the State's GHG emissions in furtherance of California's mandate to reduce GHG emissions to the 1990 level by 2020 and 40 percent below the 1990 level by December 31, 2030.
6. Leading the transition of California's medium- and heavy-duty transportation sector from internal combustion to all electric powertrains.
7. Complementing existing programs and plans to ensure, to the extent feasible, that activities undertaken pursuant to the measures complement, and do not interfere with, existing planning efforts to reduce GHG emissions, criteria pollutants, petroleum-based transportation fuels, and TAC emissions.
8. Incentivizing and supporting emerging zero-emission technology that will be needed to achieve CARB's SIP goals.
9. Achieving emission reductions that are real, permanent, quantifiable, verifiable, and enforceable (Health & Safety Code Sections 38560, 38562(d)(1)).
10. Providing market certainty for zero-emission technologies and fueling infrastructure to guide the acceleration of the development of environmentally superior medium- and heavy-duty vehicles that will continue to deliver performance, utility, and safety demanded by the market.
11. Taking steps to ensure all Californians can live, work, and play in a healthful environment free from harmful exposure to air pollution. Protect and preserve public health and well-being, and prevent irritation to the senses, interference with visibility, and damage to vegetation and property (Health & Safety Code Section 43000(b)) in

recognition that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the State (Health & Safety Code Section 43000(a)).

12. Spurring economic activity of zero-emission technologies in the medium- and heavy-duty vehicle sectors. Incentivizing innovation that will transition California's economy into greater use of clean and sustainable zero-emission technologies and promote increased economic and employment benefits that will accompany this transition (AB 1493, Section 1(g); Health & Safety Code Section 38501(e)).

LOCATION AND CUSTODIAN OF THE RECORD

The documents and other materials that constitute the record of proceedings on which these findings are based are located at 1001 I Street Sacramento, CA 95814. The custodian for these documents is the California Air Resources Board Legal Office.