ATTACHMENT A

PROPOSED

FINDINGS and STATEMENT OF OVERRIDING CONSIDERATIONS

Introduction

The California Air Resources Board (CARB), as the lead agency for the *Proposed Amendments to the Airborne Toxic Control Measure (ATCM) for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities where TRUs Operate* (Proposed Amendments or Proposed Project), prepared a Draft Supplemental 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 Supplemental Environmental Analysis prepared for the Proposed Amendments to the Airborne Toxic Control Measure (ATCM) for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities where TRUs Operate*, included as Appendix D to the Staff Report (Initial Statement of Reasons) for the Proposed Regulation, provided an analysis of the potential environmental impacts associated with the Proposed Amendments. Following circulation of the Draft EA for a public review and comment period from July 27, 2021, through September 19, 2021, CARB prepared the *Final Environmental Analysis prepared for Proposed Amendments to the Airborne Toxic Control Measure (ATCM) for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities where TRUs Operate* (Final EA) which includes minor revisions to the Draft EA. While updates have been made to the EA to ensure it reflects the Proposed Amendments as accurately as possible, these changes merely clarify, amplify, or make insignificant modifications to the otherwise-adequate Draft EA. These modifications would not result in any new reasonably foreseeable significant environmental impacts or substantially increase the severity of an identified environmental impact. 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 February 18, 2021.

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 Amendments. Although the policy aspects and requirements of the Proposed Amendments would 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 Amendments. 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 Amendments could result in the following short-term and long-term impacts: beneficial impacts to air quality (operational impacts or long-term), energy demand (operational related or long-term), and greenhouse gas emissions and climate change; less than significant impacts, or no impacts, to energy demand (construction-related or short-term), hazards and hazardous materials (operational related or long-term), land use, mineral resources (construction related or short-term), population, employment and housing, public services, recreation and wildfire; and potentially significant adverse impacts to aesthetics, agriculture and forestry resources, air quality (construction related or short-term), biological resources, cultural resources and tribal resources, geology and soils, hazards and hazardous materials (construction related or short-term), hydrology and water quality, mineral resources (operational related or long-term), noise and vibration, 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 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 Amendments 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 Amendments, 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on aesthetic resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. The compliance responses described here could adversely affect visual resources by adding new equipment and structures.

The Final EA includes Mitigation Measure 1-1, which identifies 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 Measure 1-1 is within the

responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 1-1 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 Amendments 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 Forestry Resources

Finding and Explanation

The Final EA found that the reasonably foreseeable actions associated with implementation of the Proposed Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on agriculture and forestry resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. The compliance responses described here could potentially occur in areas currently zoned for or supporting agriculture and forestry resources.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land Based) impacts on air quality. Implementation of the Proposed Amendments could result in new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. The construction of these facilities and functions could result in some amount of short-term increased emissions.

As described in greater detail in the Final EA, it would be expected that the primary sources of construction-related emissions would occur from soil disturbance and use of construction equipment. It is expected that during the construction phase for any new project, criteria air pollutants (e.g., NOx, SOx, and particulate matter (PM)) and toxic air contaminants (TACs) could be generated from a variety of activities and emission sources, such as equipment use and worker commute trips.

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 is 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 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on biological resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, indirect impacts to species could result from construction noise disturbance that might cause nest or den abandonment and loss of reproductive or foraging potential around the site during construction, transportation, or destruction of equipment and existing structures. Implementation of the Proposed Amendments could require operation of lithium-ion battery infrastructure such as mining facilities, and recycling or refurbishment facilities. Long-term operation of these facilities would often include the presence of workers; movement of automobiles, trucks, and heavy-duty equipment; and operation of stationary equipment. This environment would generally not be conducive to the presence of biological resources located on-site or nearby.

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 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on cultural resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, ground disturbing activities required by the implementation of the Proposed Amendments may require earth-moving and grading and mining activities that could affect undiscovered and known cultural resources, depending on their location in relation to known resources and whether the substrate is conducive to hosting archaeological resources. As a result, construction impacts would be potentially significant. Presence of new infrastructure may change the visual setting of the surrounding area, which could adversely affect historic resources and districts with an important visual component. For example, although it is unlikely such a facility would be sited in a historic district, a new industrial building or control system may not be consistent with the visual character of a historic district. As a result, construction and operational impacts would be potentially significant.

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 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on geology and soil resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, it is probable construction activities for new facilities would require disturbance of undeveloped areas, such as clearing of vegetation, earth movement and grading, trenching for utility lines, erection of new buildings, and paving of parking lots, delivery areas, and roadways. These activities would have the potential to adversely affect soil and geologic resources. There is inherent uncertainty surrounding the location and magnitude of such facilities, which could be located outside of California. As such, it is conceivable that a facility could be located on soils incapable of supporting facility generated wastewater. Hard rock lithium ion extraction, which would be expected to occur outside of the state and U.S., would have adverse effects to erosion from potential loss of forests and soil disturbance.

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 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.

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 Amendments 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 Amendments could result in potentially short-term construction-related (land based) impacts on hazards and hazardous material resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, construction activities generally use heavy-duty equipment requiring periodic refueling and lubricating fluids. It is during the transfer of fuel that the potential for an accidental release is most likely. Although precautions would be taken to ensure that any spilled fuel is properly contained and disposed, and such spills are typically minor and localized to the immediate area of the fueling (or maintenance), the potential remains for a substantial release of hazardous materials into the environment.

The Final EA includes Mitigation Measure 9-1, 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 9-1 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 9-1 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, the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource is inherently uncertain.

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 Amendments 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 Amendments could result in potentially significant short-term construction related (land based) impacts and long-term operational (land based) impacts on hydrology and water quality resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, construction activities could require disturbance of undeveloped areas, such as clearing of vegetation, earth movement and grading, trenching for utility lines, erection of new buildings, and paving of parking lots, delivery areas, and roadways. Specific construction projects would be required to comply with applicable erosion, water quality standards, and waste discharge requirements (e.g., NPDES, Stormwater Pollution Prevention Plan [SWPPP]). With respect to depleting groundwater supplies, new facilities are not anticipated to result in substantial groundwater demands. The increased demand for lithium-ion batteries would increase the demand for mined lithium. Lithium is mainly obtained from areas outside of the United States, where State and federal laws and regulations are not enforced. Thus, water quality impacts related

to mining could occur because of implementation of the reasonably foreseeable compliance responses associated with the Proposed Amendments.

The Final EA included Mitigation Measures 10-1, 10-2a and 10-2b, 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, 10-2a and 10-2b are within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measures 10-1, 10-2a and 10-2b 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.

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 Amendments 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 Amendments could result in potentially significant long-term operational (land based) impacts to mineral resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, implementation of the Proposed Amendments and associated compliance responses could result in an increased development where mining for lithium is feasible, which could conceivably affect the availability of these mineral resources if access to resources becomes impeded. Additionally, the Proposed Amendments may increase lithium mining, which would also contribute to the loss of availability of lithium as it is mined and consumed.

The Final EA included Mitigation Measure 12-2, 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 12-2 is within the responsibility and jurisdiction of other public agencies, and that the requirements and practices in Mitigation Measure 12-2 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on noise resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, implementation of the Proposed Amendments could result in the generation of short-term construction noise levels in excess of applicable standards or that result in a substantial increase in ambient levels at nearby sensitive receptors, and exposure to excessive vibration levels. New sources of noise associated with implementation of Proposed Amendments could include operation of manufacturing facilities and mining operations.

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 are 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 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction-related (land based) impacts and long-term operational (land based) impacts on transportation and traffic resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, construction of new infrastructure and facilities would result in short-term construction traffic (primarily motorized) in the form of worker commute and material delivery trips. Depending on the amount of trip generation and the location of new facilities, implementation could conflict with applicable programs, plans, ordinances, or policies (e.g., performance standards, congestion management); and/or result in hazardous design features and emergency access issues from road closures, detours, and obstruction of emergency vehicle movement, especially due to project-generated heavy-duty truck trips. Long-term operational-related activities associated with

deliveries and distribution of goods could result in the addition of new trips, which could affect roadway service levels. New facilities may result in additional egress/ingress points or increased traffic that would result in hazardous conditions on local roadways. Inadequate access may impede emergency vehicle access to new facilities.

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 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.

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 Amendments 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 Amendments could result in potentially significant short-term construction related (land based) and long-term operational related (land based) impacts on utilities and service systems resources. Implementation of the Proposed Amendments could result in construction and operation of new or expanded manufacturing facilities for zero-emissions technologies (e.g., lithium-ion batteries, cryogenic fuels, cold plates, solar photovoltaics); construction and operation of supporting infrastructure, such as electric chargers and fueling stations; increased demand for electricity, requiring more electricity generation; the displacement of fossil fuel extraction, refinement, manufacture, distribution, and combustion; operation of new or modified recycling or refurbishment facilities to accommodate battery disposal; and increased demand for the extraction of raw minerals used in the production of batteries, such as lithium from source countries and states. As described in greater detail in the Final EA, depending on the location, new facilities may require new utility service lines and connections. At this time, the specific location, type, and number of new facilities that would be developed is not known and would be

dependent upon a variety of market factors that are not within the control of CARB. Therefore, the ultimate magnitude and location of demand for utilities such as water and wastewater cannot be known. However, common impacts to utilities and service systems could include exceedances in wastewater treatment requirements of the applicable Regional Water Quality Control Board, requiring the construction of new wastewater treatment infrastructure and/or plants as well as new or expanded stormwater drainage facilities, producing water demand in exceedance of available water supplies, and generating levels of solid waste that exceeds an existing landfill's capacity.

The Final 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 Final 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.

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

The Final EA concluded the Proposed Amendments could result in a cumulatively considerable contribution to significant cumulative impacts to aesthetics, agriculture and forestry 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 Final EA analyses that could address the contribution of the Proposed Amendments 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 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 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 Amendments to existing significant cumulative impacts to aesthetics, agriculture and forestry 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 Final EA considered a reasonable range of potentially feasible alternatives that could potentially reduce or eliminate the significant adverse environmental impacts associated with the Proposed Amendments, 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 Amendments 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 Final EA and briefly described below. Please see the Final EA for a more in-depth discussion and analysis regarding project alternatives.

<u>Alternative 1: No Project Alternative</u>

Alternative 1 in the EA describes a reasonably foreseeable scenario if CARB did not approve the Proposed Amendments. Under Alternative 1, the Proposed Amendments would not be

implemented. There would be no requirement for truck TRUs to transition to full zero-emission technology by 2031. There would be no requirement for newly-manufactured trailer TRU, domestic shipping container TRU, railcar TRU, or TRU generator set engines to meet a more stringent PM emission standard. There would also be no requirement to use lower-GWP refrigerants.

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. First, there would be no reductions in criteria air pollutants that would provide public health benefits, achieve NAAQS, and meet the goals of the SIP. This alternative also would not reduce the State's dependence on petroleum for energy or support the use of diversified fuels. Additionally, the No-Project Alternative would not decrease GHG emissions in support of AB 32 or reduce HFC emissions. The No-Project Alternative also would not result in improvements to zero-emission technologies, nor would it lead the transition of California's off-road sector to zero-emission technology. For these reasons, the Board rejects this alternative.

Alternative 2: Diesel PM Emission Standard Applies to Truck TRUs

Under Alternative 2, all newly-manufactured TRU engines (in truck TRUs, trailer TRUs, domestic shipping container TRUs, railcar TRUs, and TRU generator sets) would be required to meet a more stringent PM emission standard. In contrast to the Proposed Amendments, Alternative 2 would not include a requirement for truck TRUs to transition to zero-emission technology. The refrigerant requirement would remain unchanged from the Proposed Amendments.

The Board finds that Alternative 2 would fail to fully meet most of the project objectives listed in Chapter 2 of the Final EA. Alternative 2 would not not achieve the maximum emission reductions possible from TRUs. Under alternative 2 TRUs would continue to use petroleum-based fuels. Alternative 2 would also not limit use of internal combustion engine-powered TRUs, would not lead the transition of the off-road sector to zero-emission technology, and would not improve zero-emission technology for TRUs. Therefore, this alternative would fail to meet most of the basic project objectives. For these reasons, the Board rejects this alternative.

Alternative 3: Shorter Timeline and Reduced Zero-Emission Fleet Percentage for Truck TRUs

Under Alternative 3, the truck TRU compliance timeline would be shorter; however, the ultimate requirement for transitioning to zero-emission would be less than the Proposed Amendments. Under Alternative 3, truck TRU fleets, beginning in 2024, would be required to transition 50 percent of their fleet to zero-emission by 2030. Compared to the Proposed Amendments, this is one year sooner but requires only half of the zero-emission transition. This would result in approximately half of the infrastructure installations that would be expected under the Proposed Amendments. The refrigerant and more stringent diesel PM emission standard requirements would be the same as the Proposed Amendments.

The Board finds that this alternative meets most of the basic project objectives, though it does so to a lesser extent than the Proposed Amendments in some cases because it

would not require as many truck TRUs to transition to zero-emission. In addition, alternative 3 would not meet Objective 2 because it would not achieve the maximum emission reductions possible from TRUs, since greater emissions reductions are possible under the Proposed Amendments. Alternative 3 would meet most of the basic project objectives in accordance with CEQA's requirement, but largely not to the same degree as the Proposed Amendments. For these reasons, the Board rejects this alternative.

Alternatives Considered but Rejected

Two additional alternatives were considered during development of the alternatives to the Proposed Amendments. The first was "No Zero-Emission Truck TRU Phase-in Schedule" and the second was "Ultra-Low NOx Truck TRUs". 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." As described in detail in Chapter 7 of the Final EA, these alternatives were rejected because they do not meet the most basic of the project objectives or are either infeasible or would not avoid significant environmental impacts.

STATEMENT OF OVERRIDING CONSIDERATIONS

CARB expects that many of the significant adverse impacts identified in the Final 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 certain impacts to be potentially significant and unavoidable. The Board finds that despite the potential for adverse environmental impacts associated with the Proposed Amendments benefits of the proposed actions are determined to be overriding considerations that warrant approval of the Proposed Amendments 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. Reducing statewide fine particulate matter (PM2.5) and oxides of nitrogen emissions from diesel-powered TRUs, exposure to which is associated with premature mortality, hospital visits for cardiovascular and respiratory illnesses, and emergency room visits for asthma, especially in sensitive receptors including children, the elderly, and people with chronic heart or lung disease;

2. Minimizing near-source exposure to diesel particulate matter produced by TRUs and reducing resulting cancer risk to individual residents and off-site workers near facilities where TRUs operate, including those located in and near disadvantaged and Assembly Bill 617 communities;

3. Supporting the attainment of the National Ambient Air Quality Standards for Ozone and PM in all regions of California, as required by the Federal Clean Air Act. These include the 2023 deadline for attainment of the 80 parts per billion (ppb) 8-hour ozone standard, 2024 for the 35 microgram per cubic meter (µg/m3) 24-hour PM2.5 standard, and 2025 for the 12 µg/m3 annual PM2.5 standard. There are also mid-

term attainment years of 2031 and 2037 for the more recent 8-hour ozone standards of 75 ppb and 70 ppb, respectively;

4. Reducing greenhouse gas emissions from TRU engines and refrigerant, including short-lived climate pollutants, such as black carbon and hydrofluorocarbons, in support of California's climate change goals;

5. Supporting Executive Order N-79-20, which set a goal for 100 percent zero-emission off-road vehicles and equipment in the State by 2035;

6. Increasing the use of zero-emission technology in the off-road sector;

7. Providing benefits to zero-emission TRU manufacturers, as well as various businesses in the zero-emission TRU supply chain, including those involved in battery, fuel cell, cold plate, and solar photovoltaic technology;

8. Providing opportunities for design, engineering, construction, and project management firms to design new and expanded infrastructure at approximately 1,000 truck TRU home base facilities statewide, as well as benefitting suppliers, equipment installers, and electricians;

9. Increasing the amount of electricity supplied by utility providers and helping the State's investor-owned utilities meet the goals of Senate Bill 350, which requires the State's investor-owned utilities to develop programs to accelerate widespread transportation electrification with goals to reduce dependence on petroleum, increase the uptake of zero-emission vehicles, help meet air quality standards, and reduce greenhouse gas emissions; and

10. Providing noise reduction benefits to those near facilities where diesel-powered TRUs operate.

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, inquiries can be submitted to CaliforniaEnvironmentalQualityAct@arb.ca.gov.