# *APPENDIX B*
# *REGULATORY SETTING*

# B.1 INTRODUCTION

This appendix contains the federal, State, and local regulations that apply to the Airport Traffic Control Tower Replacement Project (Proposed Project) at Fresno Yosemite International Airport (FAT). These regulations are provided for each resource category that may have potential impacts associated with the Proposed Project or alternatives as identified in Federal Aviation Administration (FAA) Order 1050.1F.[1] The EA was prepared pursuant to the requirements of Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), *Federal Aviation Administration (FAA) Order 1050.1F, Environmental Impacts: Policies and Procedures*, and *FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*.

For those resource categories that would not be affected by the Proposed Project or alternatives (Biological Resources; Coastal Resources; Section 6(f); Farmlands; Land Use; Socioeconomics and Children's Environmental Resources; Wetlands; Floodplains; Surface Waters; Groundwater; and Wild and Scenic Rivers), no regulatory context is provided.

# B.2 AIR QUALITY

## B.2.1 Federal Regulations

### *B.2.1.1 Clean Air Act*

The Clean Air Act (CAA) of 1963 (42 USC [United States Code] § 7401 et seq.) was the first federal legislation to regulate air pollution. The CAA has been amended numerous times; mostly recently in 1990 (U.S. Environmental Protection Agency, 2024a). The U.S. Environmental Protection Agency (USEPA) is responsible for implementing certain portions of the CAA, including requirements on mobile sources of air pollutants (e.g., motor vehicles, airplanes, or equipment that can be moved from one location to another). State and local agencies implement other portions of the CAA, such as requirements on stationary sources of air pollutants (e.g., factories, refineries, boilers, and power plants).

The USEPA sets National Ambient Air Quality Standards (NAAQS) to protect public health and the environment and has identified the following seven criteria air pollutants for which NAAQS are applicable: carbon monoxide (CO), lead (Pb), nitrogen dioxide ($NO_2$), ozone ($O_3$), particulate matter ($PM_{10}$ and $PM_{2.5}$), and sulfur dioxide ($SO_2$) (U.S. Environmental Protection Agency, 2024b). These pollutants are termed "criteria" air pollutants because the agency regulates them by developing human health-based and/or environmentally based criteria for establishing permissible levels.

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[1] Federal Aviation Administration. 2015. Order 1050.1F, Environmental Impacts: Policies and Procedures. Retrieved March 2024 from https://www.faa.gov/documentlibrary/media/order/faa_order_1050_1f.pdf.

On June 30, 2025, the USDOT issued updated NEPA implementing procedures through DOT Order 5610.1D and FAA Order 1050.1G. The environmental analysis and release of the Draft EA for public comment for the Proposed Project was completed prior to issuance of these Orders. Therefore, FAA guidance is to continue to use FAA Orders 1050.1F and 5050.4B for this Proposed Project.

### *B.2.1.2 General Conformity*

In November 1993, the USEPA promulgated a set of regulations, Title 40 Code of Federal Regulations (CFR) Part 93, known as the General Conformity rule. The General Conformity Rule defines a federal action as any activity engaged in by a department, agency, or instrumentality of the Federal Government, or any activity that a department, agency, or instrumentality of the Federal Government supports in any way, provides financial assistance for, licenses, permits, or approves. General Conformity is defined as demonstrating that a project or action conforms to the State Implementation Plan's (SIP) purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Federally funded and approved actions at airports are subject to USEPA's General Conformity regulations. The General Conformity Rule[2] applies to all federal actions except for certain highway and transit programs, which must instead comply with the Transportation Conformity Plans (40 CFR Part 93, Subpart A).

The General Conformity Rule includes annual emissions thresholds for nonattainment and maintenance areas that trigger the need for a General Conformity determination and defines projects that are typically excluded from General Conformity requirements. General conformity applies to any criteria pollutants for which an area is categorized as nonattainment or maintenance. An applicability analysis under general conformity consists of preparing an emissions inventory for all project-related direct and indirect emissions and comparing those results with the respective *de minimis* thresholds. The regulation defines the thresholds based on pollutant and attainment/nonattainment designation.

40 CFR Part 93.159(d) notes that when comparing emissions to *de minimis* thresholds, the following scenarios must be considered:

- Emissions in the year of attainment or the farthest year for which emissions are projected in the maintenance plan.

  The year in which the total of direct and indirect emissions from the action are expected to be the greatest on an annual basis.

  Any year for which the SIP has an applicable emissions budget. If emissions in all of these scenarios are less than *de minimis*, no further analysis is needed. If emissions are above *de minimis*, a conformity determination is required.[3]

Since the General Conformity Rule applies to federally funded projects in USEPA-designated nonattainment and maintenance areas, the General Conformity requirements apply to the Proposed Project.[4]

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2 Revisions to the General Conformity Rule are codified under 40 CFR Parts 51 and 93, Subpart W, Revisions to the General Conformity Regulations, Final Rule (April 2010).

3 Environmental Protection Agency. 2010. Revisions to the General Conformity Regulations. Retrieved February 2025 https://www.epa.gov/sites/production/files/2016-03/documents/20100324rule.pdf

4 FAT is located in an USEPA-designated nonattainment area for $O_3$ and $PM_{2.5}$, and maintenance for $PM_{10}$.

## B.2.2 State and Local Regulations

### *B.2.2.1 California Air Resources Board*

The California Air Resources Board (CARB) establishes California Ambient Air Quality Standards (CAAQS) for the State of California that are often more stringent than federal standards (California Air Resources Board, 2024a). The San Joaquin Valley Air Pollution Control District (SJVAPCD) regulates air quality in Fresno County by issuing permits for stationary sources of emissions, conducting inspections, adopting air quality rules and regulations, and performing planning and review activities. For construction activities, contractors must obtain a SJVAPCD permit for any construction equipment with an internal combustion engine of over 50 horsepower and must follow dust abatement and Basic Construction Emission Control Practices (BCECPs) (San Joaquin Valley Air Polluction Control District, 2025a).

### *B.2.2.2 San Joaquin Valley Air Pollution Control District*

The San Joaquin Valley Air Pollution Control District (SJVAPCD) is the primary agency responsible for ensuring that the NAAQS and CAAQS are attained and maintained in the San Joaquin Valley Air Basin, which includes the following: all of San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, and Tulare counties and a portion of Kern County. SJVAPCD is responsible for developing and implementing air control measures within its area to attain and maintain air quality standards set by the USEPA and CARB. In addition, they also issue permits for stationary sources of air pollutants, inspect stationary sources and respond to citizen complaints, monitor air quality and meteorological conditions, award grants to reduce mobile emissions, conduct public outreach campaigns, and assist local governments in establishing climate friendly practices.

The SJVAB is currently in nonattainment for $O_3$ and $PM_{2.5}$ by both federal and State standards. Therefore, the SJVAPCD has prepared air quality plans to bring the SJVAB into attainment with both federal and state $O_3$ and $PM_{2.5}$ standards, which include the following:

- 2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards, which describes San Joaquin Valley's strategies to demonstrate attainment with the federal $PM_{2.5}$ standards as expeditiously as possible
- Plan for the 2012 $PM_{2.5}$ Standard, which describes San Joaquin Valley's strategies to demonstrate attainment of the federal 2012 $PM_{2.5}$ standard as expeditiously as possible
- 2022 Plan for the 2015 8-Hour Ozone Standard, which describes San Joaquin Valley's strategies to ensure expeditious attainment of the federal 8-hour ozone standard
- Climate Change Action Plan, which provides guidance for assessing a project specific greenhouse gas emissions impact on global climate change, allows lead agencies to establish their own process and guidance for determining a project's global climate change impact, and addresses greenhouse gas emission reduction strategies.

SJVAPCD also implements rules to reduce emissions in the SJVAB in an effort to reach attainment of federal standards. Compliance with these rules is mandatory. These rules include:

- Regulation IV, Prohibitions

  - Rules 4305-4308 provide rules to limit emissions of Nitrogen Oxides ($NO_X$) and CO from boilers, steam generators, and process heaters.
  - Rule 4601-Architectural Coatings specifies storage, cleanup and labeling requirements for architectural coatings to limit Reactive Organic Gase (ROG) from architectural coatings.

- Regulations VIII, Fugitive $PM_{10}$ Prohibitions, Rules 8011-8081 include regulations to reduce $PM_{10}$ emissions during construction and demolition activities.

## B.3 CLIMATE

FAA Order 1050.1F requires that National Environmental Policy Act (NEPA) documents evaluate potential climate impacts separately from air quality impacts. According to FAA Order 1050.1F, the environmental document must present a qualitative or quantitative assessment of greenhouse gas (GHG) emissions if the proposed action or alternative(s) would result in an increase in such emissions.[5] There are currently no significance thresholds for aviation-related GHG emissions, and the NEPA analysis need not attribute specific climate impacts to the proposed action or alternative(s) given small percentage of emissions that proposed aviation actions contribute to the overall GHG levels. For example, the Intergovernmental Panel on Climate Change estimates that aviation accounted for 4.1 percent of global transportation GHG emissions in 2015.[6]

Scientific measurements show that the Earth's climate is warming, and research has shown a direct correlation between fuel combustion and emissions of GHGs, which are known to trap heat in the atmosphere. The principal GHGs that enter the atmosphere because of human activities include carbon dioxide ($CO_2$), methane ($CH_4$), nitrous oxide ($N_2O$), and fluorinated gases such as hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride ($SF_6$)[7].

Not all GHGs possess the same ability to induce climate change; as a result, GHG contributions are commonly quantified in units of carbon dioxide equivalents ($CO_2e$). The Intergovernmental Panel on Climate Change calculated greenhouse gas potential (GWP) ratios and published them in its Fourth Assessment Report.[8] The GWP represents the amount of heat captured by a mass of GHG compared to a similar mass of $CO_2$. Emitters apply the appropriate GWP ratios to convert pollutant-specific emissions to $CO_2e$ emissions.[9] By applying the GWP ratios, a project's mass $CO_2e$ emissions can be tabulated in metric tons per year. Typically, the GWP

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5 Federal Aviation Administration. 2015. *Order 1050.1F, Environmental Impacts: Policies and Procedures*. Retrieved March 2024 from https://www.faa.gov/documentLibrary/media/Order/FAA_Order_1050_1F.pdf

6 Federal Aviation Administration. 2015. *1050.1F Desk Reference*, Chapter 3, *Climate*. Retrieved March 2024 from https://www.faa.gov/sites/faa.gov/files/about/office_org/headquarters_offices/apl/3-climate.pdf

7 U.S. Environmental Protection Agency. (2018, September). Overview of Greenhouse Gases. Retrieved from https://www.epa.gov/ghgemissions/overview-greenhouse-gases

8 The Intergovernmental Panel on Climate Change (IPCC) developed the global warming potential (GWP) and associated $CO_2e$ values and published them in its Second Assessment Report (SAR) in 1996. Historically, GHG emission inventories have been calculated using the GWPs from the IPCC's SAR. The IPCC updated the GWP values based on the latest science in its Fourth Assessment Report (AR4).

9 Intergovernmental Panel on Climate Change. 2007. *Fourth Assessment Report, Working Group I Report: The Physical Science Basis*. Retrieved October 2018 from https://www.ipcc.ch/report/ar4/wg1/

ratio corresponding to the warming potential of CO2 over a 100-year period is used as a baseline.

## B.3.1 Federal Regulations

### *B.3.1.1 U.S. Environmental Protection Agency*

The USEPA is responsible for implementing federal policies to address GHGs. On December 15, 2009, the USEPA made an Endangerment Finding and a Cause or Contribute Finding related to GHG emissions (74 Federal Register 66496). The USEPA Administrator found that current and projected concentrations of six GHGs ($CO_2$, $CH_4$, $N_2O$, HFCs, PFCs, and $SF_6$) in the atmosphere threaten the public health and welfare (endangerment), and the combined emissions of these GHGs from new motor vehicle engines contribute to the GHG pollution. This, in turn, threatens public health and welfare (Cause or Contribute). On August 15, 2016, the USEPA made a similar finding that GHG emissions from aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare (81 Federal Register 54422). These findings do not in themselves impose any requirements on industry or other entities but were prerequisites for implementing GHG emissions standards.

On April 30, 2020, the USEPA and National Highway Traffic Safety Administration released the final rule for *Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks* that sets new $CO_2$ emissions and Corporate Average Fuel Economy (CAFE) standards for passenger vehicles and light duty trucks, covering model years 2021-2026.

### *B.3.1.2 Inflation Reduction Act of 2022*

The Inflation Reduction Act of 2022 (IRA), signed into law on August 16, 2022, directs new federal spending toward reducing carbon emissions, lowering healthcare costs, funding the Internal Revenue Service, and improving taxpayer compliance. The act aims to catalyze investments in domestic manufacturing capacity, encourage procurement of critical supplies domestically or from free-trade partners, and jump-start research and development and commercialization of leading-edge technologies such as carbon capture and storage and clean hydrogen.

## B.3.2 State and Local Regulations

### *B.3.2.1 California Climate Crisis Act*

Enacted in 2022, State Assembly Bill (AB) 1279 codifies the 2045 carbon neutrality goal of Executive Order B-55-18 by declaring that it is the policy of the state to achieve net zero GHG emissions no later than 2045, to achieve and maintain net negative GHG emissions thereafter, and to ensure that by 2045 statewide anthropogenic GHG emissions are reduced to at least 85 percent below the 1990 levels. These targets amended those established in SB 32.

### *B.3.2.2 California Global Warming Solutions Act*

The California Global Warming Solutions Act of 2006 was passed under AB 32 for the purpose of adapting California to climate change and combatting the risks associated with the adverse effects of global warming. This is the first program in the nation to consider both environment and the economic growth while taking a long-term approach addressing climate change. AB 32

is enforced by CARB and requires CARB to developing a scoping plan to strategize how California will meet its goals, which include reducing California's greenhouse gas emissions to 1990 levels by 2020.

#### *B.3.2.3 Sustainable Communities and Climate Protection Act*

The Sustainable Communities and Climate Protection Act of 2008 (SB 375) directs CARB to set regional targets to reduce GHG emissions. This act directs each of the State's metropolitan planning organizations (MPOs) to prepare a Sustainable Communities Strategy (SCS) as part of its regional transportation plan (RTP) that contains land use, housing, and transportation strategies that enables the region to meet its GHG emission reduction targets. The Fresno Council of Governments (COG) is the metropolitan planning agency tasked with developing the SCS, as required under SB 375.

#### *B.3.2.4 Clean Energy, Jobs and Affordability Act of 2022*

SB 1020 enacted the Clean Energy, Jobs and Affordability Act of 2022, which amends Section 454.53 of the Public Utilities Code to provide that "eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035."

#### *B.3.2.5 Cap-and-Trade Program*

Enabled by AB 32, CARB adopted cap-and-trade regulation (California Code of Regulations [CCR] Title 17, Subchapter 10, Article 5). The program covers about 450 emitters in the electric and industrial sectors who produce more than 25,000 metric tons of carbon dioxide equivalents (mtCO2e). Together they are responsible for 85 percent of the state's emissions. Entities that emit more than 10,000 $mtCO_2e$ are required to report their emissions to CARB.

The program imposes a "cap" on the total GHG emissions from covered entities in the state, and the quantity of emissions allowed under the cap decreases each year.

To encourage emission sources to emit less as the cap decreases, "allowances," or permission to emit GHGs, are made available in decreasing quantities. The intent is to make reducing GHG emissions more financially attractive as the number of available allowances decreases, making each allowance more costly.

#### *B.3.2.6 High Global Warming Potential Refrigerant Emissions Reduction*

In 2020, CARB announced its intent to reduce the impact of high-global warming potential (high-GWP) refrigerants, including all ozone-depleting substances and any refrigerant with a GWP of 150 or higher. GWP is a measure of how destructive a climate pollutant is. The refrigerants, known as hydrofluorocarbons (HFCs), are considered to be super pollutants because they trap heat in the atmosphere thousands of times more effectively than carbon dioxide, the most prevalent greenhouse gas. The rules affect commercial and industrial, stationary refrigeration units, such as those used by large grocery stores, as well as commercial and residential air conditioning units. This equipment often leaks refrigerants over time. In other cases, emissions are released when the equipment is dismantled and destroyed at the end of its useful life. The

regulations are intended to help California reach the requirement to reduce HFC emissions 40 percent below 2013 levels by 2030 under SB 1383.

#### *B.3.2.7 Community Air Protection Blueprint*

In 2017, Governor Brown signed AB 617 to develop a new community focused program to more effectively reduce exposure to air pollution and preserve public health. This bill directs CARB and all local air districts, including SJVAPCD, to take measures to protect communities disproportionately affected by air pollution. With input from communities and air districts throughout the state, CARB developed a Community Air Protection Blueprint to implement AB 617.

Approved in October 2023, the Community Air Protection Program Blueprint 2.0 (Blueprint 2.0) is CARB's statewide strategy and implementation guidance to reduce harmful emissions and exposures to air pollution in communities most impacted by poor air quality.

#### *B.3.2.8 California Green Building Standards (CALGreen)*

Part 11 of the Title 24 Building Energy Efficiency Standards is referred to as the California Green Building Standards Code (CALGreen). CALGreen is intended to encourage more sustainable and environmentally friendly building practices, require low-pollution emitting substances that cause less harm to the environment, conserve natural resources, and promote the use of energy-efficient materials and equipment. Since 2011, the CALGreen Code has been mandatory for all new residential and non-residential buildings constructed in the state. Such mandatory measures include energy efficiency, water conservation, material conservation, planning and design and overall environmental quality. It requires new residential and non-residential construction to be pre-wired to facilitate the future installation and use of electric vehicle chargers. The CALGreen Code was most recently updated in 2022 to include new mandatory measures for residential and nonresidential uses; the new measures took effect on January 1, 2023.

#### *B.3.2.9 California Energy Efficiency Standards (Title 24, Part 6)*

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in CCR Title 24, Part 6, were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods for building features such as space conditioning, water heating, lighting, and whole building envelope. The 2005, 2008, 2013 and 2019 updates to the efficiency standards included provisions such as cool roofs on commercial buildings, increased use of skylights, and higher efficiency lighting, heating, ventilation and air conditioning (HVAC), high performance attic and walls, and high efficiency air filters. The 2019 updates to the efficiency standards included indoor and outdoor lighting making maximum use of LED technology for nonresidential buildings. The 2022 updates encourage efficient electric heat pumps, establish electric-ready requirements for new homes, expand solar photovoltaic and battery storage standards, and strengthen ventilation standards. Additionally, the 2022 standards introduced new requirements for low-rise multi-family buildings and includes the registration of new compliance documents. Overall, the 2022 amendments are expected to reduce electricity and fossil fuel natural gas usage when compared to continued compliance with the 2019 Energy Code requirements. Under the 2022 amendments, California

buildings would consume approximately 198,600 GWh of electricity and 6.14 billion therms of fossil fuel natural gas in 2023 compared to approximately 199,500 GWh and 6.17 billion therms of electricity and fossil fuel natural gas, respectively, under the 2019 Energy Code. The current standards (2022 standards) became effective on January 1, 2023. Title 24, Part 6 is updated approximately every three years. The 2025 Energy Efficiency Standards will be effective in January 2026.

#### *B.3.2.10 Assembly Bill 341 – Mandatory Commercial Recycling*

AB 341 became effective on July 1, 2012, and requires all businesses or public entities that generate four or more cubic yards of solid waste a week to recycle. The purpose of AB 341 is to reduce GHG emissions by diverting commercial solid waste to recycling efforts and to expand opportunities for additional recycling services and recycling manufacturing facilities in California to be established.

#### *B.3.2.11 San Joaquin Valley Air Pollution Control District*

SJVAPCD has jurisdiction over certain air quality matters in the San Joaquin Valley Air Basin, which includes the following counties: Fresno, Kings, Tulare, Madera, Stanislaus, San Joaquin, Merced, and the valley portion of Kern County. While CARB is responsible for preparing the State's air quality control plan, also known as the SIP, and developing State air quality standards, SJVAPCD is responsible for preparing attainment plans for each nonattainment criteria air pollutant which does not meet the state standards.

- *Climate Change Action Plan* –SJVAPCD adopted the Climate Change Action Plan (CCAP) in 2008 to provide guidance to lead agencies and participating parties in assessing and reducing greenhouse gas emissions related to a project. The guidance also allows lead agencies to establish their own process and guidance for determining the significance of a project's global climate change impacts. In addition, CCAP also develops methods to mitigate GHG emissions, such as establishing best performance standards and how to develop those and providing a carbon exchange program (Rule 2301).

#### *B.3.2.12 2014 Regional Transportation Plan Sustainable Communities Strategy*

As previously mentioned, Fresno COG is the metropolitan planning agency tasked with developing the SCS, as required under SB 375. Fresno COG developed a SCS that focuses on inward growth in combination with transit and active transportation investments to reduce the GHG emissions from development. The SCS encourages the County and the cities within its jurisdiction to focus on more infill development and multi-family housing, and to place more emphasis on transit, bicycle and pedestrian infrastructure development.

## B.4 DEPARTMENT OF TRANSPORTATION, SECTION 4(F)

Section 4(f) of the U.S. Department of Transportation (U.S. DOT) Act of 1966 (now codified at Title 49 USC § 303)[10] provides protection for special properties, including publicly owned parks,

[10] USC Title 49: Transportation. Chapter 3, Section 303. Policy on lands, wildlife and waterfowl refuges, and historic sites. Retrieved March 2024 from https://www.govinfo.gov/content/pkg/USCODE-2022-title49/pdf/USCODE-2022-title49-subtitleI-chap3-subchapI-sec303.pdf

recreation areas, wildlife and waterfowl refuges, and public and private historic and archaeological sites. Section 4(f) of the U.S. DOT Act provides that: the Secretary of Transportation will not approve any program or project that requires the use of any publicly owned park, recreational area, or wildlife or waterfowl refuge of national, state, or local significance or land from a historic site of national, state, or local significance, as determined by the officials having jurisdiction thereof, unless there is no feasible and prudent alternative to the use of such land and such program, and the project includes all possible planning to minimize harm resulting from the use.

## B.5 HAZARDOUS MATERIALS, SOLID WASTE, AND POLLUTION PREVENTION

### B.5.1 Federal Regulations

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 USC § 9601 et seq.) and Resource Conservation and Recovery Act (RCRA) (43 USC § 6901 et seq.) broadly define "hazardous materials." According to the FAA 1050.1F Desk Reference, a hazardous material is any substance or material that has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and includes hazardous wastes and hazardous substances. According to the RCRA, solid waste includes construction and demolition debris, food waste from concession activities, and paper/cardboard. Pollution prevention includes methods to avoid, prevent, or reduce pollutant discharges or emissions because of a project.

#### *B.5.1.1 Comprehensive Environmental Response, Compensation, and Liabilities Act*

USEPA is in charge of administering all or part of CERCLA, which provides a framework for the remediation of hazardous waste disposal sites, provides funding for remediation and creates a list of national priority sites (Superfund sites), and provides standards and practices for conducting a Phase I Environmental Site Assessment (42 USC § 9601 et seq.).

#### *B.5.1.2 Emergency Planning and Community Right-to-Know Act*

USEPA is in charge of administering all or part of the Emergency Planning and Community Right-to-Know Act (EPCRA) that was passed by Congress in 1986 in response to concerns regarding the environmental and safety hazards posed by the storage and handling of toxic chemicals (42 USC Chapter 116). EPCRA improved community access to information regarding chemical hazards and facilitated the development of business chemical inventories and emergency response plans. The EPCRA also established reporting obligations for facilities that store or manage specified chemicals.

#### *B.5.1.3 Federal Facilities Compliance Act*

USEPA is in charge of administering all or part of the Federal Facilities Compliance Act (FFCA) that was enacted in 1992 to clarify that Federal facilities may be penalized and receive administrative enforcement orders if found to not be in compliance with Federal, state, interstate, and local requirements, for disposal of hazardous waste and underground storage tank (UST) requirements.

#### *B.5.1.4 Hazardous Materials Transportation Act*

U.S. DOT is in charge, under the Office of the Secretary, of administering all or part of the Hazardous Materials Transportation Act (HMTA) published in 1975. Its primary objective is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation. The HMTA establishes procedures, reporting requirements, and approval processes for the transport of hazardous materials.

#### *B.5.1.5 Pollution Prevention Act*

USEPA is in charge of administering all or part of the Pollution Prevention Act of 1990 focuses on reducing the amount of pollution through cost-effective changes in production, operation, and raw material use. Pollution prevention includes practices that increase efficiency in the use of energy, water, or other natural resources, and protect our resource base through conservation.[11]

#### *B.5.1.6 Resource Conservation and Recovery Act*

USEPA is in charge of administering all or part of RCRA (42 USC §§ 6901-6992k), which regulates the generation, transportation, treatment, storage, and disposal of hazardous waste. Under RCRA regulations, generators of hazardous waste must register and obtain a hazardous waste activity identification number. RCRA allows states to develop their own programs for the regulation of hazardous waste as long as it is at least as stringent as RCRA.

USTs are regulated under Subtitle I of RCRA and its regulations, which establish construction standards for new UST installations (those installed after December 22, 1988), as well as standards for upgrading existing USTs and associated piping. Since 1998, all nonconforming tanks were required to be either upgraded or closed.

#### *B.5.1.7 Toxics Substances Control Act*

USEPA is in charge of administering all or part of the Toxic Substances Control Act (TSCA), which addresses the production, importation, use, and disposal of specific chemicals, including polychlorinated biphenyls (PCBs), asbestos, and lead-based paint. These regulations ban the manufacture of PCBs although the continued use of existing PCB-containing equipment is allowed. The TSCA also contains provisions controlling the continued use and disposal of existing PCB-containing equipment. The disposal of PCB wastes is also regulated by TSCA (40 CFR § 761), which contains life cycle provisions similar to those in RCRA.

#### *B.5.1.8 USEPA Council on Polyfluoroalkyl Substances*

Aircraft Rescue and Firefighting (ARFF) services are required activities under FAA CFR Title 14, Part 139 for certified airports. Training, testing, and response to emergencies are required, including use of fire equipment with firefighting foams that contain per- and polyfluoroalkyl substances (PFAS). Prior to the early 2000s, uncontained suppressant foam was allowed to discharge to pavement surfaces and runoff to onsite stormwater drains. In recent years, USEPA has identified PFAS as emerging contaminants of concern, because of the persistence in the

[11] U.S. Environmental Protection Agency. 2018. Summary of Pollution Prevention Act. Retrieved March 2024 https://www.epa.gov/laws-regulations/summary-pollution-prevention-act.

environment, ready migration to and in water, and bioaccumulation in organisms. In 2019, the USEPA announced its *PFAS Action Plan* that will list perfluorooctanoic acid (PFOA) and PFAS as hazardous substances under CERCLA with the maximum contaminant level process outlined in the Safe Drinking Water Act. In April 2021, the USEPA Council on PFAS was created and will be responsible for better understanding and reducing the potential risks caused by these chemicals. In addition, the California State Water Resources Control Board (SWRCB) initiated a statewide investigation of PFAS at airports, landfills, manufacturing facilities, bulk terminals, and wastewater treatment facilities. The Department of Defense (DOD) approved a new firefighting agent that is PFAS-free in January 2023. Supply for the PFAS-free firefighting agent is still not available. However, the DOD approval allows airports a path forward towards PFAS-free foam while remaining certified.

#### *B.5.1.9 Executive Order 12088, Pollution Control Standards*

Standards under Executive Order 12088 (E.O. 12088) direct federal agencies to comply with "applicable pollution control standards" in the prevention, control, and abatement of environmental pollution as well as consult with the USEPA, state, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollutions.

#### *B.5.1.10 Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management*

This E.O. set goals for federal agencies to achieve legal requirements in environment, transportation, and energy with sustainable economic efficiency. This E.O. has been replaced with *Planning for Federal Sustainability in the Next Decade* (E.O. 13693) as of March 19, 2015, which instructs federal agencies to conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economical, and fiscally sound, integrated, continuously improving, efficient, and sustainable manner. This E.O. sets goals in the following areas: energy efficiency, acquisition, renewable energy, toxic chemical reduction, recycling, sustainable buildings, electronics stewardship, fleets, and water conservation. Additionally, this E.O. requires more widespread use of Environmental Management Systems (EMS) as the framework in which to manage and continually approve these sustainable practices.[12]

#### *B.5.1.11 Executive Order 13834, Efficient Federal Operations*

E.O. 13834, *Efficient Federal Operations*, effective of May 17, 2018, states that Congress has enacted a wide range of statutory requirements related to energy and environmental performance of executive departments and agencies, including with respect to facilities, vehicles, and overall operations. Agencies shall meet such statutory requirements in a manner that increases efficiency, optimizes performance, eliminate unnecessary use of resource, and protects the environment. In implementing the policy set forth in Section 1 of the Executive Order, the head of each agency shall meet the following goals, which are based on statutory requirements, in a cost-effective manner: achieve and maintain annual reductions in building

[12] Office of the Press Secretary. 2015. Executive Order: Planning for Federal Sustainability in the Next Decade. Retrieved March 2024 https://obamawhitehouse.archives.gov/the-press-office/2015/03/19/executive-order-planning-federal-sustainability-next-decade.

energy use and implement energy efficiency measures that reduce costs; meet statutory requirements relating to the consumption of renewable energy and electricity; reduce potable and non-potable water consumption, and comply with stormwater management requirements; ensure that new construction and major renovations conform to applicable building energy efficiency when renewing or entering into leases, implement space utilization and optimization practices, and annually assess and report conformance to sustainability metrics; implement waste prevention and recycling measures and comply with all Federal requirements with regard to solid, hazardous, and toxic waste management and disposal; acquire, use, and dispose of products and services, including electronics, in accordance with statutory mandates for purchasing preference, Federal Acquisition Regulation requirements, and other applicable procurement policies, and track and, as required by Section 7(b) of this Executive Order, report on energy management activities, performance improvements, cost reductions, greenhouse gas emissions, energy and water savings, and other appropriate performance measures.[13]

#### *B.5.1.12 Federal Occupational Safety and Health Administration*

The Federal Occupational Safety and Health Act of 1970, implemented by the Federal Occupational Safety and Health Administration (OSHA), contains provisions with respect to hazardous materials handling. Federal OSHA requirements are designed to promote worker safety, worker training, and a worker's right–to-know.[14]

#### *B.5.1.13 National Emissions Standards for Hazardous Air Pollutants*

Renovation and demolition of older structures and buildings increase the chances of encountering ACM. ACMs are subject to OSHA worker health and safety regulations and the National Emissions Standards for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61). The NESHAPs are stationary source standards issued by the USEPA for hazardous air pollutants (HAP), which are pollutants that are known or suspected to cause cancer or other serious health effects, or adverse environmental effects. Asbestos is the common name for a variety of naturally occurring, fibrous silicate minerals mined for uses including thermal insulation, acoustic insulation, and fireproofing. Air toxics regulations under the CAA specify work practices for asbestos to be followed during demolitions and renovations of all facilities, including, but not limited to, structures, installations, and buildings. The regulations require a thorough inspection of facilities where the demolition or renovation operation will occur.

USEPA classifies asbestos-containing material as hazardous waste if it is "friable" and contains one percent or more asbestos as hazardous waste. In addition, USEPA considers non-friable bulk ACM waste to be non-hazardous regardless of its asbestos content.

### B.5.2 State and Local Regulations

#### *B.5.2.1 California Environmental Protection Agency*

The State of California has developed the California HWCL and the USEPA has authorized RCRA enforcement to the State of California (Section 25100, 2024) (22 CCR Section 66260.1).

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[13] Federal Register. 2018. Executive Order Efficient Federal Operations. Retrieved March 2024 from https://www.federalregister.gov/documents/2018/05/22/2018-11101/efficient-federal-operations.

[14] U.S. Department of Labor. (2018). About OSHA. Retrieved March 2024 from https://www.osha.gov/about.html

Primary authority for the statewide administration and enforcement of HWCL rests with California EPA's (CalEPA) Department of Toxic Substances Control (DTSC).

California's Hazardous Materials Release Response Plans and Inventory Law includes the development of detailed hazardous materials inventories used and stored onsite, a program of employee training for hazardous materials release response, identification of emergency contacts and response procedures, and reporting of releases of hazardous materials. Any facility that meets the minimum reporting thresholds must comply with the reporting requirements and file a plan with the California Environmental Reporting System (CERS). In California, any facility known to contain asbestos is required to have a written asbestos management plan (also known as an Operations and Maintenance Program).

#### *B.5.2.2 Title 8, California Code of Regulations Section 1529 – Asbestos Containing Material*

Title 8, CCR Section 1529 regulates asbestos exposure in all construction work where ACM is present. ACM is defined as any material that has greater than one percent asbestos. Title 8 of the CCR Section 1735 requires a pre-demolition survey for ACM.

#### *B.5.2.3 Title 22, California Code of Regulations, Division 4.5*

Title 22, CCR Section Division 4.5 defines materials containing greater than one percent asbestos as hazardous waste. Registration with the California Occupational Safety and Health Administration (Cal/OSHA) is required for contractors and employers that remove asbestos having an asbestos fiber content of more than 0.1 percent and 100 square feet or more of surface area of ACM. Because CalEPA considers non-friable bulk ACM waste to be non-hazardous regardless of its asbestos content, it is not subject to regulation under Title 22 CCR Section Division 4.5.

CCR Title 22, Division 4.5 also contains the Environmental Health Standards for the Management of Hazardous Waste, which includes California waste identification and classification regulations. CCR Title 22, Chapter 11, Article 3, *defines the characteristics of hazardous waste.* "Soluble Threshold Limits Concentrations/Total Threshold Limits Concentration Regulatory Limits," identifies the concentrations *of various compounds* at which soil *and groundwater are* determined to be a California hazardous waste.

#### *B.5.2.4 Title 17, California Code of Regulations, Division 1, Chapter 8 – Lead-Based Pain and Lead Hazards*

Lead is regulated through several statutes, including TSCA, RCRA, and EPCRA. OSHA regulates workplace lead exposure. Title 17 CCR, Division 1, Chapter 8, provides guidance for accreditation, certification, and work practices for LBP and lead hazards. Lead-based paint (LBP) is defined in Title 17 as paint or other surface coatings that contain an amount of lead equal to, or more than, 1 milligram per square centimeter (1.0 mg/cm2); or half of one percent (0.5 percent) by weight.

Title 17 of the CCR presumes that paint on structures built before January 1, 1978, is LBP and disturbance of that structure requires use of lead-safe work practices, including containment and cleaning of the work area after the project is completed.

#### *B.5.2.5 Porter-Cologne Water Quality Control Act (California Water Code, § 13000 et seq.)*

The Porter-Cologne Water Quality Control Act regulates water quality through the SWRCB and regional water quality control boards (RWQCBs) (Central Regional Water Quality Control Board [CRWQCB] is the RWQCB for the region that includes the Airport). It provides oversight of water monitoring and contamination cleanup and abatement.

#### *B.5.2.6 Hazardous Materials Release Response Plans and Inventory Law (California Health and Safety Code, § 25500 et seq.)*

This section of the California Health and Safety Code requires facilities using hazardous materials to prepare hazardous materials business plans.

#### *B.5.2.7 Hazardous Waste Control Act (California Health and Safety Code, § 25100 et seq.)*

This act is analogous to the federal Resource Conservation and Recovery Act in that it regulates the identification, generation, transportation, storage, and disposal of materials deemed hazardous by the State of California.

#### *B.5.2.8 Safe Drinking Water and Toxic Enforcement Act (Proposition 65, California Health and Safety Code, § 25249.5 et seq.)*

The Safe Drinking Water and Toxic Enforcement Act is similar to the federal Safe Drinking Water Act and Clean Water Act in that it regulates the discharge of contaminants to groundwater.

#### *B.5.2.9 Cortese List Statute (California Government Code, § 65962.5)*

This regulation requires the California Department of Toxic Substances Control to compile and maintain lists of potentially contaminated sites throughout the state and includes the Hazardous Waste and Substances Sites List. The overall list is called the “Cortese” list.

#### *B.5.2.10 California Occupational Safety and Health Administration (Cal/OSHA)*

The U.S. Department of Labor has delegated the authority to administer OSHA regulations to the State of California. Cal/OSHA is administered and enforced by the Division of Occupational Safety and Health (8 CCR Section 6300-6719, 1973). Cal/OSHA assumes primary responsibility for developing and enforcing workplace safety regulations in California. Because California has a federally approved OSHA program, it is required to adopt regulations that are at least as stringent as those found in Title 29 of the CFR. Cal/OSHA standards are generally more stringent than federal regulations. Among other provisions, Cal/OSHA requires employers to implement a comprehensive, written Injury and Illness Prevention Program for potential workplace hazards, including those associated with hazardous materials.

Cal/OSHA has established limits of exposure to lead contained in dusts and fumes. They have established rules and procedures for conducting demolition and construction activities and established exposure limits, exposure monitoring, and respiratory protection for workers exposed to lead.

#### *B.5.2.11 California State Water Resources Control Board*

Responsibility for the protection of water quality in California resides with the SWRCB and nine RWQCBs. The SWRCB establishes statewide policies and regulations for the implementation of

water quality control programs mandated by federal and state water quality statutes and regulations.

The State's UST program regulations include, among others, permitting USTs, installation of leak detection systems and/or monitoring of USTs for leakage, UST closure requirements, release reporting/corrective action, and enforcement. Oversight of the statewide UST program is assigned to the SWRCB, which has delegated authority to the RWQCB, and typically on the local level to the fire department.

#### *B.5.2.12 OEHHA Safe Drinking Water and Toxic Enforcement Act*

The California Office of Environmental Health Hazards Assessment (OEHHA) is the State agency for the assessment of health risks posed by environmental contaminants. The mission of OEHHA is to protect human health and the environment through scientific evaluation of risks posed by hazardous substances. The OEHHA is one of five state departments within CalEPA. OEHHA implements the Safe Drinking Water and Toxic Enforcement Act, Proposition 65; compiles the state's list of chemicals and substances believed to have the potential to cause cancer or deleterious reproductive effects in humans; restricts the discharges of listed chemicals into known drinking water sources at levels above the regulatory levels of concern; requires public notification of any unauthorized discharge of hazardous waste; and requires that a clear and understandable warning be given prior to a known and intentional exposure to a listed substance.

#### *B.5.2.13 Fresno County Multi-Jurisdictional Local Hazard Mitigation Plan*

Fresno County prepared a local hazard mitigation plan alongside 17 participating jurisdictions. The plan was originally developed and approved in 2009 and has since underwent a comprehensive update in 2024. The purpose of the plan was to reduce or eliminate long-term risks to people and property within the County from hazards. In order to meet their identified goals and objectives, the plan encourages each participating jurisdiction to enforce a number of mitigation actions. The County and the participating jurisdiction conduct a hazards risk assessment and strives to update the plan every five years at a minimum.[15]

#### *B.5.2.14 Fresno County Hazardous Materials Business Plan Program*

The Fresno County Department of Public Health developed the Hazardous Materials Business Plan (HMBP) Program in support of AB 1429 which changed the required reporting frequency for hazardous materials handlers. The purpose of the HMBP is to protect public health, the environment and groundwater from risks or adverse effects associated with the improper storage and handling of hazardous materials. The program strives to prepare the community to be able to respond and be protected from large-scale hazardous spill incidents. The program requires all businesses that handle and/or store hazardous materials greater than or equal to

[15] Fresno County. (2024, May). Hazard Mitigation Plan 2024. Retrieved May 2024, from https://www.fresnocountyca.gov/files/sharedassets/county/v/1/resources/hazard-mitigation-plan/draft-2024-fresno-county-hazard-mitigation-plan.pdf

the minimum reportable quantities to complete a Hazardous Materials Business Plan[16]. The minimum reportable quantities are as follows:

- 55 gallons for liquids
- 500 pounds for solids
- 200 cubic feet (at standard temperature and pressure) for compressed gases

#### *B.5.2.15 City of Fresno Fire Department*

The City of Fresno Fire Department (FFD) recognizes the potential for hazardous materials emergencies to occur and has, therefore, established a Hazardous Materials Response team (HMRT) that embraces an all-hazards approach to emergency response to ensure community safety under the event where hazardous materials are released. In addition, FFD has established an ARFF plan to provide prompt response to all emergencies at the Airport.[17]

#### *B.5.2.16 City of Fresno Municipal Code. Chapter 10, Article 14*

Chapter 10, Article 14 of the City of Fresno Municipal Code discusses guidelines pertaining to hazardous spills and recovery of expenses. This section specifies that "any person causing a release or threatened release which results in an emergency action shall be liable to the City of Fresno for the recoverable costs resulting from the emergency action".[18]

## B.6 HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL, AND CULTURAL RESOURCES

Numerous laws and regulations require federal, state, and local agencies to consider the effects an action may have on historical, architectural, archaeological, and cultural resources. These laws and regulations stipulate a process, define the responsibilities of the various agencies proposing the action, and prescribe the relationship among other involved agencies.

### B.6.1 Federal Regulations

#### *B.6.1.1 National Historic Preservation Act*

The principal federal law addressing historic properties is the National Historic Preservation Act (NHPA), as amended (54 USC § 300101 et seq.), and its implementing regulations (36 CFR Part 800). Section 106 of the NHPA (36 CFR Part 800 et seq.) requires federal agencies to account for the effects of a federal action on historic properties and to consult with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officers (THPO), and other

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16 Fresno County. (2024). Hazardous Materials Business Plans. Retrieved May 2024, from https://www.fresnocountyca.gov/Departments/Public-Health/Environmental-Health/Hazardous-Materials-Business-Plans

17 Fresno Fire Department. (2019, May). 202.015 Aircraft Rescue and Firefighting (ARFF) Plan. Retrieved June 2024, from City of Fresno: https://documents.fresno.gov/WebLink/0/edoc/1825584/202.015%20-%20Aircraft%20Rescue%20and%20Firefighting%20(ARFF)%20Plan.pdf

18 City of Fresno. (2024, April). Article 14 - Hazardous Spills Expense Recovery. Retrieved May 2024, from Fresno, California - Code of Ordinances: https://library.municode.com/ca/fresno/codes/code_of_ordinances?nodeId=MUCOFR_CH10REREPUNUREPRCOUS_ART14HASPEXRE_S10-1404LICO

parties to develop and evaluate alternatives or modifications to avoid, minimize, or mitigate adverse effects on historic properties.

For the purposes of Section 106, historic properties are defined as prehistoric and historic sites, buildings, structures, districts, landscapes, and objects that are either eligible for or listed in the National Register of Historic Places (NRHP), as well as artifacts, records, and remains related to such properties (36 CFR Part 800 et seq., n.d.). Historic properties can also include those cultural resources that are associated with the cultural practices or beliefs of a living community (Advisory Council on Historic Preservation, 2021). The implementing regulations (36 CFR Part 800) describe the processes for identifying and evaluating historic properties, assessing the potential adverse effects of federal undertakings on historic properties, and developing measures to avoid, minimize, or mitigate adverse effects. The Section 106 process does not require the preservation of historic properties; instead, it is a procedural requirement mandating that, prior to granting approval, federal agencies take into account the direct and indirect impacts on historic properties that could result from federal actions.

#### *B.6.1.2 Archaeological and Historic Preservation Act*

The Archaeological and Historic Preservation Act of 1974 (54 USC §§ 312501-312508) requires that all federal agencies preserve historic and archaeologic objects and materials that would otherwise be lost or destroyed as a result of a federal action, federally-licensed action, or federally-funded action.

#### *B.6.1.3 Department of Transportation Act, Section 4(f)*

Refer to **Section B.4** for a discussion of Section 4(f) of the U.S. DOT Act of 1966.

### B.6.2 State and Local Regulations

#### *B.6.2.1 California Register of Historic Places*

The California Register of Historic Places (CRHP) includes resources that are listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and California Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resource inventory that may be eligible for listing in the CRHR are presumed to be significant resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code [PRC] 5024.1, 143 CCR 4850).

The eligibility criteria for listing in the CRHP are similar to those for the NRHP but focus on the importance of the resources to California history and heritage. A cultural resource may be eligible for listing in the CRHP if:

1. It is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the U.S.; or
2. It is associated with the lives of persons important to local, California, or national history; or

3. It embodies the distinctive characteristics of a type, period, or region, or method of construction, or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition to meeting one of the evaluation criteria, the resource must retain integrity. The CRHP definition of integrity is slightly different from that of the NRHP. Section 4852(c) of the CCR (Title 14, Chapter 11.5) defines integrity as "the authenticity of a historical resources' physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The regulation also states that eligible resources must "retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance," and then lists the same seven aspects of integrity used for evaluating properties for the NRHP (location, design, materials, workmanship, setting, feeling, and association).

#### *B.6.2.2 Assembly Bill 52*

AB 52 amended the California PRC and requires lead agencies to consult with California Native American tribes to identity, evaluate, and mitigate impacts to a new type of cultural resource called "tribal cultural resources", if the tribes formally request consultation. A tribal cultural resource is any of the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
    - Included or determined to be eligible for inclusion in the CRHR.
    - Included in a local register of historical resources as defined in subdivision (k) of PRC Section 5020.1.
- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

A cultural landscape that meets the criteria of PRC Section 5024.1 subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. A historical resource described in PRC Section 21084.1, a unique archaeological resource as defined in subdivision (g) of PRC Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of PRC Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

#### *B.6.2.3 California Health and Safety Code 7050.5*

California Health and Safety Code 7050.5 requires that in the event of discovery of human remains, the county coroner shall be immediately notified and there shall be no further excavation or disturbance of the site until the coroner has determined the origin and disposition of the remains, pursuant to PRC 5097.98. If the remains are determined to be Native American, the coroner must contact the Native American Heritage Commission (NAHC). The NAHC will determine the Most Likely Descendant (MLD).

#### *B.6.2.4 City of Fresno Historic Preservation Ordinance*

The City of Fresno has established their own Historic Preservation Commission and Local Register of Historic Resources through their Historic Preservation Ordinance (Fresno Municipal Code, Chapter 21, Article 16). The Ordinance provides local levels of control and protection over special historic, architectural, aesthetic, or cultural value within the City. Under the Ordinance, any building, structure object, or site may be designated as a Historic Resource if it is found by the Commission and Council to meet the following criteria:

(1) It has been in existence more than fifty years and it possesses aspects of integrity to convey its significance based upon location, design, setting, materials, workmanship, feeling or association, and:

   a. It is associated with events that have made a significant contribution to the broad patterns of our history; or

   b. It is associated with the lives of persons significant in our past; or

   c. It embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values; or

   d. It has yielded or may be likely to yield, information important in prehistory or history.

(2) It has been in existence less than fifty years, it meets the criteria of subdivision (1) of subsection (a) of this section and is of exceptional importance within the appropriate historical context, local, state or national.

## B.7 LAND USE

### B.7.1 Federal Regulations

#### *B.7.1.1 The Airport and Airway Improvement Act of 1982*

The Airport and Airway Improvement Act of 1982, as amended, states that no airport project receiving federal funding may be approved unless the Secretary of Transportation receives written assurances that the project will be consistent with existing land use plans and will not "…restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including the landing and takeoff of aircraft."

#### *B.7.1.2 Airport Improvement Program*

The Airport Improvement Program, like the Airport and Airway Improvement Act of 1982, as amended, also states that no airport project receiving federal funding may be approved unless the Secretary of Transportation receives written assurances that the project will be consistent with existing land use plans.

### B.7.2 State and Local Regulations

#### *B.7.2.1 California Airport Noise Standards*

The California Airport Noise Standards, set forth in Title 21 CCR Section 5000 et seq., state that no airport shall operate "with a noise impact area based on the standard of 65 decibels (dB) Community Noise Equivalent Level (CNEL) unless the operator has applied for or received a variance" from Caltrans permitting such operations (21 CCR Section 5012). The noise impact area is defined as incompatible land use within the 65 dB CNEL contour as described in Title 21 CCR Section 5014.

#### *B.7.2.2 California Department of Transportation*

The *California Airport Land Use Planning Handbook*, published by Caltrans, establishes statewide guidelines for carrying out airport land use compatibility planning pursuant to the State Aeronautics Act (Public Utilities Code, Section 21670 et seq.). The State Aeronautics Act promotes compatibility between airport operations and the land use and development surrounding California's public use airports.

The Handbook serves to: (1) provide information to airport land use commissions, their staffs, airport proprietors, cities, counties, consultants, and the public; (2) identify therequirements and procedures for preparing effective compatibility planning documents; and (3) define exemptions where applicable. Additionally, the Handbook, which corresponds with current federal and state law regarding significance thresholds for incompatible land uses, also functions as a resource for the preparation, adoption, and amendment of airport land use compatibility plans.

#### *B.7.2.3 City of Fresno Municipal Code, Chapter 15*

Chapter 15 of the City of Fresno Municipal Code provides guidance for the physical development within the city to comply with the land uses identified in the approved General Plan. Chapter 15 identifies land use categories, boundaries, and development standards.

## B.8 NATURAL RESOURCES AND ENERGY SUPPLY

### B.8.1 Federal Regulations

#### *B.8.1.1 Energy Policy Act of 2005 and Energy Independence and Security Act of 2007*

The Energy Policy Act of 2005 seeks to reduce reliance on non-renewable energy resources and provide incentives to reduce current demand on these resources. For example, under the Energy Policy Act, consumers and businesses can attain federal tax credits for purchasing fuel-efficient appliances and products. Because driving fuel-efficient vehicles and installing energy-efficient appliances can provide many benefits, such as lower energy bills, increased indoor comfort, and reduced air pollution, businesses are eligible for tax credits for buying hybrid vehicles, building energy-efficient buildings, and improving the energy efficiency of commercial buildings. Additionally, tax credits are given for the installation of qualified fuel cells, stationary microturbine power plants, and solar power equipment.

The Energy Policy Act of 2005 also established the first renewable fuel volume mandate in the United States. The original Renewable Fuel Standard program required 7.5 billion gallons of renewable fuel to be blended into gasoline by 2012. Under the Energy Independence and

Security Act of 2007, the Renewable Fuel Standard program was expanded to include diesel and to increase the volume of renewable fuel required to be blended into transportation fuel from 9 billion gallons in 2008 to 36 billion gallons by 2022. In December 2019, USEPA finalized volume requirements for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel for 2020, and developed a requirement for biomass-based diesel for 2021. The rule became effective on April 6, 2020.

## B.8.2 State and Local Regulations

### *B.8.2.1 California Public Resources Code Section 21100(b)*

California PRC Section 21100(b), directs all State agencies, boards, and commissions to assess the environmental impacts of projects for which they are a lead agency under CEQA to determine whether a project would result in significant effects on the environment, including effects from the wasteful, inefficient, and unnecessary consumption of energy, and to identify mitigation measures to minimize any such effects.

### *B.8.2.2 2023 Integrated Energy Policy Report Update*

The 2023 Integrated Energy Policy Report (IEPR) Update provides an assessment of major energy trends and issues for a variety of energy sectors, as well as policy recommendations to address these concerns as required by Senate Bill (SB) 1389. Prepared by the California Energy Commission (CEC), this report details the key energy issues and develops potential strategies to address these issues. The 2023 IEPR Update includes a discussion of several strategies to reduce climate change impacts, speeding connection of clean resources to the electricity grid, the use of clean and renewable hydrogen, and the California Energy Demand Forecast to 2040. The assessments and forecasted energy demand within the 2023 IEPR will be used by the CEC to develop future energy policies. CEC is developing the 2024 IEPR, which will continue to expand on efforts to decarbonize California's energy system and address topics such as wave and tidal energy and energy efficiency and demand. Public and agency comments on the Draft 2024 IEPR were due January 2025.

### *B.8.2.3 California Energy Efficiency Standards (Title 24, Part 6)*

Refer to **Section B.3.2.9** for information on California Energy Efficiency Standards.

### *B.8.2.4 California Green Building Standards Code (CALGreen)*

Refer to **Section B.3.2.8** for information on CALGreen.

### *B.8.2.5 Appliance Efficiency Regulations (Title 20)*

The CEC adopted the Appliance Efficiency Regulations (CCR Title 20) in July 2015. The regulation set minimum energy efficiency standards for both federally regulated and non-federally regulated appliances and equipment. Standards include minimum levels of operating efficiency and other cost-effective measures to promote the use of energy and water efficient appliances.

### *B.8.2.6 California Climate Crisis Act*

Refer to **Section B.3.2.1** for information on the California Climate Crisis Act.

#### *B.8.2.7 Senate Bill 100*

Enacted in 2018, SB 100, or "The 100 Percent Clean Energy Act of 2018," increases the renewable energy and zero-carbon resources procurement target for retail electricity to 100 percent by 2045 (Leon, 2018). The bill also revises the goals established by SB 350 to increase the renewable energy resource procurement target for retail electricity from 50 percent to 60 percent by 2030 and further establishes incremental goals of 33 percent by 2020, 44 percent by 2024, and 52 percent by 2027. SB 100 further directs the State Energy Resources Conservation and Development Commission, the California Public Utilities Commission (CPUC), and CARB to incorporate the 2045 target into all relevant planning and report on implementation every four years beginning on January 1, 2021.

#### *B.8.2.8 California Energy Efficiency Strategic Plan*

In 2008, the California Public Utilities Commission (CPUC) adopted the California Long-Term Energy Efficiency Strategic Plan. The plan lays out the long-term vision and goals for each economic sector and identifies near-term, mid-term, and long-term strategies to achieve those goals. The four specific programmatic goals are known as the *Big Bold Energy Efficiency Strategies*:

- All new residential construction will be zero net energy by 2020.
- All new commercial construction will be zero net energy by 2030.
- 50 percent of commercial buildings will be retrofitted to zero net energy by 2030.
- 50 percent of new major renovations of State buildings will be zero net energy by 2025.

## B.9 NOISE AND NOISE-COMPATIBLE LAND USE

### B.9.1 Federal Regulations

#### *B.9.1.1 Federal Aviation Regulations, Part 36*

Federal Aviation Regulations (FAR), Part 36, "Noise Standards: Aircraft Type and Airworthiness Certification," sets noise standards for issuance of new aircraft type certificates. Aircraft are certified as Stage 1 through Stage 5 depending on their noise level, weight, and number of engines. Stage 1 and Stage 2 aircraft, which are the noisiest aircraft, are no longer permitted to operate in the continental United States. Although aircraft meeting Part 36 standards are noticeably quieter than many of the older aircraft, the regulations make no determination that such aircraft are acceptably quiet for operations at any given airport.

#### *B.9.1.2 Aviation Safety and Noise Abatement Act of 1979*

The Aviation Safety and Noise Abatement Act of 1979 establishes funding for noise compatibility planning and sets the requirements by which airport operators can apply for funding. This is also the law by which Congress mandated that the FAA develop and airport community noise metric to be used by all federal agencies assessing or regulating aircraft noise. The result was DNL. The Act does not require an airport to develop a noise compatibility program, rather, that is accomplished through the CFR Part 150. CFR Part 150 sets forth standards for airport operators to use when documenting noise exposure around airports and for establishing programs, subject to FAA approval, to reduce noise-related noncompatible land

use. A “noncompatible land use” is a land use (such as residential, schools, and churches) exposed to aircraft noise above established thresholds.

#### *B.9.1.3 Airport Noise and Capacity Act of 1990*

The Airport Noise and Capacity Act (ANCA) of 1990 sets forth several provisions related to the regulation of aircraft activities at airports. One of the most notable aspects of ANCA is that it precludes the local imposition of noise and access restrictions that are not otherwise in accordance with the national noise polity unless the restrictions are “grandfathered” under ANCA, in which case the restrictions are free from the restrictions that ANCA otherwise would impose. ANCA established two broad directives to the FAA: 1) establish a method to review aircraft noise, airport use, or airport access restrictions proposed by airport proprietors; and 2) institute a program to phase-out Stage 2 aircraft over 75,000 pounds by December 21, 1999. ANCA applies to all new local noise restrictions and amendments to existing restrictions proposed after October 1990.

For aviation noise analysis, the FAA has determined that the cumulative noise energy exposure of individuals to noise resulting from aviation activities must be established in terms of yearly DNL as FAA’s primary metric. Per FAA Order 1050.1F Desk Reference, a significant noise impact is defined as an increase in noise of the DNL 1.5 dB or more over a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, when compared to the no action alternative for the same timeframe.

### B.9.2 State and Local Regulations

#### *B.9.2.1 California Department of Transportation (Caltrans)*

The California Airport Noise Regulations promulgated in accordance with the State Aeronautics Act and set forth in Section 5000 et seq. of the California Code of Regulations (CCR Title 21, Division 2.5, Chapter 6) are enforced by the Aeronautics Division of the California State Department of Transportation (Caltrans). These regulations establish 65-dB CNEL as a noise impact boundary within which there shall be no incompatible land uses. This requirement is based, in part, upon the determination in the Caltrans regulations that 65-decibel CNEL is the level of noise which should be acceptable to “...a reasonable person residing in the vicinity of an airport.” Airports are responsible for achieving compliance with these regulations. Compliance can be achieved through noise abatement measures, land acquisition, land use conversion, land use restrictions, or sound insulation of structures.

These regulations are applicable (to the extent not prohibited by federal law) to all operations of aircraft and aircraft engines which produce noise” (21 CCR § 5005). The Noise Standards mandate the use of CNEL as the required noise metric, which is also accepted by the FAA for airport noise studies in California.[19]

#### *B.9.2.2 Airport Land Use Compatibility Plan*

The California State Aeronautics Act (Public Utilities Code Sections 21001 et seq.) requires the preparation of a compatibility plan for each public-use and military airport in the state. The

[19] Federal Aviation Administration, Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects. Ch.1(9)(n). Effective April 28, 2006.

Airport Land Use Compatibility Plan (ALUCP) promotes compatibility between airports and land uses that surround them to the extent that these areas are not already devoted to incompatible uses.

Most counties within California have established an Airport Land Use Commission (ALUC), as provided for by law, to prepare compatibility plans for the airports in the county and to review land use plans, development proposals, and certain airport development plans for consistency with the compatibility plan. The Fresno County ALUC is an independent body of seven commissioners created in response to the mandates of the State Aeronautics Act.

The ALUCP serves as a tool for the ALUC to use in fulfilling its duty to review land use plans and development proposals within the Airport Influence Area (AIA) of the Airport. Further, the ALUCP provides compatibility policies and criteria applicable to local agencies in their preparation or amendment of general plans, specific plans, zoning ordinances and building regulations as well as to landowners in their design of new development.

The Fresno County ALUCP was adopted by the ALUC of Fresno County on December 3, 2018.

#### *B.9.2.3 City of Fresno Municipal Code*

Chapter 10 Article 1 of the Fresno Municipal Code is referred to as the “Noise Ordinance of the City of Fresno” and provides guidelines and exemptions relating to excessive noise.

- **Section 10-105: Excessive Noise Prohibited.** No person shall make, cause, or suffer or permit to be made or caused upon any premises or upon any public street, alley, or place within the city, any sound or noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing or working in the area, unless such noise or sound is specifically authorized by or in accordance with this article. The provisions of this section shall apply to, but shall not be limited to, the control, use, and operation of the following noise sources:
    - (a) Radios, musical instruments, phonographs, television sets, or other machines or devices used for the amplification, production, or reproduction of sound or the human voice.
    - (b) Animals or fowl creating, generating, or emitting any cry or behavioral sound.
    - (c) Machinery or equipment, such as fans, pumps, air conditioning units, engines, turbines, compressors, generators, motors or similar devices, equipment, or apparatus.
    - (d) Construction equipment or work, including the operation, use or employment of pile drivers, hammers, saws, drills, derricks, hoists, or similar construction equipment or tools.

## B.10 VISUAL EFFECTS

### B.10.1 Federal Regulations

Although there are no special purpose laws or requirements specific to light emissions or visual effects, some visual resources are protected under federal, state, or local regulations, such as

Section 106 of the NHPA, Section 4(f) of the DOT Act, the Wild and Scenic Rivers Act, and the Coastal Zone Management Act.

## B.10.2 State and Local Regulations

### *B.10.2.1 California Environmental Quality Act (CEQA)*

CEQA establishes that it is the policy of the State to take all action necessary to provide the people of this state with "…enjoyment of aesthetic, natural, scenic, and historic environmental qualities" (PRC 21001[b]).

### *B.10.2.2 California Scenic Highway Program*

The California Scenic Highway Program protects and enhances the natural scenic beauty of California highways and adjacent corridors through its designation of scenic highways throughout California. The California Department of Transportation (Caltrans) considers the following elements into their determination of a scenic highways: how much of the natural landscape can be seen by travelers, the scenic quality of the landscape, and the extent to which development intrudes upon the traveler's enjoyment of the view.

### *B.10.2.3 California Energy Code (California Building Energy Efficiency Standards)*

The California Energy Code was first established in 1978 and incorporated into the California Building Energy Efficiency Standards under California Code of Regulations (CCR) Title 24, Part 6. The California Building Energy Efficiency Standards are updated every three years and were established to reduce wasteful, uneconomical, and unnecessary energy use throughout the state. The energy efficiency standards set by the code apply to new construction and rehabilitation projects of residential and non-residential buildings and are enforced through the local building permitting process.

The California Energy Code outlines energy-efficient standards to regulate lighting characteristics, such as maximum power and brightness, shielding, and sensor controls to turn off and on lights, for new developments in both the private and public sectors. The 2025 Building Efficiency Standards were adopted in September 2024 and will go into effect January 1, 2026, for all newly constructed buildings, additions, and alterations.

### *B.10.2.4 City of Fresno Municipal Code*

Chapter 15 of the City of Fresno's Municipal Code contains regulations that address the aesthetic considerations of citywide developments. Airport facilities are identified as exempt from outdoor lighting and illumination standards. The following lighting and glare performance standards in Chapter 15, Article 25 are relevant to the Proposed Project:

- **Section 15-2508: Lighting and Glare, Provision B, Lighting.** Lights shall be placed to deflect light away from adjacent properties and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties. Direct or sky-reflected glare from floodlights shall not be directed into any other property or street. Except for public street lights and stadium lights, no light, combination of lights, or activity shall cast light onto a residentially zoned property, or any property containing residential uses, exceeding one-half foot-candle.
- **Section 15-2508: Lighting and Glare, Provision C, Glare:**

1. No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located.
2. Windows shall not cause glare that may disrupt adjoining properties, traffic on adjacent streets, etc.
3. Glare or heat reflected from building materials shall be mitigated so as to not disrupt surrounding properties.

- **Section 15-2509: Shadow Casting:** When a structure will exceed 50 feet in height, the developer must submit an analysis of the shadows that the structure will cast on planned or existing residential property.
    1. The shadow analysis should demonstrate the maximum extent of the shadows cast by a building through at least the four quarters of the year, between one hour after sunrise and one hour before sunset.
    2. If the analysis indicates that the project shadow does not reach or significantly impact any residential properties, no further review of the project shadow will be required. However, if there is indication that the shadow would significantly impact residential properties, alternative designs or other mitigation measures shall be presented.

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