

Appendix A– Abridged List of Major Federal and State Laws, Regulations, and Policies

Table of Contents

List of Abbreviations and Acronyms	iii
A.1 Introduction.....	1
A.2 Multiple Environmental Issues	1
A.2.1 Federal.....	1
A.2.2 State	1
A.3 Aesthetics.....	3
A.3.1 Federal.....	3
A.3.2 State	3
A.4 Agriculture and Forestry Resources.....	4
A.4.1 Federal.....	4
A.4.2 State	4
A.5 Air Quality	4
A.5.1 Federal.....	4
A.5.2 State	7
A.6 Biological Resources.....	11
A.6.1 Federal.....	11
A.6.2 State	14
A.7 Commercial and Recreational Fishing	18
A.7.1 Federal.....	18
A.7.2 State	18
A.8 Cultural Resources	19
A.8.1 Federal.....	19
A.8.2 State	21
A.9 Cultural Resources – Tribal.....	25
A.9.1 Federal.....	25
A.9.2 State	26
A.10 Energy.....	29
A.10.1 Federal.....	29
A.10.2 State	29
A.11 Geology and Soils	29

Appendix A – Major Federal and State Laws, Regulations, and Policies

- A.11.1 Federal..... 29
- A.11.2 State 29
- A.12 Greenhouse Gas Emissions31**
 - A.12.1 Federal..... 31
 - A.12.2 State 32
- A.13 Hazards and Hazardous Materials.....36**
 - A.13.1 Federal..... 36
 - A.13.2 State 38
- A.14 Hydrology and Water Quality40**
 - A.14.1 Federal..... 40
 - A.14.2 State 42
- A.15 Land Use and Planning46**
 - A.15.1 Federal..... 46
 - A.15.2 State 46
- A.16 Mineral Resources47**
 - A.16.1 Federal..... 47
 - A.16.2 State 47
- A.17 Noise.....48**
 - A.17.1 Federal..... 48
 - A.17.2 State 48
- A.18 Population and Housing49**
- A.19 Public Services.....49**
 - A.19.1 Federal..... 49
 - A.19.2 State 49
- A.20 Recreation.....50**
 - A.20.1 Federal..... 50
 - A.20.2 State 50
- A.21 Transportation51**
 - A.21.1 Federal..... 51
 - A.21.2 State 51
- A.22 Utilities and Service Systems52**
 - A.22.1 Federal..... 52
 - A.22.2 State 52
- A.23 Wildfire53**
 - A.23.1 Federal..... 53

List of Abbreviations and Acronyms

	§, §§	Section, Sections
A	AB	Assembly Bill
	AHPA	Archaeological and Historic Preservation Act
	ANSI	American National Standards Institute
	ARPA	Archaeological Resources Protection Act of 1979
	art.	article
	ASME	American Society of Mechanical Engineers
B	BMP	best management practices
C	C	Celsius
	CAAQS	California Ambient Air Quality Standards
	CAFE	Corporate Average Fuel Economy Standards
	CAL FIRE	California Department of Forestry and Fire Protection
	Cal/OSHA	California Occupational Safety and Health Act
	Caltrans	California Department of Transportation
	CARB	California Air Resources Board
	CCAA	California Clean Air Act
	CCC	California Coastal Commission
	CDFW	California Department of Fish and Wildlife
	CESA	California Endangered Species Act
	CEQA	California Environmental Quality Act
	CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
	CFR	Code of Federal Regulations
	CGS	California Geologic Survey
	ch.	chapter
	CNEL	community noise equivalent level
	CO ₂	carbon dioxide
	CO ₂ e	carbon dioxide equivalent
	CRHR	California Register of Historical Resources
	CSLC	California State Lands Commission
	CWA	Clean Water Act
D	dBA	A-weighted decibel
	div.	division
E	EFH	essential fish habitat
	EO	Executive Order
	et al.	and others

Appendix A – Major Federal and State Laws, Regulations, and Policies

	et seq.	and following
F	FCAA	Federal Clean Air Act
	Fed. Reg.	Federal Register
	FEMA	Federal Emergency Management Agency
G	GHG	greenhouse gas
H	HAPs	hazardous air pollutants
	hp	horsepower
K	kW	kilowatt
L	L _{dn}	day-night average sound level
M	MARPOL	International Convention for the Prevention of Pollution from Ships
	MISA	Marine Invasive Species Act
	MMPA	Marine Mammal Protection Act
	MMT	million metric tons
	MOTEMS	Marine Oil Terminal Engineering and Maintenance Standards
	MPA	Marine Protected Area
	mpg	miles per gallon
	MRZ	Mineral Resource Zone
	MSA	Magnuson-Stevens Fishery Conservation and Management Act
N	NAAQS	National Ambient Air Quality Standards
	NHPA	National Historic Preservation Act of 1966
	NHTSA	National Highway Traffic Safety Administrative
	NMFS	National Marine Fisheries Service
	NO _x	nitrogen oxides
	NPDES	National Pollutant Discharge Elimination System
	NPS	National Park Service
	NRHP	National Register of Historic Places
	NTIS	National Technical Information Service
O	OSHA	Occupational Safety and Health Administration
P	P.L.	Public Law
	PCBs	polychlorinated biphenyls
	PERP	Portable Equipment Registration Program
	PM	particulate matter
	PM ₁₀	particulate matter less than 10 micrometers
	PM _{2.5}	particulate matter less than 2.5 micrometers
	ppm	parts per million
	Pub.	Public
R	RCRA	Resource Conservation and Recovery Act
	RWQCB	Regional Water Quality Control Board
S	SAFE	safer affordable fuel-efficient

Appendix A – Major Federal and State Laws, Regulations, and Policies

	SB	Senate Bill
	SCAB	South Coast Air Basin
	SHPO	State Historic Preservation Officer
	SLCP	short-lived climate pollutant
	SRA	State Responsibility Area
	Stat.	statute
	subd.	subdivision
	SWPPP	Stormwater Pollution Prevention Plan
	SWRCB	State Water Resources Control Board
T	tit.	title
	TMDL	total maximum daily load
	TSCA	Toxic Substances Control Act
U	U.S.	United States
	U.S.C.	United States Code
	USEPA	U.S. Environmental Protection Agency
	USFWS	U.S. Fish and Wildlife Service
V	v.	versus

1 **A.1 Introduction**

2 Appendix A identifies major federal and state laws, regulations, and policies
3 potentially applicable to the Bandwidth IG, LLC San Francisco Bay Fiber Optic
4 Cable Project.¹

5 **A.2 Multiple Environmental Issues**

6 **A.2.1 Federal**

7 **Coastal Zone Management Act (42 U.S.C. § 4321 et seq.)**

8 The Coastal Zone Management Act recognizes a national interest in coastal
9 zone resources and in the importance of balancing competing uses of those
10 resources, giving full consideration to aesthetic, cultural and historic, ecological,
11 recreational, and other values as well as the needs for compatible economic
12 development. Pursuant to the Act, coastal states develop and implement
13 comprehensive coastal management programs, authorities and enforceable
14 policies, and coastal zone boundaries, among other elements. The Act also
15 gives state coastal management agencies regulatory control (“federal
16 consistency” review authority) over federal activities and federally licensed,
17 permitted or assisted activities, if the activity affects coastal resources; such
18 activities include military projects at coastal locations and outer continental
19 shelf oil and gas leasing, exploration and development. The California Coastal
20 Commission (CCC) and San Francisco Bay Conservation and Development
21 Commission coordinate California’s federally approved coastal management
22 programs and federal consistency reviews within their respective jurisdictions.

23 **A.2.2 State**

24 **California Environmental Quality Act (Pub. Resources Code § 21000 et seq.)**

25 The California Environmental Quality Act (CEQA) requires state and local
26 agencies to identify significant environmental impacts of their actions and to
27 avoid or mitigate those impacts, if feasible. A public agency must comply with
28 CEQA when it undertakes an activity defined by CEQA as a “project” that must
29 receive some discretionary approval (i.e., the agency has authority to deny the
30 requested permit or approval) which may cause either a direct physical
31 change, or a reasonably foreseeable indirect change, in the environment.

¹ Environmental issue areas are found in California Environmental Quality Act Guidelines Appendix G: [chrome-extension://efaidnbmnnnibpcajpcgicfindmkaj/https://www.califaep.org/docs/2022_CEQA_Statue_and_Guidelines.pdf](https://www.califaep.org/docs/2022_CEQA_Statue_and_Guidelines.pdf)

1 California State Lands Commission and the Common Law Public Trust

2 The California State Lands Commission (CSLC) has jurisdiction and management
3 authority over all ungranted tidelands, submerged lands, and the beds of
4 navigable lakes and waterways, as well as certain residual and review authority
5 for tidelands and submerged lands legislatively granted in trust to local
6 jurisdictions (Pub. Resources Code §§ 6301, 6306). All tidelands and submerged
7 lands, granted or ungranted, as well as navigable lakes and waterways, are
8 subject to the protections of the Common Law Public Trust.

9 As general background, the State of California acquired sovereign ownership of
10 all tidelands and submerged lands and beds of navigable lakes and waterways
11 upon its admission to the U.S. in 1850. The State holds these lands for the benefit
12 of all people of the State for statewide Public Trust purposes, which include but
13 are not limited to waterborne commerce, navigation, fisheries, water-related
14 recreation, habitat preservation, and open space. On tidal waterways, the
15 State's sovereign fee ownership extends landward to the mean high tide line,
16 except for areas of fill or artificial accretion. The CSLC's jurisdiction also includes
17 a section of tidal and submerged land 3 nautical miles wide adjacent to the
18 coast and offshore islands, including bays, estuaries, and lagoons; the waters
19 and underlying beds of more than 120 rivers, lakes, streams, and sloughs; and 1.3
20 million acres of "school lands" granted to the State by the Federal government
21 to support public education. The CSLC also has leasing jurisdiction, subject to
22 certain conditions, over mineral extraction from State property owned and
23 managed by other State agencies (Pub. Resources Code § 68910, subd. (b)),
24 and is responsible for implementing a variety of State regulations for activities
25 affecting these State Trust Lands, including implementation of CEQA.

**26 California Coastal Act (Pub. Resources Code § 30000 et seq.) and California
27 Federal Consistency Program**

28 Pursuant to the Coastal Act, the CCC, in partnership with coastal cities and
29 counties, plans and regulates the use of land and water in the coastal zone. The
30 Coastal Act includes specific policies (see Chapter 3) that address issues such as
31 shoreline public access and recreation, lower cost visitor accommodations,
32 terrestrial and marine habitat protection, visual resources, landform alteration,
33 agricultural lands, commercial fisheries, industrial uses, water quality, oil and gas
34 development, transportation, development design, power plants, ports, and
35 public works. Development activities in the coastal zone generally require a
36 coastal permit from either the CCC or the local government: (1) the CCC retains
37 jurisdiction over the immediate shoreline areas below the mean high tide line
38 and offshore areas to the 3 nautical mile State water limit; and (2) following
39 certification of county- and municipality-developed Local Coastal Programs,
40 the CCC has delegated permit authority to many local governments for the

1 portions of their jurisdictions within the coastal zone. The CCC also implements
2 the Coastal Zone Management Act as it applies to federal activities (e.g.,
3 development projects, permits, and licenses) in the coastal zone by reviewing
4 specified federal actions for consistency with the enforceable policies of
5 Chapter 3 of the Coastal Act.

6 **A.3 Aesthetics**

7 **A.3.1 Federal**

8 There are no major federal laws, regulations, and/or policies potentially
9 applicable to this Project.

10 **A.3.2 State**

11 **California Scenic Highway Program (Sts. & Hy. Code, § 260 et seq.)**

12 The purpose of California's Scenic Highway Program, which was created by the
13 Legislature in 1963 and is managed by the California Department of
14 Transportation (Caltrans), is to preserve and protect scenic highway corridors
15 from change which would diminish the aesthetic value of lands adjacent to
16 highways. State highways identified as scenic, or eligible for designation, are
17 listed in Streets and Highways Code § 260 et seq. A highway's status changes
18 from eligible to officially designated when a local governmental agency has
19 implemented a corridor protection program for an eligible highway that meets
20 the standards of an official scenic highway (Caltrans 2008).

21 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

22 The Coastal Act is concerned with protecting the public viewshed, including
23 views from public areas, such as roads, beaches, coastal trails, and access
24 ways. Section 30251 states: Permitted development shall be sited and designed
25 to protect views to and along the ocean and scenic coastal areas, to minimize
26 the alteration of natural landforms, to be visually compatible with the character
27 of the surrounding area, and, where feasible, to restore and enhance visual
28 quality in visually degraded areas. New development in highly scenic areas
29 such as those designated in the California Coastline Preservation and
30 Recreation Plan prepared by the Department of Parks and Recreation and by
31 local government shall be subordinate to the character of its setting. Section
32 30253 states:

33 New development shall, where appropriate, protect special communities and
34 neighborhoods that, because of their unique characteristics, are popular visitor
35 destination points for recreational uses.

1 **A.4 Agriculture and Forestry Resources**

2 **A.4.1 Federal**

3 There are no major federal laws, regulations, and/or policies potentially
4 applicable to this Project.

5 **A.4.2 State**

6 **Williamson Act (Gov. Code, §§ 51200-51207)**

7 This Act enables local governments to enter into contracts with private
8 landowners to restrict specific parcels of land to agricultural or related open
9 space use, and provides landowners with lower property tax assessments in
10 return. Local government planning departments are responsible for the
11 enrollment of land into Williamson Act contracts and may also identify
12 compatible uses permitted with a use permit. Generally, any commercial
13 agricultural use would be permitted within any agricultural preserve.

14 **Coastal Act Chapter 3 Policies (see Multiple Environmental Issues)**

15 The Coastal Act requires the protection of agricultural lands within the coastal
16 zone by requiring that (1) the maximum amount of prime agricultural land be
17 maintained in production to protect the agricultural economy and (2) conflicts
18 between agricultural and urban uses be minimized through the application of
19 development standards that ensure that new development will not diminish
20 agricultural productivity. Development standards include establishing stable
21 urban-rural boundaries, providing agricultural buffers, ensuring that non-
22 agricultural development is directed first to lands not suitable for agriculture,
23 restricting land divisions and controlling public service expansions. (See:
24 Definitions [§§ 30100.2, 30113, 30106]; Agricultural related Policies [§§ 30222,
25 30241, 30241.5, 30242, 30243, 30250]; and other public access and resource
26 protection policies that apply to projects on agricultural lands.)

27 **A.5 Air Quality**

28 **A.5.1 Federal**

29 **Federal Clean Air Act (42 U.S.C. § 7401 et seq.)**

30 The Federal Clean Air Act (FCAA) requires the United States Environmental
31 Protection Agency (USEPA) to identify National Ambient Air Quality Standards
32 (NAAQS) to protect public health and welfare. National standards are
33 established for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide,

1 particulate matter (PM, or PM10 and PM2.5), and lead. The FCAA mandates
2 that states submit and implement a State Implementation Plan for local areas
3 not meeting those standards; plans must include pollution control measures that
4 demonstrate how the standards would be met. Pursuant to the 1990 FCAA
5 amendments, the USEPA also regulates hazardous air pollutants (HAPs), which
6 are pollutants that result in harmful health effects, but are not specifically
7 addressed through the establishment of NAAQS. HAPs require the use of the
8 maximum or best available control technology to limit emissions. USEPA classifies
9 air basins (or portions thereof) as in “attainment” or “nonattainment” for each
10 criteria air pollutant by comparing monitoring data with State and Federal
11 standards to determine if the NAAQS are achieved. Areas are classified for a
12 pollutant as follows:

- 13 • “Attainment” – the pollutant concentration is lower than the standard.
- 14 • “Nonattainment” – the pollutant concentration exceeds the standard.
- 15 • “Unclassified” – there are not enough data available for comparisons.

16 In 2007, the U.S. Supreme Court ruled that carbon dioxide (CO₂) is an air
17 pollutant as defined under the FCAA, and that the USEPA has authority to
18 regulate greenhouse gas (GHG) emissions.

19 The FCAA allows delegation of the enforcement of many of the federal air
20 quality regulations to the states. In California, the California Air Resources Board
21 (CARB) is responsible for enforcing air pollution regulations in concert with
22 regional air pollution control districts.

23 **Marine Diesel Engine Emission Standards**

24 In March 2008, the USEPA adopted more stringent emission standards for
25 locomotives and marine compression-ignition engines (73 Fed. Reg. 37096
26 (USEPA 2008a)). To reduce emissions from Category 1 (at least 50 horsepower
27 [hp] but less than 7 liters per cylinder displacement) and Category 2 (7 to 30
28 liters per cylinder displacement) marine diesel engines, the EPA has established
29 emission standards for new engines, referred to as Tier 2 marine engine
30 standards. The Tier 2 standards were phased in from 2004 to 2007 (year of
31 manufacture), depending on the engine size (USEPA 1999). The 2008 final rule
32 includes the first-ever national emission standards for existing marine diesel
33 engines, applying to engines larger than 600 kilowatts (kW) when they are
34 remanufactured. The rule also sets Tier 3 emissions standards for newly built
35 engines that began implementation phase-in in 2009. Finally, the rule establishes
36 Tier 4 standards for newly built commercial marine diesel engines above 600 kW,
37 based on the application of high-efficiency catalytic after-treatment
38 technology that began implementation in 2014.

1 The new diesel marine engine standards will reduce emissions of diesel
2 particulate matter by 90 percent and emissions of nitrogen oxide (NOx) by
3 80 percent for engines meeting Tier 4 standards, in comparison with engines
4 meeting the current Tier 2 standards. The USEPA's three-part program: (1)
5 tightened standards for existing marine diesel engines when they are
6 remanufactured, taking effect as certified remanufacture systems are available
7 starting in 2008; (2) sets near-term emission standards, referred to as Tier 3
8 standards, for newly built locomotive and diesel marine engines, which reflect
9 the application of currently available technologies to reduce engine-out PM
10 and NOx emissions and phase-in starting in 2009; and (3) applies the final long-
11 term Tier 4 emissions standards to marine diesel engines. These standards are
12 based on the application of high-efficiency catalytic after-treatment
13 technology and would be phased in beginning in 2014 for marine diesel
14 engines. These marine Tier 4 engine standards apply only to commercial marine
15 diesel engines above 600 kW (800 hp) (USEPA 2008b).

16 **Non-Road Diesel Engine Emission Standards**

17 The USEPA has established a series of cleaner emission standards for new off-
18 road diesel engines culminating in the Tier 4 Final Rule of June 2004 (USEPA
19 2004a). The Tier 1, Tier 2, Tier 3, and Tier 4 standards require compliance with
20 progressively more stringent emission standards. Tier 1 standards were phased in
21 from 1996 to 2000 (year of manufacture), depending on the engine horsepower
22 category. Tier 2 standards were phased in from 2001 to 2006, and the Tier 3
23 standards were phased in from 2006 to 2008. The Tier 4 standards complement
24 the latest 2007 and later on-road heavy-duty engine standards by requiring
25 90 percent reductions in diesel particulate matter and NOx when compared
26 against current emission levels. The Tier 4 standards were phased in starting with
27 smaller engines in 2008 until all but the very largest diesel engines were to meet
28 NOx and PM standards in 2015.

29 **On-Road Trucks Emission Standards**

30 To reduce emissions from on-road, heavy-duty diesel trucks, the USEPA
31 established a series of cleaner emission standards for new engines, starting in
32 1988. These emission standards regulations have been revised over time. The
33 latest effective regulation, the 2007 Heavy-Duty Highway Rule, provides for
34 reductions in PM, NOx, and non-methane hydrocarbon emissions that were
35 phased in during the model years 2007 through 2010 (USEPA 2000).

36 **National Corporate Average Fuel Economy Standards**

37 The Corporate Average Fuel Economy Standards (CAFE) were first enacted in
38 1975 to improve the average fuel economy of cars and light duty trucks. On

1 August 2, 2018, the National Highway Traffic Safety Administrative (NHTSA) and
2 USEPA proposed to amend the fuel efficiency standards for passenger cars and
3 light trucks and establish new standards covering model years 2021 through
4 2026 by maintaining the current model year 2020 standards through 2026 (Safer
5 Affordable Fuel-Efficient [SAFE] Vehicles Rule). On September 19, 2019, USEPA
6 and NHTSA issued a final action on the One National Program Rule, which is
7 consider Part One of the SAFE Vehicles Rule and a precursor to the proposed
8 fuel efficiency standards. The One National Program Rule enables USEPA/NHTSA
9 to provide nationwide uniform fuel economy and GHG vehicle standards,
10 specifically by (1) clarifying that federal law preempts state and local tailpipe
11 GHG standards, (2) affirming NHTSA's statutory authority to set nationally
12 applicable fuel economy standards, and (3) withdrawing the California Clean
13 Air Act (CCAA) preemption waiver to set state-specific standards.

14 USEPA and NHTSA published their decisions to withdraw California's waiver and
15 finalize regulatory text related to the preemption on September 27, 2019 (84
16 Federal Register [Fed. Reg.] 51310). California, 22 other states, the District of
17 Columbia, and two cities filed suit against Part One of the SAFE Vehicles Rule on
18 September 20, 2019 (California et al. v. United States Department of
19 Transportation et al., 1:19-cv-02826, U.S. District Court for the District of
20 Columbia). On October 28, 2019, the Union of Concerned Scientists,
21 Environmental Defense Fund, and other groups filed a protective petition for
22 review after the federal government sought to transfer the suit to the D.C. Circuit
23 (Union of Concerned Scientists v. National Highway Traffic Safety
24 Administration). Opening briefs for the petition are currently scheduled to be
25 completed on November 23, 2020. The lawsuit filed by California and others is
26 stayed pending resolution of the petition.

27 USEPA and NHTSA published final rules to amend and establish national CO₂ and
28 fuel economy standards on April 30, 2020 (Part Two of the SAFE Vehicles Rule)
29 (85 Fed. Reg. 24174). The revised rule changes the national fuel economy
30 standards for light duty vehicles from 50.4 mpg to 40.5 mpg in future years.
31 California, 22 other states, the District of Columbia filed a petition for review of
32 the final rule on May 27, 2020. The fate of the SAFE Vehicles Rule remains
33 uncertain in the face of pending legal deliberations.

34 **A.5.2 State**

35 **California Clean Air Act of 1988**

36 The CCAA requires all air districts in the State to endeavor, achieve and
37 maintain State ambient air quality standards for ozone, carbon monoxide, sulfur
38 dioxide, nitrogen dioxide, and PM. CARB sets air quality standards for the State
39 at levels to protect public health and welfare with an adequate margin of

1 safety. The California Ambient Air Quality Standards (CAAQS) are generally
2 stricter than national standards for the same pollutants; California also has
3 standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing
4 particles. The CAAQS describe adverse conditions (i.e., pollution levels must be
5 below these standards before a basin can attain the standard). Air quality is
6 considered in “attainment” if pollutant levels are continuously below or equal to
7 the standards and violate the standards no more than once each year. The
8 1992 CCAA Amendments divide ozone nonattainment areas into four
9 categories of pollutant levels (moderate, serious, severe, and extreme) to which
10 progressively more stringent requirements apply. CARB also regulates toxic air
11 contaminants (pollutants that result in harmful health effects, but are not
12 specifically addressed by air quality standards) using air toxic control measures.

13 **California Air Resources Board Programs, Regulations, and Standards**

- 14 • **California Diesel Fuel Regulations** (Title 13 of California Code of Regulations
15 [13 CCR] §§ 2281-2285; 17 CCR § 93114). In 2004, the CARB set limits on the
16 sulfur content of diesel fuel sold in California for use in on-road and off-road
17 motor vehicles. Harbor craft and intrastate locomotives were later included
18 by a 2004 rule amendment (CARB 2005a). Under this rule, diesel fuel used in
19 motor vehicles except harbor craft and intrastate locomotives has been
20 limited to 500 parts per million (ppm) sulfur since 1993. The sulfur limit was
21 reduced to 15 ppm beginning September 1, 2006. Diesel fuel used in harbor
22 craft in the SCAB also was limited to 500 ppm sulfur starting January 1, 2006,
23 and was lowered to 15 ppm sulfur on September 1, 2006. Diesel fuel used in
24 intrastate locomotives (switch locomotives) was limited to 15 ppm sulfur
25 starting on January 1, 2007.
- 26 • **California Diesel Risk Reduction Plan.** CARB has adopted several regulations
27 that are meant to reduce the health risk associated with on- and off-road
28 and stationary diesel engine operation. This plan recommends many control
29 measures with the goal of an 85 percent reduction in diesel particulate
30 matter emissions by 2020. The regulations noted below, which may also serve
31 to significantly reduce other pollutant emissions, are all part of this risk
32 reduction plan.
- 33 • **Commercial Harbor Craft Regulation** requires upgrades to Tier 2 or Tier 3
34 standards to reduce diesel particulate matter and NOx emissions from diesel
35 engines used on commercial harbor craft (e.g., tugboats, crew and supply
36 vessels, work boats, barges, dredges) operated in California Regulated
37 Waters (internal waters, estuarine waters, ports and coastal waters within
38 24 nautical miles of the coast)
- 39 • **Emission Standards for On-Road and Off-Road Diesel Engines.** Similar to the
40 USEPA for on-road and off-road emissions described above, the CARB has

1 established emission standards for new on-road and off-road diesel engines.
2 These regulations have model year based emissions standards for NOx,
3 hydrocarbons, carbon monoxide, and PM.

4 • **Heavy Duty Diesel Truck Idling Rule – Heavy Duty Diesel Truck Idling**
5 **Regulation.** This CARB rule became effective February 1, 2005, and prohibits
6 heavy-duty diesel trucks from idling for longer than 5 minutes at a time, unless
7 they are queuing and provided the queue is located beyond 100 feet from
8 any homes or schools (CARB 2006).

9 • **In-Use Off-Road Vehicle Regulation** (13 CCR § 2449). The State has also
10 enacted a regulation to reduce diesel particulate matter and criteria
11 pollutant emissions from in-use off-road diesel-fueled vehicles. This regulation
12 provides target emission rates for PM and NOx emissions from owners of fleets
13 of diesel-fueled off-road vehicles, and applies to off-road equipment fleets of
14 three specific sizes, as follows:

- 15 - Small Fleet – Fleet or municipality with equipment totaling less than or
16 equal to 2,500 hp, or municipal fleet in lower population area, captive
17 attainment fleet, or non-profit training center regardless of horsepower.
- 18 - Medium Fleet – Fleet with equipment totaling 2,501 to 5,000 hp.
- 19 - Large Fleet – Fleet with equipment totaling more than 5,000 hp, or all State
20 and federal government fleets regardless of total hp.

21 The target emission rates for these fleets are reduced over time. Specific
22 regulation requirements:

- 23 - Limit on idling, requiring a written idling policy, and disclosure when selling
24 vehicles;
- 25 - Require all vehicles to be reported to CARB (using the Diesel Off-Road
26 Online Reporting System) and labeled;
- 27 - Restrict the adding of older vehicles into fleets starting on January 1, 2014;
28 and
- 29 - Require fleets to reduce their emissions by retiring, replacing, or
30 repowering older engines, or installing Verified Diesel Emission Control
31 Strategies (i.e., exhaust retrofits). (CARB 2014)

32 • **Ocean-Going Vessels Fuel Standards.** After January 1, 2014, ocean-going
33 vessels within California Regulated Waters must use fuel with a maximum fuel
34 sulfur content of 0.1 percent (using cleaner marine distillate fuels in larger
35 ocean-going vessels reduces diesel particulate matter, NOx, and sulfur oxide
36 emissions).

- 1 • **Off-Road Mobile Sources Emission Reduction Program.** The CCAA mandates
2 that CARB achieve the maximum degree of emission reductions from all off-
3 road mobile sources (e.g., construction equipment, marine vessels, and
4 harbor craft) to attain state ambient air quality standards. Tier 2, Tier 3, and
5 Tier 4 exhaust emissions standards apply to off-road equipment. In addition,
6 CARB fleet requirements specify how equipment that is already in use can be
7 retrofitted to achieve lower emissions using the CARB-verified retrofit
8 technologies. USEPA standards for marine compression-ignition engines
9 address NOx and diesel particulate matter emissions, depending on engine
10 size and year of manufacture. Tier 2 standards for marine engines were
11 phased in for model years 2004 to 2007, and Tier 3 standards were phased in
12 for currently available technologies to reduce NOx and PM, starting in 2009.
- 13 • **Statewide Portable Equipment Registration Program.** The Portable Equipment
14 Registration Program (PERP) establishes a uniform program to regulate
15 portable engines and portable engine-driven equipment units (CARB 2005b).
16 Once registered in the PERP, engines and equipment units may operate
17 throughout California without the need to obtain individual permits from local
18 air districts, if the equipment is located at a single location for no more than
19 12 months.
- 20 • **Advanced Clean Truck Regulation:** CARB adopted the Advanced Clean
21 Truck Regulation in June 2020 to accelerate a large-scale transition of zero-
22 emission medium-and-heavy-duty vehicles. The regulation requires the sale of
23 zero-emission medium-and-heavy-duty vehicles as an increasing percentage
24 of total annual California sales from 2024 to 2035. By 2035, zero-emission
25 truck/chassis sales would need to be 55 percent of Class 2b – 3 truck sales,
26 75 percent of Class 4 – 8 straight truck sales, and 40 percent of truck tractor
27 sales. By 2045, every new medium-and-heavy-duty truck sold in California will
28 be zero-emission. Large employers including retailers, manufacturers, brokers,
29 and others are required to report information about shipments and shuttle
30 services to better ensure that fleets purchase available zero-emission trucks.

31 **Health and Safety Code**

- 32 • **Sections 25531-25543** set forth changes in four areas: (1) provides guidelines
33 to identify a more realistic health risk; (2) requires high-risk facilities to submit
34 an air toxic emission reduction plan; (3) holds air pollution control districts
35 accountable for ensuring that plans achieve objectives; and (4) requires
36 high-risk facilities to achieve their planned emission reductions
- 37 • **The Air Toxics Hot Spots Information and Assessment Act** (§ 44300 et seq.)
38 provides for the regulation of over 200 toxic air contaminants. Under the act,
39 local air districts may request that a facility account for its toxic air
40 contaminant emissions. Local air districts then prioritize facilities based on

1 emissions; high priority designated facilities must submit a health risk
2 assessment.

3 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

4 Section 30253, subdivision (c) requires that new development shall be consistent
5 with requirements imposed by an air pollution control district or CARB as to each
6 development.

7 **A.6 Biological Resources**

8 **A.6.1 Federal**

9 **Federal Endangered Species Act (7 U.S.C. § 136, 16 U.S.C. § 1531 et seq.)**

10 The Federal Endangered Species Act, which is administered in California by the
11 U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service
12 (NMFS), provides protection to species listed as threatened or endangered, or
13 proposed for listing as threatened or endangered. When applicants propose
14 projects with a federal nexus that “may affect” a federally listed or proposed
15 species, the federal agency must (1) consult with the USFWS or NMFS, as
16 appropriate, under Section 7, and (2) ensure that any actions authorized,
17 funded, or carried out by the agency are not likely to jeopardize the continued
18 existence of any endangered or threatened species or result in the destruction
19 or adverse modification of areas determined to be critical habitat. Section 9
20 prohibits the “take” of any member of a listed species.

- 21 • **Take** – To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or
22 collect, or to attempt to engage in any such conduct
- 23 • **Harass** – An intentional or negligent act or omission that creates the likelihood
24 of injury to a listed species by annoying it to such an extent as to significantly
25 disrupt normal behavior patterns that include, but are not limited to,
26 breeding, feeding, or sheltering
- 27 • **Harm** – Significant habitat modification or degradation that results in death or
28 injury to listed species by significantly impairing behavioral patterns such as
29 breeding, feeding, or sheltering

30 **Fish and Wildlife Coordination Act of 1958**

31 This Act requires that whenever a body of water is proposed to be controlled or
32 modified, the lead agency must consult with the state and federal agencies
33 responsible for fish and wildlife management (e.g., USFWS, California
34 Department of Fish and Wildlife (CDFW), and National Oceanic and

1 Atmospheric Administration). The Act allows for recommendations addressing
2 adverse impacts associated with a proposed project, and for mitigating or
3 compensating for impacts on fish and wildlife.

4 **Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801**
5 **et seq.)**

6 The Magnuson-Stevens Fishery Conservation and Management Act (MSA)
7 governs marine fisheries management in Federal waters. The MSA was first
8 enacted in 1976 and amended by the Sustainable Fisheries Act of 1996 and the
9 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act
10 in 2007. Amendments require the identification of Essential Fish Habitat (EFH) for
11 federally managed species and the implementation of measures to conserve
12 and enhance this habitat. Any project requiring Federal authorization, such as a
13 U.S. Army Corps of Engineers permit, is required to complete and submit an EFH
14 Assessment with the application and either show that no significant impacts to
15 the essential habitat of managed species are expected or identify mitigations to
16 reduce those impacts. Under the MSA, Congress defined EFH as “those waters
17 and substrate necessary to fish for spawning, breeding, feeding, or growth to
18 maturity” (Title 16 of the United States Code [16 U.S.C.] § 1802(10)). The EFH
19 provisions of the MSA offer resource managers a means to heighten
20 consideration of fish habitat in resource management. Federal agencies shall
21 consult with the NMFS regarding any action they authorize, fund, or undertake
22 that might adversely affect EFH (§ 305(b)(2)).

23 **Marine Mammal Protection Act (16 U.S.C. § 1361 et seq.)**

24 The Marine Mammal Protection Act (MMPA) is designed to protect and
25 conserve marine mammals and their habitats. It prohibits takes of all marine
26 mammals in the United States. (including territorial seas) with few exceptions.
27 The Act defines “take” as hunt, capture, or kill, or attempt to harass, hunt,
28 capture, or kill any marine mammal.” “Harassment” is defined as any act of
29 pursuit, torment, or annoyance that has the potential to injure a marine
30 mammal or marine mammal stock in the wild; or has the potential to disturb a
31 marine mammal or marine mammal stock in the wild by causing disruption of
32 behavioral patterns, including, but not limited to, migration, breathing, nursing,
33 breeding, feeding, or sheltering.

34 The NMFS may issue a take permit under Section 104 if the activities are
35 consistent with the purposes of the MMPA and applicable regulations at Code
36 of Federal Regulations, Title 50, Part 216 (50 CFR Part 216). The NMFS must also
37 find that the manner of taking is “humane” as defined in the MMPA. If lethal
38 taking of a marine mammal is requested, the applicant must demonstrate that
39 using a non-lethal method is not feasible. In 1994 a simplified process for

1 obtaining “small take” exemptions was added for unintentional taking by
2 incidental harassment only. Under this process, incidental take of small numbers
3 of marine mammals by harassment can be authorized for periods of up to
4 1 year.

5 **Migratory Bird Treaty Act (16 U.S.C. § 703-712)**

6 This Act prohibits the take, possession, import, export, transport, selling, purchase,
7 barter, or offering for sale, purchase, or barter, of any migratory bird, their eggs,
8 parts, and nests, except as authorized under a valid permit (50 CFR 21.11). The
9 USFWS issues permits for take of migratory birds for activities such as scientific
10 research, education, and depredation control, but does not issue permits for
11 incidental take of migratory birds.

12 **National Invasive Species Act (33 CFR, Part 151, Subpart D)**

13 This Act was originally passed in 1990 as the Nonindigenous Aquatic Nuisance
14 Prevention and Control Act [16 U.S.C. § 4701-4751] and reauthorized, renamed
15 and expanded in 1996. Under its provisions, the U.S. Coast Guard requires ballast
16 water management (i.e., exchange) for vessels entering U.S. waters from outside
17 the 200-nautical-mile U.S. Exclusive Economic Zone. The original Act was
18 established to: (1) prevent unintentional introduction and dispersal of
19 nonindigenous species into waters of the United States through ballast water
20 management and other requirements; (2) coordinate and disseminate
21 information on federally conducted, funded, or authorized research, on the
22 prevention and control of the zebra mussel and other aquatic nuisance species;
23 (3) develop and carry out control methods to prevent, monitor, and control
24 unintentional introductions of nonindigenous species from pathways other than
25 ballast water exchange; (4) understand and minimize economic and ecological
26 impacts of established nonindigenous aquatic nuisance species; and (5)
27 establish a program of research and technology development and assistance
28 to states in the management and removal of zebra mussels.

29 **Executive Orders (EO)**

- 30 • **EO 11990** requires federal agencies to provide leadership and take action to
31 minimize the destruction, loss or degradation of wetlands, and to preserve
32 and enhance the natural and beneficial values of wetlands. Each agency,
33 to the extent permitted by law, must (1) avoid undertaking or providing
34 assistance for new construction located in wetlands unless the head of the
35 agency finds there is no practical alternative to such construction or the
36 proposed action includes all practical measures to minimize harm to
37 wetlands that may result from such use; (2) take into account economic,
38 environmental and other pertinent factors in making this finding; and (3)

1 provide opportunity for early public review of any plans or proposals for new
2 construction in wetlands.

- 3 • **EO 13112** requires federal agencies to use authorities to prevent introduction
4 of invasive species, respond to and control invasions, and provide for
5 restoration of native species and habitat conditions in invaded ecosystems;
6 also established the Invasive Species Council, which prepares a National
7 Invasive Species Management Plan that details and recommends
8 performance-oriented goals and objectives and measures of success for
9 federal agencies
- 10 • **EO 13158** requires federal agencies to (1) identify actions that affect natural
11 or cultural resources that are within a Marine Protected Area (MPA); and (2)
12 in taking such actions, to avoid harm to the natural and cultural resources
13 that are protected by a MPA.
- 14 • **EO 13186** sets forth responsibilities of federal agencies to protect migratory
15 birds.

16 **Other**

- 17 • **Bald and Golden Eagle Protection Act** makes it illegal to import, export, take,
18 sell, purchase or barter any bald eagle or golden eagle or parts thereof.
- 19 • **Clean Water Act and Rivers and Harbors Act** (see *Hydrology and Water*
20 *Quality section*)
- 21 • **Coastal Zone Management Act** (see *Multiple Environmental Issues*)
- 22 • **Estuary Protection Act (16 U.S.C. § 1221-1226)** authorizes federal agencies to
23 assess the impacts of commercial and industrial developments on estuaries.

24 **A.6.2 State**

25 **California Endangered Species Act (Fish & Game Code, § 2050 et seq.)**

26 The California Endangered Species Act (CESA) provides for the protection of
27 rare, threatened, and endangered plants and animals, as recognized by the
28 CDFW, and prohibits the taking of such species without its authorization.
29 Furthermore, the CESA provides protection for those species that are designated
30 as candidates for threatened or endangered listings. Under the CESA, the CDFW
31 has the responsibility for maintaining a list of threatened species and
32 endangered species (Fish & Game Code, § 2070). The CDFW also maintains a list
33 of candidate species, which are species that the CDFW has formally noticed as
34 under review for addition to the threatened or endangered species lists. The
35 CDFW also maintains lists of Species of Special Concern that serve as watch lists.
36 Pursuant to CESA requirements, an agency reviewing a proposed project within

1 its jurisdiction must determine whether any State-listed endangered or
2 threatened species may be present in the project site and determine whether
3 the proposed project will have a significant impact on such species. The CDFW
4 encourages informal consultation on any proposed project that may affect a
5 candidate species. The CESA also requires a permit to take a State-listed species
6 through incidental or otherwise lawful activities (§ 2081, subd. (b))

7 **Marine Life Protection Act (Fish & Game Code, §§ 2850–2863)**

8 These regulations require that the CDFW: be notified of activities that would
9 interfere with the natural flow of, or substantially alter, the channel, bed, or bank
10 of a lake, river, or stream; determines if the activity may substantially adversely
11 affect an existing fish and wildlife resource; and issue a Streambed Alteration
12 Agreement if applicable.

13 Pursuant to this Act, the CDFW established and manages a network of MPAs to,
14 among other goals, protect marine life and habitats and preserve ecosystem
15 integrity. For the purposes of MPA planning, California was divided into five
16 distinct regions (four coastal and San Francisco Bay) each of which had its own
17 MPA planning process. The coastal portion of California's MPA network is now in
18 effect statewide; options for a planning process in San Francisco Bay have been
19 developed for consideration at a future date. The Marine Life Protection Act
20 establishes clear policy guidance and a scientifically sound planning process for
21 the siting and design of MPAs such as:

- 22 • State Marine Reserves, which typically preclude all extractive activities (such
23 as fishing or kelp harvesting)
- 24 • State Marine Parks, which do not allow any commercial extraction
- 25 • State Marine Conservation Areas, which preclude some combination of
26 commercial and/or recreational extraction

27 **Other relevant California Fish and Game Code Sections and Programs/Plans**

- 28 • **Section 1900 et seq.** (California Native Plant Protection Act) is intended to
29 preserve, protect, and enhance endangered or rare native plants in
30 California. Under § 1901, a species is endangered when its prospects for
31 survival and reproduction are in immediate jeopardy from one or more
32 causes. A species is rare when, although not threatened with immediate
33 extinction, it is in such small numbers throughout its range that it may
34 become endangered. The Act includes provisions that prohibit taking of
35 listed rare or endangered plants from the wild and a salvage requirement for
36 landowners.

- 1 • **Sections 3503 & 3503.5** prohibit take and possession of native birds' nests and
2 eggs from all forms of needless take and provide that it is unlawful to take,
3 possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-
4 of-prey) or to take, possess, or destroy the nests or eggs of any such bird
5 except as otherwise provided by this Code or any regulation adopted
6 pursuant thereto.
- 7 • **Sections 3511** (birds), **4700** (mammals), **5050** (reptiles and amphibians), &
8 **5515** (fish) designate certain species as "fully protected;" such species, or
9 parts thereof, may not be taken or possessed at any time without permission
10 by the CDFW.
- 11 • **Section 3513** does not include statutory or regulatory mechanism for
12 obtaining an incidental take permit for the loss of non-game, migratory birds.
- 13 • **California Aquatic Invasive Species Management Plan** provides a framework
14 for agency coordination and identifies actions to minimize harmful effects of
15 aquatic invasive species.

16 **Marine Invasive Species Act (Pub. Resources Code § 71200 et seq.) (AB 433;**
17 **Stats. 2003, ch. 491)**

18 Originally passed in 2003 and amended several times, the purpose of the Marine
19 Invasive Species Act (MISA) is to move towards eliminating the discharge of
20 nonindigenous species into waters of the state or waters that may impact waters
21 of the state, based on the best available technology economically achievable.
22 MISA requires mid-ocean exchange or retention of all ballast water and
23 associated sediments for all vessels 300 gross registered tons or more, U.S. and
24 foreign, carrying ballast water into the waters of the state after operating
25 outside state waters. For all vessels 300 gross register tons or more arriving at a
26 California port or place carrying ballast water from another port or place within
27 the Pacific Coast Region, the Act mandates near-coast exchange or retention
28 of all ballast water. MISA also requires completion and submission of Ballast
29 Water Reporting Form 24 hours in advance of each port of call in California,
30 annual submittal of the Hull Husbandry Reporting Form, the keeping of a ballast
31 management plan and logs, and the application of "Good Housekeeping"
32 Practices designed to minimize the transfer and introduction of invasive species.
33 Compliance with MISA is the responsibility of vessel owners/operators. The
34 California State Lands Commission has regulatory authority to manage and
35 enforce MISA.

36 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

- 37 • **Section 30230** – Marine resources shall be maintained, enhanced, and where
38 feasible, restored. Special protection shall be given to areas and species of
39 special biological or economic significance. Uses of the marine environment

- 1 shall be carried out in a manner that will sustain the biological productivity of
2 coastal waters and that will maintain healthy populations of all species of
3 marine organisms adequate for long-term commercial, recreational,
4 scientific, and educational purposes.
- 5 • **Section 30231** – The biological productivity and the quality of coastal waters,
6 streams, wetlands, estuaries, and lakes appropriate to maintain optimum
7 populations of marine organisms and for the protection of human health shall
8 be maintained and, where feasible, restored through, among other means,
9 minimizing adverse effects of waste water discharges and entrainment,
10 controlling runoff, preventing depletion of ground water supplies and
11 substantial interference with surface water flow, encouraging waste water
12 reclamation, maintaining natural vegetation buffer areas that protect
13 riparian habitats, and minimizing alteration of natural streams.
 - 14 • **Section 30232** – Protection against the spillage of crude oil, gas, petroleum
15 products, or hazardous substances shall be provided in relation to any
16 development or transportation of such materials. Effective containment and
17 cleanup facilities and procedures shall be provided for accidental spills that
18 do occur.
 - 19 • **Section 30233** – applies in part to development activities within or affecting
20 wetlands and other sensitive areas, identifies eight allowable uses, requires
21 projects be the least environmentally damaging feasible alternative, and
22 where applicable, requires feasible and appropriate mitigation.
 - 23 • **Section 30240** – (a) Environmentally sensitive habitat areas shall be protected
24 against any significant disruption of habitat values, and only uses dependent
25 on those resources shall be allowed within those areas. (b) Development in
26 areas adjacent to environmentally sensitive habitat areas and parks and
27 recreation areas shall be sited and designed to prevent impacts which
28 would significantly degrade those areas, and shall be compatible with the
29 continuance of those habitat and recreation areas.

30 **Other**

- 31 • **California Department of Food and Agriculture's California Noxious and**
32 **Invasive Weed Action Plan** seeks to prevent and control noxious and invasive
33 weeds.
- 34 • **Wetlands Conservation Policy** – no net loss of wetland acreage; long-term
35 gain in the quantity, quality, and permanence of California's wetlands.

1 **A.7 Commercial and Recreational Fishing**

2 **A.7.1 Federal**

3 There are no major federal laws, regulations, and/or policies potentially
4 applicable to this Project.

5 **A.7.2 State**

6 **Coastal Act Chapter 3**

7 Coastal Act Chapter 3 policies applicable to this issue area are:

- 8 • **Section 30234** states: Facilities serving the commercial fishing and
9 recreational boating industries shall be protected and, where feasible,
10 upgraded. Existing commercial fishing and recreational boating harbor
11 space shall not be reduced unless the demand for those facilities no longer
12 exists or adequate substitute space has been provided. Proposed
13 recreational boating facilities shall, where feasible, be designed and located
14 in such a fashion as not to interfere with the needs of the commercial fishing
15 industry.
- 16 • **Section 30234.5** states: The economic, commercial, and recreational
17 importance of fishing activities shall be recognized and protected.

18 **Fish and Game Code**

19 **Section 9002**, et seq., prohibits unlawful handling of legally set trap gear.

20 **Other**

- 21 • **California Commercial Fishing Laws and Licensing Requirements.**
22 Commercial fishing is regulated by a series of laws passed by the Fish and
23 Game Commission and issued each year in a summary document. Seasonal
24 and gear restrictions within the various CDFW Districts, licensing instructions
25 and restrictions, and species-specific fishing requirements are provided in the
26 document. Most of the MPAs have commercial fishing restrictions (based on
27 the designation of each area), which are also listed in the summary
28 document.
- 29 • **California Ocean Sport Fishing Regulations.** Each year, the Fish and Game
30 Commission issues regulations on the recreational fishing within the marine
31 waters of the state, specifying the fishing season for species, size and bag
32 limits, and gear restrictions, licensing requirements; a section on fishing
33 restrictions within MPAs is also now included.

1 **A.8 Cultural Resources**

2 **A.8.1 Federal**

3 **Abandoned Shipwreck Act of 1987 (43 U.S.C. § 2101–2106) and National Park**
4 **Service (NPS) Abandoned Shipwreck Act Guidelines**

5 The Abandoned Shipwreck Act asserts U.S. Government title to three categories
6 of abandoned shipwrecks: those embedded in a state's submerged lands; those
7 embedded in coralline formations protected by a state on its submerged lands,
8 and those located on a state's lands that are included or determined eligible for
9 inclusion in the National Register of Historic Places (NRHP). The law then transfers
10 title for a majority of those shipwrecks to the respective states, and provides that
11 states develop policies for management of the wrecks so as to protect natural
12 resources, permit reasonable public access, and allow for recovery of
13 shipwrecks consistent with the protection of historical values and environmental
14 integrity of wrecks and sites.

15 The NPS has issued guidelines that are intended to: maximize the enhancement
16 of shipwreck resources; foster a partnership among sport divers, fishermen,
17 archeologists, sailors, and other interests to manage shipwreck resources of the
18 states and the United States; facilitate access and utilization by recreational
19 interests; and recognize the interests of individuals and groups engaged in
20 shipwreck discovery and salvage.

21 **Archaeological and Historic Preservation Act**

22 The Archaeological and Historic Preservation Act (AHPA) provides for the
23 preservation of historical and archaeological data that might be irreparably lost
24 or destroyed as a result of (1) flooding, the building of access roads, the erection
25 of workmen's communities, the relocation of railroads and highways, and other
26 alterations of terrain caused by the construction of a dam by an agency of the
27 United States or by any private person or corporation holding a license issued by
28 any such agency; or (2) any alteration of the terrain caused as a result of a
29 federal construction project or federally licensed project, activity, or program.
30 This Act requires federal agencies to notify the Secretary of the Interior when
31 they find that any federally permitted activity or program may cause irreparable
32 loss or destruction of significant scientific, prehistoric, historical, or archaeological
33 data. The AHPA built upon national policy, set out in the Historic Sites Act of
34 1935, "...to provide for the preservation of historic American sites, buildings,
35 objects, and antiquities of national significance...."

1 **Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 712)**

2 The Archaeological Resources Protection Act (ARPA) states that archaeological
3 resources on public or Indian lands are an accessible and irreplaceable part of
4 the nation's heritage and:

- 5 • Establishes protection for archaeological resources to prevent loss and
6 destruction due to uncontrolled excavations and pillaging;
- 7 • Encourages increased cooperation and exchange of information between
8 government authorities, the professional archaeological community, and
9 private individuals having collections of archaeological resources prior to the
10 enactment of this Act;
- 11 • Establishes permit procedures to permit excavation or removal of
12 archaeological resources (and associated activities) located on public or
13 Indian land; and
- 14 • Defines excavation, removal, damage, or other alteration or defacing of
15 archaeological resources as a "prohibited act" and provides for criminal and
16 monetary rewards to be paid to individuals furnishing information leading to
17 the finding of a civil violation or conviction of a criminal violator.

18 An anti-trafficking provision prohibits interstate or international sale, purchase, or
19 transport of any archaeological resource excavated or removed in violation of
20 a state or local law, ordinance, or regulation. ARPA's enforcement provision
21 provides for criminal and civil penalties against violators of the Act. The ARPA's
22 permitting component allows for recovery of certain artifacts consistent with NPS
23 Federal Archeology Program standards and requirements.

24 **National Historic Preservation Act of 1966 (16 U.S.C. § 470 et seq.) and**
25 **implementing regulations (Protection of Historic Properties; 36 CFR 800) (applies**
26 **only to federal undertakings)**

27 Archaeological resources are protected through the National Historic
28 Preservation Act (NHPA) and its implementing regulation (Protection of Historic
29 Properties; 36 CFR 800), the AHPA, and the ARPA. This Act presents a general
30 policy of supporting and encouraging the preservation of prehistoric and historic
31 resources for present and future generations by directing federal agencies to
32 assume responsibility for considering the historic resources in their activities. The
33 State implements the NHPA through its statewide comprehensive cultural
34 resource surveys and preservation programs coordinated by the California
35 Office of Historic Preservation in the State Department of Parks and Recreation,
36 which also advises federal agencies regarding potential effects on historic
37 properties.

1 The California Office of Historic Preservation also maintains the California Historic
2 Resources Inventory. The State Historic Preservation Officer (SHPO) is an
3 appointed official who implements historic preservation programs within the
4 State's jurisdictions, including commenting on Federal undertakings. Under the
5 NHPA, historic properties include "any prehistoric or historic district, site, building,
6 structure, or object included in, or eligible for inclusion in, the National Register of
7 Historic Places" (16 U.S.C. § 470w [5]).

8 **Paleontological Resources Preservation Act (16 U.S.C. § 470)**

9 Enacted to preserve paleontological resources for current and future
10 generations on federal lands under the jurisdiction of the NPS, Bureau of Land
11 Management, Bureau of Reclamation, and USFWS, this Act identifies
12 management requirements, collection requirements, curation requirements,
13 authorizes criminal and civil penalties, rewards and forfeiture.

14 **Executive Order 13158**

15 EO 13158 requires federal agencies to (1) identify actions that affect natural or
16 cultural resources that are within an MPA; and (2) in taking such actions, to
17 avoid harm to the natural and cultural resources that are protected by a MPA.

18 **A.8.2 State**

19 **California Register of Historical Resources**

20 The California Register of Historical Resources (CRHR) is "an authoritative listing
21 and guide to be used by state and local agencies, private groups, and citizens
22 in identifying the existing historical resources of the State and to indicate which
23 resources deserve to be protected, to the extent prudent and feasible, from
24 substantial adverse change" (Pub. Resources Code § 5024.1, subd. (a)). CRHR
25 eligibility criteria are modeled after NRHP criteria but focus on resources of
26 statewide significance. Certain resources are determined by the statute to be
27 automatically included in the CRHR, including California properties formally
28 determined to be eligible for, or listed in, the NRHP. To be eligible for the CRHR, a
29 prehistoric or historical period property must be significant at the local, state, or
30 federal level under one or more of the following criteria (State CEQA Guidelines,
31 § 15064.5, subd. (a)(3)):

- 32 • Is associated with events that have made a significant contribution to the
33 broad patterns of California's history and cultural heritage
- 34 • Is associated with the lives of persons important in California's past

- 1 • Embodies the distinctive characteristics of a type, period, region, or method
2 of construction, or represents the work of an important creative individual, or
3 possesses high artistic values
- 4 • Has yielded, or may be likely to yield, information important in prehistory or
5 history

6 A resource eligible for the CRHR must meet one of the criteria of significance
7 above, and retain enough of its historic character or appearance (integrity) to
8 be recognizable as an historical resource and to convey the reason for its
9 significance. An historic resource that may not retain sufficient integrity to meet
10 the criteria for listing in the NRHP, may still be eligible for listing in the CRHR.
11 Properties listed, or formally designated as eligible for listing, on the NRHP are
12 automatically listed on the CRHR, as are certain State Landmarks and Points of
13 Interest. A lead agency is not precluded from determining that the resource
14 may be an historical resource as defined in Pub. Resources Code § 5020.1,
15 subdivision (j), or 5024.1 (State CEQA Guidelines, § 15064.5, subd. (a)(4)).

16 **California Environmental Quality Act (Pub. Resources Code § 21000 et seq.)**

17 CEQA § 21084.1 provides that a project that may cause a substantial adverse
18 change in the significance of an historical resource is a project that may have a
19 significant effect on the environment. An “historical resource” includes: (1) a
20 resource listed in, or eligible for listing in, the California Register of Historic
21 Resources; (2) a resource included in a local register of historical or identified as
22 significant in an historical resource surveys; and (3) any resource that a lead
23 agency determines to be historically significant for the purposes of CEQA, when
24 supported by substantial evidence in light of the whole record. Historical
25 resources may include archaeological resources. Mitigation measures for
26 significant impacts to historical resources must be identified and implemented if
27 feasible.

28 Two categories of cultural resources are specifically called out in the State
29 CEQA Guidelines. The categories are historical resources (State CEQA
30 Guidelines 15064.5[b]) and unique archaeological sites (State CEQA Guidelines
31 15064.5[c]; California Pub. Resources Code 21083.2). Different legal rules apply
32 to the two different categories of cultural resources. However, the two
33 categories sometimes overlap where “an archaeological historical resource also
34 qualifies as a “unique archaeological resource.” In such an instance, the more
35 stringent rules for unique archaeological resources apply, as explained below. In
36 most situations, resources that meet the definition of a unique archaeological
37 resource also meet the definition of a historical resource. As a result, it is current
38 professional practice to evaluate cultural resources for significance based on
39 their eligibility for listing in the CRHR.

1 Historical resources are those meeting the following requirements.

- 2 • Resources listed in or determined eligible for listing in the CRHR (State CEQA
3 Guidelines 15064.5[a][1]).
- 4 • Resources included in a local register as defined in Public Resources Code
5 section 5020.1(k), “unless the preponderance of evidence demonstrates”
6 that the resource “is not historically or culturally significant” (State CEQA
7 Guidelines 15064.5[a][2]).
- 8 • Resources that are identified as significant in surveys that meet the standards
9 provided in Public Resources Code section 5024.1[g] (State CEQA Guidelines
10 15064.5[a][3]).
- 11 • Resources that the lead agency determines are significant, based on
12 substantial evidence (State CEQA Guidelines 15064.5[a][3]). Unique
13 archaeological resources, on the other hand, are defined in Public Resources
14 Code section 21083.2 as a resource that meets at least one of the following
15 criteria.
- 16 • Contains information needed to answer important scientific research
17 questions and there is a demonstrable public interest in that information.
- 18 • Has a special and particular quality such as being the oldest of its type or the
19 best available example of its type.
- 20 • Is directly associated with a scientifically recognized important prehistoric or
21 historic event or person. (Pub. Resources Code § 21083.2[g])

22 The process for identifying historical resources is typically accomplished by
23 applying the criteria for listing in the CRHR (14 CCR 4852). This section states that
24 a historical resource must be significant at the local, state, or national level
25 under one or more of the following four criteria.

- 26 1) It is associated with events that have made a significant contribution to the
27 broad patterns of California's history and cultural heritage.
- 28 2) It is associated with the lives of persons important in our past.
- 29 3) It embodies the distinctive characteristics of a type, period, region, or
30 method of construction, or represents the work of a master or possesses high
31 artistic values.
- 32 4) It has yielded, or may be likely to yield, information important in prehistory or
33 history.

34 To be considered a historical resource for the purpose of CEQA, the resource
35 must also have integrity. Integrity is the authenticity of a resource's physical

1 identity, evidenced by the survival of characteristics that existed during the
2 resource's period of significance.

3 Resources, therefore, must retain enough of their historic character or
4 appearance to be recognizable as historical resources and to convey the
5 reasons for their significance. Integrity is evaluated with regard to the retention
6 of location, design, setting, materials, workmanship, feeling and association. It
7 must also be judged with reference to the particular criteria under which a
8 resource is eligible for listing in the CRHR (14 CCR 4852[c]). Integrity assessments
9 made for CEQA purposes typically follow the National Park Service guidance
10 used for integrity assessments for NRHP purposes.

11 Even if a resource is not listed or eligible for listing in the CRHR, in a local register
12 of historical resources, or identified in an historical resource survey, a lead
13 agency may still determine that the resource is an historical resource as defined
14 in Public Resources Code section 5020.1j or 5024.1 (State CEQA Guidelines
15 15064.5[a][4]).

16 Resources that meet the significance criteria and integrity considerations must
17 be considered in the impacts analysis under CEQA. Notably, a project that
18 causes a substantial adverse change in the significance of an historical resource
19 is a project that may have significant impact under CEQA (State CEQA
20 Guidelines 15064.5[b]). A substantial adverse change in the significance of an
21 historical resource means physical demolition, destruction, relocation, or
22 alteration of the resource or its immediate surroundings such that the
23 significance of an historical resource would be materially impaired. The
24 significance of an historical resource is materially impaired if the project
25 demolishes or materially alters any qualities as follows.

26 Qualities that justify the inclusion or eligibility for inclusion of a resource on the
27 CRHR (State CEQA Guidelines 15064.5[b][2][A],[C]).

28 Qualities that justify the inclusion of the resource on a local register (State CEQA
29 Guidelines 15064.5[b][2][B]).

30 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

31 Section 30244 states: Where development would adversely impact
32 archaeological or paleontological resources as identified by the SHPO,
33 reasonable mitigation measures shall be required.

1 **Other**

- 2 • **Public Resources Code § 5097.5** prohibits excavation or removal of any
3 “vertebrate paleontological site or historical feature, situated on public lands,
4 except with the express permission of the public agency having jurisdiction
5 over such lands”
- 6 • **Penal Code § 623** provides for the protection of caves, including their natural,
7 cultural, and paleontological contents. It specifies that no “material”
8 (including all or any part of any paleontological item) will be removed from
9 any natural geologically formed cavity or cave.

10 **A.9 Cultural Resources – Tribal**

11 **A.9.1 Federal**

12 **Native American Graves Protection and Repatriation Act of 1990 (P.L. 101-601;**
13 **104 Stat. 3049)**

14 This Act assigns ownership or control of Native American human remains,
15 funerary objects, sacred objects, and objects of cultural patrimony that are
16 excavated or discovered on federal lands or tribal lands after passage of the
17 act to lineal descendants or affiliated Indian tribes or Native Hawaiian
18 organizations; establishes criminal penalties for trafficking in human remains or
19 cultural objects; requires federal agencies and museums that receive federal
20 funding to inventory Native American human remains and associated funerary
21 objects in their possession or control and identify their cultural and geographical
22 affiliations within 5 years, and prepare summaries of information about Native
23 American unassociated funerary objects, sacred objects, or objects of cultural
24 patrimony. This is to provide for repatriation of such items when lineal
25 descendants, Indian tribes, or Native Hawaiian organizations request it.

26 **Executive Order 13007, Indian Sacred Sites**

27 EO 13007 requires federal agencies with administrative or legal responsibility to
28 manage federal lands to accommodate access to and ceremonial use of
29 Indian sacred sites by Indian religious practitioners and avoid adversely
30 affecting the physical integrity of such sites (to the extent practicable permitted
31 by law and not clearly inconsistent with essential agency functions).

1 **A.9.2 State**

2 **California Environmental Quality Act (Pub. Resources Code §§ 21073, 21074,**
3 **21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3) [AB 52 (Gatto,**
4 **Stats. 2014, Ch. 532)]**

5 The Assembly Bill (AB) 52 (effective July 1, 2015) amendments to CEQA relate to
6 consultation with California Native American tribes, consideration of tribal
7 cultural resources, and confidentiality. The definition of tribal cultural resources
8 considers tribal cultural values in addition to scientific and archaeological values
9 when determining impacts and mitigation. AB 52 provides procedural and
10 substantive requirements for lead agency consultation with California Native
11 American tribes and consideration of effects on tribal cultural resources, as well
12 as examples of mitigation measures to avoid or minimize impacts to tribal
13 cultural resources. AB 52 establishes that if a project may cause a substantial
14 adverse change in the significance of a tribal cultural resource, that project
15 may have a significant effect on the environment. Lead agencies must avoid
16 damaging effects to tribal cultural resources, when feasible, and shall keep
17 information submitted by tribes confidential.

18 **Health and Safety Code § 7050.5**

19 This section provides for treatment of human remains exposed during
20 construction; no further disturbance may occur until the County Coroner makes
21 findings as to origin and disposition pursuant to Public Resources Code section
22 5097.98. The Coroner has 24 hours to notify the Native American Heritage
23 Commission if the remains are determined to be of Native American descent.
24 The Commission contacts most likely descendants about how to proceed.

25 **Public Resources Code § 5097.98**

26 This section provides (1) a protocol for notifying the most likely descendent from
27 the deceased if human remains are determined to be Native American in origin
28 and (2) mandated measures for appropriate treatment and disposition of
29 exhumed remains.

30 **Executive Order B-10-11**

31 EO B-10-11 establishes as state policy that all agencies and departments shall
32 encourage communication and consultation with California Indian Tribes and
33 allow tribal governments to provide meaningful input into proposed decisions
34 and policies that may affect tribal communities.

1 **Executive Order N-15-19**

2 EO N-15-19 acknowledges and apologizes on behalf of the State for the
3 historical “violence, exploitation, dispossession and the attempted destruction of
4 tribal communities” that dislocated California Native Americans from their
5 ancestral land and sacred practices. The destructive impacts of this forceful
6 separation persist today, and meaningful, reparative action from the State of
7 California (State) can begin to address these wrongs in an effort to heal its
8 relationship with California Native Americans.

9 In addition, it reaffirms and incorporates by reference the principles of
10 government-to-government engagement established by Executive Order B-10-
11 11. The State continues to work with California tribes on a government-to-
12 government basis to address issues concerning Native American tribal self-
13 government and tribal trust resources.

14 Consistent with the goals of such Executive Orders, and in the spirit of truth and
15 healing in recognition of past harms done to California Native American
16 communities, it is the policy of this administration to encourage every State
17 agency, department, board and commission will seek opportunities to support
18 California tribes’ co-management of and access to natural lands within a
19 California tribe’s ancestral land and under the ownership or control of the State
20 of California, and to work cooperatively with California tribes interested in
21 acquiring natural lands in excess of State needs.

22 Any action taken in accordance with this Policy shall: (i) comply with all
23 applicable laws and regulations, including those governing surplus and excess
24 lands; (ii) occur in consultation with California tribes pursuant to Executive Orders
25 N-15-19 and B-10-11; and (iii) not conflict with the Governor’s stated policy
26 priorities, such as housing and homelessness and climate action.

27 **Assembly Bill 52**

28 AB 52 (Chapter 532, Statutes of 2014) establishes a formal consultation process
29 for California Native American tribes as part of CEQA and equates significant
30 impacts on tribal cultural resources with significant environmental impacts (Pub.
31 Resources Code § 21084.2). Public Resources Code section 21074 defines tribal
32 cultural resources as follows:

- 33 • Sites, features, places, sacred places, and objects with cultural value to
34 descendant communities or cultural landscapes defined in size and scope
35 that are either:
36 • Included in or eligible for listing in the CRHR

Appendix A – Major Federal and State Laws, Regulations, and Policies

- 1 • Included in a local register of historical resources
- 2 • A resource determined by the lead agency, in its discretion and supported
- 3 by substantial evidence, to be significant pursuant to criteria set forth in
- 4 subdivision (c) of Public Resources Code section 5024.1

5 Sacred places can include Native American sanctified cemeteries, places of
6 worship, religious or ceremonial sites, and sacred shrines. In addition, both
7 unique and non-unique archaeological resources, as defined in Public
8 Resources Code section 21083.2, can be tribal cultural resources if they meet
9 the criteria detailed above. The lead agency relies upon substantial evidence to
10 make the determination that a resource qualifies as a tribal cultural resource
11 when it is not already listed in the CRHR or a local register.

12 AB 52 defines a California Native American Tribe (Tribe) as a Native American
13 tribe located in California that is on the contact list maintained by the Native
14 American Heritage Commission (Pub. Resources Code § 21073). Under AB 52,
15 formal consultation with Tribes is required prior to determining the level of
16 environmental document if a Tribe has requested to be informed by the lead
17 agency of proposed projects and if the Tribe, upon receiving notice of the
18 project, accepts the opportunity to consult within 30 days of receipt of the
19 notice. AB 52 also requires that consultation, if initiated, address project
20 alternatives and mitigation measures for significant effects, if specifically
21 requested by the Tribe. AB 52 states that consultation is considered concluded
22 when either the parties agree to measures to mitigate or avoid a significant
23 effect to tribal cultural resources, or when either the Tribe or the agency
24 concludes that mutual agreement cannot be reached after making a
25 reasonable, good-faith effort.

26 Under AB 52, any mitigation measures recommended by the agency or agreed
27 upon with the Tribe may be included in the final environmental document and
28 in the adopted mitigation monitoring program if they were determined to avoid
29 or lessen a significant impact on a tribal cultural resource. If the recommended
30 measures are not included in the final environmental document, then the lead
31 agency must consider the four mitigation methods described in Public
32 Resources Code section 21084.3 (Pub. Resources Code § 21082.3[e]). Any
33 information submitted by a Tribe during the consultation process is considered
34 confidential and is not subject to public review or disclosure. It will be published
35 in a confidential appendix to the environmental document unless the Tribe
36 consents to disclosure of all or some of the information to the public.

1 **A.10 Energy**

2 **A.10.1 Federal**

3 There are no federal laws, regulations, and/or policies pertaining to energy that
4 are potentially applicable to this Project.

5 **A.10.2 State**

6 **Protection of Underground Infrastructure (California Government Code § 4216)**

7 Protection of Underground Infrastructure code requires that an excavator must
8 contact a regional notification center (i.e., underground service alert) at least
9 2 days before excavation of any subsurface installations. The underground
10 service alert then notifies utilities that may have buried lines within 1,000 feet of
11 the excavation. Representatives of the utilities must mark the specific location of
12 their facilities within the work area prior to the start of excavation. The
13 construction contractor must probe and expose the underground facilities by
14 hand prior to using power equipment.

15 **A.11 Geology and Soils**

16 **A.11.1 Federal**

17 **Building Codes**

18 The design and construction of engineered facilities in California must comply
19 with the requirements of the International Building Code and the adoptions of
20 that code by the State of California. The International Building Code sets design
21 standards to accommodate a maximum considered earthquake (MCE), based
22 on a project's regional location, site characteristics, and other factors.

23 **A.11.2 State**

24 **Alquist-Priolo Earthquake Fault Zoning Act (Pub. Resources Code §§ 2621-2630)**

25 This Act requires that "sufficiently active" and "well-defined" earthquake fault
26 zones be delineated by the State Geologist and prohibits locating structures for
27 human occupancy on active and potentially active surface faults. (Note that
28 since only those potentially active faults that have a relatively high potential for
29 ground rupture are identified as fault zones, not all potentially active faults are
30 zoned under the Alquist-Priolo Earthquake Fault Zone, as designated by the
31 State of California.)

1 **California Building Code (23 CCR)**

2 The California Building Code provides a minimum standard for building design,
3 which is based on the Uniform Building Code (UBC), but is modified for
4 conditions unique to California. The Code, which is selectively adopted by local
5 jurisdictions, based on local conditions, contains requirements pertaining to
6 multiple activities, including: excavation, site demolition, foundations and
7 retaining walls, grading activities including drainage and erosion control, and
8 construction of pipelines alongside existing structures. For example, §§ 3301.2
9 and 3301.3 contain provisions requiring protection of adjacent properties during
10 excavations and require a 10-day written notice and access agreements with
11 adjacent property owners. California's Marine Oil Terminal Engineering and
12 Maintenance Standards (MOTEMS), which are implemented by the California
13 State Lands Commission, are codified in Chapter 31F—Marine Oil Terminals (24
14 CCR § 3101F et seq.).

15 **Seismic Hazards Mapping Act & Mapping Regs (Pub. Resources Code § 2690;**
16 **14 CCR, div. 2, ch. 8, art. 10)**

17 These regulations were promulgated to promote public safety by protecting
18 against the effects of strong ground shaking, liquefaction, landslides, other
19 ground failures, or other hazards caused by earthquakes. The Act requires that
20 site-specific geotechnical investigations be conducted identifying the hazard
21 and formulating mitigation measures prior to permitting most developments
22 designed for human occupancy. California Division of Mines and Geology
23 Special Publication 117, *Guidelines for Evaluating and Mitigating Seismic*
24 *Hazards in California* (1997), constitutes the guidelines for evaluating seismic
25 hazards other than surface fault-rupture, and for recommending mitigation
26 measures as required by Public Resources Code section 2695, subdivision (a).
27 The Act does not apply offshore as the California Geological Survey (CGS) has
28 not zoned offshore California under the Act.

29 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

30 With respect to geological resources, § 30253 requires, in part, that: New
31 development shall: (a) Minimize risks to life and property in areas of high
32 geologic, flood, and fire hazard; and (b) Assure stability and structural integrity,
33 and neither create nor contribute significantly to erosion, geologic instability, or
34 destruction of the site or surrounding area or in any way require the construction
35 of protective devices that would substantially alter natural landforms along
36 bluffs and cliffs. Section 30243 also states in part that the long-term productivity
37 of soils and timberlands shall be protected.

1 **Coastal Development Permit**

2 The Coastal Development Permit is the regulatory mechanism used to ensure
3 that proposed developments in the coastal zone are in compliance with the
4 policies of Chapter 3 of the Coastal Act. In Mendocino County, a permit
5 application is reviewed by the Coastal Permit Administrator to determine if it can
6 be processed administratively or if it must be processed as a Coastal
7 Development Standard Permit. Granting of the permit requires a public hearing
8 by the Planning Commission or Coastal Permit Administrator.

9 **A.12 Greenhouse Gas Emissions**

10 **A.12.1 Federal**

11 **Federal Clean Air Act (42 U.S.C. § 7401 et seq.)**

12 In 2007, the U.S. Supreme Court ruled that carbon dioxide (CO₂) is an air
13 pollutant as defined under the FCAA, and that the USEPA has authority to
14 regulate GHG emissions.

15 **Mandatory Greenhouse Gas Reporting (74 Fed. Reg. 56260)**

16 On September 22, 2009, the USEPA issued the Mandatory Reporting of
17 Greenhouse Gases Rule, which requires reporting of GHG data and other
18 relevant information from large sources (industrial facilities and power plants that
19 emit more than 25,000 metric tons of carbon dioxide–equivalent (CO₂e)
20 emissions per year) in the United States. The purpose of the Rule is to collect
21 accurate and timely GHG data to inform future policy decisions. The Rule is
22 referred to as 40 CFR Part 98 (Part 98). Gases covered by implementation of Part
23 98 (GHG Reporting Program) are: CO₂, methane, nitrous oxide,
24 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other fluorinated
25 gases including nitrogen trifluoride and hydrofluorinated ethers.

26 **Kyoto Protocol and Paris Climate Agreement**

27 On March 21, 1994, the Kyoto Protocol, the first international agreement to
28 regulate GHG emissions, was signed. The Kyoto Protocol was a treaty made
29 under the United Nations Framework Convention on Climate Change. If the
30 commitments outlined in the Kyoto Protocol are met, global GHG emissions
31 would be reduced by 5 percent from 1990 levels during the commitment period
32 of 2008 to 2012. The United States was a signatory to the Kyoto Protocol;
33 however, Congress has not ratified it and the United States is not bound by the
34 Protocol's commitments.

1 In December 2015, the Paris Climate Agreement was endorsed and adopted by
2 195 countries, including the United States. The overarching goal was to reduce
3 pollution levels so that the rise in global temperatures is limited to no more than
4 2° Celsius (3.6° Fahrenheit). The Agreement included voluntary commitments to
5 cut or limit the growth of their GHG emissions and provide regular and
6 transparent reporting of every country's carbon reductions. On November 4,
7 2019, former U.S. President Trump formally notified the United Nations that the
8 United States would withdraw from the Paris Agreement. On January 20, 2021,
9 U.S. President Biden re-entered the Paris Climate Agreement.

10 **A.12.2 State**

11 **Sustainable Communities and Climate Protection Act of 2008 (SB 375, Chapter** 12 **728, Statutes of 2008)**

13 Adopted in September 2008, Senate Bill (SB) 375 provides a new planning
14 process to coordinate community development and land use planning with
15 regional transportation plans in an effort to reduce sprawling land use patterns
16 and dependence on private vehicles and thereby reduce vehicle miles
17 traveled and GHG associated with vehicle miles traveled. SB 375 is one major
18 tool being used to meet the goals in the Global Warming Solutions Act (AB 32).
19 Under SB 375, CARB sets GHG emission reduction targets for 2020 and 2035 for
20 the metropolitan planning organizations in the state. Each metropolitan
21 planning organization must then prepare a sustainable communities strategy
22 that meets the GHG emission reduction targets set by CARB. The sustainable
23 communities strategy has been incorporated into the region's regional
24 transportation plan.

25 **California Global Warming Solutions Act of 2006 (AB 32, Stats. 2006, ch. 488)**

26 Under AB 32, CARB is responsible for monitoring and reducing GHG emissions in
27 the State and for establishing a statewide GHG emissions cap for 2020 based on
28 1990 emissions levels. CARB has adopted the AB 32 Climate Change Scoping
29 Plan (Scoping Plan), initially approved in 2008 and updated in 2014, which
30 contains the main strategies for California to implement to reduce CO₂e
31 emissions by 169 million metric tons (MMT) from the State's projected 2020
32 emissions level of 596 MMT CO₂e under a business-as-usual scenario. The
33 Scoping Plan breaks down the amount of GHG emissions reductions CARB
34 recommends for each emissions sector of the State's GHG inventory, but does
35 not directly discuss GHG emissions generated by construction activities.

1 **Senate Bill 32 (Stats. 2016, ch. 249)**

2 The update made by SB 32 requires a reduction in statewide GHG emissions to
3 40 percent below 1990 levels by 2030 to meet the target set in EO B-30-15. The
4 2017 Climate Change Scoping Plan provides a path to meet the SB 32 GHG
5 emissions reduction goals and provides several GHG emissions reduction
6 strategies to meet the 2030 interim GHG emissions reduction target including
7 implementation of the Sustainable Freight Action Plan, Diesel Risk Reduction
8 Plan, Renewable Portfolio Standard (50 percent by 2030), Advanced Clean Cars
9 policy, and Low Carbon Fuel Standard.

10 **Clean Energy and Pollution Reduction Act (SB 350; Stats. 2015, ch. 547)**

11 This Act requires that the amount of electricity generated and sold to retail
12 customers from renewable energy resources be increased to 50 percent by
13 December 31, 2030, and that statewide energy efficiency savings in electricity
14 and natural gas by retail customers be doubled by January 1, 2030.

15 **Senate Bill 100**

16 The state's existing renewables portfolio standard requires all retail sellers to
17 procure a minimum quantity of electricity products from eligible renewable
18 energy resources so that the total kilowatt-hours of those products sold to their
19 retail end-use customers achieve 25 percent of retail sales by December 31,
20 2016 (achieved), 33 percent by December 31, 2020, 40 percent by December
21 31, 2024, 45 percent by December 31, 2027, and 50 percent by December 31,
22 2030 (as extended by SB 350). SB 100 revises and extends these renewable
23 resource targets to 50 percent by December 31, 2026, 60 percent December 31,
24 2030, and 100 percent by December 31, 2045.

25 **SB 97 (Stats. 2007, ch. 185)**

26 Pursuant to SB 97, the State Office of Planning and Research prepared and the
27 Natural Resources Agency adopted amendments to the State CEQA Guidelines
28 for the feasible mitigation of GHG emissions or the effects of GHG emissions.
29 Effective as of March 2010, the revisions to the CEQA Environmental Checklist
30 Form (Appendix G) and the Energy Conservation Appendix (Appendix F)
31 provide a framework to address global climate change impacts in the CEQA
32 process; State CEQA Guidelines § 15064.4 was also added to provide an
33 approach to assessing impacts from GHGs.

34 As discussed in State CEQA Guidelines § 15064.4, the determination of the
35 significance of GHG emissions calls for a careful judgment by the lead agency,
36 consistent with the provisions in § 15064. Section 15064.4 further provides that a

1 lead agency should make a good-faith effort, to the extent possible, on
2 scientific and factual data, to describe, calculate, or estimate the amount of
3 GHG emissions resulting from a project.

4 A lead agency shall have discretion to determine, in the context of a particular
5 project, whether to:

- 6 • Use a model or methodology to quantify GHG emissions resulting from a
7 project, and determine which model or methodology to use. The lead
8 agency has discretion to select the model or methodology it considers most
9 appropriate provided it supports its decision with substantial evidence. The
10 lead agency should explain the limitations of the particular model or
11 methodology selected for use; and/or
- 12 • Rely on a qualitative analysis or performance based standards.
- 13 • Section 15064.4 also advises a lead agency to consider the following factors,
14 among others, when assessing the significance of impacts from GHG
15 emissions on the environment: the extent to which the project may increase
16 or reduce GHG emissions as compared to the existing environmental setting;
17 whether the project emissions exceed a threshold of significance that the
18 lead agency determines applies to the project; and the extent to which the
19 project complies with regulations or requirements adopted to implement a
20 statewide, regional, or local plan for the reduction or mitigation of GHG
21 emissions.

22 **Other Legislation**

- 23 • **AB 1493** (Stats. 2002, ch. 200) required CARB to develop and implement
24 regulations (stricter emissions standards) to reduce automobile and light truck
25 GHG emissions beginning with model year 2009
- 26 • **AB 2800** (Stats. 2016, ch. 580) requires, in part, that state agencies, until 2020,
27 take into account current and future climate change impacts when
28 planning, designing, building, operating, maintaining, and investing in
29 infrastructure
- 30 • **SB 375** (Stats. 2008, ch. 728; effective 2009) required CARB to develop
31 regional GHG emission reduction targets in regions covered by California's 18
32 metropolitan planning organizations (MPOs) and required the 18 MPOs to
33 develop regional land use and transportation plans and demonstrate an
34 ability to attain the proposed reduction targets by 2020 and 2035
- 35 • **SB 1383** (Stats. 2016, ch. 395) requires CARB to approve and begin
36 implementing its Short-Lived Climate Pollutant Reduction Strategy by January
37 1, 2018, to achieve a 40 percent reduction in methane, 40 percent reduction

- 1 in hydrofluorocarbon gases, and 50 percent reduction in anthropogenic
2 black carbon by 2030, relative to 2013 levels
- 3 • **SB 1425** (Stats. 2016, ch. 596) requires the California Environmental Protection
4 Agency to oversee the development of a registry of GHG emissions resulting
5 from the use of water, such as pumping, treatment, heating, and
6 conveyance (the water-energy nexus), using the best available data
 - 7 • **SB 605** directed CARB, in coordination with other State agencies and local air
8 districts, to develop a comprehensive Short-Lived Climate Pollutant (SLCP)
9 Reduction Strategy
 - 10 • **SB 1383** directed CARB to approve and implement the SLCP Reduction
11 Strategy to achieve the reductions in SLCPs.
 - 12 • **SB 743** required revisions to the State CEQA Guidelines that establish new
13 impact analysis criteria for the assessment of a project's transportation
14 impacts. The intent behind SB 743 and revising the State CEQA Guidelines is
15 to integrate and better balance the needs of congestion management, infill
16 development, active transportation, and GHG emissions reduction.

17 **Executive Orders**

- 18 • **EO B-30-15** (Governor Brown, 2015) established a new interim statewide GHG
19 emission reduction target to reduce GHG emissions to 40 percent below 1990
20 levels by 2030 to ensure California meets its target to reduce GHG emissions
21 to 80 percent below 1990 levels by 2050. State agencies with jurisdiction over
22 sources of GHG emissions to implement measures were also directed
23 pursuant to statutory authority, to achieve GHG emissions reductions to meet
24 the 2030 and 2050 targets.
- 25 • **EO S-21-09** (Governor Schwarzenegger, 2009) directed CARB to adopt a
26 regulation consistent with the goal of EO S-14-08.
- 27 • **EO S-14-08** (Governor Schwarzenegger, 2008) required all retail suppliers of
28 electricity in California to serve 33 percent of their load with renewable
29 energy by 2020.
- 30 • **EO S-13-08** (Governor Schwarzenegger, 2008) directed state agencies to
31 take specified actions to assess and plan for impacts of global climate
32 change, particularly sea-level rise.
- 33 • **EO S-01-07** (Governor Schwarzenegger, 2007) set a low carbon fuel standard
34 for California, and directed the carbon intensity of California's transportations
35 fuels to be reduced by at least 10 percent by 2020.
- 36 • **EO S-3-05** (Governor Schwarzenegger, 2005) directed reductions in GHG
37 emissions to 2000 levels by 2010, 1990 levels by 2020, and 80 percent below
38 1990 levels by 2050.

- 1 • **EO B-55-18** (Governor Brown, 2018) establishes a new state goal to achieve
2 carbon neutrality as soon as possible, and no later than 2045, and to achieve
3 and maintain net negative emissions thereafter.

4 **A.13 Hazards and Hazardous Materials**

5 **A.13.1 Federal**

6 **California Toxics Rule (40 CFR 131)**

7 In 2000, the USEPA promulgated numeric water quality criteria for priority toxic
8 pollutants and other water quality standards provisions to be applied to waters
9 in California to protect human health and the environment. Under the Clean
10 Water Act (CWA) § 303(c)(2)(B), the USEPA requires states to adopt numeric
11 water quality criteria for priority toxic pollutants for which the USEPA has issued
12 criteria guidance, and the presence or discharge of which could reasonably be
13 expected to interfere with maintaining designated uses. These federal criteria
14 are legally applicable in California for inland surface waters, enclosed bays, and
15 estuaries.

16 **Comprehensive Environmental Response, Compensation, and Liability Act** 17 **(42 U.S.C., Ch. 103)**

18 The Comprehensive Environmental Response, Compensation, and Liability Act
19 (CERCLA), commonly known as Superfund, provides broad federal authority to
20 respond directly to releases or threatened releases of hazardous substances that
21 may endanger public health or the environment. CERCLA establishes
22 requirements concerning closed and abandoned hazardous waste sites,
23 provides for liability of persons responsible for releases of hazardous waste at
24 these sites, and establishes a trust fund to provide for cleanup when no
25 responsible party could be identified. CERCLA was amended by the Superfund
26 Amendments and Reauthorization Act on October 17, 1986.

27 **Occupational Safety and Health Act of 1970**

28 Congress created the Occupational Safety and Health Administration (OSHA) to
29 assure safe and healthful working conditions for working men and women by
30 setting and enforcing standards and by providing training, outreach, education
31 and assistance. OSHA has entered into an agreement with California under
32 which California regulations covers all private sector places of employment
33 within the state with certain exceptions.

1 **Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.)**

2 The Resource Conservation and Recovery Act (RCRA) authorizes the USEPA to
3 control hazardous waste from “cradle-to-grave” (generation, transportation,
4 treatment, storage, and disposal). RCRA Hazardous and Solid Waste
5 Amendments from 1984 include waste minimization, phasing out land disposal of
6 hazardous waste, and corrective action for releases. The Department of Toxic
7 Substances Control is the lead state agency for corrective action associated
8 with RCRA facility investigations and remediation.

9 **Toxic Substances Control Act (15 U.S.C. § 2601–2692)**

10 The Toxic Substances Control Act (TSCA) authorizes the USEPA to require
11 reporting, record-keeping, testing requirements, and restrictions related to
12 chemical substances and/or mixtures. It also addresses production, importation,
13 use, and disposal of specific chemicals, such as polychlorinated biphenyls
14 (PCBs), asbestos-containing materials, lead-based paint, and petroleum.

15 **Other Relevant Laws, Regulations, and Recognized National Codes and**
16 **Standards**

- 17 • **33 CFR, Navigation and Navigable Waters** regulates aids to navigation, vessel
18 operations, anchorages, bridges, security of vessels, waterfront facilities,
19 marine pollution financial responsibility and compensation, prevention and
20 control of releases of materials (including oil spills) from vessels, ports and
21 waterways safety, boating safety, and deep-water ports
- 22 • **46 CFR Parts 1 through 599 and Inspection and Regulation of Vessels**
23 **(46 U.S.C. Subtitle II Part B)** provide that all commercial (e.g., passengers for
24 hire, transport of cargoes, hazardous materials, and bulk solids) vessels
25 operating offshore on specified routes (inland, near coastal, and oceans),
26 including those under foreign registration, are subject to requirements
27 applicable to vessel construction, condition, and operation. These
28 regulations also allow for inspections to verify that vessels comply with
29 applicable international conventions and U.S. laws and regulations.
- 30 • **Act of 1980 to Prevent Pollution from Ships** requires ships in U.S. waters, and all
31 U.S. ships to comply with International Convention for the Prevention of
32 Pollution from Ships (MARPOL)
- 33 • **Clean Water Act** (see *Hydrology and Water Quality* section)
- 34 • **Convention on the International Regulations for Preventing Collisions at Sea**
35 establishes “rules of the road” such as rights-of-way, safe speed, actions to
36 avoid collision, and procedures to observe in narrow channels and restricted
37 visibility.

- 1 • **Hazardous Materials Transportation Act** (see *Transportation/Traffic* section)
- 2 • **Safety and Corrosion Prevention Requirements** — ASME, National Association
- 3 of Corrosion Engineers (NACE), ANSI

4 **A.13.2 State**

5 **California Occupational Safety and Health Act of 1973 and California Code of**

6 **Regulations, title 8**

7 California employers have many different responsibilities under the Cal/OSHA
8 Regulations. The following represents several requirements:

- 9 • Establish, implement and maintain an Injury and Illness Prevention Program
- 10 and update it periodically to keep employees safe.
- 11 • Inspect workplace(s) to identify and correct unsafe and hazardous
- 12 conditions.
- 13 • Make sure employees have and use safe tools and equipment and properly
- 14 maintain this equipment.
- 15 • Provide and pay for personal protective equipment.
- 16 • Use color codes, posters, labels or signs to warn employees of potential
- 17 hazards.

18 **Clean Coast Act of 2005 (SB 771; Stats. 2005, ch. 588)**

19 This Act (effective January 1, 2006) includes requirements to reduce pollution of
20 California waters from large vessels, such as by: prohibiting and reporting of
21 discharges of hazardous wastes, other wastes, or oily bilge water into California
22 waters or a marine sanctuary; and prohibiting and reporting discharges of grey
23 water and sewage into California waters from vessels with sufficient holding-tank
24 capacity or vessels capable of discharging grey water or sewage to available
25 shore-side reception facilities.

26 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

27 Section 30232 of the Coastal Act addresses hazardous materials spills and states
28 that “Protection against the spillage of crude oil, gas, petroleum products, or
29 hazardous substances shall be provided in relation to any development or
30 transportation of such materials. Effective containment and cleanup facilities
31 and procedures shall be provided for accidental spills that do occur.”

1 **Other**

- 2 • **Hazardous Waste Control Act (Health & Safety Code, ch. 6.5, and 22 CCR and**
3 **26 CCR)** establishes criteria for defining hazardous waste and its safe
4 handling, storage, treatment, and disposal (law is designed to provide
5 cradle-to-grave management of hazardous wastes and reduce the
6 occurrence and severity of hazardous materials releases)
- 7 • **Hazardous Material Release Response Plans and Inventory Law (Health &**
8 **Safety Code, ch. 6.95)** is designed to reduce the occurrence and severity of
9 hazardous materials releases. This State law requires businesses to develop a
10 Release Response Plan for hazardous materials emergencies if they handle
11 more than 500 pounds, 55 gallons, or 200 cubic feet of hazardous materials.
12 In addition, the business must prepare a Hazardous Materials Inventory of all
13 hazardous materials stored or handled at the facility over the above
14 thresholds, and all hazardous materials must be stored in a safe manner.
- 15 • **California Code of Regulations, title 8, division 1** sets forth the Permissible
16 Exposure Limit, the exposure, inhalation or dermal permissible exposure limit
17 for numerous chemicals. Included are chemicals, mixture of chemicals, or
18 pathogens for which there is statistically significant evidence, based on at
19 least one study conducted in accordance with established scientific
20 principles, that acute or chronic health effects may occur in exposed
21 employees. Title 8, §§ 5191 and 5194 require a Hazard Communication Plan
22 to ensure both employers and employees understand how to identify
23 potentially hazardous substances in the workplace, understand the
24 associated health hazards, and follow safe work practices.
- 25 • **California Code of Regulations, title 19, division 2** establishes minimum
26 statewide standards for Hazardous Materials Business Plans.
- 27 • **California Code of Regulations, title 22, division 4.5** regulates hazardous
28 wastes and materials by implementation of a Unified Program to ensure
29 consistency throughout the state in administration requirements, permits,
30 inspections, and enforcement by Certified Unified Program Agencies.
- 31 • **California Code of Regulations, title 24, part 9 (Fire Code regulations)** – state
32 hazardous materials should be used and storage in compliance with the
33 state fire codes
- 34 • **Porter-Cologne Water Quality Control Act** (see *Hydrology and Water Quality*
35 *section*)
- 36 • **Seismic Hazards Mapping Act/Regulations** (see *Geology and Soils section*)

1 **A.14 Hydrology and Water Quality**

2 **A.14.1 Federal**

3 **Federal Clean Water Act (33 U.S.C. § 1251 et seq.)**

4 The CWA is comprehensive legislation (it generally includes the Federal Water
5 Pollution Control Act of 1972, its supplementation by the CWA of 1977, and
6 amendments in 1981, 1987, and 1993) that seeks to protect the nation's water
7 from pollution by setting water quality standards for surface water and by
8 limiting the discharge of effluents into waters of the United States. These water
9 quality standards are promulgated by the USEPA and enforced in California by
10 the State Water Resources Control Board (SWRCB) and nine Regional Water
11 Quality Control Boards (RWQCBs). CWA sections include:

- 12 • **Section 303(d) (33 U.S.C. § 1313)** requires states to list waters that are not
13 attaining water quality standards, which is known as the 303(d) List of
14 impaired waters. These requirements have lead to the development of total
15 maximum daily load (TMDL) guidance at the state level through the SWRCB
16 and various RWQCBs.
- 17 • **Section 305(b) (33 U.S.C. § 1315)** requires states to assess and report on the
18 water quality status of waters within the states.
- 19 • **Section 316(b) (33 U.S.C. § 1326)** was implemented by the SWRCB regulating
20 the entrainment and impingement of marine life related to power generating
21 facility intake structures. The policy establishes technology-based standards
22 to reduce the harmful effects associated with ocean cooling water intake
23 structures on marine and estuarine life. The policy applies to existing power
24 plants that can withdraw from State coastal and estuarine waters using a
25 single-pass system (“once-through cooling”). Closed-cycle wet cooling has
26 been selected as best technology available. Permittees must either reduce
27 intake flow and velocity or reduce impacts to aquatic life comparably by
28 other means.
- 29 • **Section 401 (33 U.S.C. § 1341)** specifies that any applicant for a federal
30 permit or license to conduct any activity which may result in any discharge
31 into the navigable waters of the United States to obtain a certification or
32 waiver thereof from the state in which the discharge originates that such a
33 discharge will comply with established state effluent limitations and water
34 quality standards. U.S. Army Corps of Engineers projects are required to
35 obtain this certification.
- 36 • **Section 402 (33 U.S.C. § 1342)** establishes conditions and permitting for
37 discharges of pollutants under the National Pollutant Discharge Elimination
38 System) (NPDES). Under the NPDES Program, states establish standards

1 specific to water bodies and designate the types of pollutants to be
2 regulated, including total suspended solids and oil; all point sources that
3 discharge directly into waterways are required to obtain a permit regulating
4 their discharge. NPDES permits fall under the jurisdiction of the SWRCB or
5 RWQCBs when the discharge occurs within state waters (out to 3 nautical
6 miles).

- 7 • **Section 403 (33 U.S.C. § 1343)** provides permit issuance guidelines for ocean
8 discharge. Section 403 provides that point source discharges to the territorial
9 seas, contiguous zone, and oceans are subject to regulatory requirements in
10 addition to the technology – or water quality-based requirements applicable
11 to typical discharges. These requirements are intended to ensure that no
12 unreasonable degradation of the marine environment will occur as a result of
13 the discharge and to ensure that sensitive ecological communities are
14 protected.
- 15 • **Section 404 (33 U.S.C. § 1344)** authorizes the U.S. Army Corps of Engineers to
16 issue permits for the discharge of dredged or fill material into waters of the
17 United States, including wetlands, streams, rivers, lakes, coastal waters or
18 other water bodies or aquatic areas that qualify as waters of the United
19 States.

20 **Marine Protection, Research, and Sanctuary Act (16 U.S.C. § 1431 et seq. and 33**
21 **U.S.C. § 1401 et seq.)**

22 In 1972, this Act established the National Marine Sanctuary Program,
23 administered by the National Oceanic and Atmospheric Administration, which
24 has a primary goal to establish and maintain National Marine Sanctuaries and
25 protect natural and cultural resources contained within their boundaries.

26 **Rivers and Harbors Act (33 U.S.C. § 401)**

27 This Act governs specified activities in “navigable waters” (waters subject to the
28 ebb and flow of the tide or that are presently used, have been used in the past,
29 or may be susceptible for use to transport interstate or foreign commerce).
30 Section 10 provides that construction of any structure in or over any navigable
31 water of the United States , or the accomplishment of any other work affecting
32 the course, location, condition, or physical capacity of such waters, is unlawful
33 unless the U.S. Army Corps of Engineers approves the work and issues a Rivers
34 and Harbors Act § 10 Permit (which may occur concurrently with CWA Section
35 404 permits).

1 **National Flood Insurance Program**

2 In response to the increasing cost of disaster relief, Congress passed the National
3 Flood Insurance Program of 1968 and the Flood Disaster Protection Act of 1973.
4 The Federal Emergency Management Agency (FEMA) administers the program
5 to provide subsidized flood insurance to communities that comply with FEMA
6 regulations to limit development in floodplains. A FIRM is an official FEMA-
7 prepared map of a community. It is used to delineate both the SFHAs and the
8 flood-risk premium zones that are applicable to the community.

9 **Other**

- 10 • **Marine Plastic Pollution Research and Control Act** prohibits the discharge of
11 plastic, garbage, and floating wood scraps within 3 nautical miles of land.
12 Beyond 3 nautical miles, garbage must be ground to less than 1 inch, but
13 discharge of plastic and floating wood scraps is still restricted. This Act
14 requires manned offshore platforms, drilling rigs, and support vessels
15 operating under a federal oil and gas lease to develop waste management
16 plans.
- 17 • **Navigation and Navigable Waters (33 CFR)** regulations include requirements
18 pertaining to prevention and control of releases of materials from vessels
19 (e.g., oil spills), traffic control, and restricted areas, and general ports and
20 waterways safety.

21 **A.14.2 State**

22 **Porter-Cologne Water Quality Control Act (Water Code, § 13000 et seq.) (Porter-** 23 **Cologne)**

24 Porter-Cologne is the principal law governing water quality in California. The Act
25 established the SWRCB and nine RWQCBs, which have primary responsibility for
26 protecting water quality and beneficial uses of state waters. Porter-Cologne also
27 implements many provisions of the federal CWA, such as the NPDES permitting
28 program. Pursuant to CWA § 401, applicants for a federal license or permit for
29 activities that may result in any discharge to waters of the United States must
30 seek a Water Quality Certification from the state in which the discharge
31 originates; such Certification is based on a finding that the discharge will meet
32 water quality standards and other appropriate requirements of state law. In
33 California, RWQCBs issue or deny certification for discharges within their
34 jurisdiction. The SWRCB has this responsibility where projects or activities affect
35 waters in more than one RWQCB's jurisdiction. If the SWRCB or a RWQCB
36 imposes a condition on its Certification, those conditions must be included in the
37 federal permit or license. Plans that contain enforceable standards for the
38 various waters they address include the following:

- 1 • Basin Plan. Porter-Cologne (see § 13240) requires each RWQCB to formulate
2 and adopt a Basin Plan for all areas within the region. Each RWQCB must
3 establish water quality objectives to ensure the reasonable protection of
4 beneficial uses, and an implementation program for achieving water quality
5 objectives within the basin plan. In California, the beneficial uses and water
6 quality objectives are the state's water quality standards.
- 7 • California Ocean Plan (see § 13170.2) establishes water quality objectives for
8 California's ocean waters and provides the basis for regulating wastes
9 discharged into ocean and coastal waters. The plan applies to point and
10 non-point sources. In addition, the Ocean Plan identifies applicable
11 beneficial uses of marine waters and sets narrative and numerical water
12 quality objectives to protect beneficial uses. The SWRCB first adopted this
13 plan in 1972, and it reviews the plan at least every 3 years to ensure that
14 current standards are adequate and are not allowing degradation to
15 indigenous marine species or posing a threat to human health.
- 16 • Other: Water Quality Control Plan for Enclosed Bays and Estuaries of
17 California; Water Quality Control Plan for Control of Temperature in the
18 Coastal and Interstate Waters and Enclosed Bays and Estuaries of California
19 (Thermal Plan); and San Francisco Bay/Sacramento-San Joaquin Delta
20 Estuary Water Quality Control Plan.

21 RWQCBs also oversee on-site treatment of "California Designated, Non-
22 Hazardous Waste" and enforces water quality thresholds and standards set forth
23 in the Basin Plan. Applicants may be required to obtain a General Construction
24 Activities Storm Water Permit under the NPDES program, and develop and
25 implement a Storm Water Pollution Prevention Plan (SWPPP) that includes best
26 management practices to control erosion, siltation, turbidity, and other
27 contaminants associated with construction activities. The SWPPP would include
28 best management practices to control or prevent the release of non-storm
29 water discharges, such as crude oil, in storm water runoff.

30 **NPDES General Construction Stormwater Permit**

31 The General NPDES Permit for Stormwater Discharges Associated with
32 Construction and Land Disturbance Activities (Order 2009-0009-DWQ, as
33 amended by 2010-0014-DWQ and 2012-006-DWQ) (Construction General
34 Permit) regulates stormwater discharges related to construction activities.
35 Dischargers whose projects disturb 1 or more acres of soil, or whose projects
36 disturb less than 1 acre but are part of a larger common plan of development
37 that, in total, disturbs 1 or more acres, are required to obtain coverage under
38 the Construction General Permit. The Construction General Permit requires
39 development and implementation of a SWPPP. The SWPPP must list best
40 management practices (BMPs) that the discharger will use to reduce or

1 eliminate pollutants associated with construction activities in stormwater runoff
2 and document the placement and maintenance of those BMPs. Additionally,
3 the SWPPP must contain a visual monitoring program; a chemical monitoring
4 program for “nonvisible” pollutants, to be implemented in case of a BMP failure;
5 and a monitoring plan for turbidity and pH for projects that meet defined risk
6 criteria. The requirements of the SWPPP are based on the construction design
7 specifications detailed in the final design plans of a project and the hydrology
8 and geology of the site expected to be encountered during construction. The
9 local or lead agency requires proof of coverage under the Construction
10 General Permit prior to building permit issuance. The SWPPP is submitted to the
11 SWRCB, and a copy is kept at the jobsite where it is updated during different
12 phases of construction. The SWPPP must be available for inspection and review
13 upon request.

14 **Surface and Submerged Lands Lease Agreement**

15 The CSLC has exclusive jurisdiction over all of California's tidelands and
16 submerged lands as well as the beds of naturally navigable rivers and lakes,
17 sovereign lands, swamp and overflow lands, and state school lands (proprietary
18 lands). CSLC has statutory authority (Division 6 of the Public Resources Code) to
19 approve appropriate uses for public property rights within these sovereign lands,
20 such as water-borne commerce, navigation, fisheries, open space, recreation,
21 or other recognized public trust purposes.

22 CSLC management responsibilities include activities within submerged lands
23 (from the mean high-tide line) as well as activities within an area 3 nautical miles
24 offshore. These activities include oil and gas development, harbor development
25 and management oversight, construction and operation of offshore pipelines or
26 other facilities, dredging, reclamation, use of filled sovereign lands,
27 topographical and geological studies, and other activities that occur on these
28 lands. CSLC also surveys and maintains the title records of all state sovereign
29 lands and settles issues regarding title and jurisdiction.

30 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

31 Section 30231 states that the biological productivity and the quality of coastal
32 waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum
33 populations of marine organisms and for the protection of human health shall
34 be maintained and, where feasible, restored through, among other means,
35 minimizing adverse effects of waste water discharges and entrainment,
36 controlling runoff, preventing depletion of ground water supplies and substantial
37 interference with surface water flow, encouraging waste water reclamation,
38 maintaining natural vegetation buffer areas that protect riparian habitats, and
39 minimizing alteration of natural streams.

1 **Harbors and Navigation Code §§ 650-674**

2 This code specifies a State policy to “promote safety for persons and property in
3 and connected with the use and equipment of vessels,” and includes laws
4 concerning marine navigation that are implemented by local city and county
5 governments. This Code also regulates discharges from vessels within territorial
6 waters of the State of California to prevent adverse impacts on the marine
7 environment. This code regulates oil discharges and imposes civil penalties and
8 liability for cleanup costs when oil is intentionally or negligently discharged to the
9 waters of the State of California.

10 **Marine Life Management Act**

11 The Marine Life Management Act of 1999 is a plan for managing fisheries and
12 other marine life in the State.

13 **Marine Life Protection Act (Fish & Game Code, §§ 2850–2863)**

14 Pursuant to this Act, the CDFW established and manages a network of MPAs to,
15 among other goals, protect marine life and habitats and preserve ecosystem
16 integrity.

17 **Marine Managed Areas Improvement Act**

18 This Act established the California Marine Managed Areas System, extended
19 State Parks’ management jurisdiction into the marine environment, and gives
20 priority to MPAs adjacent to protected terrestrial lands. For example, more than
21 25 percent of the California coastline is within the State Park System.

22 **Other Sections**

- 23 • Lake and Streambed Alteration Program (Fish & Game Code, §§ 1600-1616)
24 (see *Biological Resources section*).
- 25 • Water Code § 8710 requires that a reclamation board permit be obtained
26 prior to the start of any work, including excavation and construction
27 activities, if projects are located within floodways or levee sections. Structures
28 for human habitation are not permitted within designated floodways.
- 29 • Water Code § 13142.5 provides marine water quality policies stating that
30 wastewater discharges shall be treated to protect present and future
31 beneficial uses, and, where feasible, to restore past beneficial uses of the
32 receiving waters. The highest priority is given to improving or eliminating
33 discharges that adversely affect wetlands, estuaries, and other biologically
34 sensitive sites; areas important for water contact sports; areas that produce

1 shellfish for human consumption; and ocean areas subject to massive waste
2 discharge.

3 **A.15 Land Use and Planning**

4 **A.15.1 Federal**

5 **Coastal Zone Management Act (see *Multiple Environmental Issues*)**

6 **A.15.2 State**

7 **Submerged Lands Act**

8 The State of California owns tide and submerged lands waterward of the
9 ordinary high watermark. State law gives primary responsibility for determination
10 of the precise boundary between these public tidelands and private lands, and
11 administrative responsibility over state tidelands, to the CSLC. Access and use of
12 state shoreline areas can be obtained through purchase or lease agreements.

13 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

- 14 • **Section 30220** – Coastal areas suited for water-oriented recreational activities
15 that cannot readily be provided at inland water areas shall be protected for
16 such uses.
- 17 • **Section 30221** – Oceanfront land suitable for recreational use shall be
18 protected for recreational use and development unless present and
19 foreseeable future demand for public or commercial recreational activities
20 that could be accommodated on the property is already adequately
21 provided for in the area.
- 22 • **Section 30222** – The use of private lands suitable for visitor-serving commercial
23 recreational facilities designed to enhance public opportunities for coastal
24 recreation shall have priority over private residential, general industrial, or
25 general commercial development, but not over agriculture or coastal-
26 dependent industry.
- 27 • **Section 30223** – Upland areas necessary to support coastal recreational uses
28 shall be reserved for such uses, where feasible.
- 29 • **Section 30224** – Increased recreational boating use of coastal waters shall be
30 encouraged, in accordance with this division, by developing dry storage
31 areas, increasing public launching facilities, providing additional berthing
32 space in existing harbors, limiting non-water-dependent land uses that
33 congest access corridors and preclude boating support facilities, providing
34 harbors of refuge, and by providing for new boating facilities in natural
35 harbors, new protected water areas, and in areas dredged from dry land.

1 **A.16 Mineral Resources**

2 **A.16.1 Federal**

3 There are no federal laws, regulations, and/or policies pertaining to mineral
4 resources that are potentially applicable to this Project.

5 **A.16.2 State**

6 **Surface Mining and Reclamation Act (Pub. Resources Code §§ 2710-2796)**

7 The California Department of Conservation is the primary agency with regard to
8 mineral resource protection. The Department, which is charged with conserving
9 earth resources (Pub. Resources Code §§ 600-690), has five program divisions:
10 CGS; Division of Oil, Gas, and Geothermal Resources; Division of Land Resource
11 Protection; State Mining and Geology Board; and Division of Mine Reclamation.
12 The State Mining and Geology Board develops policy direction regarding the
13 development and conservation of mineral resources and reclamation of mined
14 lands. In accordance with this Act, CGS classifies the regional significance of
15 mineral resources and assists in designating lands containing significant
16 aggregate resources. Four Mineral Resource Zones (MRZs) are designated to
17 indicate the significance of mineral deposits.

- 18 • **MRZ-1** – Areas where adequate information indicates that no significant
19 mineral deposits are present or where it is judged that little likelihood exists for
20 their presence
- 21 • **MRZ-2** – Areas where adequate information indicates significant mineral
22 deposits are present, or where it is judged that a high likelihood exists for their
23 presence
- 24 • **MRZ-3** – Areas containing mineral deposits the significance of which cannot
25 be evaluated from available data
- 26 • **MRZ-4** – Areas where available information is inadequate for assignment to
27 any other MRZ

28 **The Warren-Alquist Act**

29 This Act was adopted in 1974 to encourage conservation of non-renewable
30 energy resources.

1 **A.17 Noise**

2 **A.17.1 Federal**

3 **Noise Control Act (42 U.S.C. § 4910) and NTIS 550\9-74-004, 1974**

4 The Noise Control Act required the USEPA to establish noise emission criteria and
5 noise testing methods (40 CFR Chapter 1, Subpart Q). These criteria generally
6 apply to interstate rail carriers and to some types of construction and
7 transportation equipment. In 1974, the USEPA provided guidance in NTIS 550\9-
8 74-004 (“Information on Levels of Environmental Noise Requisite to Protect Health
9 and Welfare with an Adequate Margin of Safety;” referenced as the “Levels
10 Document”) that established an L_{dn} of 55 dBA as the requisite level, with an
11 adequate margin of safety, for areas of outdoor uses including residences and
12 recreation areas. The recommendations do not consider technical or economic
13 feasibility (i.e., the document identifies safe levels of environmental noise
14 exposure without consideration for achieving these levels or other potentially
15 relevant considerations), and therefore should not be construed as standards or
16 regulations.

17 **NTIS 550\9-74-004, 1974**

18 In response to a Federal mandate, the USEPA provided guidance in NTIS 550\9-
19 74-004, 1974 (“Information on Levels of Environmental Noise Requisite to Protect
20 Health and Welfare with an Adequate Margin of Safety”), commonly
21 referenced as the “Levels Document” that establishes an L_{dn} of 55 dBA as the
22 requisite level, with an adequate margin of safety, for areas of outdoor uses
23 including residences and recreation areas. The USEPA recommendations
24 contain a factor of safety and do not consider technical or economic feasibility
25 (i.e., the document identifies safe levels of environmental noise exposure without
26 consideration for achieving these levels or other potentially relevant
27 considerations), and therefore should not be construed as standards or
28 regulations.

29 **A.17.2 State**

30 **Land Use Compatibility Guidelines from the Now Defunct California Office of**
31 **Noise Control**

32 State regulations for limiting population exposure to physically and/or
33 psychologically significant noise levels include established guidelines and
34 ordinances for roadway and aviation noise under the California Department of
35 Transportation and the now defunct California Office of Noise Control. Office of
36 Noise Control land use compatibility guidelines provided the following:

- 1 • For residences, an exterior noise level of 60 to 65 dBA Community Noise
2 Equivalent Level (CNEL) is considered "normally acceptable;" a noise level of
3 greater than 75 dBA CNEL is considered "clearly unacceptable."
- 4 • A noise level of 70 dBA CNEL is considered "conditionally acceptable" (i.e.,
5 the upper limit of "normally acceptable" for sensitive uses [schools, libraries,
6 hospitals, nursing homes, churches, parks, offices, commercial/professional
7 businesses]).

8 **Other**

- 9 • **California Code of Regulations, title 24** establishes CNEL 45 dBA as the
10 maximum allowable indoor noise level resulting from exterior noise sources for
11 multi-family residences.

12 **A.18 Population and Housing**

13 No federal or state laws, regulations, and/or policies relevant to population and
14 housing are applicable to the Project. Since the Project does not involve a
15 change in land use, local goals, policies, or regulations are not applicable.

16 **A.19 Public Services**

17 **A.19.1 Federal**

18 **CFR Title 29**

- 19 • **29 CFR 1910.38** requires an employer, when required by an OSHA standard,
20 to have an Emergency Action Plan that must be in writing, kept in the
21 workplace, and available to employees for review
- 22 • **29 CFR 1910.39** requires an employer to have a Fire Prevention Plan.
- 23 • **29 CFR 1910.155, Subpart L, Fire Protection** requires employers to place and
24 keep in proper working order fire safety equipment within facilities

25 **A.19.2 State**

26 **California Code of Regulations, title 19 (Public Safety)**

27 California State Fire Marshal regulations establish minimum standards for the
28 prevention of fire and for protection of life and property against fire, explosion,
29 and panic.

1 **A.20 Recreation**

2 **A.20.1 Federal**

3 There are no federal laws, regulations, and/or policies regarding recreation that
4 are potentially applicable to this Project.

5 **A.20.2 State**

6 **Coastal Act Chapter 3 Policies (see *Multiple Environmental Issues*)**

- 7 • **Section 30210** – In carrying out the requirement of Section 4 of Article X of the
8 California Constitution, maximum access, which shall be conspicuously
9 posted, and recreational opportunities shall be provided for all the people
10 consistent with public safety needs and the need to protect public rights,
11 rights of private property owners, and natural resource areas from overuse.
- 12 • **Section 30220** – Coastal areas suited for water-oriented recreational activities
13 that cannot readily be provided at inland water areas shall be protected for
14 such uses.
- 15 • **Section 30221** – Oceanfront land suitable for recreational use shall be
16 protected for recreational use and development unless present and
17 foreseeable future demand for public or commercial recreational activities
18 that could be accommodated on the property is already adequately
19 provided for in the area.
- 20 • **Section 30222.5** – Oceanfront land that is suitable for coastal dependent
21 aquaculture shall be protected for that use, and proposals for aquaculture
22 facilities located on those sites shall be given priority, except over other
23 coastal dependent developments or uses.

24 **Other**

- 25 • **California Ocean Sport Fishing Regulations.** Each year, the Fish and Game
26 Commission issues regulations on the recreational fishing within State marine
27 waters. These regulations specify season, size and bag limits, gear restrictions,
28 as well as licensing requirements. Following the development of the MPAs, a
29 section on fishing restrictions within the MPAs was also included.

1 **A.21 Transportation**

2 **A.21.1 Federal**

3 **Hazardous Materials Transportation Act (49 U.S.C. § 5901)**

4 This Act delegates authority to the U.S. Department of Transportation to develop
5 and implement regulations pertaining to the transport of hazardous materials
6 and hazardous wastes by all modes of transportation. The USEPA's Hazardous
7 Waste Manifest System is a set of forms, reports, and procedures for tracking
8 hazardous waste from a generator's site to the disposal site. Applicable
9 regulations are contained primarily in CFR Titles 40 and 49.

10 **Ports and Waterways Safety Act**

11 This Act provides the authority for the U.S. Coast Guard to increase vessel safety
12 and protect the marine environment in ports, harbors, waterfront areas, and
13 navigable waters, including by authorizing the Vessel Traffic Service, controlling
14 vessel movement, and establishing requirements for vessel operation.

15 **A.21.2 State**

16 **California Vehicle Code**

17 Chapter 2, article 3 defines the powers and duties of the California Highway
18 Patrol, which enforces vehicle operation and highway use in the State. The
19 California Department of Transportation is responsible for the design,
20 construction, maintenance, and operation of the California State Highway
21 System and the portion of the Interstate Highway System within State
22 boundaries.

23 Caltrans has the discretionary authority to issue special permits for the use of
24 California State highways for other than normal transportation purposes.
25 Caltrans also reviews all requests from utility companies, developers, volunteers,
26 nonprofit organizations, and others desiring to conduct various activities within
27 the California Highway right of way. The Caltrans Highway Design Manual,
28 prepared by the Office of Geometric Design Standards (Caltrans 2012),
29 establishes uniform policies and procedures to carry out the highway design
30 functions of Caltrans. Caltrans has also prepared a Guide for the Preparation of
31 Traffic Impact Studies (Caltrans 2002). Objectives for the preparation of this
32 guide include providing consistency and uniformity in the identification of traffic
33 impacts generated by local land use proposals.

1 **Harbors and Navigation Code §§ 650-674**

2 This code specifies a policy to “promote safety for persons and property in and
3 connected with the use and equipment of vessels,” and includes laws
4 concerning marine navigation that are implemented by local city and county
5 governments. This Code also regulates discharges from vessels within territorial
6 waters of the State of California to prevent adverse impacts on the marine
7 environment. This code regulates oil discharges and imposes civil penalties and
8 liability for cleanup costs when oil is intentionally or negligently discharged to
9 state waters.

10 **A.22 Utilities and Service Systems**

11 **A.22.1 Federal**

12 **CFR Title 29 (see Public Services)**

13 **A.22.2 State**

14 **California Integrated Waste Management Act (AB 939; Stats. 1989, ch. 1095)**

15 AB 939 mandates management of non-hazardous solid waste throughout
16 California. Its purpose includes: reduce, recycle, and reuse solid waste
17 generated in the state to the maximum extent feasible; improve regulation of
18 existing solid waste landfills; ensure that new solid waste landfills are
19 environmentally sound; streamline permitting procedures for solid waste
20 management facilities; and specify local government responsibilities to develop
21 and implement integrated waste management programs. AB 939 policies
22 preferred waste management practices include the following. The highest
23 priority is to reduce the amount of waste generated at its source (source
24 reduction). Second is to reuse, by extending the life of existing products and
25 recycling those wastes that can be reused as components or feed stock for the
26 manufacture of new products, and by composting organic materials. Source
27 reduction, reuse, recycling and composting are jointly referred to as waste
28 diversion methods because they divert waste from disposal. Third is disposal by
29 environmentally safe transformation in a landfill. All local jurisdictions, cities, and
30 counties must divert 50 percent of the total waste stream from landfill disposal
31 by the year 2000 and each year thereafter (with 1990 as the base year).

32 **California Code of Regulations, title 19 (Public Safety)**

33 Title 19, sets standards for the prevention of fire and protection of property and
34 life by the Seismic Safety Commission, Office of Emergency Services, and Office

1 of the Fire Marshall. It also contains guidelines and standards for general fire,
2 construction, explosives, emergency management, earthquakes, and fire.

3 **Coastal Act Chapter 3 policies (see *Multiple Environmental Issues*)**

- 4 • **Section 30254** – New or expanded public works facilities shall be designed
5 and limited to accommodate needs generated by development or uses
6 permitted consistent with the provisions of this division; provided, however,
7 that it is the intent of the Legislature that State Highway Route 1 in rural areas
8 of the coastal zone remain a scenic two-lane road. Special districts shall not
9 be formed or expanded except where assessment for, and provision of, the
10 service would not induce new development inconsistent with this division.
11 Where existing or planned public works facilities can accommodate only a
12 limited amount of new development, services to coastal-dependent land
13 use, essential public services and basic industries vital to the economic health
14 of the region, state, or nation, public recreation, commercial recreation, and
15 visitor-serving land uses shall not be precluded by other development.

16 **A.23 Wildfire**

17 **A.23.1 Federal**

18 There are no federal laws, regulations, or policies pertaining to wildfire that are
19 relevant to the Project.

20 **A.23.2 State**

21 **State Responsibility Areas**

22 The California Public Resources Code (§ 4101 et seq.) includes fire safety
23 requirements for which the Department of Forestry and Fire Protection (CAL FIRE)
24 has adopted regulations (for example, Chapters 6 and 7 of Chapter 1.5 of 14
25 CCR) that apply to State Responsibility Areas (SRAs). As the name implies, SRAs
26 are areas where CAL FIRE has primary responsibility for fire protection. During the
27 fire hazard season, these regulations: (a) restrict the use of equipment that may
28 produce a spark, flame, or fire; (b) require the use of spark arrestors on
29 equipment that has an internal combustion engine; (c) specify requirements for
30 the safe use of gasoline-powered tools in fire hazard areas; and (d) specify fire-
31 suppression equipment that must be provided onsite for various types of work in
32 fire-prone areas.

1 Very High Fire Hazard Severity Zones (AB 337)

2 As a result of the Oakland Hills Fire (Tunnel Fire) of 1991, the Bates Bill (337) was
3 passed in 1992 requiring CAL FIRE to work with local governments to identify high
4 fire hazard severity zones within local responsibility areas throughout each
5 county in the state. Over the years CAL FIRE has updated the maps and
6 provided new recommendations to local governments.

7 Following the Bill, CAL FIRE periodically gathers new data and updates the
8 mapping. This is a massive project requiring policy and procedure staff,
9 prevention and planning staff, and the technical geographic information system
10 skills of CAL FIRE's Fire and Resource Assessment Program.