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## **APPENDIX A**

Abridged List of Major Federal and State Laws, Regulations, and Policies Potentially Applicable to the Project  
(Updated: August 2017)

Appendix A identifies major **federal and state** laws, regulations and policies (local or regional are presented in each issue area chapter) potentially applicable to the Project.<sup>1</sup>

<b>Some Frequently Used Abbreviations</b> (see also List of Abbreviations and Acronyms in Table of Contents)	
§	section
AB	Assembly Bill
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
EO	Executive Order
FR	Federal Register
P.L.	Public Law
SB	Senate Bill
USC	U.S. Code

## MULTIPLE ENVIRONMENTAL ISSUES

### Multiple Environmental Issues (Federal)

#### Coastal Zone Management Act (CZMA) (42 United States Code [USC] § 4321 et seq.)

The CZMA recognizes a national interest in coastal resources and the importance of balancing competing uses of those resources, giving full consideration to aesthetic, cultural and historic, ecological, recreational, and other values as well as the needs for compatible economic development. Pursuant to the CZMA, coastal states develop and implement comprehensive coastal management programs that describe uses, authorities, enforceable policies, and coastal zone boundaries, among other elements. The CZMA gives state coastal management agencies regulatory control ("federal consistency" review authority) over federal activities and federally licensed, permitted or assisted activities, if the activity affects coastal resources, including military projects at coastal locations and outer continental shelf oil and gas leasing, exploration and development. The California Coastal Commission and San Francisco Bay Conservation and Development Commission coordinate California's federally approved coastal management programs and federal consistency reviews within their respective jurisdictions.

### Multiple Environmental Issues (State)

#### California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.)

CEQA requires state and local agencies to identify significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project" that must receive a discretionary approval that may cause either a direct physical change, or a reasonably foreseeable indirect change, in the environment.

### Common Law Public Trust

The California State Lands Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301 and §6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust. As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion, or where the boundary has been fixed by agreement or a court decision. On navigable non-tidal

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<sup>1</sup> The environmental issue areas are found in State California Environmental Quality Act Guidelines Appendix G ([https://www.opr.ca.gov/docs/Appendix\\_G\\_AB\\_52\\_Update\\_2016.pdf](https://www.opr.ca.gov/docs/Appendix_G_AB_52_Update_2016.pdf)).

**Multiple Environmental Issues (State)**

waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low-water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court decision.

**California Coastal Act (Pub. Resources Code, § 30000 et seq.) and California Coastal Commission (CCC) Federal Consistency Program**

Pursuant to the Coastal Act, the CCC, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone. The Coastal Act Chapter 3 policies address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, oil and gas development, transportation, development design, power plants, ports, and public works. Development activities in the coastal zone generally require a coastal permit from either the CCC or the local government: (1) the CCC retains jurisdiction over the immediate shoreline areas below the mean high tide line and offshore areas out to 3 nautical miles; and (2) following certification of county- and municipality-developed Local Coastal Programs, the CCC has delegated permit authority to many local governments for the portions of their jurisdictions within the coastal zone. The CCC also exercises authority under Section 307 of the federal Coastal Zone Management Act (16 USC § 1456) over federal activities and development projects and non-federal projects that require a federal permit or license or are supported by federal funding. The consistency provisions of Section 307 provide that any federal activity, including a federal development project, that affects any land or water use or natural resource of the coastal zone, must be conducted in a manner that is "consistent to the maximum extent practicable" with the enforceable policies of the CCC's federally- approved coastal management program.

## AESTHETICS / VISUAL RESOURCES

There are no major federal laws, regulations, and policies potentially applicable to this project

**Aesthetics/Visual Resources (State)****California Scenic Highway Program (Sts. & Hy. Code, § 260 et seq.)**

This Program, managed by the California Department of Transportation, is intended to preserve and protect scenic highway corridors from change that would diminish the aesthetic value of lands adjacent to highways. Streets and Highways Code section 260 et seq. lists state highways identified as scenic, or eligible for designation.

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

The Coastal Act is concerned with protecting the public viewshed, including views from public areas, such as roads, beaches, coastal trails, and access ways. Section 30251 states: Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of the surrounding area, and, where feasible, to restore and enhance visual quality in visually degraded areas.

## AGRICULTURE AND FORESTRY RESOURCES

There are no major federal laws, regulations, and policies potentially applicable to this project

**Agriculture and Forestry Resources (State)****Williamson Act (Gov. Code, §§ 51200-51207)**

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

### Agriculture and Forestry Resources (State)

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

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

## AIR QUALITY

### Air Quality (Federal)

#### Federal Clean Air Act (FCAA) (42 USC § 7401 et seq.)

The FCAA requires the U.S. Environmental Protection Agency (USEPA) to identify National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. National standards are established for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter ( $PM_{10}$  and  $PM_{2.5}$ ), and lead. In 2007, the U.S. Supreme Court ruled that carbon dioxide ( $CO_2$ ) is also an air pollutant as defined under the FCAA, and that the USEPA has authority to regulate greenhouse gas (GHG) emissions. The FCAA mandates that states submit and implement a State Implementation Plan for local areas not meeting those standards; plans must include pollution control measures that demonstrate how the standards would be met. Pursuant to the 1990 FCAA amendments, the USEPA also regulates hazardous air pollutants (pollutants that result in harmful health effects, but are not specifically addressed through the establishment of NAAQS), which require use of the maximum or best available control technology to limit emissions. The USEPA classifies air basins (or portions thereof) as in "attainment" or "nonattainment" for each criteria air pollutant by comparing monitoring data with state and federal standards to determine if the NAAQS are achieved. Areas are classified for a pollutant as follows:

- Attainment – the pollutant concentration is lower than the standard
- Nonattainment – the pollutant concentration exceeds the standard
- Unclassified – there are not enough data available for comparisons

### Air Quality (State)

#### California Clean Air Act of 1988 (CCAA)

The CCAA requires air districts to endeavor to achieve and maintain the California Ambient Air Quality Standards (CAAQS) for ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and particulate matter. The California Air Resources Board sets air quality standards for the State at levels to protect public health and welfare with an adequate margin of safety. The CAAQS are generally stricter than national standards for the same pollutants; California also has standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particles. The CAAQS describe adverse conditions (i.e., pollution levels must be below these standards before a basin can attain the standard). Air quality is considered in "attainment" if pollutant levels are continuously below or equal to the standards and violate the standards no more than once each year. The 1992 CCAA Amendments divide ozone nonattainment areas into four categories of pollutant levels (moderate, serious, severe, and extreme) to which progressively more stringent requirements apply. The Board also regulates toxic air contaminants (pollutants that result in harmful health effects, but are not addressed by standards) through air toxic control measures.

#### California Air Resources Board (CARB) Programs, Regulations, and Standards

- **Commercial Harbor Craft Regulation** – requires upgrades to Tier 2 or Tier 3 standards to reduce DPM and  $NO_x$  emissions from diesel engines used on commercial harbor craft (e.g., tugboats, crew and supply vessels, work boats, barges, dredges) operated in California Regulated Waters (internal waters, estuarine waters, ports and coastal waters within 24 nautical miles of the coast)
- **Diesel Fuel Regulations** – Under these regulations, diesel fuel used in motor vehicles and harbor craft is limited to 15 parts per million (ppm) sulfur

**Air Quality (State)**

- **Heavy Duty Diesel Truck Idling Rule** – prohibits heavy-duty diesel trucks from idling for longer than 5 minutes (except while queuing if the queue is located more than 100 feet of a home or school)
- **Ocean-Going Vessels Fuel Standards** – After January 1, 2014, ocean-going vessels within California Regulated Waters must use fuel with a maximum fuel sulfur content of 0.1 percent (using cleaner marine distillate fuels in larger ocean-going vessels reduces DPM, NO<sub>x</sub>, and SO<sub>x</sub> emissions)
- **Off-Road Mobile Sources Emission Reduction Program** – The CCAA mandates that CARB achieve the maximum degree of emission reductions from all off-road mobile sources (e.g. construction equipment, marine vessels, and harbor craft) in order to attain state ambient air quality standards. Tier 2, Tier 3, and Tier 4 exhaust emissions standards apply to off-road equipment. In addition, CARB fleet requirements specify how equipment that is already in use can be retrofitted to achieve lower emissions using the CARB-verified retrofit technologies. U.S. Environmental Protection Agency standards for marine compression-ignition engines address nitrogen oxides (NO<sub>x</sub>) and toxic diesel particulate matter (DPM) emissions, depending on engine size and year of manufacture. Tier 2 standards for marine engines were phased in for model years 2004 to 2007, and Tier 3 standards were phased in for currently available technologies to reduce NO<sub>x</sub> and PM, starting in 2009.
- **Portable Equipment Registration Program (PERP)** – establishes a uniform program to regulate portable engines/engine-driven equipment units (once registered, engines and equipment units may operate throughout California without the need to obtain individual permits from local air districts)

**Health and Safety Code**

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

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

Section 30253, subdivision (c) requires that new development shall be consistent with requirements imposed by an air pollution control district or California Air Resources Board as to each development.

## BIOLOGICAL RESOURCES

**Biological Resources (Federal)****Federal Endangered Species Act (FESA)** (7 USC § 136, 16 USC § 1531 et seq.)

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

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

**Fish and Wildlife Coordination Act of 1958**

This Act requires that whenever a body of water is proposed to be controlled or modified, the lead agency must consult with the state and federal agencies responsible for fish and wildlife management

**Biological Resources (Federal)**

(e.g., U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and National Oceanic and Atmospheric Administration). The Act allows for recommendations addressing adverse impacts associated with a proposed project, and for mitigating or compensating for impacts on fish and wildlife.

**Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 USC § 1801 et seq.)**

The MSA was first enacted in 1976 and amended in 1996. Amendments to the 1996 MSA require the identification of Essential Fish Habitat (EFH) for federally managed fisheries species and the implementation of measures to conserve and enhance EFH, which Congress defined as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 USC § 1802(10)). Pursuant to section 305(b)(2), federal agencies shall consult with the National Marine Fisheries Service regarding any action they authorize, fund, or undertake that might adversely affect EFH. Any project requiring federal authorization, such as a U.S. Army Corps of Engineers permit, must submit an EFH Assessment with the application and either show that no significant impacts to the essential habitat of managed species are expected or identify mitigations to reduce those impacts.

**Marine Mammal Protection Act (MMPA) (16 USC § 1361 et seq.)**

The MMPA is designed to protect and conserve marine mammals and their habitats. It prohibits takes of all marine mammals in the U.S. (including territorial seas) with few exceptions. The National Marine Fisheries Service may issue a take permit under section 104 if activities are consistent with the purposes of the MMPA and applicable regulations at 50 CFR, Part 216. The National Marine Fisheries Service must also find that the manner of taking is “humane” as defined in the MMPA. If lethal taking of a marine mammal is requested, the applicant must demonstrate that using a non-lethal method is not feasible.

**Migratory Bird Treaty Act (MBTA) (16 USC § 703-712)**

The MBTA prohibits the take, possession, import, export, transport, selling, purchase, barter, or offering for sale, purchase, or barter, of any migratory bird, their eggs, parts, and nests, except as authorized under a valid permit (50 CFR 21.11). The U.S. Fish and Wildlife Service issues permits for take of migratory birds for activities such as scientific research, education, and depredation control, but does not issue permits for incidental take of migratory birds.

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

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

**Executive Orders (EO)**

- **EO 11990** – requires federal agencies to provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Each agency, to the extent permitted by law, must (1) avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds there is no practical alternative to such construction or the proposed action includes all practical measures to minimize harm to wetlands that may result from such use; (2) take into account economic, environmental and other pertinent factors in making this finding; and (3) provide opportunity for early public review of any plans or proposals for new construction in wetlands.
- **EO 13112** – requires federal agencies to use authorities to prevent introduction of invasive species, respond to and control invasions, and provide for restoration of native species and habitat conditions in invaded ecosystems; also established the Invasive Species Council, which prepares a National Invasive Species Management Plan that details and recommends performance-oriented goals and objectives and measures of success for federal agencies

### **Biological Resources (Federal)**

- **EO 13158** – requires federal agencies to (1) identify actions that affect natural or cultural resources that are within an MPA; and (2) in taking such actions, to avoid harm to the natural and cultural resources that are protected by a MPA.
- **EO 13186** – sets forth responsibilities of federal agencies to protect migratory birds.

### **Other**

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

### **Biological Resources (State)**

#### **California Endangered Species Act (CESA)** (Fish & G. Code, § 2050 et seq.)

The CESA provides for the protection of rare, threatened, and endangered plants and animals, as recognized by the California Department of Fish and Wildlife (CDFW), and prohibits the taking of such species without its authorization. Furthermore, the CESA provides protection for those species that are designated as candidates for threatened or endangered listings. Under the CESA, the CDFW has the responsibility for maintaining a list of threatened species and endangered species (Fish & G. Code, § 2070). The CDFW also maintains a list of candidate species, which are species that the CDFW has formally noticed as under review for addition to the threatened or endangered species lists. The CDFW also maintains lists of Species of Special Concern that serve as watch lists. Pursuant to the CESA, an agency reviewing a proposed project in its jurisdiction must determine whether any state-listed endangered or threatened species may be present in the project site and determine whether the project will have a potentially significant impact on such species. The CDFW encourages informal consultation on any proposed project that may affect a candidate species. The CESA also requires a permit to take a state-listed species through incidental or otherwise lawful activities (§ 2081, subd. (b)).

#### **Lake and Streambed Alteration Program** (Fish & G. Code, §§ 1600-1616)

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

#### **Marine Life Protection Act (MLPA)** (Fish & G. Code, §§ 2850–2863)

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

- State Marine Reserves (SMRs), which typically preclude all extractive activities (such as fishing or kelp harvesting)
- State Marine Parks (SMPs), which do not allow any commercial extraction
- State Marine Conservation Areas (SMCAs), which preclude some combination of commercial and/or recreational extraction

### **Other relevant California Fish and Game Code sections and Programs/Plans**

- **Section 1900 et seq.** (California Native Plant Protection Act) – is intended to preserve, protect, and enhance endangered or rare native plants in California. Under section 1901, a species is endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. A species is rare when, although not threatened with immediate extinction, it is in such small numbers

### Biological Resources (State)

- throughout its range that it may become endangered. The Act includes provisions that prohibit taking of listed rare or endangered plants from the wild and a salvage requirement for landowners.
- **Sections 3503 & 3503.5** – prohibit take and possession of native birds' nests and eggs from all forms of needless take and provide that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nests or eggs of any such bird except as otherwise provided by this Code or any regulation adopted pursuant thereto.
  - **Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), & 5515 (fish)** – designate certain species as "fully protected;" such species, or parts thereof, may not be taken or possessed at any time without permission by the California Department of Fish and Wildlife.
  - **Section 3513** – does not include statutory or regulatory mechanism for obtaining an incidental take permit for the loss of non-game, migratory birds.
  - **California Aquatic Invasive Species Management Plan** – provides a framework for agency coordination and identifies actions to minimize harmful effects of aquatic invasive species.

### Marine Invasive Species Act (MISA) (Pub. Resources Code, § 71200 et seq.)

Originally passed in 1999 and amended several times, the purpose of MISA is to move towards eliminating the discharge of nonindigenous species into waters of the state or waters that may impact waters of the state, based on the best available technology economically achievable. MISA requires mid-ocean exchange or retention of all ballast water and associated sediments for all vessels 300 gross registered tons or more, U.S. and foreign, carrying ballast water into the waters of the state after operating outside state waters. For all vessels 300 gross register tons or more arriving at a California port or place carrying ballast water from another port or place within the Pacific Coast Region, the Act mandates near-coast exchange or retention of all ballast water. MISA also requires completion and submission of Ballast Water Reporting Form 24 hours in advance of each port of call in California, annual submittal of the Hull Husbandry Reporting Form, the keeping of a ballast management plan and logs, and the application of "Good Housekeeping" Practices designed to minimize the transfer and introduction of invasive species. Compliance with MISA is the responsibility of vessel owners/operators. The California State Lands Commission has regulatory authority to manage and enforce MISA.

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

- **Section 30230** – Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.
- **Section 30231** – The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.
- **Section 30232** – Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.
- **Section 30233** – applies in part to development activities within or affecting wetlands and other sensitive areas, identifies eight allowable uses, requires projects be the least environmentally damaging feasible alternative, and where applicable, requires feasible and appropriate mitigation.
- **Section 30240** – (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

### **Biological Resources (State)**

#### **Other**

- **California Department of Food and Agriculture's California Noxious and Invasive Weed Action Plan** – seeks to prevent and control noxious and invasive weeds.
- **Lempert-Keene-Seastrand Oil Spill Prevention and Response Act** (see *Hazards and Hazardous Materials section*)
- **Wetlands Conservation Policy** – no net loss of wetland acreage; long-term gain in the quantity, quality, and permanence of California's wetlands.

## **CULTURAL [AND PALEONTOLOGICAL] RESOURCES**

### **Cultural Resources (Federal)**

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

Defines archeological resources as any material remains of past human life or activities that are of archeological interest and at least 100 years old; requires federal permits for their excavation or removal and set penalties for violators; provides for preservation and custody of excavated materials, records, and data; provided for confidentiality of archeological site locations; encourages cooperation with other parties to improve protection of archeological resources. Amended in 1988 to require development of plans for surveying public lands for archeological resources and systems for reporting incidents of suspected violations. An anti-trafficking provision prohibits interstate or international sale, purchase, or transport of any archaeological resource excavated or removed in violation of a state or local law, ordinance, or regulation.

#### **National Historic Preservation Act of 1966 (NHPA) (16 USC § 470 et seq.) and implementing regulations (Protection of Historic Properties; 36 CFR 800) (applies only to federal undertakings)**

The NHPA supports and encourages the preservation of prehistoric and historic resources by directing federal agencies to take into account the effects of their activities on these resources. The State Historic Preservation Officer is an appointed official who implements historic preservation programs within the State's jurisdictions, including commenting on federal undertakings. Under the NHPA, historic properties include any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places.

#### **Abandoned Shipwreck Act of 1987 (43 USC § 2101–2106) and**

#### **National Park Service (NPS) Abandoned Shipwreck Act Guidelines.**

Asserts U.S. Government title to three categories of abandoned shipwrecks: those embedded in a state's submerged lands; those embedded in coralline formations protected by a state on its submerged lands, and those located on a state's lands that are included or determined eligible for inclusion in the National Register of Historic Places. The law then transfers title for a majority of those shipwrecks to the respective states, and provides that states develop policies for management of the wrecks so as to protect natural resources, permit reasonable public access, and allow for recovery of shipwrecks consistent with the protection of historical values and environmental integrity of wrecks and sites. The NPS has issued guidelines that are intended to: maximize the enhancement of shipwreck resources; foster a partnership among sport divers, fishermen, archeologists, sailors, and other interests to manage shipwreck resources of the states and the U.S.; facilitate access and utilization by recreational interests; and recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

#### **Paleontological Resources Preservation Act (16 USC 470)**

Enacted to preserve paleontological resources for current and future generations on federal lands under the jurisdiction of the National Park Service, Bureau of Land Management, Bureau of Reclamation, and U.S. Fish and Wildlife Service, this Act identifies management requirements, collection requirements, curation requirements, authorizes criminal and civil penalties, rewards and forfeiture.

#### **Executive Order (EO) 13158**

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

### Cultural Resources (State)

#### California Register of Historical Resources (CRHR)

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

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage
- Is associated with the lives of persons important in California's past
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values
- Has yielded, or may be likely to yield, information important in prehistory or history

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

#### CEQA (Pub. Resources Code, § 21000 et seq.)

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

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

Section 30244 states: Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

#### Other

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

## CULTURAL RESOURCES – TRIBAL

### Tribal Cultural Resources (Federal)

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

Assigns ownership or control of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that are excavated or discovered on federal lands or tribal lands after passage of the act to lineal descendants or affiliated Indian tribes or Native Hawaiian organizations;

### Tribal Cultural Resources (Federal)

establishes criminal penalties for trafficking in human remains or cultural objects; requires federal agencies and museums that receive federal funding to inventory Native American human remains and associated funerary objects in their possession or control and identify their cultural and geographical affiliations within 5 years, and prepare summaries of information about Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony. This is to provide for repatriation of such items when lineal descendants, Indian tribes, or Native Hawaiian organizations request it.

### Executive Order (EO) 13007, Indian Sacred Sites

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

### Tribal Cultural Resources (State)

**CEQA (AB 52)**; Pub. Resources Code, § 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3)

These amendments to CEQA relate to consultation with California Native American tribes, consideration of tribal cultural resources, and confidentiality. The definition of tribal cultural resources considers tribal cultural values in addition to scientific and archaeological values when determining impacts and mitigation. Provides procedural and substantive requirements for lead agency consultation with California Native American tribes and consideration of effects on tribal cultural resources, and examples of mitigation measures to avoid or minimize impacts to tribal cultural resources. If a project may cause a substantial adverse change in the significance of a tribal cultural resource, that project may have a significant effect on the environment. Lead agencies must avoid damaging effects to tribal cultural resources, when feasible, and keep information submitted by tribes confidential.

### Other

- **Executive Order B-10-11** – establishes as state policy that all agencies and departments shall encourage communication and consultation with California Indian Tribes and allow tribal governments to provide meaningful input into proposed decisions and policies that may affect tribal communities
- **Health and Safety Code section 7050.5** – provides for treatment of human remains exposed during construction; no further disturbance may occur until the County Coroner makes findings as to origin and disposition pursuant to Public Resources Code section 5097.98. The Coroner has 24 hours to notify the Native American Heritage Commission (NAHC) if the remains are determined to be of Native American descent. The NAHC contacts most likely descendants about how to proceed.
- **Public Resources Code section 5097.98** – provides (1) a protocol for notifying the most likely descendent from the deceased if human remains are determined to be Native American in origin and (2) mandated measures for appropriate treatment and disposition of exhumed remains

## GEOLOGY AND SOILS

### Geology and Soils (Federal/International)

#### Building Codes

The **Uniform Building Code** designates and ranks regions of the U.S., according to their seismic hazard potential, as Seismic Zones 1 through 4, with Zone 1 having the least seismic potential and Zone 4 having the highest seismic potential. The **International Building Code** sets design standards to accommodate a maximum considered earthquake (MCE), based on a project's regional location, site characteristics, and other factors.

### Geology and Soils (State)

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

This Act requires that "sufficiently active" and "well-defined" earthquake fault zones be delineated by the State Geologist and prohibits locating structures for human occupancy on active and potentially active surface faults. (Note that since only those potentially active faults that have a relatively high potential for

<b>Geology and Soils (State)</b> ground rupture are identified as fault zones, not all potentially active faults are zoned under the Alquist-Priolo Earthquake Fault Zone, as designated by the State of California.)
<b>California Building Code (CBC)</b> (Cal. Code Regs., tit. 23) The CBC provides a minimum standard for building design, which is based on the UBC, but is modified for conditions unique to California. The CBC is selectively adopted by local jurisdictions, based on local conditions. The CBC contains requirements pertaining to multiple activities, including: excavation, site demolition, foundations and retaining walls, grading activities including drainage and erosion control, and construction of pipelines alongside existing structures. For example, sections 3301.2 and 3301.3 contain provisions requiring protection of adjacent properties during excavations and require a 10-day written notice and access agreements with adjacent property owners. California's Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS), which are implemented by the California State Lands Commission, are codified in CBC, Chapter 31F—Marine Oil Terminals (Cal. Code Regs., tit. 24, § 3101F et seq.).
<b>Seismic Hazards Mapping Act &amp; Mapping Regs</b> (Pub. Resources Code, § 2690; Cal. Code Regs., tit. 14, div. 2, ch. 8, art. 10). These regulations were promulgated for the purpose of promoting public safety by protecting against the effects of strong ground shaking, liquefaction, landslides, other ground failures, or other hazards caused by earthquakes. The Act requires that site-specific geotechnical investigations be conducted identifying the hazard and formulating mitigation measures prior to permitting most developments designed for human occupancy. California Division of Mines and Geology Special Publication 117, <i>Guidelines for Evaluating and Mitigating Seismic Hazards in California</i> (1997), constitutes the guidelines for evaluating seismic hazards other than surface fault-rupture, and for recommending mitigation measures as required by Public Resources Code section 2695, subdivision (a). The Act does not apply offshore as the California Geological Survey has not zoned offshore California under the Act.
<b>Coastal Act Chapter 3 policies</b> (see <i>Multiple Environmental Issues</i> section) With respect to geological resources, Section 30253 requires, in part, that: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Section 30243 also states in part that the long-term productivity of soils and timberlands shall be protected.

## GREENHOUSE GAS EMISSIONS

<b>Greenhouse Gas Emissions (Federal &amp; International)</b>
<b>Federal Clean Air Act (FCAA)</b> (42 USC § 7401 et seq.) In 2007, the U.S. Supreme Court ruled that carbon dioxide (CO <sub>2</sub> ) is an air pollutant as defined under the FCAA, and that the U.S. Environmental Protection Agency has authority to regulate GHG emissions.
<b>Mandatory Greenhouse Gas Reporting</b> (74 FR 56260) On September 22, 2009, the U.S. Environmental Protection Agency issued the Mandatory Reporting of Greenhouse Gases Rule, which requires reporting of GHG data and other relevant information from large sources (industrial facilities and power plants that emit more than 25,000 metric tons of carbon dioxide-equivalent (MTCO <sub>2</sub> e) emissions per year) in the U.S. The purpose of the Rule is to collect accurate and timely GHG data to inform future policy decisions. The Rule is referred to as 40 CFR Part 98 (Part 98). Implementation of Part 98 is referred to as the GHG Reporting Program (GHGRP). The gases covered by the GHGRP are CO <sub>2</sub> , methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other fluorinated gases including nitrogen trifluoride and hydrofluorinated ethers.
<b>Kyoto Protocol and Paris Climate Agreement</b> On March 21, 1994, the Kyoto Protocol was signed. The Kyoto Protocol was a treaty made under the United Nations Framework Convention on Climate Change, and was the first international agreement to regulate GHG emissions. If the commitments outlined in the Kyoto Protocol are met, global GHG emissions would be reduced by 5 percent from 1990 levels during the commitment period of 2008 to

### **Greenhouse Gas Emissions (Federal & International)**

2012. Although the U.S. is a signatory to the Kyoto Protocol, Congress has not ratified it, therefore the U.S. is not bound by the Protocol's commitments.

In December 2015, the Paris Climate Agreement was endorsed and adopted by 195 countries including the U.S. (which has since announced its intention to withdraw from the Agreement). The overarching goal was to reduce pollution levels so that the rise in global temperatures is limited to no more than 2 °Celsius (3.6 °Fahrenheit). The Agreement also contains language urging that the increase be limited even further to 1.5 °Celsius (2.7 °Fahrenheit), if possible. The Agreement included voluntary commitments from 186 of the 195 signatories, including the U.S., to cut or limit the growth of their GHG emissions and provide regular and transparent reporting of every country's carbon reductions.

### **Greenhouse Gas Emissions (State)**

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

The update to California Global Warming Solutions Act of 2006 made by SB 32 in 2016 requires that California's GHG emissions be reduced to 40 percent below 1990 levels by 2030. The 2006 Act required California's GHG emissions be reduced to 1990 levels by 2020. The reductions are occurring through an enforceable statewide cap on global warming emissions, fuel standards, and source-specific regulatory programs. AB 32 also directs the California Air Resources Board to develop regulations and a mandatory reporting system to track and monitor GHG emissions in California. The Initial AB 32 Climate Change Scoping Plan provides a framework and main strategies for California to reduce CO<sub>2</sub> equivalent (CO<sub>2</sub>e) emissions by 169 million metric tons (MMT) from the State's projected 2020 emissions level of 596 MMT CO<sub>2</sub>e under a business-as-usual scenario. The Scoping Plan identifies emissions reductions for various sectors of the State's GHG inventory, but does not directly discuss construction GHG emissions.

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

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

### **Other Legislation**

- **AB 1493** (Stats. 2002, ch. 200) – required the California Air Resources Board (CARB) to develop and implement regulations (stricter emissions standards) to reduce automobile and light truck GHG emissions beginning with model year 2009
- **AB 2800** (Stats. 2016, ch. 580) – requires, in part, that state agencies, until 2020, take into account current and future climate change impacts when planning, designing, building, operating, maintaining, and investing in infrastructure
- **SB 32** (Stats. 2016, ch. 249) – required CARB to ensure that in exercising its authority under the Global Warming Solutions Act of 2006, statewide GHG emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030
- **SB 97** (Stats. 2007, ch. 185) – led to the adoption of amendments to the State CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions, including adding State CEQA Guidelines, § 15064.4 and providing an approach to assess GHG impacts via revisions to the CEQA Environmental Checklist Form (Appendix G) and Energy Conservation Appendix (Appendix F)
- **SB 375** (Stats. 2008, ch. 728; effective 2009) – required CARB to develop regional GHG emission reduction targets in regions covered by California's 18 metropolitan planning organizations (MPOs) and required the 18 MPOs to develop regional land use and transportation plans and demonstrate an ability to attain the proposed reduction targets by 2020 and 2035
- **SB 1383** (Stats. 2016, ch. 395) – requires CARB to approve and begin implementing its Short-Lived Climate Pollutant Reduction Strategy by January 1, 2018, in order to achieve a 40 percent reduction in methane, 40 percent reduction in hydrofluorocarbon gases, and 50 percent reduction in anthropogenic black carbon by 2030, relative to 2013 levels
- **SB 1425** (Stats. 2016, ch. 596) requires the California Environmental Protection Agency to oversee the development of a registry of GHG emissions resulting from the use of water, such as pumping, treatment, heating, and conveyance (the water-energy nexus), using the best available data

### **Greenhouse Gas Emissions (State)**

#### **Executive Orders (EOs)**

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

## **HAZARDS AND HAZARDOUS MATERIALS**

### **Hazards and Hazardous Materials (Federal)**

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

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

#### **National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300)**

Authorized under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA: 42 USC § 9605), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA: Pub. L. 99-499); and by Clean Water Act section 311(d), as amended by the Oil Pollution Act (Pub. L. 101-380), the NCP outlines requirements for responding to oil spills and hazardous substance releases. It specifies compliance, but does not require preparation of a written plan, and provides a comprehensive system for reporting, spill containment, and cleanup. Per 40 CFR 300.175 and 40 CFR 300.120, the U.S. Coast Guard has responsibility for oversight of regional response for oil spills in "coastal zones."

#### **Oil Pollution Act (OPA) of 1990 (33 USC § 2712)**

The OPA requires owners and operators of facilities that could cause substantial harm to the environment to prepare and submit, and maintain up-to-date, plans for responding to worst-case discharges of oil and hazardous substances and for facilities and vessels to demonstrate that they have sufficient response equipment under contract to respond to and clean up a worst-case spill. The passage of the OPA motivated California to pass a more stringent spill response and recovery regulation and the creation of the Office of Spill Prevention and Response to review and regulate oil spill plans and contracts. The OPA includes provisions to expand prevention and preparedness activities, improve response capabilities, provide funding for natural resource damage assessments, ensure that shippers and oil companies pay the costs of spills that do occur, and establish an expanded research and development program. Pursuant to a Memorandum of Understanding established to divide areas of responsibility, the U.S. Coast Guard is responsible for tank vessels and marine terminals, the U.S. Environmental Protection Agency for tank farms, and the Research and Special Programs Administration for pipelines; each of these agencies has developed regulations for its area of responsibility. In addition, the Secretary of Interior is responsible for spill prevention, oil-spill contingency plans, oil-spill

### Hazards and Hazardous Materials (Federal)

containment and clean-up equipment, financial responsibility certification, and civil penalties for offshore facilities and associated pipelines in all federal and state waters.

#### **Resource Conservation and Recovery Act (RCRA) (42 USC § 6901 et seq.)**

The RCRA authorizes the U.S. Environmental Protection Agency to control hazardous waste from “cradle-to-grave” (generation, transportation, treatment, storage, and disposal). RCRA Hazardous and Solid Waste Amendments from 1984 include waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. The Department of Toxic Substances Control is the lead state agency for corrective action associated with RCRA facility investigations and remediation.

#### **Toxic Substances Control Act (TSCA) (15 USC § 2601–2692)**

The TSCA authorizes the U.S. Environmental Protection Agency to require reporting, record-keeping, testing requirements, and restrictions related to chemical substances and/or mixtures. It also addresses production, importation, use, and disposal of specific chemicals, such as polychlorinated biphenyls (PCBs), asbestos-containing materials, lead-based paint, and petroleum.

### Other Relevant Laws, Regulations, and Recognized National Codes and Standards

- **33 CFR, Navigation and Navigable Waters** – regulates aids to navigation, vessel operations, anchorages, bridges, security of vessels, waterfront facilities, marine pollution financial responsibility and compensation, prevention and control of releases of materials (including oil spills) from vessels, ports and waterways safety, boating safety, and deep-water ports
- **40 CFR Parts 109, 110, 112, 113, and 114** – The Spill Prevention Countermeasures and Control (SPCC) plans covered in these regulatory programs apply to oil storage and transportation facilities and terminals, tank farms, bulk plants, oil refineries, and production facilities, and bulk oil consumers (e.g., apartment houses, office buildings, schools, hospitals, government facilities). These regulations include minimum criteria for developing oil-removal contingency plans, prohibit discharge of oil such that applicable water quality standards would be violated, and address oil spill prevention and preparation of SPCC plans. They also establish financial liability limits and provide civil penalties for violations of the oil spill regulations.
- **46 CFR parts 1 through 599 and Inspection and Regulation of Vessels (46 USC Subtitle II Part B)** – provide that all commercial (e.g., passengers for hire, transport of cargoes, hazardous materials, and bulk solids) vessels operating offshore on specified routes (inland, near coastal, and oceans), including those under foreign registration, are subject to requirements applicable to vessel construction, condition, and operation. These regulations also allow for inspections to verify that vessels comply with applicable international conventions and U.S. laws and regulations.
- **Act of 1980 to Prevent Pollution from Ships** – requires ships in U.S. waters, and all U.S. ships to comply with International Convention for the Prevention of Pollution from Ships (MARPOL)
- **Clean Water Act** (see *Hydrology and Water Quality section*)
- **Convention on the International Regulations for Preventing Collisions at Sea** – establishes “rules of the road” such as rights-of-way, safe speed, actions to avoid collision, and procedures to observe in narrow channels and restricted visibility
- **Hazardous Materials Transportation Act** (see *Transportation/Traffic section*)
- **Safety and Corrosion Prevention Requirements — ASME, National Association of Corrosion Engineers (NACE), ANSI**

### Hazards and Hazardous Materials (State)

#### **Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (OSPRA) (Gov. Code, § 8670.1 et seq., Pub. Resources Code, § 8750 et seq., and Rev. & Tax. Code, § 46001 et seq.)**

The OSPRA and its implementing regulations seek to protect state waters from oil pollution and to plan for the effective and immediate response, removal, abatement, and cleanup in the event of an oil spill. The Act requires applicable operators to prepare and implement marine oil spill contingency plans and to demonstrate financial responsibility, and requires immediate cleanup of spills, following the approved contingency plans, and fully mitigating impacts on wildlife. The Act assigns primary authority to the Office of Spill Prevention and Response (OSPR) within the California Department of Fish and Wildlife to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in the marine waters of the State; the California State Lands Commission is also provided

### Hazards and Hazardous Materials (State)

with authority for oil spill prevention from and inspection of marine facilities and assists OSPR with spill investigations and response. Notification is required to the State Office of Emergency Services, which in turn notifies the response agencies, of all oil spills in the marine environment, regardless of size. The Act also created the Oil Spill Prevention and Administration Fund and the Oil Spill Response Trust Fund. Pipeline operators pay fees into the first of these funds for pipelines transporting oil into California across, under, or through marine waters.

### Elder California Pipeline Safety Act of 1981 (Gov. Code, §§ 51010-51018; & Cal. Code Regs., tit. 19, Public Safety)

The California Pipeline Safety Act gives regulatory jurisdiction to the California State Fire Marshal (CSFM) for the safety of all intrastate hazardous liquid pipelines and all interstate pipelines used for the transportation of hazardous or highly volatile liquid substances. The law establishes the governing rules for interstate pipelines to be the Federal Hazardous Liquid Pipeline Safety Act and federal pipeline safety regulations. Government Code sections 51010 through 51018 provide specific safety requirements that are more stringent than the federal rules, including periodic hydrostatic testing of pipelines, pipeline leak detection, and a requirement that all leaks be reported. Recent amendments require that pipelines include leak prevention and cathodic protection, with acceptability to be determined by the CSFM. All new pipelines must be designed to accommodate the passage of instrumented inspection devices (i.e., smart pigs). Under California Code of Regulations, title 19, Public Safety, the CSFM develops regulations relating to fire and life safety. These regulations have been prepared and adopted to establish minimum standards for the prevention of fire and for protection of life and property against fire, explosion, and panic. The CSFM also adopts and administers the regulations and standards considered necessary under the California Health and Safety Code to protect life and property.

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

This Act, which went into effect January 1, 2006, includes requirements to reduce pollution of California waters from large vessels, such as by: prohibiting discharges of hazardous wastes, other wastes, or oily bilge water into California waters or a marine sanctuary; prohibiting discharges of grey water and sewage into California waters from vessels with sufficient holding-tank capacity or vessels capable of discharging grey water and/or sewage to available shore-side reception facilities; and requiring reports of prohibited discharges to the State Water Resources Control Board.

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

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

### Other

- **Fire Code regulations (Cal. Code Regs., tit 24, part 9)** – state hazardous materials should be used and storage in compliance with the state fire codes
- **Harbors and Navigation Code** – (1) specifies a policy to "promote safety for persons and property in and connected with the use and equipment of vessels," (2) includes marine navigation laws that are implemented by local city and county governments, (3) regulates discharges from vessels within state territorial waters to prevent adverse impacts on the marine environment, and (4) regulates oil discharges and imposes civil penalties and liability for cleanup costs when oil is intentionally or negligently discharged to state waters
- **Hazardous Waste Control Law (Health & Saf. Code, ch. 6.5 & Cal. Code Regs., tit. 22 and 26)** – establishes criteria for defining hazardous waste and its safe handling, storage, treatment, and disposal (law is designed to provide cradle-to-grave management of hazardous wastes and reduce the occurrence and severity of hazardous materials releases)
- **California Code of Regulations, title 22, division 4.5** – regulates hazardous wastes and materials by implementation of a Unified Program to ensure consistency throughout the state in administration requirements, permits, inspections, and enforcement by Certified Unified Program Agencies (CUPAs)
- **Hazardous Waste Control Act (Cal. Code Regs., tit. 26)** – defines requirements for proper management of hazardous materials
- **Hazardous Material Release Response Plans and Inventory Law (Health & Saf. Code, ch. 6.95)** – is designed to reduce the occurrence and severity of hazardous materials releases. Businesses that

#### **Hazards and Hazardous Materials (State)**

handle more than 500 pounds, 55 gallons, or 200 cubic feet of hazardous materials must (1) develop a Release Response Plan for hazardous materials emergencies (2) prepare a Hazardous Materials Inventory of all hazardous materials stored or handled at the facility over the above thresholds, and (3) store all hazardous materials in a safe manner

- **Oil Pipeline Environmental Responsibility Act (AB 1868;** Stats. 1995, ch. 979) – requires every pipeline corporation qualifying as a public utility and transporting crude oil in a public utility oil pipeline system to be held strictly liable for any damages incurred by “any injured party which arise out of, or caused by, the discharge or leaking of crude oil or any fraction thereof....” The law applies only to public utility pipelines for which construction would be completed after January 1, 1996, or that part of an existing utility pipeline that is being relocated after the above date and is more than 3 miles in length.**Porter-Cologne Water Quality Control Act** (see *Hydrology and Water Quality section*)
- **Seismic Hazards Mapping Act/Regulations** (see *Geology and Soils section*)

## **HYDROLOGY AND WATER QUALITY**

#### **Hydrology and Water Quality (Federal)**

##### **Federal Clean Water Act (CWA) (33 USC § 1251 et seq.)**

The CWA is comprehensive legislation (it generally includes the Federal Water Pollution Control Act of 1972, its supplementation by the CWA of 1977, and amendments in 1981, 1987, and 1993) that seeks to protect the nation’s water from pollution by setting water quality standards for surface water and by limiting the discharge of effluents into waters of the U.S. These water quality standards are promulgated by the U.S. Environmental Protection Agency and enforced in California by the State Water Resources Control Board and nine Regional Water Quality Control Boards. CWA sections include:

- Section 401 (33 USC § 1341) – specifies that any applicant for a federal permit or license to conduct any activity which may result in any discharge into the navigable waters of the U.S. to obtain a certification or waiver thereof from the state in which the discharge originates that such a discharge will comply with established state effluent limitations and water quality standards. U.S. Army Corps of Engineers projects are required to obtain this certification.
- Section 402 (33 USC § 1342) – establishes conditions and permitting for discharges of pollutants under the National Pollution Discharge Elimination System (NPDES). Under the NPDES Program, states establish standards specific to water bodies and designate the types of pollutants to be regulated, including total suspended solids and oil; all point sources that discharge directly into waterways are required to obtain a permit regulating their discharge. NPDES permits fall under the jurisdiction of the State Water Resources Control Board or Regional Water Quality Control Boards when the discharge occurs within state waters (out to 3 nautical miles).
- Section 404 (33 USC § 1344) – authorizes the U.S. Army Corps of Engineers to issue permits for the discharge of dredged or fill material into waters of the U.S., including wetlands, streams, rivers, lakes, coastal waters or other water bodies or aquatic areas that qualify as waters of the U.S.

##### **Rivers and Harbors Act (33 USC § 401)**

This Act governs specified activities in “navigable waters” (waters subject to the ebb and flow of the tide or that are presently used, have been used in the past, or may be susceptible for use to transport interstate or foreign commerce). Specifically, it limits the construction of structures and the discharge of fill into navigable waters of the U.S. Under Section 10, the following activities require approval from the U.S. Army Corps of Engineers or authorization from the Secretary of War: building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, or navigable river; and excavation or fill in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or enclosure within the limits of any breakwater, or of any channel of any navigable waters of the U.S.

##### **Other**

- **Marine Plastic Pollution Research and Control Act** – prohibits the discharge of plastic, garbage, and floating wood scraps within 3 nautical miles of land. Beyond 3 nautical miles, garbage must be ground to less than 1 inch, but discharge of plastic and floating wood scraps is still restricted. This Act

### Hydrology and Water Quality (Federal)

requires manned offshore platforms, drilling rigs, and support vessels operating under a federal oil and gas lease to develop waste management plans.

- **Navigation and Navigable Waters (33 CFR) regulations** – include requirements pertaining to prevention and control of releases of materials from vessels (e.g., oil spills), traffic control, and restricted areas, and general ports and waterways safety
- **Oil Pollution Act (OPA)** (*see Hazards and Hazardous Materials section*)

### Hydrology and Water Quality (State)

#### Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) (Porter-Cologne)

Porter-Cologne is the principal law governing water quality in California. The Act established the State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Board (RWQCBs), which have primary responsibility for protecting water quality and beneficial uses of state waters. Porter-Cologne also implements many provisions of the federal Clean Water Act, such as the NPDES permitting program. Pursuant to Clean Water Act section 401, applicants for a federal license or permit for activities that may result in any discharge to waters of the U.S. must seek a Water Quality Certification from the state in which the discharge originates; such Certification is based on a finding that the discharge will meet water quality standards and other appropriate requirements of state law. In California, RWQCBs issue or deny certification for discharges within their jurisdiction. The SWRCB has this responsibility where projects or activities affect waters in more than one RWQCB's jurisdiction. If the SWRCB or a RWQCB imposes a condition on its Certification, those conditions must be included in the federal permit or license. Plans that contain enforceable standards for the various waters they address include the following:

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

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

#### Bay Protection and Toxic Cleanup Program Legislation

In 1989, the Legislature required the State Water Resources Control Board to develop sediment quality objectives (SQOs) as part of a comprehensive program to protect beneficial uses in enclosed bays and estuaries. The objectives are required for toxic pollutants identified in toxic hot spots or as pollutants of concern. In 2009, the State Water Resources Control Board adopted SQOs and an implementation policy for bays and estuaries in California (Part 1). Part 1 includes narrative SQOs for the protection of aquatic life and human health, identification of the beneficial uses that these objectives are intended to protect, and requirements for program of implementation.

### Hydrology and Water Quality (State)

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

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

#### Harbors and Navigation Code sections 650-674

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

#### Marine Managed Areas Improvement Act.

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

#### Other sections

- Lake and Streambed Alteration Program (Fish & G. Code, §§ 1600-1616) (see *Biological Resources section*)
- Marine Life Protection Act (see *Biological Resources section*)
- Water Code section 13142.5 – provides marine water quality policies stating that wastewater discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. The highest priority is given to improving or eliminating discharges that adversely affect wetlands, estuaries, and other biologically sensitive sites; areas important for water contact sports; areas that produce shellfish for human consumption; and ocean areas subject to massive waste discharge.

## LAND USE AND PLANNING

See also *Multiple Environmental Issues section* for laws, regulations, and policies related to land use and planning.

### Land Use and Planning (Federal)

There are no major federal laws, regulations, and policies potentially applicable to this project

### Land Use and Planning (State)

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

- **Section 30220** – Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.
- **Section 30221** – Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- **Section 30222** – The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.
- **Section 30223** – Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

### **Land Use and Planning (State)**

- **Section 30224** – Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

### **Submerged Lands Act**

The State of California owns tide and submerged lands waterward of the ordinary high watermark. State law gives primary responsibility for determination of the precise boundary between these public tidelands and private lands, and administrative responsibility over state tidelands, to the State Lands Commission.

## **MINERAL RESOURCES**

### **Mineral Resources (Federal)**

#### **CFR, Titles 10, 18, and 30**

- 10 CFR – addresses energy consumption and the Department of Energy
- 18 CFR – addresses the Federal Energy Regulatory Commission (FERC)
- 30 CFR – establishes the Bureau of Ocean Energy Management, which manages energy resources in the Outer Continental Shelf

### **Mineral Resources (State)**

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

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

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

## **NOISE**

### **Noise (Federal)**

#### **Noise Control Act (42 USC § 4910) and NTIS 550\9-74-004, 1974**

The Noise Control Act required the U.S. Environmental Protection Agency (USEPA) to establish noise emission criteria and noise testing methods (40 CFR Chapter 1, Subpart Q). These criteria generally apply to interstate rail carriers and to some types of construction and transportation equipment. In 1974, the USEPA provided guidance in NTIS 550\9-74-004 ("Information on Levels of Environmental Noise Requisite to Protect Health and Welfare with an Adequate Margin of Safety," referenced as the "Levels Document") that established an  $L_{dn}$  of 55 dBA as the requisite level, with an adequate margin of safety, for areas of outdoor uses including residences and recreation areas. The recommendations do not consider technical or economic feasibility (i.e., the document identifies safe levels of environmental noise

### Noise (Federal)

exposure without consideration for achieving these levels or other potentially relevant considerations), and therefore should not be construed as standards or regulations.

#### Other

- **Department of Housing and Urban Development Environmental Standards (24 CFR Part 51)** – set forth exterior noise standards for new home construction (includes an interior noise level goal of 45 dBA with attenuation requirements to meet that goal):
  - 65 L<sub>dn</sub> or less – Acceptable
  - 65 L<sub>dn</sub> and < 75 L<sub>dn</sub> – Normally unacceptable, appropriate sound attenuation measures must be provided
  - > 75 L<sub>dn</sub> – Unacceptable
- **Federal Energy Regulatory Commission Guidelines on Noise Emissions from Compressor Stations, Substations, and Transmission Lines (18 CFR 157.206(d)(5)) and Federal Highway Administration Noise Abatement Procedures (23 CFR Part 772)** – procedures for noise studies and noise abatement measures to protect public health and welfare, supply noise abatement criteria, and establish requirements for information to be given to local officials for use in highway planning and design. It establishes five categories of noise-sensitive receptors and prescribes the use of the Hourly L<sub>eq</sub> as the criterion metric to evaluate traffic noise impacts.

### Noise (State)

#### Land Use Compatibility Guidelines from the now defunct California Office of Noise Control

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

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

#### Other

- **California Code of Regulations, title 24** – establishes CNEL 45 dBA as the maximum allowable indoor noise level resulting from exterior noise sources for multi-family residences
- **California Code of Regulations, title 21** – applies to airports operating under permit from the California Department of Transportation Division of Aeronautics, defines a noise-impacted zone as any residential or other noise-sensitive use with CNEL 65 and above

## POPULATION AND HOUSING

There are no major federal or state laws, regulations, and policies potentially applicable to this project

## PUBLIC SERVICES

### Public Services (Federal)

#### CFR Title 29

- **29 CFR 1910.38** – requires an employer, when required by an Occupational Safety and Health Administration (OSHA) standard, to have an Emergency Action Plan that must be in writing, kept in the workplace, and available to employees for review
- **29 CFR 1910.39** – requires an employer to have a Fire Prevention Plan (FPP)
- **29 CFR 1910.155, Subpart L, Fire Protection** – requires employers to place and keep in proper working order fire safety equipment within facilities

**Public Services (State)**

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

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

## **RECREATION**

There are no major federal laws, regulations, and policies potentially applicable to this project

**Recreation (State)**

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

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

**Other**

- **California Ocean Sport Fishing Regulations** – Each year, the Fish and Game Commission issues regulations on the recreational fishing within state marine waters specifying season, size and bag limits, gear restrictions, licensing requirements and fishing restrictions within MPAs

## **TRANSPORTATION / TRAFFIC**

**Transportation / Traffic (Federal)**

**Hazardous Materials Transportation Act (HMTA) (49 USC § 5901)**

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

**Ports and Waterways Safety Act**

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

**Transportation / Traffic (State)**

**California Vehicle Code**

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

**Harbors and Navigation Code sections 650-674**

This code specifies a policy to "promote safety for persons and property in and connected with the use and equipment of vessels," and includes laws concerning marine navigation that are implemented by local city and county governments. This Code also regulates discharges from vessels within territorial

**Transportation / Traffic (State)**

waters of the State of California to prevent adverse impacts on the marine environment. This code regulates oil discharges and imposes civil penalties and liability for cleanup costs when oil is intentionally or negligently discharged to state waters.

**SB 730** (Stats. 2015, ch. 283)

Prohibits a freight train from operating in California unless it has a crew of at least two individuals.

## **UTILITIES AND SERVICE SYSTEMS**

**Utilities and Service Systems (Federal)**

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

**Utilities and Service Systems (State)****California Integrated Waste Management Act** (AB 939; Stats. 1989, ch. 1095)

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

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

- **Section 30254** – New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.
- **Section 30254.5** – Notwithstanding any other provision of law, the commission may not impose any term or condition on the development of any sewage treatment plant which is applicable to any future development that the commission finds can be accommodated by that plant consistent with this division....

## **OTHER COMMISSION CONSIDERATIONS: SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE**

**Socioeconomics and Environmental Justice (Federal)****Executive Order (EO) 12898**

In 1994, President Clinton issued an “Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (EO 12898). This EO was designed to focus attention on environmental and human health conditions in areas of high minority populations and low-income communities, and promote non-discrimination in programs and projects substantially affecting human health and the environment (White House 1994). The EO requires federal agencies

**Socioeconomics and Environmental Justice (Federal)**

(and state agencies receiving federal funds) to identify and address any disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and/or low-income populations.

**Socioeconomics and Environmental Justice (State)**

**California State Lands Commission (CSLC) Environmental Justice Policy**

In 2002, the CSLC adopted an Environmental Justice Policy to ensure consideration of environmental justice as part of the CSLC's processes, decisions, and programs (Item 63, April 9, 2002). The policy stresses equitable treatment of all members of the public and commits to consider environmental justice in its processes, decision-making, and regulatory affairs. CSLC staff implements the Policy, in part, through identification of and communication with relevant populations that could be adversely and disproportionately affected by CSLC projects or programs, and by ensuring that a range of reasonable alternatives is identified to minimize or eliminate environmental issues affecting such populations.

**SB 1000** (Stats. 2016, ch. 587)

Requires a city or county general plan to incorporate an EJ element that identifies disadvantaged communities (DACs) and identifies policies that: reduce the unique or compounded health risks in DACs; promote civil engagement in the public decision-making process; and prioritize improvements/programs that address needs of DACs.

**State of California Commercial Fishing Laws and Licensing Requirements**

Commercial fishing is regulated by a series of laws passed by the State Fish and Game Commission and issued each year in a summary document. Seasonal and gear restrictions within the various Fish and Game Districts, licensing instructions and restrictions, and species-specific fishing requirements are provided in the document. Most of the MPAs have commercial fishing restrictions (based on the designation of each area), which are also listed in the summary document.