

9 APPLICABLE ENVIRONMENTAL LAWS, REGULATIONS, PERMITS, AND DOE ORDERS

Permits and approvals are required before construction of the proposed transmission lines. Permits regulate many aspects of facility construction and operations, including the quality of construction, fugitive dust control requirements, and discharges of effluents to the environment. These permits would be obtained, as required, from the appropriate Federal, State, and local agencies.

The major Federal laws, regulations, E.O.s, and other compliance actions that apply to the proposed projects identified in Table 9-1. A number of Federal environmental statutes address environmental protection, compliance, or consultation. In addition, certain environmental requirements have been delegated to state authorities for enforcement and implementation. The applicants would conduct their operations in an environmentally safe manner and in compliance with all applicable statutes, regulations, and standards. Although this chapter does not address pending legislation or future regulations, it is recognized that the regulatory environment is subject to change, and that the construction and operation of the projects must be conducted in compliance with all applicable regulations and standards.

TABLE 9-1 Federal Environmental Statutes, Regulations, and Orders^a

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Air Resources</i>	Clean Air Act	42 USC §§ 7401 et seq.	EPA	Requires sources to meet standards and obtain permits to satisfy: National Ambient Air Quality Standards (NAAQS), State Implementation Plans (SIPs), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), and New Source Review (NSR). Applicability: No major source permit required under NESHAPs or NSR. No NSPS requirements. SIP requirements may apply.
	CAA: NAAQS SIP	42 USC §§ 7409 et seq.	EPA, Imperial County APCD	Requires compliance with primary and secondary ambient air quality standards governing sulfur dioxide, nitrogen oxide, carbon monoxide, ozone, lead, and particulate matter, and emission limits/reduction measures as designated in each state’s implementation plan. Applicability: SIP requirements may apply.
<i>Noise</i>	Noise Control Act	42 USC §§ 4901 et seq.	EPA	Requires facilities to maintain noise levels that do not jeopardize the health and safety of the public. Applicability: Applicable to construction noise.
<i>Water Resources</i>	CWA	33 USC §§ 1251 et seq. (Section 401)	CRWQCB, Colorado River Basin Region	Requires EPA or state-issued permits, National Pollutant Discharge Elimination System (NPDES) permits and compliance with provisions of permits regarding discharge of effluents to surface waters and additional wetland protection requirements. Applicability: No NPDES permit required. Other requirements may apply.
	CWA	33 USC § 1313 (Section 404)	SWRCB/CRWQCB, Colorado River Basin Region	Requires states to identify waters not attaining water quality standards and to develop discharge limitations known as total maximum daily loads (TMDLs) for specific pollutants that can be allowed without adversely affecting the beneficial uses of those waters. Applicability: TMDLs apply to the New River and the Salton Sea.

TABLE 9-1 (Cont.)

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
Water Resources (Cont.)	E.O. 11988: Floodplain Management	42 FR 26951 May 24, 1977	Federal agencies	Where there is no practicable alternative to development in floodplains and wetlands, Federal agencies are required to prepare a floodplains and wetlands assessment, design mitigation measures, and provide public review. For floodplain involvement, Federal agencies must issue a Floodplain Statement of Findings. DOE will coordinate its review with other appropriate Federal agencies. Where applicable, DOE will combine floodplains and wetland assessments, public review, and statement of findings with the NEPA process. Applicability: Applicable.
	E.O. 11990: Protection of Wetlands Management	42 FR 26961 May 24, 1977 10 CFR 1022 (implementing regulations)		
Soil Resources	<i>Farmland Protection Policy Act</i>	7 USC § 4201 et seq.	NRCS	Minimizes any adverse effects to prime and unique farmlands. Applicability: Applicable.
Biological Resources	<i>Bald and Golden Eagle Protection Act</i>	16 USC §§ 668 et seq.	USFWS	Consultations should be conducted to determine if any protected birds are found to inhabit the area. If so, Interagen and Sempra must obtain a permit prior to moving any nests that may be required because of construction or operation of project facilities. Applicability: Applicable.
	E.O. 13112: Invasive Species	64 FR 6183 February 8, 1999	Federal agencies	Requires agencies, to the extent practicable and permitted by law, to prevent the introduction of invasive species; to provide for their control; and to minimize the economic, ecological, and human health impacts that invasive species cause. Applicability: Applicable.
	Migratory Bird Treaty Act	16 USC §§ 703 et seq.	USFWS	Requires consultation to determine if there are any impacts on migrating bird populations due to construction or operation of project facilities. If so, Interagen and Sempra will develop mitigation measures to avoid adverse effects. Applicability: Applicable.

TABLE 9-1 (Cont.)

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
Biological Resources (Cont.)	ESA	16 USC §§ 1531 et seq.	USFWS	Requires consultation to identify endangered or threatened species and their habitats, assess impacts thereon, obtain necessary biological opinions, and, if necessary, develop mitigation measures to reduce or eliminate adverse effects of construction or operations. Applicability: Applicable.
Cultural Resources	NHPA	16 USC §§ 470 et seq.	DOE/BLM	Requires consultation with the SHPO, land management agencies, and in certain cases, the Advisory Council on Historic Preservation prior to construction to ensure that no significant historical properties (i.e., <i>National Register of Historic Places</i> -eligible properties, as defined in the NHPA) would be affected. Applicability: Applicable.
	<i>Archaeological and Historical Preservation Act</i>	16 USC §§ 469 et seq.	DOI	Requires DOE to obtain permits for any disturbances of archaeological resources. Applicability: Applicable.
	<i>Antiquities Act</i>	16 USC §§ 431–433	DOI	Requires DOE to comply with all applicable sections of the Act. Applicability: Applicable.
	<i>American Indian Religious Freedom Act</i>	42 USC § 1996	DOI	Requires DOE to consult with local Native American Indian tribes prior to construction to ensure that their religious customs, traditions, and freedoms are preserved. Applicability: Applicable.
	<i>Native American Graves Protection and Repatriation Act</i>	25 USC §§ 3001 et seq.	DOI	Requires DOE to return certain Native American cultural items — human remains, funerary objects, sacred objects, and objects of cultural patrimony — to culturally affiliated Native American tribes and organizations. Applicability: Applicable.
	E.O. 13007: Protection and Accommodation of Access to “Indian Sacred Sites”	61 FR 26771 May 29, 1996	DOI	Requires DOE to consider the potential impact of its actions on Native American sacred sites, access to sacred sites, or use of sacred sites. Applicability: Applicable.

TABLE 9-1 (Cont.)

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Cultural Resources (Cont.)</i>	E.O. 13175: Consultation and Coordination with Indian Tribal Governments	63 FR 67249 November 9, 2000	DOI	Requires DOE to consult on a government-to-government basis with tribes and nations. Applicability: Applicable.
<i>Worker Safety and Health</i>	<i>Occupational Safety and Health Act</i>	5 USC § 5108	OSHA	Requires agencies to comply with all applicable work safety and health legislation (including guidelines of 29 CFR 1960) and prepare, or have available, Material Safety Data Sheets. Applicability: Applicable.
	Hazard Communication Standard	29 CFR 1910.1200	OSHA	Requires DOE to ensure that workers are informed of, and trained to handle all chemical hazards in the DOE workplace. Applicability: Applicable.
<i>Visual Resources</i>	<i>Wilderness Act</i>	16 USC §§ 1131–1136	DOI and USDA	Establishes determination of suitability and establishment of restrictions on activities that can be undertaken in an area designated as a wilderness area, including preservation of wilderness character and natural condition. Applicability: Applicable.
	<i>National Trails System Act</i>	16 USC §§ 1241–1249	DOI and USDA	Authorizes a national system of trails to provide additional outdoor recreation opportunities and to promote the preservation of access to the outdoor areas and historic resources of the nation. Applicability: Potentially applicable.
	<i>Environmental Quality Improvement Act</i>	42 USC §§ 4371–4375	CEQ	Requires each Federal agency conducting or supporting public works activities affecting the environment to implement policies established under existing law, to provide for enhancement of environmental quality. Applicability: Applicable.

TABLE 9-1 (Cont.)

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Other</i>	NEPA	42 USC §§ 4321 et seq. 40 CFR 1500–1508	CEQ	40 CFR 1500–1508 directs all Federal agencies in the implementation of NEPA. DOE NEPA regulations are in 10 CFR Part 1021, and BLM NEPA regulations are in BLM Handbook 1790-1 and DOI guidance (516DM 1-7). Applicability: Applicable.
	<i>Toxic Substances Control Act</i>	42 USC §§ 2011	EPA	Requires Intergen and Sempra to comply with inventory reporting requirements and chemical control provisions of TSCA to protect the public from the risks of exposure to chemicals. TSCA imposes strict limitations on the use and disposal of polychlorinated biphenyl-contaminated equipment. Applicability: Applicable primarily to the construction phase.
	<i>Hazardous Materials Transportation Act</i>	49 USC §§ 1801 et seq.	DOT	Requires Intergen and Sempra to comply with the requirements governing hazardous materials and waste transportation. Applicability: Applicable primarily to the construction phase.
	<i>Emergency Planning and Community Right-To-Know Act</i>	42 USC §§ 11001 et seq.	EPA	Requires the development of emergency response plans and reporting requirements for chemical spills and other emergency releases, and imposes right-to-know reporting requirements covering the storage and use of chemicals that are reported in toxic chemical release forms. Applicability: Applicable primarily to the construction phase.
	<i>Pollution Prevention Act</i>	42 USC §§ 11001–11050	EPA	Establishes a national policy that pollution should be reduced at the source and requires a toxic chemical source reduction and recycling report for an owner or operator of a facility required to file an annual toxic chemical release form under Section 313 of the <i>Superfund Amendments and Reauthorization Act</i> . Applicability: Potentially applicable.
	Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace	FAA Advisory Circular (AC) No. 70/460-2K	FAA	Each proponent of a project that could pose an aviation hazard must file a “Notice of Proposed Construction or Alteration” (Form 7640) with the FAA. Applicability: Potentially applicable.

TABLE 9-1 (Cont.)

Resource Category	Statute/Regulation/Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
Other (Cont.)	Obstruction Marking and Lighting	FAA AC No. 70/460-1K	FAA	Objects that may pose a navigation hazard must be marked and lighted according to FAA standards established using the criteria in 14 CFR 77. Applicability: Potentially applicable.
	Radio Frequency Device, Kits	47 CFR 15.25	FCC	These regulations prohibit operation of any devices producing force fields, which interfere with radio communications; even if (as with transmission lines) such devices are not intentionally designed to produce radio-frequency energy. The FCC requires each line operator to mitigate all complaints about interference on a case-specific basis. Staff usually recommend specific conditions of certification to ensure compliance with this FCC requirement. Applicability: Potentially applicable.
	E.O. 12088: Federal Compliance with Pollution Control Standards	43 FR 47707 October 17, 1978	Office of Management and Budget	Requires Federal agencies to consult with the EPA and state agencies regarding the best techniques and methods for the prevention, control, and abatement of environmental pollution. Applicability: Potentially applicable.
	E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	59 FR 7629 February 16 1994	EPA	Requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Applicability: Minimal applicability since the land crossed by the right-of-way is largely uninhabited.

^a Abbreviations: AC = Advisory Circular; APCD = Air Pollution Control District; BLM = Bureau of Land Management; CAA = Clean Air Act; CEQ = Council on Environmental Quality; CFR = *Code of Federal Regulations*; CRWQCB = California Regional Water Quality Control Board; CWA = Clean Water Act; DOE = U.S. Department of Energy; DOI = U.S. Department of Interior; DOT = U.S. Department of Transportation; E.O. = Executive Order; EPA = U.S. Environmental Protection Agency; ESA = Endangered Species Act; FAA = Federal Aviation Administration; FCC = Federal Communications Commission; FR = *Federal Register*; NAAQS = National Ambient Air Quality Standards; NEPA = National Environmental Policy Act; NESHAPs = National Emission Standards for Hazardous Air Pollutants; NHPA = National Historic Preservation Act; NPDES = National Pollutant Discharge Elimination System; NRCS = Natural Resources Conservation Service; NSPS = New Source Performance Standards; NSR = New Source Review; OSHA = Occupational Safety and Health Administration; SHPO = State Historic Preservation Officer; SIP = State Implementation Plan; SWRCB = California State Water Resources Control Board; TMDL = total maximum daily load; TSCA = Toxic Substances Control Act; USC = United States Code; USDA = U.S. Department of Agriculture; USFWS = U.S. Fish and Wildlife Service.

