This appendix presents regulatory requirements related to hazardous materials and waste that may apply to implementation of the proposed Tehachapi Renewable Transmission Project.
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K.1 INTRODUCTION

The management of hazards and hazardous materials is subject to numerous laws and regulations at all levels of government. The following regulations include all “potentially” applicable regulations for the proposed Tehachapi Renewable Transmission Project (TRTP) and are presented to augment the discussion in the Hazards and Hazardous Materials section (Section 4.8) in the main body of the PEA. Summaries of federal and state laws and regulations related to hazards and hazardous materials management are presented in this section. These laws and regulations potentially apply to the construction and operational phases of the TRTP, including the disposal of hazardous material and wastes. The results of the forthcoming Phase I Environmental Site Assessment (Phase I ESA) as well as any subsequent Phase II investigations will determine, in part, the applicability of specific hazardous material/waste related regulations.

K.2 REGULATORY DEFINITIONS

- **Hazardous Material:** Any material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. Hazardous materials include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering regulatory agency has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment (California Health and Safety Code, Section 25501 (o)). A number of properties may cause a substance to be considered hazardous, including toxicity, ignitibility, corrosivity, or reactivity.

- **Hazardous Waste:** A waste or combination of waste which because of its quantity, concentration, or physical, chemical, or infection characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitation-reversible illness; or pose a substantial present or potential hazard to human health or the environment, due to factors including, but not limited to, carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties, or persistence in the environment, when improperly treated, stored, transported, or disposed of or otherwise managed (California Health and Safety Code, Section 25141). California waste identification and classification regulations are found in Title 22 of the California Code of Regulations.
K.3  FEDERAL

K.3.1  Superfund Amendments and Reauthorization Act (SARA) Public Law 99-499 (100 Stats. 1613)

SARA amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 42 U.S.C. § 9601 et seq.) on October 17, 1986. SARA reflected the U.S. Environmental Protection Agency’s (EPA’s) experience in administering the complex Superfund program during its first six years and made several important changes and additions to the program. SARA also required EPA to revise the Hazard Ranking System to ensure that it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled hazardous waste sites that may be placed on the National Priorities List.

SARA specifically addresses the management of hazardous materials by requiring public disclosure of information relating to the types and quantities of hazardous materials used at various types of facilities. SARA Title III (42 U.S.C § 11001 et seq.) is referred to as the Emergency Planning and Community Right to Know Act. The act addresses community emergency planning, emergency release notification, and hazardous materials chemical inventory reporting.


RCRA gave EPA the authority to control hazardous waste from the “cradle-to-grave.” This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous waste.

The 1986 amendments to RCRA enabled EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. RCRA focuses on active and future facilities; however, once a hazardous material is released to the environment, it is deemed a waste as soon as the material impacted is disturbed or moved. Therefore, contaminated soil can be regulated under RCRA. The California Department of Toxic Substance Control implements the RCRA in California and regulations regarding hazardous waste are contained in the California Code of Regulations, Title 26. Most waste streams at oil and gas sites qualify for the “RCRA petroleum exclusion,” described in Section 261.4 of Title 40 of the Code of Federal Regulations. Thus, most petroleum soil contamination resulting from typical “exploration, development, or production of crude oil, natural gas or geothermal energy” is excluded from RCRA classification. A clarification of the RCRA petroleum exclusion is provided in the March 22, 1993 issue of the Federal Register (Volume 58, p. 15.284).
K.3.3 Clean Water Act (CWA) 33 U.S.C. Section 1251 et seq.

The Clean Water Act is the principal federal statute protecting navigable waters and adjoining shorelines from pollution. The law was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. Since its enactment, the CWA has formed the foundation for regulations detailing specific requirements for pollution prevention and response measures. EPA implements provisions of the Clean Water Act through a variety of regulations, including the National Contingency Plan and the Oil Pollution and Prevention Regulations. Implementation of the Clean Water Act is the responsibility of each state.

The goal of the oil pollution prevention regulation in 40 CFR Part 112 is to prevent oil discharges from reaching navigable waters of the United States or adjoining shorelines. The rule was also written to ensure effective responses to oil discharges. The rule further specifies that proactive, and not passive, measures be used to respond to oil discharges. The oil pollution regulation contains two major types of requirements: prevention requirements (SPCC rule) and Facility Response Plan (FRP) requirements.

The SPCC rule requires facilities that could reasonably be expected to discharge oil in quantities that may be harmful into navigable waters to develop and implement SPCC Plans. USEPA amended the SPCC Rule in 2006 to extend the SPCC compliance dates in §112.3(a), (b), and (c) for all facilities until October 31, 2007.

SPCC Plans must be prepared, certified (by a professional engineer), and implemented by facilities which store, process, transfer, distribute, use, drill, produce, or refine oil or oil production.

K.3.4 U.S. Department of Transportation

The U.S. Department of Transportation has the regulatory responsibility for the safe transportation of hazardous materials.

K.3.5 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C § 136 et seq.

Pesticides are regulated by the federal government under FIFRA registration and labeling requirements are established for pesticides. Registration requires documentation that the pesticide will not damage human health or the environment if used as intended. FIFRA prohibits the sale of any pesticides that have not been registered by the EPA.
K.4 STATE

K.4.1 California Office of Emergency Services

The California Office of Emergency Services coordinates the emergency response to an accidental release of acutely/extremely hazardous materials.

K.4.2 Department of Toxic Substances Control (DTSC)

The objective of the DTSC is to protect human health and the environment from exposure to hazardous materials and waste. The DTSC has the authority to respond to and enforce the cleanup of hazardous substance releases pursuant to the Hazardous Substance Account Act (HSA Act), Chapter 6.8, Division 20 of the Health and Safety Code, and the cleanup of hazardous waste under the Hazardous Waste Control Law, Chapter 6.6 (commencing with Section 25100).

The HSA Act contains a petroleum exclusion by which the term “hazardous substance” cannot apply to “petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance” (Health and Safety Code Section 25317). As a result, the DTSC can enforce the cleanup if the presence of hazardous substance results from: 1) the addition of hazardous substances to crude oil and the addition is not part of regular crude oil processing; or 2) use and wear of crude oil.

Waste streams at oil production sites are generally considered waste, not substances, and are thus regulated by the DTSC when hazardous. Certain waste streams can be considered as recyclable material, not waste, provided that their ultimate disposal to land does not release contaminants to the environment (Health and Safety Code Section 25143 et seq.). Drilling waste is classified under Section 66261.120 of CCR Title 22 as “special waste” and does not necessarily need to be disposed at hazardous waste treatment/storage/disposal (TSD) facilities even if it exhibits hazardous characteristics. In reality, there are few non-hazardous waste TSD facilities permitted to accept special waste with hazardous characteristics.

Under Government Code Section 65962.5.(a), the Department of Toxic Substances Control is required to compile and update as appropriate, but at least annually, and submit to the Secretary for Environmental Protection, a list of all of the following:

1. All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

2. All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.
K.4.3 Regional Water Quality Control Board (RWQCB)

The RWQCB protects ground and surface water quality by the development and enforcement of water quality objectives and implementation of a basin plan. The RWQCB governs requirements; issues waste discharge permits, takes enforcement action against violators, and monitors water quality.

K.4.4 California Division of Oil, Gas, and Geothermal Resources (DOGGR)

The DOGGR is mandated by Section 3106 of the Public Resources Code (PRC) to supervise the drilling, operation, maintenance, and abandonment of oil wells for the purpose of preventing: damage to life, health, property, and natural resources; damage to underground and surface waters suitable for irrigation or domestic use; loss of oil, gas, or reservoir energy; and damage to oil and gas deposits by infiltrating water and other causes.

DOGGR is also charged with implementing Section 3208.1 of the PRC. The Construction-Site Plan Review Program was developed to assist local permitting agencies in identifying and reviewing the status of oil or gas wells located near or beneath structures. Before issuing building or grading permits, local agencies review and implement the DOGGR’s preconstruction well requirements. Interaction between local permitting agencies and the DOGGR helps resolve land use issues and allows for responsible development in oil and gas fields.

K.5 LOCAL

K.5.1 Certified Unified Program Agency (CUPA)

The CUPA is an agency certified by the DTSC to conduct the Unified Program, which consists of hazardous waste generator and onsite treatment programs; aboveground and underground storage tank programs; Hazardous Materials Management, Business Plans, and Inventory Statements; and the Risk Management and Prevention Program.

K.5.1.1 Kern County

The Kern County Environmental Health Services Department, Hazardous and Solid Waste Division (HSWD) is the CUPA responsible for administering the hazardous materials program within Kern County.

K.5.1.2 Los Angeles County

The Los Angeles County Fire Department (LACFD), Health and Hazardous Materials Division (HHMD) is the CUPA responsible for administering hazardous materials programs within Los Angeles County.
K.5.1.3  San Bernardino County

The San Bernardino County Fire Department (SBCFD), Hazardous Materials Division (HMD) is the CUPA responsible for administering the hazardous materials program within San Bernardino County.