

APPLICABLE LAWS, REGULATIONS, PERMITS, AND EXECUTIVE ORDERS

Permits and approvals are required before construction of the proposed transmission line. 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, listed in Table 8-1, would be obtained, as required, from the appropriate federal, state, and local agencies.

The major federal laws, regulations, Executive Orders, and other compliance actions that apply to the ESJ U.S. Transmission Line project are identified in Table 8-2. 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. ESJ would conduct its 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.

Agency	Permit/Approval
U.S. Department of Energy	Presidential permit
International Boundary and Water Commission	International Boundary and Water Commission permit
California Office of Historic Preservation	Section 106 Consultation
Regional Water Quality Control Board Colorado River Region	General Construction Storm Water permit
County of San Diego Department of Planning and Land Use	Major Use permits Right-of-Way permits
County of San Diego Department of Public Works	Grading permit Water Well permit
County of San Diego Rural Fire Districts	Fire District approval

8.0 Applicable Laws, Regulations, Permits and Executive Orders

**Table 8-2
Federal Environmental Statutes, Regulations, and Orders**

Resource Category	Statute / Regulation / Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
Biological Resources	ESA	16 U.S.C. 1531 et seq.	USFWS	<p>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.</p> <p>Applicability: Applicable.</p>
	Migratory Bird Treaty Act	16 U.S.C. 703 et seq.	USFWS	<p>Requires consultation to determine if there are any impacts on migrating bird populations due to construction or operation of project facilities. If so, the applicant will develop mitigation measures to avoid adverse effects.</p> <p>Applicability: Applicable.</p>
	E.O. 13112: Invasive Species	64 FR 6183 February 8, 1999	Federal Agencies	<p>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.</p> <p>Applicability: Applicable.</p>
	Bald and Golden Eagle Protection Act	16 U.S.C. 668 et seq.	USFWS	<p>Consultations should be conducted to determine if any protected birds are found to inhabit the area. If so, the Applicant must obtain a permit prior to moving any nests due to construction or operation of project facilities.</p> <p>Applicability: Applicable.</p>
Visual Resources	Environmental Quality Improvement Act	42 USC Sec 4371-4375	CEQ	<p>Requires each Federal agency conducting or supporting public works activities affecting the environment to implement policies established under existing law that provide for enhancement of environmental quality.</p> <p>Applicability: Applicable.</p>

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Cultural Resources	National Historic Preservation Act	16 U.S.C. 470 et seq.	DOE	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., National Register of Historic Places-eligible properties, as defined in the NHPA) would be affected. Applicability: Applicable.
	Archaeological and Historical Preservation Act	16 U.S.C. 469 et seq.	DOI	Requires DOE to obtain permits for any disturbances of archaeological resources. Applicability: Applicable.
	Antiquities Act	16 U.S.C. 431-437	DOI	Requires DOE to comply with all applicable sections of the Act. Applicability: Applicable.
	American Indian Religious Freedom Act	42 U.S.C. 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.
	Native American Graves Protection and Repatriation Act	25 U.S.C. 3001	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.

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Cultural Resources (continued)	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.
Noise	Noise Control Act	42 U.S.C. Sec 4901 et seq.	USEPA	Requires facilities to maintain noise levels that do not jeopardize the health and safety of the public. Applicability: Applicable to construction noise.
Public Health and Safety	Occupational Safety and Health Act	5 U.S.C. Sec 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 C.F.R. 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.
	Toxic Substances Control Act	42 U.S.C. 2011	USEPA	Requires the Applicant 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.
	Hazardous Materials Transportation Act	49 U.S.C. 1801 et seq.	DOT	Requires the Applicant to comply with the requirements governing hazardous materials and waste transportation. Applicability: Applicable primarily to the construction phase.

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Public Health and Safety (continued)	Emergency Planning and Community Right-to-Know Act	42 U.S.C. 11001 et seq.	USEPA	<p>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.</p> <p>Applicability: Applicable primarily to the construction phase.</p>
	Pollution Prevention Act	42 U.S.C. 11001-11050	USEPA	<p>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 Superfund Amendments and Reauthorization Act.</p> <p>Applicability: Potentially applicable.</p>
Air Quality and Climate Change	Clean Air Act	42 U.S.C. Sec 7401 et seq.	USEPA	<p>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).</p> <p>Applicability: No major source permit required under NESHAPs or NSR. No NSPS requirements. SIP requirements may apply.</p>
	Clean Air Act: NAAQS SIP	42 U.S.C. Sec 7409 et seq.	USEPA, San Diego APCD	<p>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.</p> <p>Applicability: SIP requirements may apply.</p>
	Interim NEPA/309 Diesel Emissions Guidance		USEPA/CEQ	<p>Provides guidance on appropriate level of analysis for properly disclosing diesel emissions impacts and possible mitigation measures.</p> <p>Applicability: Not applicable. Project does not qualify for guidance list of "major/large issue" projects.</p>

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Hydrology and Water Quality	Clean Water Act	33 U.S.C. Sec 1251 et seq. (Section 401 and 404)	CRRWQCB/USACE	Requires permit for discharge of dredge or fill material into waters of the United States and certification of water quality. Applicability: Applicable.
	Clean Water Act	33 U.S.C. Sec 1313 (Section 402)	SWRCB/CRRWQCB	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: Would be required to obtain coverage under the General Construction Permit.
Environmental Justice	E.O. 12898: Federal Action to Address Environmental Justice in Minority Population and Low-Income Population	59 FR 7629 February 16, 1994	USEPA	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 proposed project is uninhabited.
Other	NEPA	42 U.S.C. 4321 et seq. 40 C.F.R. 1500-1508	CEQ	Directs all Federal agencies in the implementation of NEPA. DOE NEPA regulations are in 10 CFR Part 1021. Applicability: Applicable.
	Executive Orders 10485 and 12038		DOE	Issuance of a Presidential permit must be found to be consistent with the public interest and DOE must obtain concurrence of the Secretary of State and Secretary of Defense before permit can be issued. Applicability: Applicable

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Other (continued)	Radio Frequency Device Kit	47 C.F.R. 1525	FCC	Provisions of 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 recommends specific conditions of certification to ensure compliance with this FCC requirement. Applicability: Applicable.
	Proposed Construction and/or Alteration of Objects that May Affect the Navigation Space	FAA Advisory Circular (AC) No. 70/460-2H	FAA	This circular informs each proponent of a project that could pose an aviation hazard of the need to file the "Notice of Proposed Construction or Alteration" (Form 7640) with the FAA. Applicability: Not Applicable.
	Obstruction Marking and Lighting	FAA AC No. 70/460-1G	FAA	This circular describes the FAA standards for marking and lighting objects that may pose a navigation hazard as established using the criteria in Title 14, Part 77 of the CFR. Applicability: Not Applicable.
<p>APCD = Air Pollution Control District CEQ = Council on Environmental Quality DOE = Department of Energy DOI = Department of Interior E.O. = Executive Order ESA = Endangered Species Act FAA = Federal aviation Administration FCC = Federal Communication Commission NAAQS = National Ambient Air Quality Standards NESHAP = National Emission Standards for Hazardous Air Pollutants NPDES = National Pollutant Discharge Elimination System</p> <p>NSPS = New Source Performance Standards NSR = new source review OSHA = Office Safety and Health Administration SHPO = State Historic Preservation Office SIP = State Implementation Plan SWRCB = State Water Resources Control Board TSCA = Toxic Substances Control Act USACE = United States Army Corps of Engineers USEPA = United States Environmental Protection Agency USFWS = United States Fish and Wildlife Service</p>				

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