

A scenic view of a park or campus area. In the foreground, a large, leafy tree with green and yellowing leaves stands on the left. A paved walkway leads from the bottom center towards a fountain in the middle ground. The fountain has multiple tiers and is surrounded by a stone base. In the background, there are several pergolas with stone pillars and a building. The sky is clear and blue.

CHAPTER 9 REGULATORY FRAMEWORK

9 REGULATORY ENVIRONMENT

The vast range of topics addressed in the General Plan are informed by – and respond to – existing regulatory structures at the federal, state, and local levels. This section presents an overview of the myriad of programs and policies that impact the way San Marcos addresses its General Plan topics. The material below is organized by Existing Conditions Report section topics, but a number of regulations inform more than one topic area and may appear more than once.

9.1 DEMOGRAPHICS, LAND USE AND COMMUNITY CHARACTER

State Regulatory Framework

Land Use

[California General Plan Law](#)

Government Code Section 65300 requires that each county and city adopt a General Plan “for the physical development of the county or city, and any land outside its boundaries which bears relation to its planning.”

The General Plan is a comprehensive long-term plan for the physical development of the county or city and is considered a “blueprint” for development. The General Plan provides a statement of the community’s development, economic, circulation, and environmental goals and includes diagrams and text setting forth objectives, standards, policies, and programs. The General Plan must contain seven State-mandated elements: Land Use, Open Space, Conservation, Housing, Circulation, Noise, and Safety. It may also contain any other elements that the City wishes to include. The land use element designates the general location and intensity of designated land uses to accommodate housing, business, industry, open space, education, public buildings and grounds, recreation areas, and other land uses.

For the past several years, the Governor’s Office of Planning and Research (OPR) has been engaged in a process to update the State General Plan Guidelines (GPG). After multiple drafts and public reviews, the GPG update was released on August 2, 2017. This guidance is the first comprehensive update in fourteen years and includes legislative changes, new technical advisories, guidance documents, and additional resources. The GPG serves as the “how to” resource for drafting a general plan. For mandatory and common optional elements of the general plan, the GPG sets out each statutory requirement in detail, provides OPR recommended policy language, and includes online links to city and county general plans that have adopted similar policies. The San Marcos General Plan will be prepared in accordance with all applicable laws and regulations, including the latest GPG.

Land Use

[California Environmental Quality Act](#)

The California Environmental Quality Act (CEQA) was developed to protect the quality of the environment, and the health and safety of persons from adverse environmental effects. Discretionary projects are required to be reviewed consistent with the requirements of CEQA to determine if there is potential for the project to cause a significant adverse effect on the environment. Depending on the type of project and its potential effects, technical traffic, noise, air quality, biological resources, and geotechnical reports may be needed. If potential adverse effects can be mitigated, a mitigated negative declaration is required. If potentially adverse effects cannot be mitigated, an environmental impact report is required. These documents have mandated content requirements and public review times. Preparation of CEQA documents can be costly and, despite maximum time limits set forth in the Public Resources Code, can extend the processing time of a project by a year or longer.

Land Use

[Subdivision Code](#)

A subdivision is any division of land for the purpose of sale, lease or finance. The State of California Subdivision Map Act (Government Code § 66410) regulates subdivisions throughout the state. The goals of the Subdivision Map Act are as follows:

Regulatory Environment

- To encourage orderly community development by providing for the regulation and control of the design and improvement of a subdivision with proper consideration of its relationship to adjoining areas.
- To ensure that areas within the subdivision that are dedicated for public purposes will be properly improved by the subdivider so that they will not become an undue burden on the community.
- To protect the public and individual transferees from fraud and exploitation.

The Map Act allows cities some flexibility in the processing of subdivisions. San Marcos controls this process through the subdivision regulations in the Municipal Code. These regulations ensure that minimum requirements are adopted for the protection of the public health, safety and welfare; and that the subdivision includes adequate community improvements, municipal services and other public facilities. Lathrop's subdivision provisions support the Subdivision Map Act and, in so doing, also support implementation of the City's General Plan.

Local Regulatory Framework

Land Use

[Local Agency Formation Commission of San Diego County](#)

In 1963, the State Legislature created a local agency formation commission (LAFCO) for each county, with the authority to regulate local agency boundary changes. Subsequently, the State has expanded the authority of a LAFCO. The goals of a LAFCO include preserving agricultural and open space land resources and providing for efficient delivery of services. The San Diego County LAFCO has authority over land use decisions in San Diego County affecting local agency boundaries. Its authority extends to the incorporated cities, including annexation of County lands into a city, and special districts within the County. The City San Marcos is within San Diego County.

In addition, LAFCO conducts Municipal Service Reviews (MSRs) for services within its jurisdiction. An MSR typically includes a review of existing municipal services provided by a local agency and its infrastructure needs and deficiencies. It also evaluates financing constraints and opportunities, management efficiencies, opportunities for rate restructuring and shared facilities, local accountability and governance, and other issues.

Land Use

[San Diego County General Plan](#)

San Diego County revised its General Plan on August 3, 2011. The County's General Plan provides a comprehensive set of goals, policies, and implementing actions to guide the County's growth. The County's General Plan includes the following elements:

- Land Use
- Mobility
- Conservation and Open Space
- Housing
- Safety
- Noise

The County's General Plan also includes a chapter dedicated to Implementation of the General Plan and another chapter which serves as the Glossary.

Land Use

[City of San Marcos General Plan](#)

The City's current General Plan was adopted on February 14, 2012. In accordance with applicable state regulations, the City of San Marcos more recently updated the Housing Element of its General Plan and adopted the City's Housing Element in June, 2013. Land uses in San Marcos have been developed based on the Land Use Map, along with the goals, policies, and strategies established by the City of San Marcos General Plan.

Housing element law (Government Code Sections 65580 through 65589.8) requires local governments to adopt a Housing Element that addresses existing and projected housing needs, including their share of the regional housing need. A Housing Element must include an analysis of existing and projected housing needs, identification of governmental and non-governmental constraints to the provision of housing, an inventory of sites appropriate to accommodate the City's housing needs, identification of resources available to assist with meeting housing needs, a review of the effectiveness of the previous Housing Element, and a plan to address the identified housing needs and constraints.

Land Use

[City of San Marcos Zoning Ordinance](#)

The City of San Marcos Zoning Ordinance carries out the policies of the General Plan by classifying and regulating the uses of land and structures within the city, consistent with the General Plan. The Zoning Ordinance is adopted to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the city.

Zoning provides a legal mechanism for local government regulation of the land uses described in the General Plan Land Use Map. In addition to providing specific regulations related to minimum lot size, building heights, setbacks, lot coverage, etc., for each zoning district, the Zoning Code also lists the uses that would be acceptable or could be considered in each district, as well as those that would be considered unacceptable. For some uses, further regulations are established. Zoning regulations designate the process to be used when a permit must be applied for in order to consider approval of a particular land use in a district.

9.2 MOBILITY

Federal Regulatory Framework

[Americans with Disabilities Act](#)

The Americans with Disabilities Act of 1990 (ADA) provides comprehensive rights and protections to individuals with disabilities. The goal of the ADA is to assure equality of opportunity, full participation, independent living, and economic self-sufficiency. To implement this goal, the United States Access Board has created accessibility guidelines for public rights-of-way. The guidelines address various issues, including roadway design practices, slope and terrain issues, pedestrian access to streets, sidewalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of public rights-of-way.

The City of San Marcos works to ensure that people with disabilities have access to City programs, services, activities, and facilities. In all of its services, programs, events, activities, facilities, and public meetings, the City strives to eliminate any barriers that prohibit people with disabilities from full access to facilities.

[Federal Highway Administration](#)

The Federal Highway Administration (FHWA) is a federal agency that focuses on national highway programs. FHWA administers and manages federal highway programs and establishes national standards. The FHWA publishes the Manual on Uniform Traffic Control Devices (MUTCD) which specifies the standards for street markings, traffic signals, and street signs in the United States. The California Department of Transportation (Caltrans) developed the California MUTCD based on the FHWA MUTCD.

State Regulatory Framework

[California Department of Transportation](#)

Caltrans is the primary state agency responsible for transportation issues. One of its duties is the construction and maintenance of the state highway system. Caltrans has established

standards for roadway traffic flow and developed procedures to determine if State-controlled facilities require improvements. For projects that may physically affect facilities or require access to a state highway, Caltrans requires encroachment permits before such activity may be undertaken. For projects that would not physically affect facilities but may influence traffic flow and levels of services at such facilities, Caltrans may recommend measures to mitigate the traffic impacts of such projects.

Additionally, the following Caltrans procedures and directives are relevant to transportation improvements in San Marcos:

- Level of Service Target. Caltrans maintains a target level of service at the transition between level of service (LOS) C and LOS D for all of its facilities.¹ Where an existing facility is operating at less than the LOS C/D threshold, the existing measure of effectiveness should be maintained.²
- Caltrans Project Development Procedures Manual. This manual outlines pertinent statutory requirements, planning policies, and implementing procedures regarding transportation facilities. It is continually and incrementally updated to reflect changes in policy and procedures. For example, the most recent revision incorporates the Complete Streets policy from Deputy Directive 64-R1, which is detailed below.
- Caltrans Deputy Directive 64 (2001). This directive requires Caltrans to consider the needs of non-motorized travelers, including pedestrians, bicyclists, and persons with disabilities, in all programming, planning, maintenance, construction, operations, and project development activities and products. This includes incorporation of the best available standards in all of the Department’s practices.
- Caltrans Deputy Directive 64-R1 (2014). This directive requires Caltrans to provide for the needs of travelers of all ages and abilities in all planning, programming, design, construction, operations, and maintenance activities and products on the state highway system. Caltrans supports bicycle, pedestrian, and transit travel with a focus on “complete streets” that begins early in system planning and continues through project construction, maintenance, and operations.
- Caltrans Director’s Policy 22 (2001). This policy establishes support for balancing transportation needs with community goals. Caltrans seeks to involve and integrate community goals in the planning, design, construction, and maintenance and operations processes, including accommodating the needs of bicyclists and pedestrians.
- Environmental Assessment Review and Comment. Caltrans, as a responsible agency under the California Environmental Quality Act (CEQA), is available for early consultation on a project to provide guidance on applicable transportation analysis methodologies or other transportation related issues, and responsible for reviewing the traffic impact study for errors and omissions pertaining to the state highway facilities. Caltrans published the *Guide for the Preparation of Traffic Impact Studies* (December 2002), which established the Measures of Effectiveness as described under “Level of Service Target” above. The Measures of Effectiveness is used to determine significant impact on state facilities. The Guide also mandates that the traffic analysis includes mitigation measures to lessen the potential project impacts on state facilities and the project’s fair share responsibility for the impacts. However,

¹ Level of service is explained further in the Study Roadway Segments and Study Intersections subsections.

² California Department of Transportation, *Guide for the Preparation of Traffic Impact Studies*, December 2002.

the ultimate mitigation measures and their implementations are to be determined upon consultation between Caltrans, the City, and the project proponent.

OPR General Plan Guidelines

The Governor’s Office of Planning and Research (OPR) publishes General Plan Guidelines as a “how to” for cities and counties developing their general plans. OPR releases updated guidelines periodically, which include legislative changes, new guidance, policy recommendations, external links to resource documents, and additional resources. For each general plan element, the guidelines discuss statutory requirements in detail, provide recommended policy language, and include examples of city and county general plans that have adopted similar policies.

Annual Progress Report Memo

All counties and general law cities in the state are required to submit an annual report on the status of their general plan and progress in its implementation per Government Code Section 65400. The General Plan Annual Progress Report (APR) is due on April 1 and covers the previous year’s 12-month reporting period.³

Assembly Bill 32, Senate Bill 32, and Senate Bill 375

Assembly Bill (AB) 32, also known as the Global Warming Solutions Act of 2006, committed California to reducing greenhouse gas (GHG) emissions to 1990 levels by 2020. The California Air Resources Board (ARB), which is coordinating the response to comply with AB 32, is currently on schedule to meet this deadline. In 2016, Senate Bill (SB) 32 added a new target: reducing statewide emissions to 40 percent below 1990 levels by 2030.

SB 375 provides guidance for curbing emissions from cars and light trucks to help California comply with AB 32. There are five major components to SB 375:

- ARB will guide the adoption of GHG emission targets to be met by each Metropolitan Planning Organization (MPO) in the state.
- MPOs are required to create a Sustainable Communities Strategy (SCS) that provides a plan for meeting these regional targets. The SCS must be consistent with the Regional Transportation Plan (RTP).
- Regional housing elements and transportation plans must be synchronized on eight-year schedules. Also, the SCS and Regional Housing Needs Assessment (RHNA) must be consistent with each other.
- CEQA is streamlined for preferred development types such as mixed-use projects and transit-oriented developments (TODs) if they meet specific requirements.
- MPOs must use transportation and air emission modeling methodologies consistent with California Transportation Commission (CTC) guidelines.

California Complete Streets Act of 2008 (AB 1358)

Originally passed in 2008, California’s Complete Streets Act took effect in 2011 and requires local jurisdictions to plan for land use transportation policies that reflect a “complete streets” approach to mobility. “Complete streets” comprises a suite of policies and street design guidelines which provide for the needs of all road users, including pedestrians, bicyclists, transit operators and riders, children, the elderly, and the disabled. From 2011 onward, any local jurisdiction—county or city—that undertakes an update of the circulation element of its general plan must plan for the development of multimodal transportation networks.⁴ In 2010,

³ This can be either a calendar or fiscal year, depending on the policy of each jurisdiction. For more detailed information regarding the submission of an APR, please see OPR’s guide, accessible through:

http://opr.ca.gov/docs/20190426-APR_Memo_Post.pdf

⁴ Assembly Bill 1358, Chapter 657, Statutes 2008.

OPR released guidelines for compliance with this legislation which provide direction on how circulation elements can best plan for a variety of travel modes such as transit, walking, bicycling, and freight. This document is titled *Update to the General Plan Guidelines: Compete Streets and the Circulation Element*.

Senate Bill 743

On September 27, 2013, Senate Bill (SB) 743 was signed into law.⁵ The Legislature found that with the adoption of the Sustainable Communities and Climate Protection Act of 2008 (SB 375), the State had signaled its commitment to encourage land use and transportation planning decisions and investments that reduce vehicle miles traveled (VMT) and thereby contribute to the reduction of greenhouse gas emissions (GHG), as required by the California Global Warming Solutions Act of 2006 (AB 32). Additionally, the Complete Streets Act (AB 1358), requires local governments to plan for a balanced, multimodal transportation network that meets the needs of all users. To further the State's commitment to the goals of SB 375, AB 32, and AB 1358, SB 743 adds Chapter 2.7, Modernization of Transportation Analysis for Transit-Oriented Infill Projects, to Division 13 (Section 21099) of the Public Resources Code.

SB 743 started a process that fundamentally changes transportation impact analysis as part of CEQA compliance. These changes include the elimination of auto delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts in many parts of California (if not statewide). Further, parking impacts will not be considered significant impacts on the environment for select development projects within infill areas with nearby frequent transit service. SB 743 includes amendments that revises the definition of "in-fill opportunity zones" to allow cities and counties to opt out of traditional LOS standards established by congestion management programs (CMPs) and requires OPR to update the CEQA Guidelines and establish "criteria for determining the significance of transportation impacts of projects within transit priority areas."⁶ As part of the new CEQA Guidelines, the new criteria "shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." OPR presented alternative metrics in a preliminary discussion draft in summer of 2014 and released its final advisory in November 2017. Key guidance includes:

- VMT is the most appropriate metric to evaluate a project's transportation impact.
- OPR recommends tour- and trip-based travel models to estimate VMT, but ultimately defers to local agencies to determine the appropriate tools.
- OPR recommends measuring VMT for residential and office projects on a "per rate" basis. Specifically, OPR recommends VMT per capita for residential projects and VMT per employee for office projects.
- OPR's recommend impact threshold for residential and office projects is VMT per capita fifteen percent below the city or regional average (whichever is applied). In other words, an office project that generates VMT per employee that is more than 85 percent of the regional VMT per employee could result in a significant impact. This threshold is in line with statewide greenhouse gas emission reduction targets.

⁵ An act to amend Sections 65088.1 and 65088.4 of the Government Code, and to amend Sections 21181, 21183, 21186, 21187, 21189.1, and 21189.3 of, to add Section 21155.4 to, to add Chapter 2.7 (commencing with Section 21099) to Division 13 of, to add and repeal Section 21168.6.6 of, and to repeal and add Section 21185 of, the Public Resources Code, relating to environmental quality.

⁶ A "transit priority area" is defined in as an area within one-half mile of an existing or planned major transit stop. A "major transit stop" is defined in Public Resources Code Section 21064.3 as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

- For retail projects, OPR recommends measuring the net decrease or increase in VMT in the study area with and without the project. The recommended impact threshold is any increase in total VMT.
- Lead agencies ultimately have the discretion to set or apply their own significance thresholds, provided they are based on significant evidence.
- Cities and counties still have the ability to use metrics such as LOS for other plans, studies, or network monitoring. However, LOS and similar metrics cannot constitute the sole basis for CEQA impacts.

For land use and transportation projects, SB 743-compliant CEQA analysis become mandatory on July 1, 2020. The City of San Marcos has adopted transportation impact analysis guidelines consistent with the requirements of SB 743.

Assembly Bill 417

In October 2013, AB 417 created a statutory CEQA exemption for bicycle plans in urbanized areas. Before the passage of this bill, cities and counties that prepared bicycle plans were required to carry out a CEQA review. AB 417 exempts the following types of bicycle projects in an urbanized area:

- Restriping of streets and highways
- Bicycle parking and storage
- Signal timing to improve intersection operations
- Signage for bicycles, pedestrians, and vehicles

However, not all bicycle plans are exempt if certain conditions are met (e.g., a new Class I bicycle trail through a sensitive natural area).

9.3 UTILITIES AND COMMUNITY SERVICES

This chapter addresses utilities and community services within the City of San Marcos. Utility services include the provision of water services, wastewater (sewer) services, stormwater and drainage, solid waste disposal, electricity, and natural gas. Community services include fire protection, law enforcement, parks and recreation, schools, libraries, and other public facilities. This section addresses the regulations associated with these topics.

Federal Regulatory Framework

Stormwater and Drainage

Clean Water Act (CWA)

The CWA, initially passed in 1972, regulates the discharge of pollutants into watersheds throughout the nation. Section 402(p) of the act establishes a framework for regulating municipal and industrial stormwater discharges under the NPDES Program. Section 402(p) requires that stormwater associated with industrial activity that discharges either directly to surface waters or indirectly through municipal separate storm sewers must be regulated by an NPDES permit.

The State Water Resources Control Board (SWRCB) is responsible for implementing the Clean Water Act and does so through issuing NPDES permits to cities and counties through regional water quality control boards. Federal regulations allow two permitting options for storm water discharges (individual permits and general permits). Pursuant to Section 402 of the CWA and the Porter-Cologne Water Quality Control Act, municipal stormwater discharge in the City of San Marcos is subject to the Waste Discharge Requirements (WDRs) of the MS4 Permit (Order Number R4-2012-0175-A01) as amended by State Water Board Order WQ-2015-0075 and NPDES Permit No. CAS004001.

Stormwater and Drainage

National Pollutant Discharge Elimination System (NPDES)

National Pollutant Discharge Elimination System (NPDES) permits are required for discharges to navigable waters of the United States, which includes any discharge to surface waters,

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including lakes, rivers, streams, bays, oceans, dry stream beds, wetlands, and storm sewers that are tributary to any surface water body. NPDES permits are issued under the Federal Clean Water Act, Title IV, Permits and Licenses, Section 402 (33 USC 466 et seq.).

The Regional Water Quality Control Board (RWQCB) issues these permits in lieu of direct issuance by the Environmental Protection Agency, subject to review and approval by the EPA Regional Administrator (EPA Region 9). The terms of these NPDES permits implement pertinent provisions of the Federal Clean Water Act and the Act's implementing regulations, including pre-treatment, sludge management, effluent limitations for specific industries, and anti-degradation. In general, the discharge of pollutants is to be eliminated or reduced as much as practicable so as to achieve the Clean Water Act's goal of "fishable and swimmable" navigable (surface) waters. Technically, all NPDES permits issued by the RWQCB are also Waste Discharge Requirements issued under the authority of the CWA.

These NPDES permits regulate discharges from publicly owned treatment works, industrial discharges, stormwater runoff, dewatering operations, and groundwater cleanup discharges. NPDES permits are issued for five years or less, and therefore must be updated regularly. To expedite the permit issuance process, the RWQCB has adopted several general NPDES permits, each of which regulates numerous discharges of similar types of wastes.

Solid Waste

[Resource Conservation and Recovery Act \(RCRA\)](#)

The Resource Conservation and Recovery Act (RCRA) was enacted in 1976 to address the huge volumes of municipal and industrial solid waste generated nationwide. After several amendments, the current Act governs the management of solid and hazardous waste and underground storage tanks (USTs). RCRA was an amendment to the Solid Waste Disposal Act of 1965. RCRA has been amended several times, most significantly by the Hazardous and Solid Waste Amendments (HSWA) of 1984. RCRA is a combination of the first solid waste statutes and all subsequent amendments. RCRA authorizes the Environmental Protection Agency (EPA) to regulate waste management activities. RCRA authorizes states to develop and enforce their own waste management programs, in lieu of the Federal program, if a state's waste management program is substantially equivalent to, consistent with, and no less stringent than the Federal program.

State Regulatory Framework

Water Services

[California Department of Health Services](#)

The Department of Health Services, Division of Drinking Water and Environmental Management, oversees the Drinking Water Program. The Drinking Water Program regulates public water systems and certifies drinking water treatment and distribution operators. It provides support for small water systems and for improving their technical, managerial, and financial capacity. It provides subsidized funding for water system improvements under the State Revolving Fund ("SRF") and Proposition 50 programs. The Drinking Water Program also oversees water recycling projects, permits water treatment devices, supports and promotes water system security, and oversees the Drinking Water Treatment and Research Fund for MTBE (Methyl Tertiary Butyl Ether) and other oxygenates.

Water Services

[Consumer Confidence Report Requirements](#)

California Code of Regulations (CCR) Title 22, Chapter 15, Article 20 requires all public water systems to prepare a Consumer Confidence Report for distribution to its customers and to the Department of Health Services. The Consumer Confidence Report provides information regarding the quality of potable water provided by the water system. It includes information on the sources of the water, any detected contaminants in the water, the maximum contaminant levels set by regulation, violations and actions taken to correct them, and

opportunities for public participation in decisions that may affect the quality of the water provided.

[Water Services](#) [Urban Water Management Planning Act](#)

The Urban Water Management Planning Act has as its objectives the management of urban water demands and the efficient use of urban water. Under its provisions, every urban water supplier is required to prepare and adopt an urban water management plan. An “urban water supplier” is a public or private water supplier that provides water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. The plan must identify and quantify the existing and planned sources of water available to the supplier, quantify the projected water use for a period of 20 years, and describe the supplier’s water demand management measures. The urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry years. The Department of Water Resources (DWR) must receive a copy of an adopted urban water management plan.

[Water Services](#) [Senate Bill \(SB\) 610 and Assembly Bill \(AB\) 901](#)

The State Legislature passed SB 610 and AB 901 in 2001. Both measures modified the Urban Water Management Planning Act. SB 610 requires additional information in an urban water management plan if groundwater is identified as a source of water available to an urban water supplier. It also requires that the plan include a description of all water supply projects and programs that may be undertaken to meet total projected water use. SB 610 requires a city or county that determines a project is subject to CEQA to identify any public water system that may supply water to the project and to request identified public water systems to prepare a specified water supply assessment. The assessment must include, among other information, an identification of existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project, and water received in prior years pursuant to these entitlements, rights, and contracts.

AB 901 requires an urban water management plan to include information, to the extent practicable, relating to the quality of existing sources of water available to an urban water supplier over given time periods. AB 901 also requires information on the manner in which water quality affects water management strategies and supply reliability. The bill requires a plan to describe plans to supplement a water source that may not be available at a consistent level of use, to the extent practicable. Additional findings and declarations relating to water quality are required.

[Water Services](#) [Senate Bill \(SB\) 221](#)

SB 221 adds Government Code Section 66455.3, requiring that the local water agency be sent a copy of any proposed residential subdivision of more than 500 dwelling units within five days of the subdivision application being accepted as complete for processing by the city or county. It also adds Government Code Section 66473.7, establishing detailed requirements for establishing whether a “sufficient water supply” exists to support any proposed residential subdivisions of more than 500 dwellings, including any such subdivision involving a development agreement. When approving a qualifying subdivision tentative map, the city or county must include a condition requiring availability of a sufficient water supply. The applicable public water system must provide proof of availability. If there is no public water system, the city or county must undertake the analysis described in Government Code Section 66473.7. The analysis must include consideration of effects on other users of water and groundwater.

[Wastewater](#) [State Water Resources Control Board \(SWRCB\)/Regional Water Quality Control Board \(RWQCB\)](#)

In California, all wastewater treatment and disposal systems fall under the overall regulatory authority of the State Water Resources Control Board (SWRCB) and the nine California

Regulatory Environment

Regional Water Quality Control Boards (RWQCBs), who are charged with the responsibility of protecting beneficial uses of State waters (ground and surface) from a variety of waste discharges, including wastewater from individual and municipal systems. The City of San Marcos falls within the jurisdiction of the Santa Ana RWQCB.

The RWQCB's regulatory role often involves the formation and implementation of basic water protection policies. These are reflected in the individual RWQCB's Basin Plan, generally in the form of guidelines, criteria and/or prohibitions related to the siting, design, construction, and maintenance of on-site sewage disposal systems. The SWRCB's role has historically been one of providing overall policy direction, organizational and technical assistance, and a communications link to the State legislature.

The RWQCBs may waive or delegate regulatory authority for on-site sewage disposal systems to counties, cities, or special districts. Although not mandatory, it is commonly done and has proven to be administratively efficient. In some cases, this is accomplished through a Memorandum of Understanding (MOU), whereby the local agency commits to enforcing the Basin Plan requirements or other specified standards that may be more restrictive. The RWQCBs generally elect to retain permitting authority over large and/or commercial or industrial on-site sewage disposal systems, depending on the volume and character of the wastewater.

Stormwater and Drainage

California Water Code

California's primary statute governing water quality and water pollution issues with respect to both surface waters and groundwater is the Porter-Cologne Water Quality Control Act of 1970 (Division 7 of the California Water Code) (Porter-Cologne Act). The Porter-Cologne Act grants the SWRCB and each of the RWQCBs power to protect water quality, and is the primary vehicle for implementation of California's responsibilities under the Federal Clean Water Act. The Porter-Cologne Act grants the SWRCB and the RWQCBs authority and responsibility to adopt plans and policies, to regulate discharges to surface and groundwater, to regulate waste disposal sites, and to require cleanup of discharges of hazardous materials and other pollutants. The Porter-Cologne Act also establishes reporting requirements for unintended discharges of any hazardous substance, sewage, or oil or petroleum product.

Each RWQCB must formulate and adopt a Water Quality Control Plan (Basin Plan) for its region. The regional plans are to conform to the policies set forth in the Porter-Cologne Act and established by the SWRCB in its State water policy. The Porter-Cologne Act also provides that a RWQCB may include within its regional plan water discharge prohibitions applicable to particular conditions, areas, or types of waste.

Stormwater and Drainage

State Water Resources Control Board (State Water Board) Storm Water Strategy

The Storm Water Strategy is founded on the results of the Storm Water Strategic Initiative, which served to direct the State Water Board's role in storm water resources management and evolve the Storm Water Program by a) developing guiding principles to serve as the foundation of the storm water program, b) identifying issues that support or inhibit the program from aligning with the guiding principles, and c) proposing and prioritizing projects that the Water Boards could implement to address those issues. The State Water Board staff created a strategy-based document called the Strategy to Optimize Management of Storm Water (STORMS). STORMS includes a program vision, missions, goals, objectives, projects, timelines, and consideration of the most effective integration of project outcomes into the Water Board's Storm Water Program.

Solid Waste

California Integrated Waste Management Act (AB 939 and SB 1322)

The California Integrated Waste Management Act of 1989 (AB 939 and SB 1322) requires every city and county in the state to prepare a Source Reduction and Recycling Element to its Solid Waste Management Plan that identifies how each jurisdiction will meet the mandatory state waste diversion goals of 25% by 1995 and 50% by 2000. The purpose of AB 939 and SB 1322 is to "reduce, recycle, and re-use solid waste generated in the state to the maximum

extent feasible.” The term “integrated waste management” refers to the use of a variety of waste management practices to safely and effectively handle the municipal solid waste stream with the least adverse impact on human health and the environment. The Act has established a waste management hierarchy, as follows: Source Reduction; Recycling; Composting; Transformation; and Disposal.

Solid Waste

[California Integrated Waste Management Board Model Ordinance](#)

Subsequent to the Integrated Waste Management Act, additional legislation was passed to assist local jurisdictions in accomplishing the goals of AB 939. The California Solid Waste Re-use and Recycling Access Act of 1991 (§42900-42911 of the Public Resources Code) directs the California Integrated Waste Management Board (CIWMB) to draft a “model ordinance” relating to adequate areas for collecting and loading recyclable materials in development projects. The model ordinance requires that any new development project, for which an application is submitted on or after September 1, 1994, include “adequate, accessible, and convenient areas for collecting and loading recyclable materials.” For subdivisions of single family detached homes, recycling areas are required to serve only the needs of the homes within that subdivision.

Solid Waste

[California’s Mandatory Commercial Recycling Law \(AB 341\)](#)

Assembly Bill (AB) 341 directed CalRecycle to develop and adopt regulations for mandatory commercial recycling. CalRecycle initiated formal rulemaking with a 45-day comment period beginning Oct. 28, 2011. The final regulation was approved by the Office of Administrative Law on May 7, 2012. The purpose of AB 341 is to reduce GHG emissions by diverting commercial solid waste to recycling efforts, and to expand the opportunity for additional recycling services and recycling manufacturing facilities in California.

Beginning on July 1, 2012, businesses have been required to recycle, and each jurisdiction has implemented programs that include education, outreach, and monitoring. Jurisdictions were required to start reporting on their 2012 Electronic Annual Report (due Aug. 1, 2013) on their initial education, outreach, and monitoring efforts, and, if applicable, on any enforcement activities or exemptions implemented by the jurisdiction.

In addition to Mandatory Commercial Recycling, AB 341 sets a *statewide* goal for 75 percent disposal reduction by the year 2020. This is not written as a 75 percent diversion mandate for each jurisdiction. The 50 percent disposal reduction mandate still stands for cities, counties, and State agencies (including community colleges) under AB 939. CalRecycle continues to evaluate program implementation as it has in the past through the Annual Report review process for entities subject to either AB 939.

Electricity and Natural Gas

[Public Utilities Commission](#)

The California Public Utilities Commission (PUC) is the primary State agency that regulates privately owned public utilities in California. These utilities include telecommunications, electricity, natural gas, water, railroad, rail transit, and passenger transportation companies. A primary role of the PUC is to authorize utility rate changes. It also establishes service standards and safety rules, monitors the safety of utility and transportation operations, prosecutes unlawful marketing and billing activities, and oversees the merger and restructure of utility corporations.

Electricity and Natural Gas

[Bioenergy Action Plan – Executive Order #S-06-06](#)

Executive Order #S-06-06 establishes targets for the use and production of biofuels and biopower, and directs State agencies to work together to advance biomass programs in California while providing environmental protection and mitigation. The executive order establishes the following target to increase the production and use of bioenergy, including ethanol and biodiesel fuels made from renewable resources: produce a minimum of 20% of its biofuels within California by 2010, 40% by 2020, and 75% by 2050. The executive order also

Regulatory Environment

calls for the State to meet a target for use of biomass electricity, including biomass cogeneration facilities.

Electricity and Natural Gas

[Senate Bill 14 and Assembly Bill 64](#)

Prior to the passage of SB 14 and AB 64 in 2009, California law required investor-owned utilities (IOUs) and energy service providers (ESPs) to increase their existing purchases of renewable energy by 1% of sales per year such that 20% of their retail sales, as measured by usage, are procured from eligible renewable resources (including biomass cogeneration) by December 31, 2010. This is known as the Renewable Portfolio Standard (RPS).

SB 14 and AB 64 require IOUs, publicly-owned utilities (POUs), and ESPs to increase their purchases of renewable energy such that at least 33% of retail sales are procured from renewable energy resources by December 31, 2020. For IOUs and ESPs, this is required only if the PUC determines that achieving these targets will result in just and reasonable rates.

Electricity and Natural Gas

[Title 24](#)

Title 24, Part 6, of the California Code of Regulations is also known as California's Energy Efficiency Standards for Residential and non-residential Buildings. Title 24 was established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. The 2008 Energy Efficiency Standards went into effect on January 1, 2010. Title 24, Part 11, of the California Code of Regulations establishes the California Green Building Standards Code (CalGreen). Initially, the code requirements were voluntary; however, CalGreen became mandatory in 2011. CalGreen addresses five areas of green building: 1) planning and design, 2) energy efficiency, 3) water efficiency and conservation, 4) material conservation and resources efficiency, and 5) environmental quality. The mandatory requirements are separated into non-residential and residential projects. CalGreen also includes two optional tiers: Tier 1 and Tier 2. The tiers employ higher thresholds that jurisdictions may adopt or that projects may meet voluntarily.

Fire Protection

[California Occupational Safety and Health Administration](#)

In accordance with California Code of Regulations Title 8 Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Equipment," the California Occupational Safety and Health Administration (Cal/OSHA) has established minimum standards for fire suppression and emergency medical services. The standards include, but are not limited to, guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all firefighting and emergency medical equipment.

Fire Protection

[Office of Emergency Services](#)

The State of California passed legislation authorizing the Office of Emergency Services (OES) to prepare a Standard Emergency Management System (SEMS) program, which sets forth measures by which a jurisdiction should handle emergency disasters. Non-compliance with SEMS could result in the State withholding disaster relief from the non-complying jurisdiction in the event of an emergency disaster.

Parks and Recreation

[Quimby Act](#)

The Quimby Act (California Government Code Section 66477) states that "the legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative or parcel map." Requirements of the Quimby Act apply only to the acquisition of new parkland and do not apply to the physical development of new park facilities or associated operations and maintenance costs. The

Quimby Act seeks to preserve open space needed to develop parkland and recreational facilities; however, the actual development of parks and other recreational facilities is subject to discretionary approval and is evaluated on a case-by-case basis with new residential development.

Schools,
Libraries, and
Other Public
Facilities

[Leroy F. Greene School Facilities Act of 1998 \(SB 50\)](#)

The “Leroy F. Greene School Facilities Act of 1998,” also known as Senate Bill No. 50 or SB 50 (Chapter 407, Statutes of 1998), governs a school district’s authority to levy school impact fees. This comprehensive legislation, together with the \$9.2 billion education bond act approved by the voters in November 1998 known as “Proposition 1A,” reformed methods of school construction financing in California. SB 50 instituted a new school facility program by which school districts can apply for State construction and modernization funds. It imposed limitations on the power of cities and counties to require mitigation of school facilities impacts as a condition of approving new development, and provided the authority for school districts to levy fees at three different levels:

- Level I fees are the current statutory fees allowed under Education Code 17620. This code section provides the basic authority for school districts to levy a fee against residential and commercial construction for the purpose of funding school construction or reconstruction of facilities. These fees vary by district for residential construction and commercial construction, and are increased biannually.
- Level II fees are outlined in Government Code Section 65995.5, allowing school districts to impose a higher fee on residential construction if certain conditions are met. These conditions include having a substantial percentage of students on multi-track year-round scheduling, having an assumed debt equal to 15–30% of the district’s bonding capacity (percentage is based on revenue sources for repayment), having at least 20% of the district’s teaching stations housed in relocatable classrooms, and having placed a local bond on the ballot in the past four years which received at least 50% plus one of the votes cast. A Facility Needs Assessment must demonstrate the need for new school facilities for unhoused pupils is attributable to projected enrollment growth from the construction of new residential units over the next five years.
- Level III fees are outlined in Government Code Section 65995.7. If State funding becomes unavailable, this code section authorizes a school district that has been approved to collect Level II fees to collect a higher fee on residential construction. This fee is equal to twice the amount of Level II fees. However, if a district eventually receives State funding, this excess fee may be reimbursed to the developers or subtracted from the amount of State funding.

Schools,
Libraries, and
Other Public
Facilities

[The Kindergarten-University Public Education Facilities Bond Act of 2002 \(Prop 47\)](#)

This act was approved by California voters in November 2002 and provides for a bond issue of \$13.05 billion to fund necessary education facilities to relieve overcrowding and to repair older schools. Funds will be targeted at areas of greatest need and must be spent according to strict accountability measures. Funds will also be used to upgrade and build new classrooms in the California Community Colleges, the California State University, and the University of California in order to provide adequate higher education facilities to accommodate growing student enrollment.

Schools,
Libraries, and
Other Public
Facilities

[California Department of Education](#)

The California Department of Education (CDE) School Facilities Planning Division (SFPD) prepared a School Site Selection and Approval Guide that provides criteria for locating appropriate school sites in the State of California. School site and size recommendations were changed by the CDE in 2000 to reflect various changes in educational conditions, such as lowering of class sizes and use of advanced technology. The expanded use of school buildings

and grounds for community and agency joint use, and concern for the safety of the students and staff members also influenced the modification of the CDE recommendations.

Specific recommendations for school size are provided in the School Site Analysis and Development Guide. This document suggests a ratio of 1:2 between buildings and land. CDE is aware that in a number of cases, primarily in urban settings, smaller sites cannot accommodate this ratio. In such cases, the SFPD may approve an amount of acreage less than the recommended gross site size and building-to-ground ratio.

Certain health and safety requirements for school site selection are governed by State regulations and the policies of the SFPD relating to:

- Proximity to airports, high-voltage power transmission lines, railroads, and major roadways;
- Presence of toxic and hazardous substances;
- Hazardous facilities and hazardous air emissions within one-quarter mile;
- Proximity to high-pressure natural gas lines, propane storage facilities, gasoline lines, pressurized sewer lines, or high-pressure water pipelines;
- Noise;
- Results of geological studies or soil analyses; and
- Traffic and school bus safety issues.

Local Regulatory Framework

Water

[Vallecitos Water District 2015 Urban Water Management Plan \(UWMP\)](#)

Vallecitos Water District 2015 Urban Water Management Plan (UWMP) was prepared in fulfillment of the requirements of the Urban Water Management Planning Act that was adopted in 1983 and may be found in the California Water Code, §§10610-10656. The UWMP was also prepared in compliance with the Guidebook to Assist Water Suppliers in the Preparation of a 2010 Urban Water Management Plan as provided by the California Department of Water Resources (DWR).

In addition to compliance with state mandate, the Vallecitos Water District 2015 UWMP is a living document whose contents fulfill a variety of planning, informational, and legal requirements. A UWMP serves as an important source document for cities and counties as they update their General Plans. Conversely, General Plans are source documents as water suppliers update their UWMPs. Vallecitos Water District coordinated with local stakeholders and internal City departments to elicit comments relative to producing an accurate and complete UWMP.

Water

[Vista Irrigation District 2015 Urban Water Management Plan \(UWMP\)](#)

Vista Irrigation District 2015 Urban Water Management Plan (UWMP) was prepared in fulfillment of the requirements of the Urban Water Management Planning Act that was adopted in 1983 and may be found in the California Water Code, §§10610-10656. The UWMP was also prepared in compliance with the Guidebook to Assist Water Suppliers in the Preparation of a 2010 Urban Water Management Plan as provided by the California Department of Water Resources (DWR).

In addition to compliance with state mandate, the Vista Irrigation District 2015 UWMP is a living document whose contents fulfill a variety of planning, informational, and legal requirements. A UWMP serves as an important source document for cities and counties as they update their General Plans. Conversely, General Plans are source documents as water suppliers update their UWMPs. Vista Irrigation District coordinated with local stakeholders and internal City departments to elicit comments relative to producing an accurate and complete UWMP.

Wastewater	<p>Vallecitos Water District 2018 Water, Wastewater, and Recycled Water Master Plan</p> <p>The Vallecitos Water District updated its Water, Wastewater, and Recycled Water Master Plan to outline the existing resources and conditions of its existing sewer system. The updated Master Plan identifies areas for necessary upkeep and provides a detailed overview of the types of facilities available to the City of San Marcos for the use of handling wastewater.</p>
Stormwater and Drainage	<p>City of San Marcos Master Drainage Plan</p> <p>The City of San Marcos is responsible for managing the public storm drain system within San Marcos' limits and ensuring that an adequate level of service is provided to protect the public from excessive surface flooding conditions. Stormwater within the City of San Marcos is primarily tributary to San Marcos Creek, discharging to Lake San Marcos located within the Carlsbad Watershed. Lake San Marcos is privately owned by Pacifica Enterprises, which is a property developer and manager. The overall watershed is comprised of six hydrologic basins: San Marcos Creek – North Basin, San Marcos Creek – East Basin, San Marcos Creek – Main Basin, Las Posas Basin, North Outlying Basin and South Outlying Basin.</p>
Stormwater and Drainage	<p>San Diego County 2014 Low Impact Development Handbook</p> <p>The County of San Diego 2014 Low Impact Development (LID) Handbook is designed to comply with the requirements of the NPDES MS4 Permit for stormwater and non-stormwater discharges from the MS4 within the coastal watersheds of San Diego County. The LID Handbook provides guidance for the implementation of stormwater quality control measures in new development and redevelopment projects in unincorporated areas of San Diego County, with the intention of improving water quality and mitigating potential water quality impacts from stormwater and non-stormwater discharges.</p>
Stormwater and Drainage	<p>Municipal NPDES Permit Waste Discharge Requirements (San Diego Regional Water Quality Control Board Order R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100)</p> <p>In response to the Federal Clean Water Act, the West Valley Clean Water Program regulates waste dischargers under a National Pollutant Discharge Elimination System (NPDES) Permit administered by the appropriate Regional Water Quality Control Board. Specifically, the municipalities are regulated with regard to their jurisdiction over and/or maintenance responsibility for municipal storm drain systems and watercourses that they own or operate. The NPDES Permit is concerned primarily with regulating trash, pollutants of concern, and excessive hydrologic runoff which can carry sediment and cause flooding.</p> <p>As stated above, pursuant to Section 402 of the CWA and the Porter-Cologne Water Quality Control Act, municipal stormwater discharge in the City of San Marcos is subject to the WDRs of the MS4 Permit (San Diego Regional Water Quality Control Board Order R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100).</p> <p>In order to comply with the updated MS4 Permit, a "Low Impact Development (LID) Handbook" was developed by San Diego County (2014) in advance of the final permit that details actions for compliance with the LID regulations, such as land development policies pertaining to LID, and hydromodification for new development and significant redevelopment projects. The term "hydromodification" refers to the changes in runoff characteristics from a watershed caused by changes in land use condition. More specifically, hydromodification refers to "the change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow, and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport." The use of LID Best Management Practices (BMPs) in project planning and design</p>

Regulatory Environment

is to preserve a site’s predevelopment hydrology by minimizing the loss of natural hydrologic processes such as infiltration, evapotranspiration, and runoff detention. LID BMPs try to offset these losses by introducing structural and non-structural design components that restore these water quality functions into the project’s land plan.

Parks and Recreation

[City of San Marcos Parks Master Plan](#)

The City’s Parks Master guides the orderly development, renovation, and improvement of parks, recreation facilities, programs, and services. Physical inventory assessments of the existing parks were taken during numerous site visits to the parks, and community programming information was gathered from publications provided by the City.

9.4 HAZARDS, SAFETY, AND NOISE

Federal Regulatory Framework

Hazardous Materials and Waste

[Comprehensive Environmental Response, Compensation & Liability Act \(CERCLA\)](#)

This act, commonly associated with the term “Superfund,” established:

- Regulations concerning closed and abandoned hazardous waste sites
- Liability of parties responsible for any releases of hazardous waste at these sites
- Funding for cleanup when responsible parties cannot be identified

Hazardous Materials and Waste

[Resource Conservation and Recovery Act \(RCRA\)](#)

This act established the Environmental Protection Agency’s (EPA) “cradle to grave” control (generation, transportation, treatment, storage, and disposal) over hazardous materials and wastes. In California, the Department of Toxic Substances Control (DTSC) has RCRA authorization.

Hazardous Materials and Waste

[Clean Air Act](#)

According to the Clean Air Act, the EPA has established National Emissions Standards for Hazardous Air Pollutants. Exceeding the emissions standard for a given air pollutant may cause an increase in illnesses and/or fatalities.

Hazardous Materials and Waste

[Clean Water Act \(CWA\)](#)

The CWA, which amended the Water Pollution Control Act (WPCA) of 1972, sets forth the §404 program to regulate the discharge of dredged and fill material into waters of the U.S., and the §402 National Pollutant Discharge Elimination System (NPDES) to regulate the discharge of pollutants into waters of the U.S. The §401 Water Quality Certification program establishes a framework of water quality protection for activities requiring a variety of Federal permits and approvals (including CWA §404, CWA §402, FERC Hydropower and §10 Rivers and Harbors).

Air Traffic

[Aviation Act of 1958](#)

The Federal Aviation Act resulted in the creation of the Federal Aviation Administration (FAA). The FAA was charged with the creation and maintenance of a National Airspace System.

Air Traffic

[Federal Aviation Regulations \(CFR, Title 14\)](#)

The Federal Aviation Regulations (FAR) establish regulations related to aircraft, aeronautics, and inspections and permitting.

Fire Hazards

[FY 2001 Appropriations Act](#)

Title IV of the Appropriations Act required the identification of “Urban Wildland Interface Communities in the Vicinity of Federal Lands that are at High Risk from Wildfire” by the U.S. Departments of the Interior and Agriculture.

Fire Hazards

[Disaster Mitigation Act \(2000–present\)](#)

Section 104 of the Disaster Mitigation Act of 2000 (Public Law 106-390) enacted Section 322, Mitigation Planning of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which created incentives for state and local entities to coordinate hazard mitigation planning and implementation efforts and is an important source of funding for fuels mitigation efforts through hazard mitigation grants.

Fire Hazards

[National Incident Management System \(NIMS\)](#)

The City adopted NIMS, which provides a systematic, proactive approach to guide government agencies, nongovernmental organizations, and the private sector to work together to prevent, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life and property and harm to the environment. NIMS improves the City's ability to prepare for and respond to potential incidents and hazard scenarios.

Fire Hazards

[National Fire Plan \(NFP\) 2000](#)

The summer of 2000 marked a historic milestone in wildland fire records for the United States. Dry conditions (across the western United States), led to destructive wildfire events on an estimated 7.2 million acres, nearly double the 10-year average. Costs in damages including fire suppression activities were approximately 2.1 billion dollars. Congressional direction called for substantial new appropriations for wildland fire management. This resulted in action plans, interagency strategies, and the Western Governor's Association's "A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment - A 10-Year Comprehensive Strategy - Implementation Plan," which collectively became known as the National Fire Plan. This plan places a priority on collaborative work within communities to reduce their risk from large-scale wildfires.

Fire Hazards

[Healthy Forest Initiative \(HFI\) 2002/Healthy Forest Restoration Act \(HFRA\) 2003](#)

In August 2002, the Healthy Forests Initiative (HFI) was launched with the intent to reduce the severe wildfires risks that threaten people, communities, and the environment. Congress then passed the Healthy Forests Restoration Act (HFRA) on December 3, 2003 to provide the additional administrative tools needed to implement the HFI. The HFRA strengthened efforts to restore healthy forest conditions near communities by authorizing measures such as expedited environmental assessments for hazardous fuels projects on federal land. This Act emphasized the need for federal agencies to work collaboratively with communities in developing hazardous fuel reduction projects and places priority on fuel treatments identified by communities themselves in their Community Wildfire Protection Plans.

Flooding

[Federal Emergency Management Agency \(FEMA\)](#)

FEMA operates the National Flood Insurance Program (NFIP). Participants in the NFIP must satisfy certain mandated floodplain management criteria. The National Flood Insurance Act of 1968 has adopted as a desired level of protection, an expectation that developments should be protected from floodwater damage of the Intermediate Regional Flood (IRF). The IRF is defined as a flood that has an average frequency of occurrence on the order of once in 100 years, although such a flood may occur in any given year. Communities are occasionally audited by the California Department of Water Resources to insure the proper implementation of FEMA floodplain management regulations.

Flooding

[Rivers and Harbors Appropriation Act of 1899](#)

One of the country's first environmental laws, this Act established a regulatory program to address activities that could affect navigation in waters of the United States.

Flooding

[Water Pollution Control Act of 1972](#)

The Water Pollution Control Act (WPCA) established a program to regulate activities that result in the discharge of pollutants to waters of the United States.

Flooding

[Clean Water Act of 1977](#)

Regulatory Environment

The CWA, which amended the WPCA of 1972, sets forth the §404 program to regulate the discharge of dredged and fill material into waters of the U.S., and the §402 National Pollutant Discharge Elimination System (NPDES) to regulate the discharge of pollutants into waters of the U.S. The §401 Water Quality Certification program establishes a framework of water quality protection for activities requiring a variety of Federal permits and approvals (including CWA §404, CWA §402, FERC Hydropower and §10 Rivers and Harbors).

Flooding

[Flood Control Act](#)

The Flood Control Act (1917) established survey and cost estimate requirements for flood hazards in the Sacramento Valley. All levees and structures constructed per the Act were to be maintained locally but controlled federally. All rights-of-way necessary for the construction of flood control infrastructure were to be provided to the Federal government at no cost.

Federal involvement in the construction of flood control infrastructure, primarily dams and levees, became more pronounced upon passage of the Flood Control Act of 1936.

Flooding

[National Flood Insurance Program \(NFIP\)](#)

Per the National Flood Insurance Act of 1968, the NFIP has three fundamental purposes: better indemnify individuals for flood losses through insurance; reduce future flood damages through State and community floodplain management regulations; and reduce Federal expenditures for disaster assistance and flood control.

While the Act provided for subsidized flood insurance for existing structures, the provision of flood insurance by FEMA became contingent on the adoption of floodplain regulations at the local level.

Flooding

[Flood Disaster Protection Act \(FDPA\)](#)

The FDPA of 1973 was a response to the shortcomings of the NFIP, which were experienced during the flood season of 1972. The FDPA prohibited Federal assistance, including acquisition, construction, and financial assistance, within delineated floodplains in non-participating NFIP communities. Furthermore, all Federal agencies and/or federally insured and federally regulated lenders must require flood insurance for all acquisitions or developments in designated Special Flood Hazard Areas (SFHAs) in communities that participate in the NFIP.

Improvements, construction, and developments within SFHAs are generally subject to the following standards:

- All new construction and substantial improvements of residential buildings must have the lowest floor (including basement) elevated to or above the base flood elevation (BFE).
- All new construction and substantial improvements of non-residential buildings must either have the lowest floor (including basement) elevated to or above the BFE or dry-floodproofed to the BFE.
- Buildings can be elevated to or above the BFE using fill, or they can be elevated on extended foundation walls or other enclosure walls, on piles, or on columns.
- Extended foundation or other enclosure walls must be designed and constructed to withstand hydrostatic pressure and be constructed with flood-resistant materials, and contain openings that will permit the automatic entry and exit of floodwaters. Any enclosed area below the BFE can only be used for the parking of vehicles, building access, or storage.

Noise

[Federal Highway Administration \(FHWA\)](#)

The FHWA has developed noise abatement criteria that are used for federally funded roadway projects or projects that require federal review. These criteria are discussed in detail in Title 23 Part 772 of the Federal Code of Regulations (23CFR772).

Noise

[Environmental Protection Agency \(EPA\)](#)

The EPA has identified the relationship between noise levels and human response. The EPA has determined that over a 24-hour period, an Leq of 70 dBA will result in some hearing loss. Interference with activity and annoyance will not occur if exterior levels are maintained at an Leq of 55 dBA and interior levels at or below 45 dBA. Although these levels are relevant for planning and design, and useful for informational purposes, they are not land use planning criteria because they do not consider economic cost, technical feasibility, or the needs of the community.

The EPA has set 55 dBA Ldn as the basic goal for residential environments. However, other federal agencies, in consideration of their own program requirements and goals, as well as difficulty of actually achieving a goal of 55 dBA Ldn, have generally agreed on the 65 dBA Ldn level as being appropriate for residential uses. At 65 dBA Ldn activity interference is kept to a minimum, and annoyance levels are still low. It is also a level that can realistically be achieved.

The Department of Housing and Urban Development (HUD) was established in response to the Urban Development Act of 1965 (Public Law 90-448). HUD was tasked by the Housing and Urban Development Act of 1965 (Public Law 89-117) “to determine feasible methods of reducing the economic loss and hardships suffered by homeowners as a result of the depreciation in the value of their properties following the construction of airports in the vicinity of their homes.”

HUD first issued formal requirements related specifically to noise in 1971 (HUD Circular 1390.2). These requirements contained standards for exterior noise levels along with policies for approving HUD-supported or assisted housing projects in high noise areas. In general, these requirements established the following three zones:

- 65 dBA Ldn or less - an acceptable zone where all projects could be approved.
- Exceeding 65 dBA Ldn but not exceeding 75 dBA Ldn - a normally unacceptable zone where mitigation measures would be required and each project would have to be individually evaluated for approval or denial. These measures must provide 5 dBA of attenuation above the attenuation provided by standard construction required in a 65 to 70 dBA Ldn area and 10 dBA of attenuation in a 70 to 75 dBA Ldn area.
- Exceeding 75 dBA Ldn - an unacceptable zone in which projects would not, as a rule, be approved.

HUD’s regulations do not include interior noise standards. Rather a goal of 45 dBA Ldn is set forth and attenuation requirements are geared towards achieving that goal. HUD assumes that using standard construction techniques, any building will provide sufficient attenuation so that if the exterior level is 65 dBA Ldn or less, the interior level will be 45 dBA Ldn or less. Thus, structural attenuation is assumed at 20 dBA. However HUD regulations were promulgated solely for residential development requiring government funding and are not related to the operation of schools or churches.

The federal government regulates occupational noise exposure common in the workplace through the Occupational Health and Safety Administration (OSHA) under the EPA. Noise exposure of this type is dependent on work conditions and is addressed through a facility’s or construction contractor’s health and safety plan. With the exception of construction workers involved in facility construction, occupational noise is irrelevant to this study and is not addressed further in this document.

State Regulatory Framework

Hazardous
Materials and
Waste

[California Health & Safety Code](#)

Division 20 of the Health and Safety Code establishes Department of Toxic Substances Control (DTSC) authority and sets forth hazardous waste and underground storage tank regulations.

Regulatory Environment

In addition, the division creates a State superfund framework that mirrors the Federal program.

Division 26 of the Health and Safety Code establishes California Air Resources Board (CARB) authority. The division designates CARB as the air pollution control agency per Federal regulations and charges the Board with meeting Clean Air Act requirements.

Hazardous Materials and Waste

[Food and Agriculture Code](#)

Division 6 of the California Food and Agricultural Code (FAC) establishes pesticide application regulations. The division establishes training standards for pilots conducting aerial applications as well as permitting and certification requirements.

Hazardous Materials and Waste

[Water Code](#)

Division 7 of the California Water Code, commonly referred to as the Porter-Cologne Water Quality Control Act, created the State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (RWQCB). In addition, water quality responsibilities are established for the SWRCB and RWQCBs.

Hazardous Materials and Waste

[California Code of Regulations](#)

Title 3 of the CCR pertains to the application of pesticides and related chemicals. Parties applying regulated substances must continuously evaluate application equipment, the weather, the treated lands, and all surrounding properties. Title 3 prohibits any application that would:

- Contaminate persons not involved in the application
- Damage non-target crops or animals, or any other public or private property
- Contaminate public or private property, or create health hazards on said property

Title 8 of the CCR establishes California Occupational Safety and Health Administration (Cal OSHA) requirements related to public and worker protection. Topics addressed in Title 8 include materials exposure limits, equipment requirements, protective clothing, hazardous materials, and accident prevention. Construction safety and exposure standards for lead and asbestos are set forth in Title 8.

Title 14 of the CCR establishes minimum standards for solid waste handling and disposal.

Title 17 of the CCR establishes regulations relating to the use and disturbance of materials containing naturally occurring asbestos.

Title 22 of the CCR sets forth definitions of hazardous waste and special waste. The section also identifies hazardous waste criteria and establishes regulations pertaining to the storage, transport, and disposal of hazardous waste.

Title 26 of the CCR is a medley of State regulations pertaining to hazardous materials and waste that are presented in other regulatory sections. Title 26 mandates specific management criteria related to hazardous materials identification, packaging, and disposal. In addition, Title 26 establishes requirements for hazardous materials transport, containment, treatment, and disposal. Finally, staff training standards are set forth in Title 26.

Title 27 of the CCR sets forth a variety of regulations relating to the construction, operation, and maintenance of the State's landfills. The title establishes a landfill classification system and categories of waste. Each class of landfill is constructed to contain specific types of waste (household, inert, special, and hazardous).

Air Traffic

[Aeronautics Act \(Public Utilities Code §21001\)](#)

The Caltrans Division of Aeronautics bases the majority of its aviation policies on the Aeronautics Act. Policies include permits and annual inspections for public airports and hospital heliports, and recommendations for schools proposed within two miles of airport runways.

Air Traffic	<p>Airport Land Use Commission Law (Public Utilities Code §21670 et seq.)</p> <p>The law, passed in 1967, authorized the creation of Airport Land Use Commissions (ALUC) in California. Per the Public Utilities Code, the purpose of an ALUC is to protect <i>public health, safety, and welfare by encouraging orderly expansion of airports and the adoption of land use measures that minimizes exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses</i> (§21670). Furthermore, each ALUC must prepare an Airport Land Use Compatibility Plan (ALUCP). Each ALUCP, which must be based on a twenty-year planning horizon, should focus on broadly defined noise and safety impacts.</p>
Fire Hazards	<p>California Strategic Fire Plan</p> <p>This statewide plan is a strategic document, which guides fire policy for much of California. The plan is aimed at reducing wildfire risk through pre-fire mitigation efforts tailored to local areas through assessments of fuels, hazards, and risks.</p>
Fire Hazards	<p>California State Multi-Hazard Mitigation Plan</p> <p>The purpose of the State Multi-Hazard Mitigation Plan (SHMP) is to significantly reduce deaths, injuries, and other losses attributed to natural- and human-caused hazards in California. The SHMP provides guidance for hazard mitigation activities emphasizing partnerships among local, state, and federal agencies as well as the private sector.</p>
Fire Hazards	<p>California Government Code</p> <p>California Government Code Section 65302.5 requires the State Board of Forestry and Fire Protection to provide recommendations to a local jurisdiction’s General Plan fire safety element at the time that the General Plan is amended. While not a direct and binding fire prevention requirement for individuals, General Plans that adopt the Board’s recommendations will include goals and policies that provide for contemporary fire prevention standards for the jurisdiction.</p> <p>California Government Code Section 51175 defines Very High Fire Hazard Severity Zones and designates lands considered by the State to be a very high fire hazard.</p> <p>California Government Code Section 51189 directs the Office of the State Fire Marshal to create building standards for wildland fire resistance. The code includes measures that increase the likelihood of a structure withstanding intrusion by fire (such as building design and construction requirements that use fire-resistant building materials), provides protection of structure projections (such as porches, decks, balconies, and eaves), and structure openings (such as attics, eave vents, and windows).</p>
Fire Hazards	<p>California Public Resources Code</p> <p>The State’s Fire Safe Regulations are set forth in Public Resources Code §4290, which include the establishment of State Responsibility Areas (SRA).</p> <p>Public Resources Code §4291 sets forth defensible space requirements, which are applicable to anyone that ...owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material (§4291(a)).</p> <p>Public Resources Code § 4292-4296 and 14 CCR 1256: Fire Prevention for Electrical Utilities address the vegetation clearance standards for electrical utilities. They include the standards for clearing around energy lines and conductors, such as power-line hardware and power poles. These regulations are critical to wildland fire safety because of the substantial number of power lines in wildlands, the historic source of fire ignitions associated with power lines, and the extensive damage that results from power line caused wildfires in severe wind conditions.</p>
Fire Hazards	<p>Assembly Bill 337</p>

Regulatory Environment

Per AB 337, local fire prevention authorities and the California Department of Forestry and Fire Protection (CalFire) are required to identify “Very High Fire Hazard Severity Zones” (VHFHSZ) in Local Responsibility Areas (LRA). Standards related to brush clearance and the use of fire resistant materials in fire hazard severity zones are also established.

Fire Hazards [Uniform Fire Code](#)

The Uniform Fire Code (UFC) establishes standards related to the design, construction, and maintenance of buildings. The standards set forth in the UFC range from designing for access by firefighters and equipment, and minimum requirements for automatic sprinklers and fire hydrants, to the appropriate storage and use of combustible materials.

Fire Hazards [CA Code of Regulations Title 8](#)

In accordance with CCR, Title 8, §1270 and §6773 (*Fire Prevention and Fire Protection and Fire Equipment*), the Occupational Safety and Health Administration (Cal OSHA) establishes fire suppression service standards. The standards range from fire hose size requirements to the design of emergency access roads.

Fire Hazards [CA Code of Regulations Title 14 \(Natural Resources\)](#)

Division 1.5 (Department of Forestry and Fire Protection), Title 14 of the CCR establishes a variety of wildfire preparedness, prevention, and response regulations.

Fire Hazards [CA Code of Regulations Title 19 \(Public Safety\)](#)

Title 19 of the CCR establishes a variety of emergency fire response, fire prevention, and construction and construction materials standards.

Fire Hazards [CA Code of Regulations Title 24 \(CA Building Standards Code\)](#)

The California Fire Code is set forth in Part 9 of the Building Standards Code. The CA Fire Code, which is pre-assembled with the International Fire Code by the ICC, contains fire-safety building standards referenced in other parts of Title 24.

Fire Hazards [CA Health and Safety Code and Uniform Building Code \(UBC\) Section 13000 et seq.](#)

State fire regulations are set forth in §13000 et seq. of the California Health and Safety Code, which is divided into “Fires and Fire Protection” and “Buildings Used by the Public.” The regulations provide for the enforcement of the UBC and mandate the abatement of fire hazards.

The code establishes broadly applicable regulations, such as standards for buildings and fire protection devices, in addition to regulations for specific land uses, such as childcare facilities and high-rise structures.

Fire Hazards [CA Health and Safety Code Division 11 \(Explosives\)](#)

Division 11 of the Health and Safety Code establishes regulations related to a variety of explosive substances and devices, including high explosives and fireworks. Section 12000 et seq. establishes regulations related to explosives and explosive devices, including permitting, handling, storage, and transport (in quantities greater than 1,000 pounds).

Fire Hazards [CA Health and Safety Code Division 12.5 \(Buildings Used by the Public\)](#)

This Division establishes requirements for buildings used by the public, including essential services buildings, earthquake hazard mitigation technologies, school buildings, and postsecondary buildings.

Fire Hazards [CA Vehicle Code §31600 \(Transportation of Explosives\)](#)

Establishes requirements related to the transportation of explosives in quantities greater than 1,000 pounds, including licensing and route identification.

Flooding [Assembly Bill 162](#)

This bill requires a general plan’s land use element to identify and annually review those areas covered by the general plan that are subject to flooding as identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of

Water Resources (DWR). The bill also requires, upon the next revision of the housing element, on or after January 1, 2009, the conservation element of the general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. By imposing new duties on local public officials, the bill creates a State-mandated local program.

This bill also requires, upon the next revision of the housing element, on or after January 1, 2009, the safety element to identify, among other things, information regarding flood hazards and to establish a set of comprehensive goals, policies, and objectives, based on specified information for the protection of the community from, among other things, the unreasonable risks of flooding.

Flooding

[Assembly Bill 70](#)

This bill provides that a city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that it has increased the State's exposure to liability for property damage by unreasonably approving, as defined, new development in a previously undeveloped area, as defined, that is protected by a State flood control project, unless the city or county meets specified requirements.

Flooding

[CA Government Code](#)

The Senate and Assembly bills identified above have resulted in various changes and additions to the California Government Code. California Government Code §8589.4, commonly referred to as the Potential Flooding-Dam Inundation Act, requires owners of dams to prepare maps showing potential inundation areas in the event of dam failure. A dam failure inundation zone is different from a flood hazard zone under the National Flood Insurance Program (NFIP). NFIP flood zones are areas along streams or coasts where storm flooding is possible from a "100-year flood." In contrast, a dam failure inundation zone is the area downstream from a dam that could be flooded in the event of dam failure due to an earthquake or other catastrophe. Dam failure inundation maps are reviewed and approved by the California Office of Emergency Services (OES). Sellers of real estate within inundation zones are required to disclose this information to prospective buyers.

Climate Change and Resiliency Planning

[Assembly Bill 2140](#)

Under the Federal Disaster Mitigation Act of 2000, each municipality must develop a Local Hazard Mitigation Plan (LHMP) or participate in a multi-jurisdictional LHMP in order to be eligible for pre-disaster mitigation grants or post-disaster recovery assistance from the federal government. AB 2140 authorizes local governments to adopt their LHMP's with the safety elements of their general plans. Integration or incorporation by reference is encouraged through a post-disaster financial incentive which authorizes the State to use available California Disaster Assistance Act funds to cover local shares of the 25% non-federal portion of grant-funded post-disaster projects. The City of San Marcos is part of the County's Multi-jurisdictional Hazard Mitigation Plan per the state requirements.

Climate Change and Resiliency Planning

[Senate Bill 379](#)

As California confronts climate change impacts, local governments are now required, in accordance with Senate Bill 379, to include a climate change vulnerability assessment, measures to address vulnerabilities, and comprehensive hazard mitigation and emergency response strategy within their Land Use and Safety Elements. Communities may use the safety element as a vehicle for defining "acceptable risk" and the basis for determining the level of necessary mitigation. Policies may include methods of minimizing risks, as well as ways to minimize economic disruption and expedite recovery following disasters.

Wildlife Hazards

[Section 1801 of the Fish and Game Code](#)

Section 1801 of the Fish and Game Code establishes state policy regarding wildlife resources. The ultimate goal of this policy is to maintain sufficient wildlife populations to accomplish the following goals:

Regulatory Environment

- To provide for the beneficial use and enjoyment of wildlife by all citizens of the state;
- To perpetuate all species for their intrinsic and ecological values;
- To provide for aesthetic, educational, and non-appropriative uses;
- To maintain diversified recreational uses of wildlife including sport hunting;
- To provide for economic contributions to the citizens of the state through the recognition that wildlife is a renewable resource; and,
- To alleviate economic losses or public health and safety problems caused by wildlife.

To alleviate economic losses or public health and safety problems caused by wildlife.

Noise

[California Department of Transportation \(Caltrans\)](#)

Caltrans has adopted policy and guidelines relating to traffic noise as outlined in the Traffic Noise Analysis Protocol (Caltrans 2011). The noise abatement criteria specified in the protocol are the same as those specified by Federal Highway Administration (FHWA).

Noise

[Governor's Office of Planning and Research \(OPR\)](#)

OPR has developed guidelines for the preparation of general plans (Office of Planning and Research, 2017). The guidelines include land use compatibility guidelines for noise exposure.

Local Regulatory Framework

Air Traffic

[McClellan-Palomar Airport Land Use Compatibility Plan \(ALUCP\)](#)

The McClellan-Palomar Airport Land Use Compatibility Plan (ALUCP), prepared for McClellan-Palomar Airport, is the fundamental tool used by the San Diego County Regional Airport Authority (SDCRAA), acting in its capacity as the San Diego County Airport Land Use Commission (ALUC), in fulfilling its purpose of promoting airport land use compatibility. Specifically, this Compatibility Plan: (1) provides for the orderly growth of the Airport and the area surrounding the Airport; and (2) safeguards the general welfare of the inhabitants within the vicinity of the Airport and the public in general (Pub. Util. Code §21675(a)). In essence, this Compatibility Plan serves as a tool for the ALUC to use in fulfilling its duty to review land use plans and development proposals within the Airport Influence Area (AIA) at the Airport. In addition, this Compatibility Plan provides compatibility policies and criteria applicable to local agencies in their preparation or amendment of general plans and to landowners in their design of new development. (Please note that this Compatibility Plan defines general plans to include any general plan, community plan, specific plan, zoning ordinance, building regulation, land use policy document, or implementing ordinance. See Policy 2.2.21.)

Fire Hazards

[County of San Diego 2017 Consolidated Fire Code](#)

The fire protection districts within the boundaries of San Diego County collaborated to adopt by an ordinance for each district, the 2016 California Fire Code and amendments applicable to each district. The 2017 Consolidated Fire Code consists of the County's 2017 Fire Code as amended and adopted in Title 9, Division 6, Chapter 1 of the County Code, and the amendments of each fire protection district to the Building Standards Code based upon their respective determinations as to what amendments are reasonably necessary because of local climatic, geological, and topographical conditions within the district.

Fire Hazards

[City of San Marcos Municipal Code](#)

Title 8 – Health & Sanitation; this section of the San Marcos Municipal Code discusses non-compliance liability and the accumulation and storage of flammable waste material and storage of combustible materials.

Title 10 – Public Safety, Morals and Welfare; this title discusses property maintenance such as landscaping and vegetation that are fire hazards, are considered a nuisance and are declared to be unlawful.

Title 17 – Building, Construction, and Related Activities; this section provides direction on the numbering of buildings, flammable roofs, fences, fire codes, fire zones, and very high fire

hazard severity zone regulations. It includes the adoption by the City Council of the 2016 California Fire Code and Title 24, Part 9 of the California Code of Regulations, except such portions as deleted or modified by the San Marcos Municipal Code.

Title 19 – Subdivisions; this section addresses development capacity as it relates to fuel modification zones or green belts required by city ordinance for fire safety purposes.

Title 20 – Zoning; this title provides for supplemental standards for the development of hillside areas of the City. It includes fire hazard standards, access requirements, water supply, perimeter protection, fire-resistant design and material guidelines, landscaping, etc. Title 20 also includes a section on the preservation, protection, and removal of trees.

Noise

[City of San Marcos Municipal Code](#)

The City of San Marcos Municipal Code contains ordinances that are designed to protect people from non-transportation noise sources such as construction activity; commercial, industrial, and agricultural operations; machine and pumps; amplified sound, and air conditioners. Enforcement of the Code ensures that adjacent properties are not exposed to excessive noise from stationary noise sources. Enforcing the Code includes requiring proposed development projects to show compliance with the Code, including operating in accordance with noise levels and hours of operations limits placed on the project site. The City also requires construction activity to comply with established work schedule limits. The Noise Code also establishes allowable interior and exterior noise levels for residential and commercial areas.

Climate Planning

[City of San Marcos Climate Action Plan](#)

The City of San Marcos developed a Climate Action Plan (CAP) as part of its General Plan update process in 2013. The City initiated an update to its CAP in 2017 in order to comply with the State’s SB 32 requirements to reduce GHG emissions to 40 percent below the 1990 levels by 2030. The City adopted the updated CAP (2020 CAP) in December 2020. The CAP identifies GHG baselines, projections, and reduction targets, strategies, and measures, including monitoring the progress by participating in SANDAG’s biennial update of its local GHG inventory.

Flooding

[City of San Marcos Municipal Code](#)

Chapter 20.255 (Flood Damage Prevention Overlay Zone) of the City of San Marcos Municipal Code provides standard provisions for flood hazard reduction for flood-prone areas within San Marcos. It includes floodplain management regulations to promote the public health, safety, and general welfare of the public, and to minimize the potential for private losses due to flood conditions.

9.5 CONSERVATION AND NATURAL RESOURCES

Federal Regulatory Framework

Cultural Resources

[National Historic Preservation Act](#)

The National Historic Preservation Act (NHPA) is the primary federal law governing the preservation of cultural and historic resources in the United States. The law establishes a national preservation program and a system of procedural protections which encourage the identification and protection of cultural and historic resources of national, state, tribal, and local significance. A primary component of the act requires that federal agencies take into consideration actions that could adversely affect historic properties listed or eligible for listing on the National Register of Historic Places, known as the Section 106 Review Process.

Cultural Resources

[National Register of Historic Places](#)

The National Register of Historic Places is the nation's official list of buildings, structures, objects, sites, and districts worthy of preservation because of their significance in American history, architecture, archeology, engineering, and culture. The National Register recognizes

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resources of local, state, and national significance which have been documented and evaluated according to uniform standards and criteria.

Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect historic and archeological resources. The National Register is administered by the National Park Service, which is part of the U.S. Department of the Interior.

To be eligible for listing in the National Register, a resource must meet at least one of the following criteria:

- A. Is associated with events that have made a significant contribution to the broad patterns of our history.
- B. Is associated with the lives of persons significance in our past.
- C. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.
- D. Has yielded, or may be likely to yield, information important in history or prehistory.

Cultural Resources

[American Indian Religious Freedom Act and Native American Graves and Repatriation Act](#)

The American Indian Religious Freedom Act recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. It establishes as national policy that traditional practices and beliefs, sites (including right of access), and the use of sacred objects shall be protected and preserved. Additionally, Native American remains are protected by the Native American Graves and Repatriation Act of 1990.

Cultural Resources

[Other Federal Legislation](#)

Historic preservation legislation was initiated by the Antiquities Act of 1966, which aimed to protect important historic and archaeological sites. It established a system of permits for conducting archaeological studies on Federal land, as well as setting penalties for noncompliance. This permit process controls the disturbance of archaeological sites on Federal land. New permits are currently issued under the Archeological Resources Protection Act (ARPA) of 1979. The purpose of ARPA is to enhance preservation and protection of archaeological resources on public and Native American lands. The Historic Sites Act of 1935 declared that it is national policy to "preserve for public use historic sites, buildings, and objects of national significance."

Biological Resources

[Federal Endangered Species Act](#)

The Federal Endangered Species Act, passed in 1973, defines an endangered species as any species or subspecies that is in danger of extinction throughout all or a significant portion of its range. A threatened species is defined as any species or subspecies that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Once a species is listed it is fully protected from a "take" unless a take permit is issued by the United States Fish and Wildlife Service. A take is defined as the harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting of wildlife species or any attempt to engage in such conduct, including modification of its habitat (16 USC 1532, 50 CFR 17.3). Proposed endangered or threatened species are those species for which a proposed regulation, but not a final rule, has been published in the Federal Register.

Migratory Bird Treaty Act

To kill, possess, or trade a migratory bird, bird part, nest, or egg is a violation of the Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., §703, Supp. I, 1989), unless it is in accordance with the regulations that have been set forth by the Secretary of the Interior.

Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act (16 USC Section 668) protects these birds from direct take, and prohibits the take or commerce of any part of these species. The USFWS administers the act, and reviews Federal agency actions that may affect these species.

Biological Resources

Clean Water Act – Section 404

Section 404 of the Clean Water Act (CWA) regulates all discharges of dredged or fill material into waters of the U.S. Discharges of fill material includes the placement of fill that is necessary for the construction of any structure, or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; and fill for intake and outfall pipes and subaqueous utility lines [33 C.F.R. §323.2(f)].

Waters of the U.S. include lakes, rivers, streams, intermittent drainages, mudflats, sandflats, wetlands, sloughs, and wet meadows [33 C.F.R. §328.3(a)]. Wetlands are defined as “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” [33 C.F.R. §328.3(b)]. Waters of the U.S. exhibit a defined bed and bank, and ordinary high water mark (OHWM). The OHWM is defined by the U.S. Army Corps of Engineers (USACE) as “that line on shore established by the fluctuations of water and indicated by physical character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas” [33 C.F.R. §328.3(e)].

The USACE is the agency responsible for administering the permit process for activities that affect waters of the U.S. Executive Order 11990 is a Federal implementation policy, which is intended to result in no net loss of wetlands.

Biological Resources

Clean Water Act - Section 401

Section 401 of the CWA (33 U.S.C. 1341) requires an applicant who is seeking a 404 permit to first obtain a water quality certification from the Regional Water Quality Control Board. To obtain the water quality certification, the Regional Water Quality Control Board must indicate that the proposed fill would be consistent with the standards set forth by the State.

Biological Resources

Department of Transportation Act - Section 4(f)

Section 4(f) has been part of Federal law since 1966. It was enacted as Section 4(f) of the Department of Transportation (DOT) Act of 1966 and set forth in Title 49 United States Code (U.S.C.), Section 1653(f). In January 1983, as part of an overall recodification of the DOT Act, Section 4(f) was amended and codified in 49 U.S.C. Section 303. This law established policy on Lands, Wildlife, and Waterfowl Refuges, and Historic Sites as follows:

It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities. The Secretary of Transportation may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of a historic

Regulatory Environment

site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if: a) There is no prudent and feasible alternative to using that land; and b) The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

Air Quality

U.S. Environmental Protection Agency

At the Federal level, the EPA has been charged with implementing national air quality programs. The EPA's air quality mandates are drawn primarily from the Federal Clean Air Act (CAA), which was enacted in 1963. The CAA was amended in 1970, 1977, and 1990.

The CAA required the EPA to establish primary and secondary national ambient air quality standards (NAAQS). The CAA also required each state to prepare an air quality control plan referred to as a State Implementation Plan (SIP). The Federal Clean Air Act Amendments of 1990 (CAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. The SIP is periodically modified to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins as reported by their jurisdictional agencies. The EPA has responsibility to review all state SIPs to determine conformity to the mandates of the CAAA and determine if implementation will achieve air quality goals. If the EPA determines a SIP to be inadequate, a Federal Implementation Plan (FIP) may be prepared for the nonattainment area that imposes additional control measures. Failure to submit an approvable SIP or to implement the plan within the mandated timeframe may result in sanctions being applied to transportation funding and stationary air pollution sources in the air basin.

Air Quality

Federal Hazardous Air Pollutant Program

Title III of the CAA requires the EPA to promulgate national emissions standards for hazardous air pollutants (NESHAPs). The NESHAP may differ for major sources than for area sources of HAPs (major sources are defined as stationary sources with potential to emit more than 10 tons per year [TPY] of any HAP, or more than 25 TPY of any combination of HAPs; all other sources are considered area sources). The emissions standards are to be promulgated in two phases. In the first phase (1992–2000), the EPA developed technology-based emission standards designed to produce the maximum emission reduction achievable. These standards are generally referred to as requiring maximum available control technology (MACT). These Federal rules are also commonly referred to as MACT standards, because they reflect the Maximum Achievable Control Technology. For area sources, the standards may be different, based on generally available control technology. In the second phase (2001–2008), the EPA is required to promulgate health risk-based emissions standards where deemed necessary to address risks remaining after implementation of the technology-based NESHAP standards. The CAAA required the EPA to promulgate vehicle or fuel standards containing reasonable requirements that control toxic emissions, at a minimum to benzene and formaldehyde. Performance criteria were established to limit mobile-source emissions of toxics, including benzene, formaldehyde, and 1,3-butadiene. In addition, §219 required the use of reformulated gasoline in selected U.S. cities (those with the most severe ozone nonattainment conditions) to further reduce mobile-source emissions.

Greenhouse Gases

Clean Air Act

The Federal Clean Air Act (CAA) was first signed into law in 1970. In 1977, and again in 1990, the law was substantially amended. The CAA is the foundation for a national air pollution control effort, and it is composed of the following basic elements: national ambient air quality standards (NAAQS) for criteria air pollutants, hazardous air pollutant standards, state attainment plans, motor vehicle emissions standards, stationary source emissions standards and permits, acid rain control measures, stratospheric ozone protection, and enforcement provisions.

The EPA is responsible for administering the FCAA. The FCAA requires the EPA to set NAAQS for several problem air pollutants based on human health and welfare criteria. Two types of NAAQS were established: primary standards, which protect public health, and secondary standards, which protect the public welfare from non-health-related adverse effects such as visibility reduction.

[Energy Policy and Conservation Act](#)

The Energy Policy and Conservation Act of 1975 sought to ensure that all vehicles sold in the U.S. would meet certain fuel economy goals. Through this Act, Congress established the first fuel economy standards for on-road motor vehicles in the United States. Pursuant to the Act, the National Highway Traffic and Safety Administration, which is part of the U.S. Department of Transportation (USDOT), is responsible for establishing additional vehicle standards and for revising existing standards.

Since 1990, the fuel economy standard for new passenger cars has been 27.5 mpg. Since 1996, the fuel economy standard for new light trucks (gross vehicle weight of 8,500 pounds or less) has been 20.7 mpg. Heavy-duty vehicles (i.e., vehicles and trucks over 8,500 pounds gross vehicle weight) are not currently subject to fuel economy standards. Compliance with federal fuel economy standards is determined on the basis of each manufacturer's average fuel economy for the portion of its vehicles produced for sale in the U.S. The Corporate Average Fuel Economy (CAFE) program, which is administered by the EPA, was created to determine vehicle manufacturers' compliance with the fuel economy standards. The EPA calculates a CAFE value for each manufacturer based on city and highway fuel economy test results and vehicle sales. Based on the information generated under the CAFE program, the USDOT is authorized to assess penalties for noncompliance.

Greenhouse Gases

[Energy Policy Act of 1992 \(EPAct\)](#)

The Energy Policy Act of 1992 (EPAct) was passed to reduce the country's dependence on foreign petroleum and improve air quality. EPAct includes several parts intended to build an inventory of alternative fuel vehicles (AFVs) in large, centrally fueled fleets in metropolitan areas. EPAct requires certain federal, state, and local government, and private fleets, to purchase a percentage of light duty AFVs capable of running on alternative fuels each year. In addition, financial incentives are included in EPAct. Federal tax deductions will be allowed for businesses and individuals to cover the incremental cost of AFVs. States are also required by the act to consider a variety of incentive programs to help promote AFVs.

Greenhouse Gases

[Energy Policy Act of 2005](#)

The Energy Policy Act of 2005 was signed into law on August 8, 2005. Generally, the act provides for renewed and expanded tax credits for electricity generated by qualified energy sources, such as landfill gas; provides bond financing, tax incentives, grants, and loan guarantees for a clean renewable energy and rural community electrification; and establishes a federal purchase requirement for renewable energy.

Greenhouse Gases

[Intermodal Surface Transportation Efficiency Act \(ISTEA\)](#)

ISTEA (49 U.S.C. § 101 et seq.) promoted the development of intermodal transportation systems to maximize mobility as well as address national and local interests in air quality and energy. ISTEA contained factors that metropolitan planning organizations (MPOs), such as the Southern California Association of Governments (SCAG), were to address in developing transportation plans and programs, including some energy-related factors. To meet the ISTEA requirements, MPOs adopted explicit policies defining the social, economic, energy, and environmental values that were to guide transportation decisions in that metropolitan area. The planning process was then to address these policies. Another requirement was to consider the consistency of transportation planning with federal, state, and local energy goals. Through this requirement, energy consumption was expected to become a criterion, along with cost and other values that determine the best transportation solution.

Regulatory Environment

Greenhouse Gases

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

SAFETEA-LU (23 U.S.C. § 507), renewed the Transportation Equity Act for the 21st Century (TEA-21) of 1998 (23 U.S.C.; 49 U.S.C.) through FY 2009. SAFETEA-LU authorized the federal surface transportation programs for highways, highway safety, and transit. SAFETEA-LU addressed the many challenges facing our transportation system today—such as improving safety, reducing traffic congestion, improving efficiency in freight movement, increasing intermodal connectivity, and protecting the environment—as well as laying the groundwork for addressing future challenges. SAFETEA-LU promoted more efficient and effective federal surface transportation programs by focusing on transportation issues of national significance, while giving state and local transportation decision makers more flexibility to solve transportation problems in their communities. SAFETEA-LU was extended in March of 2010 for nine months, and expired in December of the same year. In June 2012, SAFETEA-LU was replaced by the Moving Ahead for Progress in the 21st Century Act (MAP-21), which will take effect October 1, 2012.

Greenhouse Gases

[U.S. Federal Climate Change Policy](#)

The U.S. EPA published the latest version of the *Climate Change Indicators* report in 2016, in collaboration with more than 40 government agencies, academic institutions, and other organizations, to compile a key set of indicators related to the causes and effects of climate change. The U.S. EPA also currently administers multiple programs that encourage voluntary GHG reductions, including “ENERGY STAR,” “Climate Leaders,” and Methane Voluntary Programs. However, as of this writing, there are no adopted federal plans, policies, regulations, or laws directly regulating GHG emissions.

Geology, Soils, and Seismicity

[International Building Code \(IBC\)](#)

The purpose of the International Building Code (IBC) is to provide minimum standards to preserve the public peace, health, and safety by regulating the design, construction, quality of materials, certain equipment, location, grading, use, occupancy, and maintenance of all buildings and structures. IBC standards address foundation design, shear wall strength, and other structurally related conditions.

Hydrology and Water Quality

[Clean Water Act \(CWA\)](#)

The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), is the primary statute governing water quality. The CWA establishes the basic structure for regulating the discharges of pollutants into the waters of the United States and gives the US Environmental Protection Agency (EPA) the authority to implement pollution control programs. The statute’s goal is to regulate all discharges into the nation’s waters and to restore, maintain, and preserve the integrity of those waters. The CWA sets water quality standards for all contaminants in surface waters and mandates permits for wastewater and stormwater discharges. The CWA also requires states to establish site-specific water quality standards for navigable bodies of water, and regulates other activities that affect water quality, such as dredging and the filling of wetlands. The following CWA sections assist in ensuring water quality for the water of the United States:

- CWA Section 208 requires the use of best management practices (BMPs) to control the discharge of pollutants in stormwater during construction.
- CWA Section 303(d) requires the creation of a list of impaired water bodies by states, territories, and authorized tribes; evaluation of lawful activities that may impact impaired water bodies; and preparation of plans to improve the quality of these water bodies. CWA Section 303(d) also establishes total maximum daily loads (TMDLs), which is the maximum amount of a pollutant that a water body can receive and still safely meet water quality standards.

- CWA Section 404 authorizes the US Army Corps of Engineers to require permits that will discharge dredge or fill materials into waters in the US, including wetlands.

In California, the EPA has designated the State Water Resources Control Board (SWRCB) and its nine Regional Water Quality Control Boards (RWQCBs) with the authority to identify beneficial uses and adopt applicable water quality objectives.

Hydrology and Water Quality

National Pollutant Discharge Elimination System (NPDES)

National Pollutant Discharge Elimination System (NPDES) permits are required for discharges to navigable waters of the United States, which includes any discharge to surface waters, including lakes, rivers, streams, bays, oceans, dry stream beds, wetlands, and storm sewers that are tributary to any surface water body. NPDES permits are issued under the Federal Clean Water Act, Title IV, Permits and Licenses, Section 402 (33 USC 466 et seq.)

The RWQCB issues these permits in lieu of direct issuance by the Environmental Protection Agency, subject to review and approval by the EPA Regional Administrator (EPA Region 9). The terms of these NPDES permits implement pertinent provisions of the Federal Clean Water Act and the Act's implementing regulations, including pre-treatment, sludge management, effluent limitations for specific industries, and anti-degradation. In general, the discharge of pollutants is to be eliminated or reduced as much as practicable so as to achieve the Clean Water Act's goal of "fishable and swimmable" navigable (surface) waters. Technically, all NPDES permits issued by the RWQCB are also Waste Discharge Requirements issued under the authority of the CWA.

NPDES permitting authority is administered by the California State Water Resources Control Board (SWRCB) and its nine Regional Water Quality Control Boards (RWQCB). The Plan Area is in a watershed administered by the Los Angeles Regional Water Quality Control Board (LARWQCB). Individual projects in the city that disturb more than one acre would be required to obtain NPDES coverage under the California General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit). The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) describing Best Management Practices (BMP) the discharger would use to prevent and retain storm water runoff. The SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a waterbody listed on the 303(d) list for sediment.

State Regulatory Framework

Cultural Resources

California Register of Historic Resources (CRHR)

The California Register of Historical Resources (CRHR) is a listing of all properties considered to be significant historical resources in the state. The California Register includes all properties listed or determined eligible for listing on the National Register, including properties evaluated under Section 106, and State Historical Landmarks number 770 and above. The California Register statute specifically provides that historical resources listed, determined eligible for listing on the California Register by the State Historical Resources Commission, or resources that meet the California Register criteria are resources which must be given consideration under CEQA (see above). Other resources, such as resources listed on local registers of historic registers or in local surveys, may be listed if they are determined by the State Historic Resources Commission to be significant in accordance with criteria and procedures to be adopted by the Commission, and are nominated; their listing in the California Register is not automatic.

Resources eligible for listing include buildings, sites, structures, objects, or historic districts that retain historical integrity and are historically significant at the local, state, or national level under one or more of the following four criteria:

Regulatory Environment

- 1) It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;
- 2) It is associated with the lives of persons important to local, California, or national history;
- 3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; or
- 4) It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition to having significance, resources must have integrity for the period of significance. The period of significance is the date or span of time within which significant events transpired, or significant individuals made their important contributions. Integrity is the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance.

Alterations to a resource or changes in its use over time may have historical, cultural, or architectural significance. Simply, resources must retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register, if, under Criterion 4, it maintains the potential to yield significant scientific or historical information, or specific data.

Cultural Resources

[Public Resources Code Section § 5097.5](#)

Section 5097.5: No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature, situated on public lands (lands under state, county, city, district or public authority jurisdiction, or the jurisdiction of a public corporation), except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor. As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.

Cultural Resources

[California Environmental Quality Act \(CEQA\)](#)

CEQA requires that lead agencies determine whether projects may have a significant effect on archaeological and historical resources. This determination applies to those resources which meet specific criteria qualifying them as "unique," "important," listed on the California Register of Historic Resources (CRHR), or eligible for listing on the CRHR. If the agency determines that a project may have a significant effect on a significant resource, the project is determined to have a significant effect on the environment, and these effects must be addressed. If a cultural resource is found not to be significant under the qualifying criteria, it need not be considered further in the planning process.

CEQA emphasizes avoidance of archaeological and historical resources as the preferred means of reducing potential significant environmental effects resulting from projects. If avoidance is not feasible, an excavation program or some other form of mitigation must be developed to mitigate the impacts. In order to adequately address the level of potential impacts, and thereby design appropriate mitigation measures, the significance and nature of the cultural resources must be determined. The following are steps typically taken to assess and mitigate potential impacts to cultural resources for the purposes of CEQA:

- Identify cultural resources;
- Evaluate the significance of the cultural resources found;

- Evaluate the effects of the project on cultural resources; and
- Develop and implement measures to mitigate the effects of the project on cultural resources that would be significantly affected.

Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in a project's area of potential affect, assessment of potential impacts on significant or unique resources, and development of mitigation measures for potentially significant impacts, which may include monitoring combined with data recovery and/or avoidance.

Cultural Resources

State Laws Pertaining to Human Remains

Section 7050.5 of the California Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the county coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission. CEQA Guidelines (Section 15064.5) specify the procedures to be followed in case of the discovery of human remains on non-Federal land. The disposition of Native American burials falls within the jurisdiction of the Native American Heritage Commission.

Several sections of the California Public Resources Code protect paleontological resources.

Section 5097.5 prohibits "knowing and willful" excavation, removal, destruction, injury, and defacement of any "vertebrate paleontological site, including fossilized footprints," on public lands, except where the agency with jurisdiction has granted express permission. "As used in this section, 'public lands' means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof."

California Public Resources Code, Section 30244 requires reasonable mitigation for impacts on paleontological resources that occur as a result of development on public lands.

The sections of the California Administrative Code relating to the State Division of Beaches and Parks afford protection to geologic features and "paleontological materials" but grant the director of the State park system authority to issue permits for specific activities that may result in damage to such resources, if the activities are in the interest of the State park system and for State park purposes (California Administrative Code, Title 14, Section 4307 – 4309).

Cultural Resources

Senate Bill 18 (Burton, Chapter 905, Statutes 2004)

SB 18, authored by Senator John Burton and signed into law by Governor Arnold Schwarzenegger in September 2004, requires local (city and county) governments to consult with California Native American tribes to aid in the protection of traditional tribal cultural places ("cultural places") through local land use planning. This legislation, which amended §65040.2, §65092, §65351, §65352, and §65560, and added §65352.3, §653524, and §65562.5 to the Government Code, also requires the Governor's Office of Planning and Research (OPR) to include in the General Plan Guidelines advice to local governments on how to conduct these consultations. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places. These consultation and noticing requirements apply to adoption and amendment of both general plans (defined in Government Code §65300 et seq.) and specific plans (defined in Government Code §65450 et seq.).

Cultural Resources

Assembly Bill 52

Assembly Bill (AB) 52, approved in September 2014, creates a formal role for California Native American tribes by creating a formal consultation process and establishing that a substantial

adverse change to a tribal cultural resource has a significant effect on the environment. Tribal cultural resources are defined as:

- 1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - A) Included or determined to be eligible for inclusion in the CRHR.
 - B) Included in a local register of historical resources as defined in PRC Section 5020.1(k).
- 2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in PRC Section 5024.1 (c). In applying the criteria set forth in PRC Section 5024.1 (c) the lead agency shall consider the significance of the resource to a California Native American tribe.

A cultural landscape that meets the criteria above is also a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. In addition, a historical resource described in PRC Section 21084.1, a unique archaeological resource as defined in PRC Section 21083.2(g), or a “non-unique archaeological resource” as defined in PRC Section 21083.2(h) may also be a tribal cultural resource if it conforms with above criteria.

AB 52 requires a lead agency, prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation.

Cultural Resources

[California Administrative Code, Title 14, Section 4307](#)

This section states that “No person shall remove, injure, deface, or destroy any object of paleontological, archeological, or historical interest or value.”

Cultural Resources

[Mills Act](#)

Under California Government Code Section 50280 et seq., the City is authorized to enter into contracts with the owners of qualified historical properties to provide for the appropriate use, maintenance, and rehabilitation so that such properties retain their historic characters. As an incentive to entering the contract, the provisions of the Act allow the County Tax Assessor to assess the property using a different formula which typically results in a lower tax bill.

Biological Resources

[Fish and Game Code §2050-2097 - California Endangered Species Act](#)

The California Endangered Species Act (CESA) protects certain plant and animal species when they are of special ecological, educational, historical, recreational, aesthetic, economic, and scientific value to the people of the State. CESA established that it is State policy to conserve, protect, restore, and enhance endangered species and their habitats.

CESA was expanded upon the original Native Plant Protection Act and enhanced legal protection for plants. To be consistent with Federal regulations, CESA created the categories of "threatened" and "endangered" species. It converted all "rare" animals into the Act as threatened species, but did not do so for rare plants. Thus, there are three listing categories for plants in California: rare, threatened, and endangered. Under State law, plant and animal species may be formally designated by official listing by the California Fish and Game Commission.

Biological Resources

[Fish and Game Code §1900-1913 - California Native Plant Protection Act](#)

In 1977 the State Legislature passed the Native Plant Protection Act (NPPA) in recognition of rare and endangered plants of the State. The intent of the law was to preserve, protect, and enhance endangered plants. The NPPA gave the California Fish and Game Commission the power to designate native plants as endangered or rare, and to require permits for collecting, transporting, or selling such plants. The NPPA includes provisions that prohibit the taking of plants designated as "rare" from the wild, and a salvage mandate for landowners, which requires notification of the CDFW 10 days in advance of approving a building site.

Biological
Resources

[Fish and Game Code §3503, 3503.5, 3800 - Predatory Birds](#)

Under the California Fish and Game Code, all predatory birds in the order Falconiformes or Strigiformes in California, generally called "raptors," are protected. The law indicates that it is unlawful to take, possess, or destroy the nest or eggs of any such bird unless it is in accordance with the code. Any activity that would cause a nest to be abandoned, or cause a reduction or loss in a reproductive effort, is considered a take. This generally includes construction activities.

Biological
Resources

[Fish and Game Code §1601-1603 - Streambed Alteration](#)

Under the California Fish and Game Code, CDFW has jurisdiction over any proposed activities that would divert or obstruct the natural flow or change the bed, channel, or bank of any lake or stream. Private landowners or project proponents must obtain a "Streambed Alteration Agreement" from CDFW prior to any alteration of a lake bed, stream channel, or their banks. Through this agreement, the CDFW may impose conditions to limit and fully mitigate impacts on fish and wildlife resources. These agreements are usually initiated through the local CDFW warden and will specify timing and construction conditions, including any mitigation necessary to protect fish and wildlife from impacts of the work.

Biological
Resources

[Public Resources Code § 21000 - California Environmental Quality Act](#)

The California Environmental Quality Act (CEQA) identifies that a species that is not listed on the Federal or State endangered species list may be considered rare or endangered if the species meets certain criteria. Under CEQA public agencies must determine if a project would adversely affect a species that is not protected by FESA or CESA. Species that are not listed under FESA or CESA, but are otherwise eligible for listing (i.e., candidate or proposed) may be protected by the local government until the opportunity to list the species arises for the responsible agency.

Species that may be considered for review are included on a list of "Species of Special Concern," developed by the CDFW. Additionally, the California Native Plant Society (CNPS) maintains a list of plant species native to California that have low numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California. List 1A contains plants that are believed to be extinct. List 1B contains plants that are rare, threatened, or endangered in California and elsewhere. List 2 contains plants that are rare, threatened, or endangered in California, but more numerous elsewhere. List 3 contains plants where additional information is needed. List 4 contains plants with a limited distribution.

Biological
Resources

[Public Resources Code § 21083.4 - Oak Woodlands Conservation](#)

In 2004, the California legislature enacted SB 1334, which added oak woodland conservation regulations to the Public Resources Code. This new law requires a county to determine whether a project, within its jurisdiction, may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county must require oak woodland mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands. Such mitigation alternatives include: conservation through the use of conservation easements; planting and maintaining an appropriate number of replacement trees; contribution of funds

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to the Oak Woodlands Conservation Fund for the purpose of purchasing oak woodlands conservation easements; and/or other mitigation measures developed by the county.

Biological Resources

California Oak Woodland Conservation Act

The California Legislature passed Assembly Bill 242, known as the California Oak Woodland Conservation Act, in 2001 as a result of widespread changes in land use patterns across the landscape that were fragmenting oak woodland character over extensive areas. The Act created the California Oak Woodland Conservation Program within the Wildlife Conservation Board. The legislation provides funding and incentives to ensure the future viability of California's oak woodland resources by maintaining large scale land holdings or smaller multiple holdings that are not divided into fragmented, nonfunctioning biological units. The Act acknowledged that the conservation of oak woodlands enhances the natural scenic beauty for residents and visitors, increases real property values, promotes ecological balance, provides habitat for over 300 wildlife species, moderates temperature extremes, reduces soil erosion, sustains water quality, and aids with nutrient cycling, all of which affect and improve the health, safety, and general welfare of the residents of the State.

Biological Resources

California Wetlands Conservation Policy

In August 1993, the Governor announced the "California Wetlands Conservation Policy." The goals of the policy are to establish a framework and strategy that will:

- Ensure no overall net loss and to achieve a long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property.
- Reduce procedural complexity in the administration of State and Federal wetland conservation programs.
- Encourage partnerships to make landowner incentive programs and cooperative planning efforts the primary focus of wetland conservation and restoration.

The Governor also signed Executive Order W-59-93, which incorporates the goals and objectives contained in the new policy and directs the Resources Agency to establish an Interagency Task Force to direct and coordinate administration and implementation of the policy.

Air Quality

California Air Resources Board (CARB)

CARB is the agency responsible for coordination and oversight of State and local air pollution control programs in California and for implementing the California Clean Air Act (CCAA), which was adopted in 1988. The CCAA requires that all air districts in the State endeavor to achieve and maintain the California Ambient Air Quality Standards (CAAQS) by the earliest practical date. The act specifies that districts should focus particular attention on reducing the emissions from transportation and area-wide emission sources, and provides districts with the authority to regulate indirect sources.

CARB is primarily responsible for developing and implementing air pollution control plans to achieve and maintain the U.S. National Ambient Air Quality Standards (NAAQS). CARB is primarily responsible for statewide pollution sources and produces a major part of the State Implementation Plan (SIP). Local air districts are still relied upon to provide additional strategies for sources under their jurisdiction. The CARB combines this data and submits the completed SIP to EPA.

Other CARB duties include monitoring air quality (in conjunction with air monitoring networks maintained by air pollution control and air quality management districts), establishing CAAQS (which in many cases are more stringent than the NAAQS), determining and updating area designations and maps, and setting emissions standards for new mobile sources, consumer products, small utility engines, and off-road vehicles.

Air Quality

Transport of Pollutants

The California Clean Air Act, Section 39610 (a), directs the CARB to “identify each district in which transported air pollutants from upwind areas outside the district cause or contribute to a violation of the ozone standard and to identify the district of origin of transported pollutants.” The information regarding the transport of air pollutants from one basin to another was to be quantified to assist interrelated basins in the preparation of plans for the attainment of State ambient air quality standards. Numerous studies conducted by the CARB have identified air basins that are impacted by pollutants transported from other air basins (as of 1993). Among the air basins affected by air pollution transport from the South Coast Air Basin (SCAB) are the South Central Coast Air Basin, the Mojave Desert Air Basin, the Salton Sea Air Basin, and the San Diego County Air Basin. The SCAB was also identified as an area impacted by the transport of air pollutants from the South Central Coast region (CARB, 2001).

Air Quality

State Toxic Air Contaminant Programs (TAC)

California regulates toxic air contaminants (TACs) primarily through the Tanner Air Toxics Act (AB 1807) and the Air Toxics Hot Spots Information and Assessment Act of 1987 (AB 2588). The Tanner Act sets forth a formal procedure for CARB to designate substances as TACs. This includes research, public participation, and scientific peer review before CARB can designate a substance as a TAC. To date, CARB has identified over 21 TACs, and adopted the EPA’s list of HAPs as TACs. Most recently, diesel exhaust particulate was added to the CARB list of TACs. Once a TAC is identified, CARB then adopts an Airborne Toxics Control Measure for sources that emit that particular TAC. If there is a safe threshold for a substance at which there is no toxic effect, the control measure must reduce exposure below that threshold. If there is no safe threshold, the measure must incorporate best available control technology (BACT) to minimize emissions. None of the TACs identified by CARB have a safe threshold.

The Hot Spots Act requires that existing facilities that emit toxic substances above a specified level:

1. Prepare a toxic emission inventory;
2. Prepare a risk assessment if emissions are significant;
3. Notify the public of significant risk levels; and
4. Prepare and implement risk reduction measures.

CARB has adopted diesel exhaust control measures and more stringent emission standards for various on-road mobile sources of emissions, including transit buses and off-road diesel equipment (e.g., tractors and generators). In February 2000, CARB adopted a new public transit bus fleet rule and emission standards for new urban buses. These new rules and standards provide for: 1) more stringent emission standards for some new urban bus engines beginning with 2002 model year engines, 2) zero-emission bus demonstration and purchase requirements applicable to transit agencies, and 3) reporting requirements with which transit agencies must demonstrate compliance with the urban transit bus fleet rule. Upcoming milestones include the low sulfur diesel fuel requirement, and tighter emission standards for heavy-duty diesel trucks (2007) and off-road diesel equipment (2011) nationwide. Over time, the replacement of older vehicles will result in a vehicle fleet that produces substantially less TACs than under current conditions. Mobile-source emissions of TACs (e.g., benzene, 1-3-butadiene, and diesel PM) have been reduced significantly over the last decade, and will be reduced further in California through a progression of regulatory measures (e.g., Low Emission Vehicle/Clean Fuels and Phase II reformulated gasoline regulations) and control technologies. With implementation of CARB’s Risk Reduction Plan, it is expected that diesel PM concentrations will be reduced by 85% in 2020 from the estimated year 2000 level. Adopted regulations are also expected to continue to reduce formaldehyde emissions from cars and light-duty trucks. As emissions are reduced, it is expected that risks associated with exposure to the emissions will also be reduced.

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Greenhouse Gases

[Assembly Bill 1493](#)

In response to AB 1493, CARB approved amendments to the California Code of Regulations (CCR) adding GHG emission standards to California's existing motor vehicle emission standards. Amendments to CCR Title 13 Sections 1900 (CCR 13 1900) and 1961 (CCR 13 1961), and adoption of Section 1961.1 (CCR 13 1961.1), require automobile manufacturers to meet fleet average GHG emission limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty passenger vehicle weight classes beginning with the 2009 model year. Emission limits are further reduced each model year through 2016. For passenger cars and light-duty trucks 3,750 pounds or less loaded vehicle weight (LVW), the 2016 GHG emission limits are approximately 37 percent lower than during the first year of the regulations in 2009. For medium-duty passenger vehicles and light-duty trucks 3,751 LVW to 8,500 pounds gross vehicle weight (GVW), GHG emissions are reduced approximately 24 percent between 2009 and 2016.

CARB requested a waiver of Federal preemption of California's Greenhouse Gas Emissions Standards. The intent of the waiver is to allow California to enact emissions standards to reduce carbon dioxide and other greenhouse gas emissions from automobiles in accordance with the regulation amendments to the CCRs that fulfill the requirements of AB 1493. The EPA granted a waiver to California to implement its greenhouse gas emissions standards for cars.

Greenhouse Gases

[California Executive Orders S-3-05 and S-20-06, and Assembly Bill 32](#)

On June 1, 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05. The goal of this Executive Order is to reduce California's GHG emissions to: 1) 2000 levels by 2010, 2) 1990 levels by 2020, and 3) 80% below 1990 levels by 2050.

In 2006, this goal was further reinforced with the passage of Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. AB 32 sets the same overall GHG emissions reduction goals while further mandating that CARB create a plan, which includes market mechanisms, and implement rules to achieve "real, quantifiable, cost-effective reductions of greenhouse gases." Executive Order S-20-06 further directs State agencies to begin implementing AB 32, including the recommendations made by the State's Climate Action Team.

Greenhouse Gases

[Assembly Bill 1007](#)

Assembly Bill 1007 (Pavley, Chapter 371, Statutes of 2005) directed the CEC to prepare a plan to increase the use of alternative fuels in California. As a result, the CEC prepared the State Alternative Fuels Plan in consultation with State, Federal, and local agencies. The plan presents strategies and actions California must take to increase the use of alternative non-petroleum fuels in a manner that minimizes costs to California and maximizes the economic benefits of in-state production. The Plan assessed various alternative fuels and developed fuel portfolios to meet California's goals to reduce petroleum consumption, increase alternative fuels use, reduce greenhouse gas emissions, and increase in-state production of biofuels without causing a significant degradation of public health and environmental quality.

Greenhouse Gases

[Bioenergy Action Plan – Executive Order #S-06-06](#)

Executive Order #S-06-06 establishes targets for the use and production of biofuels and biopower, and directs state agencies to work together to advance biomass programs in California while providing environmental protection and mitigation. The executive order establishes the following target to increase the production and use of bioenergy, including ethanol and biodiesel fuels made from renewable resources: produce a minimum of 20 percent of its biofuels within California by 2010, 40 percent by 2020, and 75 percent by 2050. The executive order also calls for the state to meet a target for use of biomass electricity.

Greenhouse Gases

[Governor's Low Carbon Fuel Standard \(Executive Order S-01-07\)](#)

Executive Order (EO) S-01-07 establishes a statewide goal to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020 through establishment of a

Low Carbon Fuel Standard. The Low Carbon Fuel Standard is incorporated into the State Alternative Fuels Plan and is one of the proposed discrete early action GHG reduction measures identified by CARB pursuant to AB 32.

Greenhouse
Gases

[Executive Order B-30-15](#)

On April 29, 2015, Governor Jerry Brown issued Executive Order (EO) B-30-15, which establishes a State GHG reduction target of 40 percent below 1990 levels by 2030. The new emission reduction target provides for a mid-term goal that would help the State to continue on course from reducing GHG emissions to 1990 levels by 2020 (per AB 32) to the ultimate goal of reducing emissions 80 percent under 1990 levels by 2050 (per EO S-03-05). This is in line with the scientifically established levels needed in the U.S. to limit global warming below 2 degrees Celsius – the warming threshold at which scientists say there will likely be major climate disruptions. EO B-30-15 also addresses the need for climate adaptation and directs State government to:

- Incorporate climate change impacts into the State’s Five-Year Infrastructure Plan;
- Update the Safeguarding California Plan, the State climate adaptation strategy, to identify how climate change will affect California infrastructure and industry, and what actions the State can take to reduce the risks posed by climate change;
- Factor climate change into State agencies' planning and investment decisions; and
- Implement measures under existing agency and departmental authority to reduce GHG emissions.

Greenhouse
Gases

[Climate Action Program at Caltrans](#)

Caltrans prepared a Climate Action Program in response to new regulatory directives. The goal of the Climate Action Program is to promote clean and energy efficient transportation, and provide guidance for mainstreaming energy and climate change issues into business operations. The overall approach to lower fuel consumption and CO₂ from transportation is twofold: (1) reduce congestion and improve efficiency of transportation systems through smart land use, operational improvements, and Intelligent Transportation Systems; and (2) institutionalize energy efficiency and GHG emission reduction measures and technology into planning, project development, operations, and maintenance of transportation facilities, fleets, buildings, and equipment.

The reasoning underlying the Climate Action Program is the conclusion that “the most effective approach to addressing GHG reduction, in the short-to-medium term, is strong technology policy and market mechanisms to encourage innovations. Rapid development and availability of alternative fuels and vehicles, increased efficiency in new cars and trucks (light and heavy duty), and super clean fuels are the most direct approach to reducing GHG emissions from motor vehicles (emission performance standards and fuel or carbon performance standards).”

Greenhouse
Gases

[Senate Bill 97](#)

Senate Bill 97 (Chapter 185, 2007) required the Governor's Office of Planning and Research (OPR) to develop recommended amendments to the State CEQA Guidelines for addressing greenhouse gas emissions. OPR prepared its recommended amendments to the State CEQA Guidelines to provide guidance to public agencies regarding the analysis and mitigation of greenhouse gas emissions, and the effects of greenhouse gas emissions, in draft CEQA documents. The Amendments became effective on March 18, 2010.

Greenhouse
Gases

[Senate Bill 375](#)

SB 375 requires CARB to develop regional greenhouse gas emission reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035. The 18 metropolitan

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planning organizations (MPO) in California will prepare a "sustainable communities strategy" to reduce the amount of greenhouse gas emission in their respective regions and demonstrate the ability for the region to attain CARB's reduction targets. CARB would later determine if each region is on track to meet their reduction targets. In addition, cities would have extra time -- eight years instead of five -- to update housing plans required by the State.

Greenhouse Gases

[Senate Bill 32](#)

An update to Assembly Bill 32 was passed in August 2016, which extends the state's targets for reducing greenhouse gases from 2020 to 2030. Under Senate Bill (SB) 32, the state would reduce its greenhouse gas emissions to 40 percent below 1990 levels by 2030.

Geology, Soils, and Seismicity

[California Building Standards Code](#)

Title 24 of the California Code of Regulations, known as the California Building Standards Code (CBSC) or simply "Title 24," contains the regulations that govern the construction of buildings in California. The CBSC includes 12 parts: California Building Standards Administrative Code, California Building Code, California Residential Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Fire Code, California Existing Building Code, California Green Building Standards Code (CALGreen Code), and the California Reference Standards Code. Through the CBSC, the State provides a minimum standard for building design and construction. The CBSC contains specific requirements for seismic safety, excavation, foundations, retaining walls, and site demolition. It also regulates grading activities, including drainage and erosion control.

Geology, Soils, and Seismicity

[Alquist-Priolo Earthquake Fault Zoning Act](#)

The Alquist-Priolo Earthquake Fault Zoning Act of 1972 sets forth the policies and criteria of the State Mining and Geology Board, which governs the exercise of governments' responsibilities to prohibit the location of developments and structures for human occupancy across the trace of active faults. The policies and criteria are limited to potential hazards resulting from surface faulting or fault creep within Earthquake Fault Zones, as delineated on maps officially issued by the State Geologist. Working definitions include:

- Fault – a fracture or zone of closely associated fractures along which rocks on one side have been displaced with respect to those on the other side;
- Fault Zone – a zone of related faults, which commonly are braided and sub parallel, but may be branching and divergent. A fault zone has a significant width (with respect to the scale at which the fault is being considered, portrayed, or investigated), ranging from a few feet to several miles;
- Sufficiently Active Fault – a fault that has evidence of Holocene surface displacement along one or more of its segments or branches (last 11,000 years); and
- Well-Defined Fault – a fault whose trace is clearly detectable by a trained geologist as a physical feature at or just below the ground surface. The geologist should be able to locate the fault in the field with sufficient precision and confidence to indicate that the required site-specific investigations would meet with some success.

"Sufficiently Active" and "Well Defined" are the two criteria used by the State to determine if a fault should be zoned under the Alquist-Priolo Earthquake Fault Zoning Act.

Geology, Soils, and Seismicity

[Seismic Hazards Mapping Act](#)

The Seismic Hazards Mapping Act, passed in 1990, addresses non-surface fault rupture earthquake hazards, including liquefaction and seismically-induced landslides. Under the Act, seismic hazard zones are to be mapped by the State Geologist to assist local governments in

land use planning. The program and actions mandated by the Seismic Hazards Mapping Act closely resemble those of the Alquist-Priolo Earthquake Fault Zoning Act (which addresses only surface fault-rupture hazards) and are outlined below:

- The State Geologist is required to delineate the various “seismic hazard zones.”
- Cities and counties, or other local permitting authority, must regulate certain development “projects” within the zones. They must withhold the development permits for a site within a zone until the geologic and soil conditions of the site are investigated and appropriate mitigation measures, if any, are incorporated into development plans.
- The State Mining and Geology Board provides additional regulations, policies, and criteria to guide cities and counties in their implementation of the law. The Board also provides guidelines for preparation of the Seismic Hazard Zone Maps and for evaluating and mitigating seismic hazards.
- Sellers (and their agents) of real property within a mapped hazard zone must disclose that the property lies within such a zone at the time of sale.

Geology, Soils, and Seismicity

[Caltrans Seismic Design Criteria](#)

The California Department of Transportation (Caltrans) has Seismic Design Criteria (SDC), which is an encyclopedia of new and currently practiced seismic design and analysis methodologies for the design of new bridges in California. The SDC adopts a performance-based approach specifying minimum levels of structural system performance, component performance, analysis, and design practices for ordinary standard bridges. The SDC has been developed with input from the Caltrans Offices of Structure Design, Earthquake Engineering and Design Support, and Materials and Foundations. Memo 20-1 Seismic Design Methodology (Caltrans 1999) outlines the bridge category and classification, seismic performance criteria, seismic design philosophy and approach, seismic demands and capacities on structural components, and seismic design practices that collectively make up Caltrans’ seismic design.

Mineral and Energy Resources

[Surface Mining and Reclamation Act of 1975](#)

The California Department of Conservation Surface Mining and Reclamation Act of 1975 (§ 2710), also known as SMARA, provides a comprehensive surface mining and reclamation policy that permits the continued mining of minerals, as well as the protection and subsequent beneficial use of the mined and reclaimed land. The purpose of SMARA is to ensure that adverse environmental effects are prevented or minimized, and that mined lands are reclaimed to a usable condition and readily adaptable for alternative land uses. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, wildlife, range, and forage, as well as aesthetic enjoyment. Residual hazards to public health and safety are eliminated. These goals are achieved through land use planning by allowing a jurisdiction to balance the economic benefits of resource reclamation with the need to provide other land uses.

If a use is proposed that might threaten the potential recovery of minerals from an area that has been classified mineral resource zone 2 (MRZ-2), SMARA would require the jurisdiction to prepare a statement specifying its reasons for permitting the proposed use, provide public notice of these reasons, and forward a copy of the statement to the State Geologist and the State Mining and Geology Board (Cal. Pub. Res. Code Section 2762). Lands classified MRZ-2 are areas that contain identified mineral resources.

Hydrology and Water Quality

[California Fish and Wildlife Code](#)

Regulatory Environment

The California Department of Fish and Wildlife (CDFW) protects streams, water bodies, and riparian corridors through the streambed alteration agreement process under Section 1600 to 1616 of the California Fish and Game Code. The California Fish and Game Code establishes that "an entity may not substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river stream, or lake" (Fish and Game Code Section 1602(a)) without notifying the CDFW, incorporating necessary mitigation and obtaining a streambed alteration agreement. The CDFW's jurisdiction extends to the top of banks and often includes the outer edge of riparian vegetation canopy cover.

Hydrology and Water Quality

California Water Code

California's primary statute governing water quality and water pollution issues with respect to both surface waters and groundwater is the Porter-Cologne Water Quality Control Act of 1970 (Division 7 of the California Water Code) (Porter-Cologne Act). The Porter-Cologne Act grants the SWRCB and each of the RWQCBs power to protect water quality, and is the primary vehicle for implementation of California's responsibilities under the Federal Clean Water Act. The Porter-Cologne Act grants the SWRCB and the RWQCBs authority and responsibility to adopt plans and policies, to regulate discharges to surface and groundwater, to regulate waste disposal sites, and to require cleanup of discharges of hazardous materials and other pollutants. The Porter-Cologne Act also establishes reporting requirements for unintended discharges of any hazardous substance, sewage, or oil or petroleum product.

Each RWQCB must formulate and adopt a Water Quality Control Plan (Basin Plan) for its region. The regional plans are to conform to the policies set forth in the Porter-Cologne Act and established by the SWRCB in its State water policy. The Porter-Cologne Act also provides that a RWQCB may include within its regional plan water discharge prohibitions applicable to particular conditions, areas, or types of waste.

Hydrology and Water Quality

State Updated Model Landscape Ordinance

Under Assembly Bill (AB) 1881, the updated Model Landscape Ordinance requires cities and counties to adopt landscape water conservation ordinances by January 31, 2010 or to adopt a different ordinance that is at least as effective in conserving water as the updated Model Ordinance (MO). The San Marcos Municipal Code includes a section addressing landscaping water use standards (SMMC Chp. 20.330).

Hydrology and Water Quality

California Department of Health Services

The Department of Health Services, Division of Drinking Water and Environmental Management, oversees the Drinking Water Program. The Drinking Water Program regulates public water systems and certifies drinking water treatment and distribution operators. It provides support for small water systems and for improving their technical, managerial, and financial capacity. It provides subsidized funding for water system improvements under the State Revolving Fund ("SRF") and Proposition 50 programs. The Drinking Water Program also oversees water recycling projects, permits water treatment devices, supports and promotes water system security, and oversees the Drinking Water Treatment and Research Fund for MTBE and other oxygenates.

Hydrology and Water Quality

Consumer Confidence Report Requirements

California Code of Regulations (CCR) Title 22, Chapter 15, Article 20 requires all public water systems to prepare a Consumer Confidence Report for distribution to its customers and to the Department of Health Services. The Consumer Confidence Report provides information regarding the quality of potable water provided by the water system. It includes information on the sources of the water, any detected contaminants in the water, the maximum contaminant levels set by regulation, violations and actions taken to correct them, and

opportunities for public participation in decisions that may affect the quality of the water provided.

Hydrology and
Water Quality

[Urban Water Management Planning Act](#)

The Urban Water Management Planning Act has as its objectives the management of urban water demands and the efficient use of urban water. Under its provisions, every urban water supplier is required to prepare and adopt an urban water management plan. An “urban water supplier” is a public or private water supplier that provides water for municipal purposes either directly or indirectly to more than 3,000 customers, or supplying more than 3,000 acre-feet of water annually. The plan must identify and quantify the existing and planned sources of water available to the supplier, quantify the projected water use for a period of 20 years, and describe the supplier’s water demand management measures. The urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry years. The Department of Water Resources must receive a copy of an adopted urban water management plan.

Hydrology and
Water Quality

[Senate Bill \(SB\) 610 and Assembly Bill \(AB\) 901](#)

The State Legislature passed SB 610 and AB 901 in 2001. Both measures modified the Urban Water Management Planning Act.

SB 610 requires additional information in an urban water management plan if groundwater is identified as a source of water available to an urban water supplier. It also requires that the plan include a description of all water supply projects and programs that may be undertaken to meet total projected water use. SB 610 requires a city or county that determines a project is subject to CEQA to identify any public water system that may supply water to the project and to request identified public water systems to prepare a specified water supply assessment. The assessment must include, among other information, an identification of existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project, and water received in prior years pursuant to these entitlements, rights, and contracts.

AB 901 requires an urban water management plan to include information, to the extent practicable, relating to the quality of existing sources of water available to an urban water supplier over given time periods. AB 901 also requires information on the manner in which water quality affects water management strategies and supply reliability. The bill requires a plan to describe plans to supplement a water source that may not be available at a consistent level of use, to the extent practicable. Additional findings and declarations relating to water quality are required.

Hydrology and
Water Quality

[Senate Bill \(SB\) 221](#)

SB 221 adds Government Code Section 66455.3, requiring that the local water agency be sent a copy of any proposed residential subdivision of more than 500 dwelling units within five days of the subdivision application being accepted as complete for processing by the city or county. It also adds Government Code Section 66473.7, establishing detailed requirements for establishing whether a “sufficient water supply” exists to support any proposed residential subdivisions of more than 500 dwellings, including any such subdivision involving a development agreement. When approving a qualifying subdivision tentative map, the city or county must include a condition requiring availability of a sufficient water supply. The applicable public water system must provide proof of availability. If there is no public water system, the city or county must undertake the analysis described in Government Code Section 66473.7. The analysis must include consideration of effects on other users of water and groundwater.

Regulatory Environment

Visual Resources and Community Image

[California Department of Transportation – California Scenic Highway Program](#)

California's Scenic Highway Program was created by the Legislature in 1963 to preserve and protect scenic highway corridors from change, which would diminish the aesthetic value of lands adjacent to highways. The State laws governing the Scenic Highway Program are found in the Streets and Highways Code, Section 260 et seq.

The State Scenic Highway System includes a list of highways that are either eligible for designation as scenic highways or have been so designated. These highways are identified in Section 263 of the Streets and Highways Code. A list of California's scenic highways and map showing their locations may be obtained from the Caltrans Scenic Highway Coordinators.

If a route is not included on a list of highways eligible for scenic highway designation in the Streets and Highways Code Section 263 et seq., it must be added before it can be considered for official designation. A highway may be designated scenic depending on the extent of the natural landscape that can be seen by travelers, the scenic quality of the landscape, and the extent to which development intrudes upon the traveler's enjoyment of the view.

When a local jurisdiction nominates an eligible scenic highway for official designation, it must identify and define the scenic corridor of the highway. A scenic corridor is the land generally adjacent to and visible from the highway. A scenic highway designation protects the scenic values of an area. Jurisdictional boundaries of the nominating agency are also considered, and the agency must also adopt ordinances to preserve the scenic quality of the corridor, or document such regulations that already exist in various portions of local codes. These ordinances make up the scenic corridor protection program.

To receive official designation, the local jurisdiction must follow the same process required for official designation of State Scenic Highways. The minimum requirements for scenic corridor protection include:

- Regulation of land use and density of development;
- Detailed land and site planning;
- Control of outdoor advertising (including a ban on billboards);
- Careful attention to and control of earthmoving and landscaping; and
- Careful attention to design and appearance of structures and equipment.

Local Regulatory Framework

Air Quality

[San Diego Air Pollution Control District – Annual Air Quality Monitoring Network Plan](#)

The San Diego Air Pollution Control District (SDAPCD) is the overseeing regulatory body for the San Diego Air Basin (SDAB). The SDAPCD consists of all of San Diego County. Each year, the SDAPCD develops a network plan, consistent with the air quality monitoring requirements of relevant state and federal agencies. The document provides data on the status of the air quality within the region, and presents an overview of the most recent network assessment and establishes monitoring programs.

Air Quality

[San Marcos Climate Action Plan](#)

The City of San Marcos developed a Climate Action Plan (CAP) as part of its General Plan update process in 2013. The City initiated an update to its CAP in 2017 in order to comply with the State's SB 32 requirements to reduce GHG emissions to 40 percent below the 1990 levels by 2030. The City adopted the updated CAP (2020 CAP) in December 2020. The CAP identifies GHG baselines, projections, and reduction targets, strategies, and measures,

including monitoring the progress by participating in SANDAG’s biennial update of its local GHG inventory.

Hydrology and
Water Quality

[City of San Marcos Municipal Code](#)

The City of San Marcos is required to implement procedures with respect to the entry of non-stormwater discharges into its municipal stormwater system. The City of San Marcos regulates stormwater discharge in accordance with the NPDES permit through the San Marcos Municipal Code, Chapter 14 – Storm Water Management and Discharge Control.

Illegal Discharges Prohibit, as described in Section 14.15.030, and Reduction of Pollutants in Storm Water, as described in Section 14.15.050. of the San Marcos Municipal Code, are required during all construction activities and/or as part of the applicant’s legal requirements to obtain coverage under the applicable NPDES General Construction Activities Stormwater Permit and State Water Board 401 Water Quality Certification. The NPDES permit requires the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) identifying BMPs to control surface runoff, erosion, and sedimentation.

Hydrology and
Water Quality

[San Diego Regional Water Quality Control Board \(SDRWQCB\) – Basin Plan](#)

The SDRWQB governs water quality in the City of San Marcos and the entirety of San Diego County. The SDRWQB sets quality standards for the San Diego region by establishing objectives and implementation plans to protect the beneficial uses of local waters.

Hydrology and
Water Quality

[City of San Marcos Drainage Master Plan](#)

The Drainage Master Plan was written to assess the quality and performance of local storm drain infrastructure, as well as to implement programs to address deficiencies within the system. As part of the Drainage Master Plan, the City of San Marcos also developed a Capital Improvement Program (CIP) to produce infrastructure improvements based on the assessment provided within the document.

9.6 COMMUNITY HEALTH

Federal Regulatory Framework

Access to Health
Care and Health
Facilities

[Affordable Care Act](#)

The Affordable Care Act (ACA) is a comprehensive federal health care reform law that was enacted in March of 2010. The ACA expanded the Medicaid program to cover more adults by adjusting income requirements and provides consumers with subsidies that lower costs for households with incomes between 100% and 400% of the federal poverty level. Consumer subsidies are paid in the form of “premium tax credits”. The Internal Revenue Service (IRS) is responsible for tax provisions of the current ACA law and the Center for Consumer Information and Insurance Oversight (CCIIO) is responsible for overseeing the implementation of current private health insurance legislation within the ACA.

Access to Health
Care and Health
Facilities

[Medicaid/Medicare](#)

Medicaid is a federal program that provides health coverage to Americans. Medicaid was established in July 1965, authorized by Title XIX of the Social Security Act. The program is a federal program that also functions at the state level. Each state uses unique financial eligibility guidelines to determine if you are eligible for Medicaid coverage. In general, the Medicaid program is intended to provide health coverage for people with limited income and assets. There are Medicaid funded programs for various subgroups of people including; Older

Regulatory Environment

adults, People with disabilities, Children, Pregnant people, and Parents and/or caretakers of children.

Medicare is a federal health insurance program established under Title XIX in July of 1965. Medicare insurance benefits are intended for:

- People who are 65 and older
- Certain younger people with disabilities
- People with End-Stage Renal Disease

Different components of Medicare help cover specific health-related services. These services include: hospital Insurance (Medicare Part A), medical Insurance (Medicare Part B), and prescription drug coverage (Medicare Part D).

Food Access

Supplemental Nutrition Assistance Program (SNAP)

SNAP is a federal aid program administered by the United States Department of Agriculture under the Food and Nutrition Service (FNS) agency. Benefits are distributed in the form of basic nutritional needs to low-income persons who qualify. SNAP benefits are administered through electronic debit cards (EBT), which may be used to purchase groceries at authorized SNAP retailers. The regulation is targeted toward at-risk citizens within the United States, and eligibility is limited based on income. SNAP is administered by the states, which may adapt the program to best meet their needs.

State/Regional Regulatory Framework

Food Access

The California Healthy Food Financing Initiative (CHFFI)

The CHFFI was established in 2011 to increase access to grocery stores and healthy food retailers for underserved communities. Governor Brown signed AB 581 into law, formally creating the California Healthy Food Financing Initiative (CHFFI). The law establishes an advisory group under the California Department of Food and Agriculture to develop recommendations for measures to increase healthy food accessibility within the State. In addition, the law functions as a private-public partnership program. The program includes the CHFFIC Fund within the State Treasurer’s Office, which incorporates public and private funds to provide financing for grocery stores and other forms of healthy food retail.

Local Regulatory Framework

Access to Health Care and Health Facilities

San Diego County – Public Health Services

Public Health Services is a San Diego County agency focused on broad community health within San Diego County. One component of Public Health Services (PHS) is assuring quality and accessibility of health services throughout the County. PHS is a component of the County of San Diego Health and Human Services Agency (HHSA). HHSA was developed in 1998 to provide health and social services across the County. The PHS branch of HHSA provides assessments of the local public health care system, offers services and programs related to public health, and implements local policies to improve healthcare outcomes.

9.7 ENVIRONMENTAL JUSTICE

Federal Regulatory Framework

Environmental Justice

California Environmental Quality Act

The California Environmental Quality Act (CEQA) was developed to protect the quality of the environment, and the health and safety of persons from adverse environmental effects. Discretionary projects are required to be reviewed consistent with the requirements of CEQA to determine if there is potential for the project to cause a significant adverse effect on the environment. Depending on the type of project and its potential effects, vehicle miles traveled (VMT), noise, air quality, biological resources, and geotechnical reports may be needed. If potential adverse effects can be mitigated, a mitigated negative declaration is required. If potentially adverse effects cannot be mitigated, an environmental impact report is required. These documents have mandated content requirements and public review times. Preparation of CEQA documents can be costly and, despite maximum time limits set forth in the Public Resources Code, can extend the processing time of a project by a year or longer.

Environmental Justice

SB 1000

Senate Bill 1000, also known as *The Planning for Healthy Communities Act*, is a comprehensive state legislation that requires California cities to include an Environmental Justice element or a set of environmental justice policies into their General Plans. The Bill was established as a state regulation on September 24, 2016, with the goal of improving the health of California cities and addressing pertinent issues of environmental justice related to community wellness. SB 1000 outlines strategies to promote the protection of sensitive land uses within the state, and simultaneously mandates that cities address the needs of disadvantaged communities. Through this bill, environmental justice is a mandated consideration in all city's local land-use planning. SB 1000 was authored by Senator Connie Leyva and co-sponsored by the California Environmental Justice Alliance (CEJA) and the Center for Community Action and Environmental Justice (CCA EJ).

Water Quality

National Pollutant Discharge Elimination System (NPDES)

National Pollutant Discharge Elimination System (NPDES) permits are required for discharges to navigable waters of the United States, which includes any discharge to surface waters, including lakes, rivers, streams, bays, oceans, dry stream beds, wetlands, and storm sewers that are tributary to any surface water body. NPDES permits are issued under the Federal Clean Water Act, Title IV, Permits and Licenses, Section 402 (33 USC 466 et seq.)

The RWQCB issues these permits in lieu of direct issuance by the Environmental Protection Agency, subject to review and approval by the EPA Regional Administrator (EPA Region 9). The terms of these NPDES permits implement pertinent provisions of the Federal Clean Water Act and the Act's implementing regulations, including pre-treatment, sludge management, effluent limitations for specific industries, and anti-degradation. In general, the discharge of pollutants is to be eliminated or reduced as much as practicable so as to achieve the Clean Water Act's goal of "fishable and swimmable" navigable (surface) waters. Technically, all NPDES permits issued by the RWQCB are also Waste Discharge Requirements issued under the authority of the CWA.

NPDES permitting authority is administered by the California State Water Resources Control Board (SWRCB) and its nine Regional Water Quality Control Boards (RWQCB). The Plan Area is in a watershed administered by the San Diego Regional Water Quality Control Board. Individual projects in the city that disturb more than one acre would be required to obtain NPDES coverage under the California General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit). The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) describing Best Management Practices (BMP) the discharger would use to prevent and retain storm water runoff. The SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a waterbody listed on the 303(d) list for sediment.

State/Regional Regulatory Framework

Air Quality

[San Diego Association of Governments Climate Action Plan](#)

The San Diego Association of Governments (SANDAG) represents 18 cities in San Diego County (which includes the City of San Marcos) as well as the San Diego County Board of Supervisors. In 2010, members adopted the SANDAG Climate Action Strategy, which serves as a guide to help policymakers address climate change as they make decisions to meet the needs of the region’s growing population, maintain and enhance quality of life, and promote economic stability. It does so in the context of the significant action on climate change happening in California, and the need for national and international attention to address what is ultimately a global problem. The Strategy identifies goals, objectives, and policy measures in the areas of transportation, land use, buildings, and energy use. Also addressed are measures and resources to help local governments reduce emissions from their operations and in their communities.

Local Regulatory Framework

Public Facilities

[City of San Marcos Parks Master Plan](#)

The City’s Parks Master guides the orderly development, renovation, and improvement of parks, recreation facilities, programs, and services. Physical inventory assessments of the existing parks were taken during numerous site visits to the parks, and community programming information was gathered from publications provided by the City.