4.8.3 Regulatory Setting

Federal

U.S. Environmental Protection Agency (U.S. EPA)

The U.S. EPA was established in 1970 to consolidate in one agency a variety of federal research, monitoring, standard-setting and enforcement activities to ensure environmental protection. The U.S. EPA's mission is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends. The U.S. EPA works to develop and enforce regulations that implement environmental laws enacted by Congress, is responsible for researching and setting national standards for a variety of environmental programs, and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing compliance. Where national standards are not met, the U.S. EPA can issue sanctions and take other steps to assist the states and tribes in reaching the desired levels of environmental quality.

U.S. Department of Defense (U.S. DOD)

The mission of the U.S. DOD is to provide the military forces needed to deter war and to protect the security of our country. The U.S. DOD manages an inventory of installations and facilities to keep Americans safe. The U.S. DOD’s physical plant is huge by any standard, consisting of more than several hundred thousand individual buildings and structures located at more than 5,000 different locations or sites. When all sites are added together, the U.S. DOD utilizes over 30 million acres of land. The three military branches, Army, Navy, and Air Force are under the control of the U.S. DOD.

Federal Toxic Substances Control Act/Resource Conservation and Recovery Act (RCRA)/Hazardous and Solid Waste Act (HSWA). The Federal Toxic Substances Control Act (1976) and the RCRA of 1976 established a program administered by the U.S. EPA for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the HSWA, which affirmed and extended the “cradle to grave” system of regulating hazardous wastes.

Comprehensive Environmental Response, Compensation, and Liability Act/Superfund Amendments and Reauthorization Act (CERCLA). The CERCLA, commonly known as Superfund, was enacted by Congress on December 11, 1980. This law (U.S. Code Title 42, Chapter 103) provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA establishes requirements concerning closed and abandoned hazardous waste sites; provides for liability of persons responsible for releases of hazardous waste at these sites; and establishes a trust fund to provide for cleanup when no responsible party can be identified. CERCLA also enables the revision of the National Contingency Plan (NCP). The NCP (Title 40, Code of Federal Regulation [CFR], Part 300) provides the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, and/or contaminants. The NCP also established the National Priorities List (NPL). CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986.

Clean Water Act (CWA)/Spill, Prevention, Control, and Countermeasure (SPCC) Rule. The CWA (33 U.S.C. Section 1251 et seq., formerly the Federal Water Pollution Control Act of 1972), was enacted with the intent of restoring and maintaining the chemical, physical, and biological
integrity of the waters of the United States. As part of the Clean Water Act, the U.S. EPA oversees and enforces the Oil Pollution Prevention regulation contained in Title 40 of the CFR, Part 112 (Title 40 CFR, Part 112) which is often referred to as the “SPCC rule” because the regulations describe the requirements for facilities to prepare, amend and implement SPCC Plans. A facility is subject to SPCC regulations if a single oil storage tank has a capacity greater than 660 gallons, or the total above ground oil storage capacity exceeds 1,320 gallons, or the underground oil storage capacity exceeds 42,000 gallons, and if, due to its location, the facility could reasonably be expected to discharge oil into or upon the “Navigable Waters” of the United States.

Other federal regulations overseen by the U.S. EPA relevant to hazardous materials and environmental contamination include Title 40, CFR, Chapter 1, Subchapter D – Water Programs and Subchapter I – Solid Wastes. Title 40, CFR, Chapter 1, Subchapter D, Parts 116 and 117 designate hazardous substances under the Federal Water Pollution Control Act. Title 40, CFR, Part 116 sets forth a determination of the reportable quantity for each substance that is designated as hazardous. Title 40, CFR, Part 117 applies to quantities of designated substances equal to or greater than the reportable quantities that may be discharged into waters of the United States.

Occupational Safety and Health Administration (OSHA)

OSHA’s mission is to ensure the safety and health of America's workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. The OSHA staff establishes and enforces protective standards and reaches out to employers and employees through technical assistance and consultation programs. OSHA standards are listed in Title 29 CFR Part 1910.

Federal Aviation Administration (FAA)

The FAA regulates aviation at regional, public, private, and military airports, such as Edwards Air Force Base. The FAA regulates objects affecting navigable airspace and structures taller than 200 feet according to Federal Aviation Regulation 14 CFR Part 77.13. The U.S. and California Departments of Transportation also require the proponent to submit FAA Form 7460-1, Notice of Proposed Construction or Alteration. According to 14 CFR Part 77.17, notification allows the FAA to identify potential aeronautical hazards in advance, thus preventing or minimizing any adverse impacts on the safe and efficient use of navigable airspace. Any structure that would constitute a hazard to air navigation, as defined in FAA Part 77, requires issuance of a permit from the California Department of Transportation’s Aeronautics Program. The permit is not required if the FAA aeronautical study determines that the structure has no impact on air navigation.

As described in 14 CFR 77.13 (Construction or alteration requiring notice), each sponsor who proposes any of the following construction or alteration scenarios shall notify the FAA in the form and manner prescribed in 14 CFR 77.17:

(1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a)(5) of this section, which includes the following airports (including heliports): An airport that is available for public use and is
listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement; an airport under construction, that is the subject of a notice or proposal on file with the FAA, and, except for military airports, it is clearly indicated that that airport will be available for public use; an airport that is operated by an armed force of the United States.

(ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a)(5) of this section (see part (i)) with its longest runway no more than 3,200 feet in actual length, excluding heliports.

(iii) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport specified in paragraph (a)(5) of this section (see part (i)).

Per 14 CFR 77.17, notification requirements include sending one executed form set (four copies) of FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area within which the construction or alteration will be located. The notice required must be submitted at least 30 days before the earlier of the following dates: (1) the date the proposed construction or alteration is to begin or (2) the date an application for a construction permit is to be filed.

National Weather Service (NWS)

Under extreme fire weather conditions, the NWS issues Red Flag Warnings for all affected areas. A Red Flag Warning means that any ignition could result in a large-scale damaging wildfire. The NWS region encompassed by the proposed project is the Los Angeles/Oxnard region. Red Flag Warning criteria for the Los Angeles/Oxnard region are as follows. For all zones except the Antelope Valley, dry fuels plus any one of the following: 1) relative humidity 15 percent or less with wither sustained winds of 25 mph or greater or frequent gusts of 35 mph or greater (for a duration of 6 hours or more), 2) relative humidity 10 percent or less for an extended period of time (for a duration of 10 hours or more, 3) widespread and/or significant dry lightning. For the Antelope Valley, dry fuels plus relative humidity 15 percent or less with sustained winds of 25 mph (for a duration of 8 hours or more) (NWS, 2008).

State

CPUC General Order (GO) 95: Rules for Overhead Electric Line Construction

GO 95 is the key standard governing the design, construction, operation, and maintenance of overhead electric lines in the State. It was adopted in 1941 and updated most recently in 2006. GO 95 includes safety standards for overhead electric lines, including minimum distances for conductor spacing, minimum conductor ground clearance, standards for calculating maximum sag, electric line inspection requirements, and vegetation clearance requirements. The latter, governed by rule 35, and inspection requirements, governed by Rule 31.2 are summarized here.

GO 95: Rule 35, Tree Trimming, defines minimum vegetation clearances around power lines. Rule 35 guidelines require 10 feet radial clearances for any conductor of a line operating at 110,000 Volts or more, but less than 300,000 Volts. This requirement would apply to the proposed 230 kV lines.

GO 95: Rule 31.2, Inspection of Lines, requires that lines be inspected frequently and thoroughly for the purpose of ensuring that they are in good condition, and that lines temporarily out of service be inspected and maintained in such condition as not to create a hazard.
Public Resources Code (PRC) 3208.1

Section 3208.1 of the PRC authorizes the State Oil and Gas Supervisor of the Department of Oil, Gas and Geothermal Resources (DOGGR) to order the reabandonment of a previously abandoned well when construction of any structure over or in proximity to a well could result in a hazard. The cost of reabandonment operations is the responsibility of the owner or developer of the project upon which the structure would be located.

PRC 4292, Powerline Hazard Reduction

PRC 4292 requires a 10-foot clearance of any tree branches or ground vegetation from around the base of power poles carrying more than 110 kV. The firebreak clearances required by PRC 4292 are applicable within an imaginary cylindrical space surrounding each pole or tower on which a switch, fuse, transformer or lightning arrester is attached and surrounding each dead-end or corner pole, unless such pole or tower is exempt from minimum clearance requirements by provisions of PRC 4296. Proposed project structures would be primarily exempt due to their design specifications.

PRC 4293, Powerline Clearance Required

PRC 4293 presents guidelines for line clearance including a minimum of 10 feet of vegetation clearance from any conductor operating at 110 kV or higher.

California Code of Regulations (CCR) Title 14 Section 1254

CCR 14 Section 1254 presents guidelines for minimum clearance requirements on non-exempt utility poles. The proposed project structures would be primarily exempted from the clearance requirements with the exception of cable poles and dead-end structures.

As shown in Figure 4.8-1, the firebreak clearances required by PRC 4292 are applicable within an imaginary cylindrical space surrounding each pole or tower on which a switch, fuse, transformer or lightning arrester is attached and surrounding each dead-end or corner pole, unless such pole or tower is exempt from minimum clearance requirements by provisions of 14, CCR, 1255 or PRC 4296. The radius of the cylindroid is 3.1 m (10 feet) measured horizontally from the outer circumference of the specified pole or tower with height equal to the distance from the intersection of the imaginary vertical exterior surface of the cylindroid with the ground to an intersection with a horizontal plane passing through the highest point at which a conductor is attached to such pole or tower. Flammable vegetation and materials located wholly or partially within the firebreak space shall be treated as follows:
• At ground level – remove flammable materials, including but not limited to, ground litter, duff and dead or desiccated vegetation that will propagate fire

• From 0 to 2.4 m (0 to 8 feet) above ground level remove flammable trash, debris or other materials, grass, herbaceous and brush vegetation. All limbs and foliage of living trees shall be removed up to a height of 2.4 m (8 feet).

• From 2.4 m (8 feet) to horizontal plane of highest point of conductor attachment remove dead, diseased or dying limbs and foliage from living sound trees and any dead, diseased or dying trees in their entirety.

Hazardous Materials Release Response Plans and Inventory Act of 1985

The Hazardous Materials Release Response Plans and Inventory Act, also known as the Business Plan Act, requires businesses using hazardous materials to prepare a plan that describes their facilities, inventories, emergency response plans, and training programs. Hazardous materials are defined as unsafe raw or unused materials that are part of a process or manufacturing step. They are not considered hazardous waste. Health concerns pertaining to the release of hazardous materials, however, are similar to those relating to hazardous waste.

Hazardous Waste Control Act (HWCA)

The HWCA created the State hazardous waste management program, which is similar to but more stringent than the federal RCRA program. The act is implemented by regulations contained in Title 26 of the CCR, which describes the following required aspects for the proper management of hazardous waste:

• Identification and classification;

• Generation and transportation;

• Design and permitting of recycling, treatment, storage, and disposal facilities;

• Treatment standards;

• Operation of facilities and staff training; and

• Closure of facilities and liability requirements.

These regulations list more than 800 materials that may be hazardous and establish criteria for identifying, packaging, and disposing of such waste. Under the HWCA and Title 26, the generator of hazardous waste must complete a manifest that accompanies the waste from generator to transporter to the ultimate disposal location. Copies of the manifest must be filed with the California Department of Toxic Substances and Control (DTSC).

Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program)

Senate Bill 1082, introduced by Senator Charles Calderon (D-Whittier) and passed in 1993, created the Unified Program, which requires the administrative consolidation of six hazardous materials and waste programs (Program Elements) under one agency, a Certified Unified Program Agency (CUPA). The Program Elements consolidated under the Unified Program are:

• Hazardous Waste Generator and On-site Hazardous Waste Treatment Programs (a.k.a., Tiered Permitting),
• Aboveground Petroleum Storage Tank Spill Prevention Control and Countermeasure Plan (SPCC),
• Hazardous Materials Release Response Plans and Inventory Program (a.k.a. Hazardous Materials Disclosure or “Community-Right-To-Know”),
• California Accidental Release Prevention Program (Cal ARP),
• Underground Storage Tank (UST) Program, and
• Uniform Fire Code Plans and Inventory Requirements.

The Unified Program is intended to provide relief to businesses complying with the overlapping and sometimes conflicting requirements of formerly independently managed programs. The Unified Program is implemented at the local government level by CUPAs. Most CUPAs have been established as a function of a local environmental health or fire department. Some CUPAs have contractual agreements with another local agency, a participating agency, which implements one or more Program Elements in coordination with the CUPA.

**California Environmental Protection Agency (Cal/EPA)**

The Cal/EPA was created in 1991, which unified California’s environmental authority in a single cabinet-level agency and brought the Air Resources Board (ARB), State Water Resources Control Board (SWRCB), Regional Water Quality Control Boards (RWQCBs), Integrated Waste Management Board (IWMB), DTSC, Office of Environmental Health Hazard Assessment (OEHHA), and Department of Pesticide Regulation (DPR) under one agency. These agencies were placed within the Cal/EPA “umbrella” for the protection of human health and the environment and to ensure the coordinated deployment of State resources. Their mission is to restore, protect and enhance the environment, to ensure public health, environmental quality, and economic vitality.

DTSC is a department of Cal/EPA and is the primary agency in California that regulates hazardous waste, cleans-up existing contamination, and looks for ways to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of the federal RCRA and the California Health and Safety Code. Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

**Department of Toxic Substance Control (DTSC)**

The DTSC is a department of Cal/EPA and is the primary agency in California that regulates hazardous waste, cleans-up existing contamination, and looks for ways to reduce the hazardous waste produced in California. The DTSC regulates hazardous waste in California primarily under the authority of the federal RCRA and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

Government Code §65962.5 (commonly referred to as the Cortese List) includes DTSC listed hazardous waste facilities and sites, the DHS lists of contaminated drinking water wells, sites listed by the SWRCB as having UST leaks and which have had a discharge of hazardous wastes or materials into the water or groundwater, and lists from local regulatory agencies of sites that have had a known migration of hazardous waste/material.
California Office of Emergency Services (OES)

In order to protect the public health and safety and the environment, the California OES is responsible for establishing and managing Statewide standards for business and area plans relating to the handling and release or threatened release of hazardous materials. Basic information on hazardous materials handled, used, stored, or disposed of (including location, type, quantity, and the health risks) needs to be available to firefighters, public safety officers, and regulatory agencies needs to be included in business plans in order to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of these materials into the workplace and environment. These regulations are covered under Chapter 6.95 of the California Health and Safety Code Article 1–Hazardous Materials Release Response and Inventory Program (Sections 25500 to 25520) and Article 2–Hazardous Materials Management (Sections 25531 to 25543.3).

CCR Title 19, Public Safety, Division 2, Office of Emergency Services, Chapter 4–Hazardous Material Release Reporting, Inventory, And Response Plans, Article 4 (Minimum Standards for Business Plans) establishes minimum Statewide standards for Hazardous Materials Business Plans (HMBPs). These plans shall include the following: (1) a hazardous material inventory in accordance with Sections 2729.2 to 2729.7; (2) emergency response plans and procedures in accordance with Section 2731; and (3) training program information in accordance with Section 2732. Business plans contain basic information on the location, type, quantity, and health risks of hazardous materials stored, used, or disposed of in the State. Each business shall prepare a HMBP if that business uses, handles, or stores a hazardous material or an extremely hazardous material in quantities greater than or equal to the following:

- 500 pounds of a solid substance
- 55 gallons of a liquid
- 200 cubic feet of compressed gas
- A hazardous compressed gas in any amount
- Hazardous waste in any quantity

California Occupational Safety and Health Administration (Cal/OSHA)

The Cal/OSHA is the primary agency responsible for worker safety in the handling and use of chemicals in the workplace. The Cal/OSHA standards are generally more stringent than federal regulations. The employer is required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 CCR Sections 337-340). The regulations specify requirements for employee training, availability of safety equipment, accident-prevention programs, and hazardous substance exposure warnings.

California Highway Patrol (CHP)

A valid Hazardous Materials Transportation License, issued by the CHP, is required by the laws and regulations of State of California Vehicle Code Section 3200.5 for transportation of either:

- Hazardous materials shipments for which the display of placards is required by State regulations; or

- Hazardous materials shipments of more than 500 pounds, which would require placards if shipping greater amounts in the same manner.
Additional requirements on the transportation of explosives, inhalation hazards, and radioactive materials are enforced by the CHP under the authority of the State Vehicle Code. Transportation of explosives generally requires consistency with additional rules and regulations for routing, safe stopping distances, and inspection stops (Title 14, CCR, Chapter 6, Article 1, Sections 1150-1152.10). Inhalation hazards face similar, more restrictive rules and regulations (Title 13, CCR, Chapter 6, Article 2.5, Sections 1157-1157.8). Radioactive materials are restricted to specific safe routes for transportation of such materials.

Local

Kern County General Plan
Chapter 4. Safety Element

Goals

- **Goal 1.** Minimize injuries and loss of life and reduce property damage.
- **Goal 2.** Reduce economic and social disruption resulting from earthquakes, fire, flooding, and other geologic hazards by assuring the continuity of vital emergency public services and functions.
- **Goal 4.** Create an awareness of the residents in Kern County through the dissemination of information about geologic, fire, and flood safety hazards.
- **Goal 5.** Ensure the availability and effective response of emergency services following a catastrophic event.
- **Goal 7.** Ensure that adequate emergency services and facilities are available to the residents of Kern County through the coordination of planning and development of emergency facilities and services.

Policies

- **Policy 2.** Those hazardous areas, identified as unsuitable for human occupancy, are guided toward open space uses, such as agriculture, wildlife habitat, and limited recreation.
- **Policy 3.** That the County government encourage public support of local, State, and federal research programs on geologic, fire, flood hazards, valley fever, plague, and other studies so that acceptable risk may be continually reevaluated and kept current with contemporary values.

Implementation Measures

- **Implementation Measure A.** All hazards (geologic, fire, and flood) should be considered whenever a Planning Commission or Board of Supervisor’s action could involve the establishment of a land use activity susceptible to such hazards.
- **Implementation Measure C.** Require detailed site studies for ground shaking characteristics, liquefaction potential, dam failure inundation, flooding potential, and fault rupture potential as background to the design process for critical facilities under County discretionary approval.
Chapter 4.6. Wildland and Urban Fire (Safety Element)

Hazard Identification

- Access and Evacuation Routes - Good planning principles, as well as existing policies and laws, dictate that all developments must be planned with circulation routes that will assure safe access for fire and other emergency equipment. The circulation routes must include secondary means of ingress and egress, consistent with topography, to meet emergency needs.

- The general circulation routes are provided throughout the County by federal, State, and County-maintained road systems which are adequate for access and evacuation. State and County laws regulate the standards for new public circulation routes.

- Private circulation routes that are not maintained by the State or County are subject to the standards set forth in Kern County Ordinance No. G-1832.

- Clearance of Vegetative Cover for Fire Control - In 1963 the State of California enacted the Public Resources Code clearance law. This is a minimum Statewide clearance law of flammable vegetative growth around structures, especially in brush- and tree-covered watershed areas. The enactment of a local ordinance is necessary where more restrictive fire safety clearance measures are desirable to meet local conditions.

- Fuel Breaks and Firebreaks - Fuel breaks and/or firebreaks separating communities or clusters of structures from the native vegetation may be required. Such fuel breaks may be “greenbelts,” as all vegetation need not be removed but thinned or landscaped to reduce the volume of fuel.

- All fuel and firebreaks are required to meet the minimum design standards of the Kern County Fire Chief.

- The Fire Department’s Chief may require a fire plan for a development during the critical fire season. This plan should reflect the proposed course of action for fire prevention and suppression.

- The parcel size and setback distances of buildings placed thereon should be such that adequate clearance of flammable vegetation cover may be performed within the limits of the owner’s parcel of land.

- Should the owner of a property fail to apply the required firebreak clearance, following proper notice, the County may elect to clear the firebreak vegetation and make the expense of the clearing a lien against the property upon which the work was accomplished.

- Hazardous Fire Area - The Hazardous Fire Areas consists mainly of wildlands, which are mountain and hill land in an uncultivated, more or less natural state, covered with timber, wood, brush, and grasslands. This area includes some urban influence and agricultural use, such as those that exists around Isabella Lake and the Kern River, Woody/Glennville, Tehachapi/ Cummings Valley, and Lebec/Frazier Park/Lake of the Woods.

- The wildlands provide prime habitats for deer, mountain lions, bears, kit foxes, quail, chuckers, wild turkeys, and condors. They also harbor fifteen identified and important rare botanic communities and vegetation associations.

- The Kern County Hazardous Fire Area was established by an amendment to the Uniform Fire Code, Section 1.49H under Section 4016 of the Kern County Ordinance Code.
The boundaries of the Hazardous Fire Area are determined and publicly announced before the start of each annual “fire season” and is normally the period from April 15 to December 1 of each year, except when the Fire Chief extends this period.

The wildlands include valuable watersheds that must be preserved for receiving and passing water into surface streams and underground storage. Protection of the watersheds will prevent erosion and flood damages.

For the protection of our wildlands we must consider all factors which will aid in fulfilling the policy stated in the California Environmental Quality Act, Public Resources Code Section 21000 et seq., to “create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.”

In implementing their Fire Prevention Program, Fire Department personnel periodically inspect the areas around all buildings for accumulations of flammable material and closure of openings of vacant buildings.

**Policies**

- **Policy 1.** Require discretionary projects to assess impacts on emergency services and facilities.

- **Policy 2.** The County will encourage the promotion of public education about fire safety at home and in the work place.

- **Policy 3.** The County will encourage the promotion of fire prevention methods to reduce service protection costs and costs to taxpayers.

- **Policy 4.** Ensure that new development of properties have sufficient access for emergency vehicles and for the evacuation of residents.

- **Policy 6.** All discretionary projects shall comply with the adopted Fire Code and the requirements of the Fire Department.

**Implementation Measures**

- **Implementation Measure A.** Require that all development comply with the requirements of the Kern County Fire Department or other appropriate agency regarding access, fire flows, and fire protection facilities.

Chapter 2. Circulation Element – Section 2.5.2 Airport Land Use Compatibility Plan (ALUCP)

**Goals**

- **Goal 1.** Plan for land uses that are compatible with public airport and military bases and mitigate encroachment issues.

**Policies**

- **Policy 2.** To the extent legally allowable prevent encroachment on public airport and military base operations from incompatible, unmitigated land uses.
Implementation Measures

• Implementation Measure A. Review discretionary land use development applications within the airports influence area and the military base operating area as shown in the Airport Land Use Compatibility Plan (ALUCP) for consistency.

• Implementation Measure B. Coordinate and cooperate with airport operators, the County Department of Airports, the California Department of Transportation, Division of Aeronautics, affected cities, Edwards Air Force Base, NAWS China Lake, and the U.S. Department of Defense on ALUCP, review of land use applications, public education and encroachment issues.

Chapter 5 Energy Element – Section 5.4.2 Wind Energy Development

Goal

• To promote the safe and orderly development of wind energy as a clean method of generating electricity while providing for the protection of the environment.

Policies

• Policy 4. The County shall work with the wind energy industry to maximize electrical potential while assuring that military flight operations, communication facilities and visual conflicts for neighboring property owners are addressed.

Kern County ALUCP - Section 1.0, General Applicability

Section 1.7.1(c). Prior to the approval of a proposal involving any type of land use development, as stated in Section 1.6.1, or other review as required by a Specific Plan, specific findings shall be made that such development is compatible with the training and operational missions of the military aviation installations. Incompatible land uses that result in significant impacts on the military mission of Department of Defense installations or to the Joint Service Restricted R-2508 Complex that cannot be mitigated, shall not be considered consistent with this plan.

Kern County Zoning Ordinance (Title 19 of the Ordinance Code)

Chapter 19.08 Interpretation and General Standards

Section 19.08.160 Height of Structures: This section restricts the height of structures or buildings to the maximum permitted heights shown in Figure 19.08.106 unless the military authority responsible for operations in that flight area first provides the planning director with written concurrence that the height of the proposed structure or building would create no significant military mission impacts. The project site is located across several of the military review zones in Figure 19.08.106, including green (no review requirement), yellow (all structures over 500 feet), and red (wind turbines and communications towers over 80 feet and all other structures over 100 feet). Without military review, those structures falling within the yellow zone would be limited to 500 feet above ground elevation; those structures falling within the red striped zone, which includes the eastern portion of the site, would be limited to 80 feet above ground elevation (See Figure 3-4).

Chapter 19.64 Wind Energy (WE) Combining District

The WE Combining District (Chapter 19.64) contains development standards and conditions (Section 19.64.140) that would be applicable to the siting and operation of WTGs. The following provisions apply to hazards and hazardous materials issues related to the proposed project.
Section 19.64.140 Development Standards and Conditions
This section of the Zoning Ordinance sets forth setback requirements for WTGs, requires non-reflective paint on WTGs, and specifies security fencing requirements. The setback requirements are listed below.

1. Setback Where Adjacent Parcels Contain Less Than Forty (40) Acres. A minimum wind generator setback of two (2) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or five hundred (500) feet, whichever is less, shall be maintained from exterior project boundaries where the project site is adjacent to existing parcels of record which contain less than forty (40) acres and are not zoned WE Combining District.

   The Planning Director may allow a reduction in this setback, not to exceed a minimum setback of one (1) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) if a letter of consent from the owner(s) of record of adjacent parcels is filed with the Kern County Planning and Community Development Department.

2. Setback Where Adjacent Parcels Contain Forty (40) Acres or More. A minimum wind generator setback of one and one-half (1½) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or five hundred (500) feet, whichever is less, shall be maintained from all exterior project boundaries.

   The Planning Director may allow a reduction or waiver of this setback requirement in accordance with both of the following provisions:

   a. The project exterior boundary is a common property line between two (2) or more approved wind energy projects or both properties are located within the WE District; and

   b. The property owner of each affected property has filed a letter of consent to the proposed setback reduction with the Planning Director.

3. Setback From Off-site Residence(s) on Adjacent Parcels. In all cases, regardless of parcel area, a minimum wind generator setback of one and one-half (1½) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or five hundred (500) feet, whichever is greater, shall be maintained from any off-site residence.

   The Planning Director may allow a reduction in this setback, not to exceed a minimum setback of one (1) times the overall machine height, if a letter of consent from the owner(s) of record of the adjacent parcel is filed with the Planning Director.

4. Project Interior Wind Generator Spacing. Wind generator spacing within the project boundary shall be in accordance with accepted industry practices pertaining to the subject machine.

5. Setback From On-site Residences and Accessory Structures Designed for Human Occupancy. A minimum wind generator setback of one (1) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any on-site residence or accessory structure designed for human occupancy.
6. **Setback from Public Highways and Streets, Public Access Easements, Public Trails, and Railroads.** A minimum wind generator setback of one and one-half (1 1/2) times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any publicly maintained public highway or street. A minimum wind generator setback of one (1) times the overall machine height shall be maintained from any public access easement or railroad right-of-way. A minimum wind generator setback of one hundred fifty (150) feet shall be maintained from the outermost extension of any blade to any public trail, pedestrian easement, or equestrian easement.

**Section 19.64.150 Wind Turbine Maintenance and Abandonment**

A. Except for maintenance periods, wind turbines shall be maintained in an operational condition. A turbine or group of turbines seeking, but unable to obtain transmission service or a power purchase agreement and out of service for that reason, shall be considered to be in a maintenance period provided such wind turbines are otherwise viable by general industry practices.

B. Any wind turbine not in operational condition for a consecutive period of twelve (12) months shall be deemed abandoned and shall be removed within sixty (60) days from the date a written notice is sent to the property owner and turbine owner, as well as the project operator, by the County. Within this sixty- (60) day period, the property owner, turbine owner, or project operator may provide the Planning Director with a written request and justification for an extension for an additional twelve (12) months. The Planning Director shall consider any such request at a Director’s Hearing as provided for in Section 19.102.070 of this title. In no case shall the Planning Director authorize an extension beyond two (2) years from the date the wind turbine was deemed abandoned without requiring financial assurances to guarantee the removal of the wind turbine, and that portion of the support structure lying above the natural grade level, in the form of a corporate surety bond, irrevocable letter of credit, or an irrevocable certificate of deposit wherein the County is named as the sole beneficiary. In no case shall a wind turbine which has been deemed abandoned be permitted to remain in place for more than forty-eight (48) months from the date the wind turbine was first deemed abandoned.

C. If the property owner fails to remove an abandoned wind turbine within the time frame specified above, the County may remove the structure(s) at the property owner’s expense and lien the property to recover all enforcement and removal costs; however, the County shall first notify the property owner of its intent to remove the structure(s) in accordance with this section in writing at least thirty (30) days prior to removing said structure(s). The County shall not issue any grading or building permits for any new development on the subject property until any such lien has been paid in full.

**Other Applicable Kern County Plans/Documents**

**Kern County Wildland Fire Management Plan.** The Kern County Wildland Fire Management Plan documents the assessment of wildland fire situations throughout the SRAs within the County. The Kern County Fire Department Wildland Fire Management Plan provides for systematically assessing the existing levels of wildland protection services and identifying high-risk and high-value areas that are potential locations for costly and damaging wildfires. The goal of the plan is to reduce costs and losses from wildfire by protecting assets at risk through focused pre-fire management prescriptions and increasing initial attack success. Based on this assessment, preventive measures are implemented, including the creation of wildfire protection zones.
**Kern County Hazardous Waste Management Plan.** In response to the growing public concern regarding hazardous waste management, State Assembly Bill 2948 (Kern County Planning Department, 2009) enacted legislation authorizing local governments to develop comprehensive hazardous waste management plans. The intent of each plan is to ensure that adequate treatment and disposal capacity is available to manage the hazardous wastes generated within the local government’s jurisdiction.

The Kern County and Incorporated Cities Hazardous Waste Management Plan (Hazardous Waste Plan) was first adopted by Kern County and each incorporated city before September 1988 and was subsequently approved by the State Department of Health Services. The Hazardous Waste Plan was updated and incorporated by reference into the Kern County General Plan in 2004 as permitted by Health and Safety Code Section 25135.7(b), and thus must be consistent with all other aspects of the Kern County General Plan.

The Hazardous Waste Plan provides policy direction and action programs to address current and future hazardous waste management issues that require local responsibility and involvement in Kern County. In addition, the Hazardous Waste Plan discusses hazardous waste issues and analyzes current and future waste generation in the incorporated cities, County, and State and federal lands. The purpose of the Hazardous Waste Plan is to coordinate local implementation of a regional action to effect comprehensive hazardous waste management throughout Kern County. The action program focuses on development of programs to equitably site needed hazardous waste management facilities; to promote on-site source reduction, treatment, and recycling; and to provide for the collection and treatment of small quantity hazardous waste generators. An important component of the Hazardous Waste Plan is the monitoring of hazardous waste management facilities to ensure compliance with federal and State hazardous waste regulations. The siting criteria and any subsequent environmental documentation required pursuant to the California Environmental Quality Act (CEQA) would also ensure the mitigation of adverse impacts associated with the siting of any new hazardous waste facility.

### 4.8.4 Impacts and Mitigation Measures

This section analyzes the impacts associated with implementation of the proposed project related to the risk of upset due to potential hazardous substances, including hazardous materials and/or hazardous waste within the project area and the vicinity, as well as other hazards to public safety. The impact analysis describes the methods used to determine the project’s impacts and lists the thresholds used to conclude the significance of an impact. Measures to mitigate (avoid, minimize, rectify, reduce, eliminate, or compensate for) significant impacts accompany each impact discussion, as required.

**Methodology**

The existing hazardous materials sites analyzed for the proposed project are those located within ½ mile of the project boundary that have known environmental contamination, those that have underground storage tanks (USTs), or those that store, use, or dispose of hazardous materials with reported incidents of spills or violations. These are sites with the potential to have resulted in environmental contamination on the proposed project properties.