



REGION 9

SAN FRANCISCO, CA 94105

July 15, 2026

MEMORANDUM

SUBJECT: State ARARs Identification for Moss Landing Removal Action

FROM: Ejan Petrie, On-Scene Coordinator

TO: File/Administrative Record for the Moss Landing Site

This memorandum documents the United States Environmental Protection Agency's identification of applicable or relevant and appropriate requirements ("ARARs") for the lithium-ion battery removal action at the Moss Landing Complex, generally located at 11283 Dolan Road in Moss Landing, California (APN 133-181-011-000) ("Site").

At the request of the California Environmental Protection Agency ("CalEPA"), on behalf of the state of California ("State"), EPA is overseeing a response action at the Site following a fire event that occurred in the facility's 300 mega-watt lithium-ion battery energy storage system in one of the buildings at the Site. The response action includes dismantling the fire-impacted building and removing, processing, and disposing of lithium-ion battery modules that were impacted by the fire and pose a risk of reignition. The proposed response action at the Site is consistent with removal activities authorized pursuant to Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604(a), and Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. § 300.415.

In accordance with Section 300.415(j) of the NCP, 40 C.F.R. § 300.415(j), the removal action shall attain ARARs under federal environmental or state environmental or facility siting laws to the extent practicable, as determined by EPA, considering the exigencies of the situation.

The NCP provides the following definitions for applicable or relevant and appropriate requirements:

- Applicable requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site.

- Relevant and appropriate requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not “applicable” to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site, address problems or situations sufficiently similar to those encountered at the CERCLA site that their use is well suited to the particular site.

40 C.F.R. § 300.5. Only those state standards that are identified in a timely manner and are more stringent than federal requirements may be ARARs. Further, because CERCLA on-site response actions do not require permitting, only substantive requirements are considered as possible ARARs. Administrative requirements such as approval of, or consultation with, administrative bodies, issuance of permits, documentation, reporting, record keeping, and enforcement are not ARARs for CERCLA response actions confined to the site. 42 U.S.C. § 9621(d).

Compliance with Federal Applicable or Relevant and Appropriate Requirements

Certain potential federal ARARs for the removal action at the Site were identified with assistance from the Region 9 Asbestos NESHAP Coordinator in the Enforcement and Compliance Assurance Division and the United States Department of Fish and Wildlife (“USFWS”). The On-Scene Coordinators (“OSCs”) for the response communicated with the Region 9 Asbestos NESHAP Coordinator on December 10, 2025. On December 9, 2025, the OSCs requested ESA Section 7 Consultation from the USFWS via email. On March 3, 2026, the USFWS communicated via email to EPA that the OSCs’ notification initiated “informal emergency consultation procedures pursuant to the regulations implementing section 7 of the Endangered Species Act of 1973, as amended (50 CFR 402.05).” The USFWS identified measures to avoid or minimize the effects on threatened and endangered species during the removal (**Enclosure A**). On June 9, 2026, EPA confirmed that the mitigation measures will be implemented for the removal (**Enclosure B**). Based on these communications, and the OSC’s evaluation, the following were identified as practicable federal ARARs for the Site:

- U.S. Department of Transportation (DOT) Hazardous Material Transportation Rules (HMR), 49 U.S.C. § 5101 *et seq.*, 49 C.F.R. Parts 171-173; Parts 177-178: Applicable to on-site activities related to the offering of hazardous materials for transport, including pre-transportation functions and loading incidental to transportation. Pursuant to 49 C.F.R. § 171.1(b), requirements in the HMR, 49 C.F.R. Part 171-180, apply to each person who offers a hazardous material for transportation in commerce, or transports a hazardous material in commerce and who performs or is responsible for performing a pre-transportation function. Under 49 C.F.R. § 171.1(c)(2), requirements in the HMR also apply to transportation of a hazardous material in commerce and to each person who transports a hazardous material in commerce, which includes, among other things, loading incidental to the movement of a hazardous material. Pursuant to 49 C.F.R. § 171.2(a) and (b), each person who performs a function covered by the HMR must perform the function in accordance with 49 C.F.R. Part 171-180 and each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of 49 C.F.R. Part 171-180, an exemption or special permit, approval, or registration issued under 49 C.F.R. Part 171-180 or under 49 C.F.R. Part 105-110. 49 C.F.R. Part 172

prescribes the requirements for shipping papers, package marking, labeling, and transport vehicle placarding applicable to the shipment and transportation of hazardous materials and, under 49 C.F.R. § 172.3, is applicable to any person who offers a hazardous material for transportation or performs a packaging labeling or marking function. 49 C.F.R. Part 173 includes requirements to be observed in preparing hazardous materials for shipment and is applicable under 49 C.F.R. § 173.1. 49 C.F.R. Part 177 includes requirements for the acceptance and transportation of hazardous materials by private, common, or contract carriers by motor vehicle and contains a number of general and specific requirements for loading hazardous materials for transport by public highway. 49 C.F.R. Part 177 applicable under 49 C.F.R. § 177.800 to carrier activities occurring on-site. 49 C.F.R. Part 178 prescribes the manufacturing and testing specifications for packaging and containers used for transportation of hazardous materials in commerce and is applicable under 40 C.F.R. § 178.2(a)(2) to any person who performs a function under Part 178. Under 49 C.F.R. § 178.601(b), to the extent that a package assembly function, including final closure, is performed by the person who offers a hazardous material for transportation, that person is responsible for performing the functions in accordance with Part 178. 49 C.F.R. Part 180 prescribes requirements pertaining to the maintenance, reconditioning, repair, inspection and testing of packagings, and any other function having an effect on the continuing qualification and use of a packaging under the requirements of the HMR and applies to any person who performs a function prescribed under Part 180, including when any person who performs a function prescribed under Part 180 reintroduces into commerce a packaging that bears markings indicating compliance with Part 180 under 49 C.F.R. § 180.2. Part 180 includes different requirements for the qualification and maintenance of different types of packagings, including cylinders, intermediate bulk containers, cargo tanks, tank cars, and portable tanks. If any of these types of packagings would be used in transport, the Part 180 requirements pertaining to such packaging may be an applicable or relevant and appropriate requirement (to the extent qualification and maintenance activities would occur on-site), including the requirement under 49 C.F.R. 180.351(a) that each intermediate bulk container used for the transportation of hazardous materials must be an authorized packaging. However, it is EPA's understanding that none of the types of packagings referenced in Part 180, will be used for transporting hazardous materials from the site; therefore, Part 180 is not anticipated to be an applicable or relevant and appropriate requirement for the response.

- Federal Endangered Species Act (ESA), 16 U.S.C. §§ 1531-1544; 50 C.F.R. § 402: Relevant and appropriate to endangered and threatened species. 16 U.S.C. § 1538 prohibits any person subject to the jurisdiction of the United States to take any endangered species of fish or wildlife listed under the Act within the United States or to violate any regulation pertaining to any endangered or threatened species of fish or wildlife, without a permit or applicable exemption. Pursuant to 50 C.F.R. § 402.05(a), where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedures directed by the USFWS. The USFWS has directed EPA to submit, after the emergency has abated, a letter describing the actions taken and an assessment of the effects of the

response project on endangered and listed species. The USFWS will either issue concurrence with a no adverse effects determination or will initiate formal consultation on the actions.

- Migratory Bird Treaty Act, 16 U.S.C. § 703-712; 50 C.F.R. Part 10.13: Relevant and appropriate to migratory birds present at the site. 16 U.S.C. § 703(a) prohibits taking, capturing, killing, attempting to take, capture or kill, possessing, or transporting any migratory bird, any part, nest, or egg of any such bird, absent an applicable exemption. Migratory birds subject to this prohibition are listed in 50 C.F.R. Part 10.13.
- National Emission Standard for Asbestos, Standard for demolition and renovation, 40 C.F.R. § 61.145(c): Applicable to demolition activity of Moss Landing 300 building. Procedures for asbestos emission control must be implemented for demolition activity. Regulated asbestos-containing material must be removed before demolition unless it is (i) Category I nonfriable ACM that is not in poor condition and is not friable; (iii) is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or (iii) it was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed; or (iv) they are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition. RACM must be adequately wetted, wrapped, and managed in accordance with the required procedures when being stripped, taken out of the facility, and after removal, as applicable.
- National Emission Standard for Asbestos, Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations, 40 C.F.R. § 61.150(a)-(d): Applicable to demolition activity of Moss Landing 300 building and to off-site disposal of asbestos-containing waste material. Emissions controls and waste treatment methods must be implemented except with respect to Category I nonfriable ACM waste and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder. Any asbestos-containing waste material, not including Category I nonfriable ACM that is not RACM, must be disposed of at a site permitted to accept asbestos-containing waste material. Vehicles used to transport asbestos-containing waste material must be marked. Waste shipment records must be maintained for all asbestos-containing waste material transported off-site.

Compliance with State Applicable or Relevant and Appropriate Requirements

OSCs for the response informed CalEPA officials on or around March 25, 2025, that the removal action would attain ARARs to the extent practicable, in accordance with 40 C.F.R. § 300.415(j), and requested the identification of potential State ARARs for the Site. On April 15, 2025, the OSCs followed-up with a letter to CalEPA requesting the identification of potential State ARARs for the Site (**Enclosure C**). On May 1, 2025, the OSCs received a list of potential ARARs from CalEPA (**Enclosure D**). Additionally, on October 9 and 16, 2025, EPA met with the California Department of Fish and Wildlife (CDFW) to request CDFW's assistance identifying ARARs. EPA responded to CalEPA on October 20, 2025, explaining EPA's determinations of which potential ARARs identified by the state are considered ARARs for the Site (**Enclosure E**). On November 19, 2025, EPA received a list of potential ARARs from CDFW

and recommended mitigation measures (**Enclosure F**). On June 9, 2026, EPA responded to CDFW with its ARARs determinations and confirmation that the recommended mitigation measures will be implemented for the removal (**Enclosure G**). Upon review of CalEPA's and CDFW's lists of potential State ARARs, EPA identified the following as State ARARs for the Site:

- Hazardous Waste Generator Requirements, Title 22 of the California Code of Regulations ("C.C.R.") Sections 66262.10 – 66262.89: Applicable if any state-regulated hazardous waste is generated at the Site. Waste generated during demolition or response activities must be characterized and managed in accordance with state hazardous waste management requirements, including the requirements applicable to "treatment," and "storage," as defined in 22 C.C.R. § 66260.10, to the extent practicable considering the exigencies of the removal action.
- Hazardous Waste Determination Requirements, 22 C.C.R. §§ 66260.200(a)&(c) and 66262.11: Applicable if any state-regulated hazardous waste is generated at the Site. Proper waste determinations must be made for waste generated during demolition or remediation must be characterized prior to off-Site disposal.
- Container Management Requirements, 22 C.C.R. § 66262.16(b)(2) (for Small Quantity Generators) or 22 C.C.R. § 66262.17(a)(1) (for Large Quantity Generators); 22 C.C.R. §§ 66264.170 *et seq.*: Applicable if any state-regulated hazardous waste is generated at the Site and managed in containers. The owner and/or operator managing hazardous waste in containers must use only containers meeting certain minimum requirements and must ensure containers are managed (e.g., opened, closed, inspected, and decontaminated) in accordance with the requirements, to the extent practicable given the exigencies of the removal action.
- Facility Maintenance and Operation Requirements, 22 C.C.R. § 66262.16(b)(6)(A) (for Small Quantity Generators) or 22 C.C.R. § 66262.17(a)(6) (for Large Quantity Generators); 22 C.C.R. § 66262.251: Applicable if any state-regulated hazardous waste is generated at the Site. The owner and/or operator of the Site must maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
- Land Disposal Restrictions, 22 C.C.R. § 66268.1: Applicable if restricted waste is disposed of off-Site. Prior to transporting for off-Site disposal, hazardous waste must be characterized to determine whether land disposal restriction treatment standards apply and whether the waste meets the treatment standards. This information must be provided to the off-site facility with the first waste shipment.
- California Water Code Division 7, Chapter 5.5 (California Water Code Sections 13370 *et seq.*): Clean Water Act National Pollutant Discharge Elimination System (NPDES) requirements. The substantive requirements of the Stormwater Industrial General Permit and Construction General Permit referenced below are relevant and appropriate.

- Porter-Cologne Water Quality Control Act (California Water Code Sections 13260, 13372, 13373, and 13374); 40 C.F.R. Parts 122, 123, 124, National Pollution Discharge Elimination System, implemented by the Statewide General Permit for Storm Water Discharges Associated with Industrial Activities, State Water Resources Control Board Order No. 2014-0057-DWQ, as amended: State Water Resources Control Board Order No. 2014-0057-DWQ regulates pollutants in discharge of storm water (“Industrial General Permit”) for facilities covered in Attachment A. The substantive provisions of the Industrial General Permit are applicable to storm water discharges from the site. EPA will determine the applicable substantive provisions of the Industrial General Permit in consultation with the State.
- Porter-Cologne Water Quality Control Act (California Water Code Sections 13260, 13372, 13373, and 13374); 40 C.F.R. Parts 122, 123, 124, National Pollution Discharge Elimination System, implemented by State Water Resources Control Board Order No. 2022-0057-DWQ: General Permit 2022-0057-DWQ (“Construction General Permit”) contains requirements for discharge of stormwater associated with construction activity involving the disturbance of one acre or more. Demolition activities at the Moss Landing 300 building will not disturb 1-acre or more of soil, as the building footprint is underlain by a concrete slab which will not be removed during demolition; however, the substantive provisions of the Construction General Permit are relevant and appropriate to construction activities at the Site. Best Management Practices (“BMPs”) will be used to prevent degradation of surface water quality. EPA will determine the applicable substantive provisions of the Construction General Permit in consultation with the State.
- California Endangered Species Act (CESA) (California Fish and Game Code Section 2080): Relevant and appropriate for California endangered or threatened species identified at the site. Section 2080 prohibits the taking of any endangered or threatened species, or attempting to do so, except as permitted under the CESA. To mitigate a “take,” of a California endangered or listed species, mitigation measures identified by USFWS and CDFW will be implemented for the response.
- California Fish and Game Code Sections 3511, 4700, 5050: Relevant and appropriate to California fully protected species identified at the site. Sections 3511, 4700, and 5050 prohibits the taking or possession of fully protected species. To mitigate a “take,” of a California fully protected species, mitigation measures identified by USFWS and CDFW will be implemented for the response.
- California Fish and Game Code Section 5650: Relevant and appropriate for the provisions restricting the placement of substances deleterious to fish, mammals, plant life, or bird life where it can pass into Waters of the State. To prevent deleterious materials from entering Waters of the State, mitigation measures identified by CDFW will be implemented for the response.

EPA determined that various other requirements identified by the State are not ARARs for the Site for several reasons, including one or more of the following: (i) the requirements pertain to activities that fall outside of the scope of the planned response action; (ii) the requirements will only apply to off-Site

activities; and (iii) the requirements were administrative and not substantive. EPA's explanations are discussed under the column with the heading "EPA Comment" in **Enclosure C**.

Attachments

Enclosure A – Emails between USFWS and EPA re: emergency consultation

Enclosure B – Mitigation Measures

Enclosure C – Letter from EPA to CalEPA requesting State ARARs identification

Enclosure D – Letter from CalEPA to EPA identifying potential State ARARs

Enclosure E – EPA Comments to State Potential ARARs List

Enclosure F – Letter from CDFW to EPA identifying potential State ARARs

Enclosure G – EPA Comments to CDFW Potential ARARs List

cc: Ramon D. Albizu Angulo, On-Scene Coordinator

Kazami Brockman, On-Scene Coordinator

Katherine Hull, On-Scene Coordinator

Justin Marquez, On-Scene Coordinator

Laura Friedli, Attorney-Advisor

Enclosure A – Emails between USFWS and EPA re: emergency consultation

From: [Friedli, Laura](#)
To: ["Bartlett, Kirby M"](#)
Cc: [Brockman, Kazami](#); [Hull, Katherine](#); [Petrie, Ejan](#); [Albizu, Ramon](#)
Subject: RE: Moss Landing Vistra Energy Battery Fire Cleanup - Emergency Informal Consultation (FWS file no. 2025-0058598)
Date: Tuesday, June 9, 2026 11:52:00 AM
Attachments: [Moss Landing - Mitigation Measures.pdf](#)

Hi Kirby,

Thank you very much for providing this list of measures to avoid or minimize the effects on the threatened and endangered species during the battery removal at the Moss Landing Energy Storage Facility in Moss Landing California.

We have provided this list, along with a list of mitigation measures identified by the California Department of Fish and Wildlife, to Vistra. Vistra has agreed to implement the mitigation measures as described in the attached document, "Moss Landing – Mitigation Measures.pdf". The document summarizes how Vistra proposes to implement the mitigation measures under the "PRP Response" column.

We also acknowledge your instruction to assess and report any adverse effects to species following the abatement of the emergency; and we will work with Vistra to submit the requested letter.

If you have any questions, please let us know.

Thank you,
Laura

Laura Friedli
Attorney-Advisor
U.S. EPA Region IX
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d: (415) 972.3325

From: Bartlett, Kirby M <kirby_bartlett@fws.gov>
Sent: Tuesday, March 3, 2026 3:52 PM
To: Petrie, Ejan <Petrie.Ejan@epa.gov>
Cc: Friedli, Laura <Friedli.Laura@epa.gov>; Brockman, Kazami <Brockman.Kazami@epa.gov>; Hull, Katherine <Hull.Katherine@epa.gov>
Subject: Moss Landing Vistra Energy Battery Fire Cleanup - Emergency Informal Consultation (FWS file no. 2025-0058598)

You don't often get email from kirby_bartlett@fws.gov. [Learn why this is important](#)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Hello Ejan,

We have reviewed your notification of the EPA's oversight of Vistra's battery removal work after the January 2025 fire at Vistra's Moss Landing Energy Storage Facility in Moss Landing California. EPA is overseeing Vista's demolition of the damaged building and removal of onsite debris to McCarran Nevada.

The project is in Moss Landing, California (36.803929, -121.776266) adjacent to Elkhorn Slough. Our receipt of your notification initiates informal emergency consultation procedures pursuant to the regulations implementing section 7 of the Endangered Species Act of 1973, as amended (50 CFR 402.05). The threatened California red-legged frog (*Rana draytonii*), the Central Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*), the Southern sea otter (*Enhydra lutris nereis*), and the endangered tidewater goby (*Eucyclogobius newberryi*) are all known to occur in the vicinity of the proposed project. Therefore, we are providing measures to avoid or minimize the effects on the species during the emergency demolition and removal. **Because you have determined that an imminent threat exists to life and/or property without the proposed action, under no circumstances should any of the measures be implemented if doing so will interfere with alleviating the emergency.**

General Avoidance and Minimization Measures:

1. Prior to engaging existing or new personnel in construction activities, new construction personnel should participate in environmental awareness training conducted by a qualified biologist. Construction personnel will be informed regarding the identification, potential presence, habitat requirements, legal protections, avoidance and minimization measures, and applicable protection measures for all listed plant and animal species with the potential to occur in or immediately adjacent to the project site. Construction personnel will be informed of the procedures to follow should a listed plant or animal species is encountered during construction activities. If the qualified biologist is not regularly on the project site, training may be provided in an online/virtual meeting. Trainings should be translated to any language needed so that all construction personnel can understand the material. Brochures, books, and briefings may be used in the training session, provided that a qualified botanist or biologist is on hand to answer any questions.
2. Only qualified biologists should participate in activities associated with the capture, handling, and surveying for listed animals. All approved biologists should review these measures to ensure compliance with any special considerations.

California Red-legged Frog and California Tiger Salamander Measures:

1. The activities should be monitored daily to ensure that no California red-legged frogs or California

tiger salamanders are in the work area and could be killed or injured. Clearance surveys prior to the onset of activities each day would be prudent to make sure any California red-legged frog or California tiger salamander that have moved into the area overnight are captured.

2. A monitor familiar with the California red-legged frog and California tiger salamander should be present during activities to ensure that any individuals of these species' present are avoided or are allowed to move out of harm's way of their own volition. If suspending the activities is not possible until a California red-legged frog or California tiger salamander leaves on its own accord, a qualified biologist should move the individual animals to suitable habitat nearby to avoid direct injury or mortality.
3. Any California red-legged frogs or California tiger salamanders captured and relocated should be handled for as short a time as possible and transported to relocation sites as quickly as possible. The relocation site should be placed in suitable habitat as close to the capture site as possible, yet far enough to get them out of harm's way. Relocated animals may return to the project site .
4. All biologists engaged in capture/relocation activities should follow the Declining Amphibian Population Task Force Fieldwork Code of Practice (attached) to avoid or minimize the potential to spread pathogens, such as chytrid fungus.
5. All water impoundments should have at least 0.25-inch mesh blocking all intakes to prevent species from entering.
6. All trash should be covered and/or taken off-site to minimize attraction of predators that may feed on amphibians.
7. All refueling and equipment maintenance should be conducted away from waterbodies to avoid accidental contamination.
8. Any open pits or holes should be covered at the end of each workday to avoid entrapment of amphibians that may be dispersing through the area.
9. Biologists should document the location(s) to where California red-legged frogs and California tiger salamanders are relocated, with a description of the habitat and whether any other California red-legged frogs or California tiger salamanders are already present.

After the emergency has abated (i.e., the emergency repair work has been completed) the EPA should assess whether any adverse effects to the California red-legged frog, California tiger salamander, the Southern sea otter, and the endangered tidewater goby occurred and report your findings to us. As soon as possible, you should submit to us a letter describing the actions taken and your assessment of the effects on the California red-legged frog, California tiger salamander, the Southern sea otter, and the endangered tidewater goby, if any. We will either issue our concurrence if you have determined that no adverse effects occurred, if we agree, or we will initiate formal

consultation on the actions that resulted in adverse effects. Please keep in mind that if any adverse impacts occur to these species or their habitats, compensation to offset impacts in accordance with our Service Endangered Species Act Mitigation Policy (attached) might be appropriate.

If you have any questions or updates, please contact me as indicated below. We have assigned number 2025-0058598 to this action, please include this number on all future correspondence reading this action.

Thank you,
Kirby

Kirby M. Bartlett (she/her)

Senior Fish and Wildlife Biologist

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Enclosure B – Mitigation Measures

Appendix A: Mitigation Measures to be Implemented for the CERCLA Response Action

The following table summarizes the strategies recommended by the California Department of Fish and Wildlife to meet ARARs (“Mitigation Measures”) and the potentially responsible parties’ (“PRPs”) responses to the Mitigation Measures. The PRPs will implement the Mitigation Measures as described in the following table:

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Waters of the State; Fully protected species; Endangered, threatened, candidate species</i>	Poisonous materials/“all deleterious materials” should be completely contained on site and within the designated Battery Staging Area (Attachment 2)	Hazardous materials are contained within the fire impacted building (ML300) exclusion zone. All water from impacted areas is collected in the SPCC stormwater vault system and sent to Clean Harbors Seaport Facility for disposal. No surface water has left ML300, including during the fire.
<i>Waters of the State; Fully protected species; Endangered, threatened, candidate species</i>	Vehicles and equipment associated with the CERCLA action should only use ingress and egress corridors identified in Attachment 2.	Vehicles use designated access routes. An onsite and off-site traffic plan was established in cooperation with a third-party traffic engineer. The plan describes the traffic patterns for vehicles onsite and routes immediately leaving the site. The plan further describes the routes of the common materials leaving the site and other vehicles for delivery, equipment, and workers, providing safe routes for demolition debris and battery module onsite transport. The plan includes the map referenced in Attachment 2 of the CDFW ARARs Identification Letter, for battery trucking & staging routes, as well as maps for contractor access and demolition truck routes. See Appendix B .
<i>Waters of the State; Endangered, threatened, candidate species</i>	All vehicles and equipment should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life.	Vehicles are checked daily for any contamination and spills. Vehicles and equipment are washed down with water before leaving the exclusion zone.
<i>Waters of the State; Endangered, threatened, candidate species</i>	If there is a spill or leak [“of deleterious materials”], activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or cleanup by qualified individuals any fuel or hazardous waste spills and leaks at the time of occurrence, or as soon as it is safe to do so.	Spills or leaks are cleaned up immediately. Spill kits are staged in various areas of the Moss Landing Power Plant for this purpose.
<i>Waters of the State; Endangered, threatened, candidate species</i>	No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.	Hazardous materials are contained within the ML300 exclusion zone. Waste materials are covered with sheeting or in lidded, lined waste bins and staged away from any waterbodies.
<i>Waters of the State</i>	No litter or debris should be dumped within streams or areas where such waste could wash into a stream.	Trash is covered and placed in designated areas.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Waters of the State</i>	All debris and waste shall be picked up daily and properly disposed of at an appropriate on-site location.	Trash is placed in designated receptacles at the site. Site staff pick up trash daily as needed. The waste management service picks up trash dumpsters when full, as requested by site staff.
<i>Waters of the State</i>	Vehicles and equipment shall be moved away from streams prior to refueling and lubrication.	No streams are present in refueling and maintenance areas. The gasoline and diesel tanks for MLPP vehicles are located east of the cooling water intake pumps, north of the admin building. Heavy vehicle fueling is done by the contractor. A fueling vehicle comes to the site when needed, and containment is set up prior to fueling.
<i>Fully Protected Species; Endangered, threatened, candidate species</i>	All activities related to the CERCLA action should be completely contained on site.	Hazardous materials are contained within the ML300 exclusion zone
<i>Fully protected species; Endangered, threatened, candidate species</i>	Activities related to the CERCLA action should not be conducted, to the greatest extent possible, when it is actively raining, nor should activities be conducted if a 30 percent or greater chance of rainfall is predicted within 72-hour weather forecast.	Surface stormwater in the ML300 area is completely contained by the pre-existing subcatchment system and actively pumped as needed into storage tanks. No surface runoff has occurred from the ML300 area, including at the time of the fire. There is no runoff from the ML300 Exclusion Zone to other areas, as this area is effectively served by the existing subcatchment system and partially enclosed by curbing. If future rainfall threatens the Exclusion Zone perimeter, sandbags can be added to ensure no water departure from the subcatchment system. Sand bags are available on site at all times. There is no need to stop working during rain, as ML300 stormwater is effectively captured by the subcatchment system. This is collected in frac tanks and transported to Clean Harbors' Seaport facility for disposal. All water is also profiled for the contaminants of concern under the ASAO and the site's Stormwater Pollution Prevention Plan.
<i>Fully protected species; Endangered, threatened, candidate species</i>	When activities related to the CERCLA action are conducted during the nesting bird season (February 1—September 15), a qualified biologist should conduct focused surveys throughout the nesting bird season to identify nesting birds within or adjacent to the Site. This includes trees along Highway 1 and Dolan Road, and any structures within and adjacent to the Site that may be suitable for nesting birds. If a nesting bird is found, CDFW should be contacted as soon as possible for consultation when a nesting bird is identified.	MLPP has a contract biologist monitor bird activity on site throughout the year. The qualified biologist will be a representative of the EMC Planning Group. Monterey. They will contact CDFW as needed based on their assessment.
<i>Fully protected species; Endangered, threatened, candidate species</i>	If activities occur at nighttime, nighttime lighting should be cast downward and directed away from the nest.	Nighttime lighting is directed down towards the work area.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Fully protected species; Endangered, threatened, candidate species</i>	Nighttime lighting should be reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding habitat and open space or upward into the night sky.	There are no planned night operations at ML300.
<i>Endangered, threatened, candidate species; Fully protected species</i>	Vehicle speeds should not exceed a daytime speed limit of 25 miles per hour (mph) and a nighttime speed limit of 15 mph on site. Nighttime is to mean the hours between 30 minutes before sunset and 30 minutes after sunrise (i.e. dawn to dusk) when wildlife is most active.	Vehicle speeds are limited to 10 mph throughout the plant.

Additionally, the PRPs will implement the following Mitigation Measures identified by the United States Department of Fish and Wildlife, as described in the following table:

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>General avoidance and minimization measures</i>	1) Prior to engaging existing or new personnel in construction activities, new construction personnel should participate in environmental awareness training conducted by a qualified biologist. Construction personnel will be informed regarding the identification, potential presence, habitat requirements, legal protections, avoidance and minimization measures, and applicable protection measures for all listed plant and animal species with the potential to occur in or immediately adjacent to the project site. Construction personnel will be informed of the procedures to follow should a listed plant or animal species is encountered during construction activities. If the qualified biologist is not regularly on the project site, training may be provided in an online/virtual meeting. Trainings should be translated to any language needed so that all construction personnel can understand the material. Brochures, books, and briefings may be used in the training session, provided that a qualified botanist or biologist is on hand to answer any questions.	Environmental Staff will provide training for current battery removal operations personnel, most of whom work inside ML300. A Qualified Biologist from EMC Planning Group, Monterey CA will provide training for personnel supporting upcoming external demolition work. Training from a qualified biologist will review protected species identification and notification procedures. A typical training includes: 1. Introduction and pass around worker sign in sheet; 2. Provide handout and discuss special-status species and protected habitats potentially occurring in the project vicinity (including photographs and brief descriptions); 3. Provide handout and discuss BMPs or other protective measures (such as water quality protection measures, work boundaries, work restrictions, etc.); 4. Walk to habitat areas requiring protection and describe specific measures (if in person) or show on map (virtual); and 5. Conclude meeting and reiterate contact information for biologists if species are observed.
<i>General avoidance and minimization measures</i>	2) Only qualified biologists should participate in activities associated with the capture, handling, and surveying for listed animals. All approved biologists should review these measures to ensure compliance with any special considerations.	Only "qualified biologists" will capture or handle listed animals. If the California Red-Legged Frog or California Tiger Salamander are found onsite, biologists will follow the <i>Declining Amphibian Populations Task Force Fieldwork Code of Practice</i> .

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>California Red-legged frog and california tiger salamander measures</i>	1) The activities should be monitored daily to ensure that no California red-legged frogs or California tiger salamanders are in the work area and could be killed or injured. Clearance surveys prior to the onset of activities each day would be prudent to make sure any California red-legged frog or California tiger salamander that have moved into the area overnight are captured.	Activities are monitored daily by work teams and at the start of every shift. If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered per the <i>Declining Amphibian Populations Task Force Fieldwork Code of Practice</i> , when applicable.
<i>California Red-legged frog and california tiger salamander measures</i>	2) A monitor familiar with the California red-legged frog and California tiger salamander should be present during activities to ensure that any individuals of these species' present are avoided or are allowed to move out of harm's way of their own volition. If suspending the activities is not possible until a California red-legged frog or California tiger salamander leaves on its own accord, a qualified biologist should move the individual animals to suitable habitat nearby to avoid direct injury or mortality.	If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered.
<i>California Red-legged frog and california tiger salamander measures</i>	3) Any California red-legged frogs or California tiger salamanders captured and relocated should be handled for as short a time as possible and transported to relocation sites as quickly as possible. The relocation site should be placed in suitable habitat as close to the capture site as possible, yet far enough to get them out of harm's way. Relocated animals may return to the project site.	If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered.
<i>California Red-legged frog and california tiger salamander measures</i>	4) All biologists engaged in capture/relocation activities should follow the Declining Amphibian Population Task Force Fieldwork Code of Practice (attached) to avoid or minimize the potential to spread pathogens, such as chytrid fungus.	Biologists will be instructed on the <i>Declining Amphibian Population Taskforce Fieldwork Code of Practice</i> .
<i>California Red-legged frog and california tiger salamander measures</i>	5) All water impoundments should have at least 0.25-inch mesh blocking all intakes to prevent species from entering.	There are no water impoundments in the demolition area. Stormdrains are lined with intake filters, using filter fabric.
<i>California Red-legged frog and california tiger salamander measures</i>	6) All trash should be covered and/or taken off-site to minimize attraction of predators that may feed on amphibians.	Trash is placed in designated receptacles at the site. Containers are lined with bags and covered. Site staff pick up trash daily as needed. The waste management service picks up trash dumpsters when full, as requested by site staff.
<i>California Red-legged frog and california tiger salamander measures</i>	7) All refueling and equipment maintenance should be conducted away from waterbodies to avoid accidental contamination.	These activities are conducted away from water bodies and, where possible, with spill containment. The gasoline and diesel tanks for MLPP vehicles are located east of the cooling water intake pumps, north of the administration building. Heavy vehicle fueling is done by the contractor. A fueling vehicle comes to the site when needed, and containment is set up prior to fueling.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>California Red-legged frog and california tiger salamander measures</i>	8) Any open pits or holes should be covered at the end of each workday to avoid entrapment of amphibians that may be dispersing through the area.	There are no open pits or holes. If an excavation is needed for pipe or utility repair, for example, the hole is checked daily and only left open until the work is completed.
<i>California Red-legged frog and california tiger salamander measures</i>	9) Biologists should document the location(s) to where California red-legged frogs and California tiger salamanders are relocated, with a description of the habitat and whether any other California red-legged frogs or California tiger salamanders are already present.	If protected species are identified, captured, and relocated, the qualified biologist doing this work will document the locations.

Enclosure C – Letter from EPA to CalEPA requesting State ARARs identification



REGION 9

SAN FRANCISCO, CA 94105

April 15, 2025

Hasti Javid
CalEPA Enforcement Coordinator
Office of the Secretary -- Enforcement
California Environmental Protection Agency
1001 I Street, 25th Floor
Sacramento, CA 95814

**Subject: Request for Identification of State ARARs
Moss Landing Site
Moss Landing, California
EPA ID: A9F4**

Dear Hasti Javid:

As the State has been informed, the Superfund removal program of the Environmental Protection Agency ("EPA") is preparing for a removal action at the Moss Landing Energy Storage Facility located in Moss Landing, California. To perform this action, EPA will attempt to comply to the extent practicable with all applicable or relevant and appropriate requirements ("ARARs") of State environmental and facility siting laws. This letter is a request to the State of California for notification to the EPA Federal On-Scene Coordinator ("OSC") of any State statutes or regulations that the State believes are potential ARARs for the removal site. This letter contains information on site conditions and proposed actions to assist you in identifying ARARs. I have been selected as the lead OSC for this site.

A description of site conditions and proposed actions are as follows.

Site Description/Background

The site ("Site") is the Moss Landing Power Plant ("MLPP"), inclusive of a 750 mega-watt battery energy storage system ("BESS") and a natural gas-powered electricity generation plant, located at 11283 Dolan Road, in Moss Landing, California, 95039. The Site includes a 300 mega-watt BESS ("ML300 BESS"). The ML300 BESS is located in a two-story, freestanding concrete and brick building. The ML300 BESS is comprised of approximately 100,000 lithium nickel manganese cobalt ("Li-NMC") battery modules.

On January 16, 2025, the ML300 BESS experienced an event that resulted in a fire with an associated smoke plume. The fire flared up again on February 18, 2025, and may continue to flare up periodically until battery removal is complete.

Li-NMC batteries in the ML300 BESS were damaged in the fire. Li-NMC batteries contain nickel, a hazardous substance, and other constituents of concern including, but not limited to, manganese compounds, and cobalt compounds. The fire deposited heavy metals as particulates, including, nickel, manganese, cobalt, copper and aluminum around the Site.

The Li-NMC batteries in the ML300 BESS that were not directly affected by the fire likely experienced thermal insult and, as such are being presumed to be unstable and pose a risk of entering thermal runaway, or a secondary fire. Li-NMC batteries may produce hydrogen fluoride, a hazardous substance, and other flammable and toxic gases during thermal runaway. The damaged batteries remaining in the ML300 BESS pose a threat of release of hydrogen fluoride and other toxic and flammable gases if they go into thermal runaway.

Proposed Actions

EPA is planning to require a PRP-lead removal action at the Site. EPA's proposed actions include requiring the owners and/or operators of the MLPP to clean up the Site by dismantling the building containing the ML300 BESS as necessary to remove all Li-NMC battery modules and removing the battery modules, characterizing the battery modules as Damaged, Defective, and Recalled ("DDR") or non-DDR, and treating and packaging the DDR and non-DDR battery modules for off-site transportation and disposal according to their proper characterization as DDR or non-DDR.

The National Oil and Hazardous Substances Pollution Contingency Plan provides the following definitions for applicable or relevant and appropriate requirements:

- Applicable requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site.
- Relevant and appropriate requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not "applicable" to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site, address problems or situations sufficiently similar to those encountered at the CERCLA site that their use is well suited to the particular site.

40 C.F.R. § 300.5. Only those state standards that are identified in a timely manner and are more stringent than federal requirements may be ARARs. Further, because CERCLA on-site response actions do not require permitting, only substantive requirements are considered as possible ARARs. Administrative requirements such as approval of, or consultation with, administrative bodies, issuance of permits, documentation, reporting, record keeping, and enforcement are not ARARs for CERCLA

response actions confined to the site. 42 U.S.C. § 9621(d). Various removal activities are expected to occur entirely on-site, including building demolition, as necessary for removal of the battery modules, and characterization, processing, and packaging of the battery modules. Actual disposal of the battery modules in different forms is expected to occur off-site.

We request that an appropriate state official identify potential ARARs in the tables provided, or an equivalent format. These tables are divided into three sections addressing the following categories: chemical, location, and action-specific requirements. Chemical-specific requirements are health, technology, or risk-based numeric values that establish the acceptable amount or concentration of a chemical that may be found in, or discharged to, the ambient environment. Location-specific requirements are restrictions placed on the concentration of hazardous substances or the conduct of activities solely because they occur in special locations. For example, the requirement that hazardous waste storage facilities location within 100-year flood plains must be designed, constructed, operated, and maintained to avoid washout is considered a location-specific requirement. Action-specific requirements are technology or activity-based requirements or limitations on actions taken with respect to hazardous waste.

For reference only, we have provided, as **Attachment A**, a list of State regulations that were determined to have constituted ARARs for a removal action in California at a former electroplating facility that experienced a fire, leaving burn debris and remnant structures containing hazardous waste, including hexavalent chromium, nickel, lead, arsenic, cadmium, and several hazardous substances. The proposed removal activities included the removal and disposal of hazardous substances and hazardous waste in burn debris and in the remnant structures.

Please respond in a timely manner (within 7 days if possible) so that the requirements may be considered for the removal action. Exact references or citation to the statutes and regulations, or copies of pertinent provisions of these State requirements, will greatly facilitate our ability to evaluate these requirements as ARARs for the Site.

EPA will examine these requirements in order to determine whether they are applicable or relevant and appropriate to the Site. The Superfund removal program is required to comply with ARARs to the extent practicable, considering the exigencies of the situation. It is important to clarify, however, that some requirements identified by the State may be determined not to be ARARs or may be determined to be impracticable to meet or may qualify for a waiver. Please call me at (415)-972-3091, if additional information on the Site is needed for the purpose of completing the ARARs review.

Thank you for your assistance on this matter.

Sincerely,

RAMON ALBIZU ANGULO

Digitally signed by RAMON ALBIZU
ANGULO
Date: 2025.04.15 12:54:26 -07'00'

Ramon D. Albizu Angulo
Federal On-Scene Coordinator

Enclosures

Attachment 1. Chemical-Specific Requirements

Attachment 2. Location-Specific Requirements

Attachment 3. Action-Specific Requirements

Attachment A - Example List of California ARARs

cc:

Ejan Petrie, EPA

Katherine Hull, EPA

Justin Marquez, EPA

Kazami Brockman, EPA

Laura Friedli, EPA

ATTACHMENT 1. CHEMICAL-SPECIFIC REQUIREMENTS

Chemical	Maximum Concentration Allowed	Medium	Reason why Requirement is an ARAR	Regulatory Citation

(to be filled out by State Official)

ATTACHMENT 2. LOCATION-SPECIFIC REQUIREMENTS

Location Subject to Requirement	Requirement	Reason Why Requirement is an ARAR	Regulatory Citation

(to be filled out by State Official)

ATTACHMENT 3. ACTION-SPECIFIC REQUIREMENTS

Action Subject to Requirement	Requirement	Reason Why Requirement is an ARAR	Regulatory Citation

(to be filled out by State Official)

Attachment A – Example List of California ARARs

California's Authorized Hazardous Waste Regulations: California Code of Regulations, Title 22, Sections §§ 66262.10 - 66262.89; § 66264.13; § 66264.200; §§ 66264.170 - 66264.179; § 66268.1 et seq.; § 66260.10;

California's authorized hazardous waste regulation regulates the generation, storage, treatment and disposal of hazardous waste in California. This is an applicable ARAR that will be complied with to the extent practicable considering the exigencies of the removal action.

California Hazardous Waste Regulations, Generator Requirements, 22 CCR §§ 66262.10 - 66262.89: lists the sections of California law with which a generator of hazardous waste must comply.

Hazardous Waste Determination, 22 CCR §§ 66264.13 and 66264.200: Criteria to determine if a material is hazardous. Applicable for hazardous waste taken off-Site. Relevant and appropriate for on-Site management units.

Use and Management of Containers, 22 CCR §§ 66264.170 - 66264.179: Standards for use and management of containers containing hazardous waste. Relevant and appropriate for on-Site management units.

California Land Disposal Restrictions, Requirements for Generators, 22 CCR § 66268.1 et seq.: Prior to transporting for off-Site disposal, hazardous waste must be characterized to determine whether land disposal restriction treatment standards apply and whether the waste meets the treatment standards. This information must be provided to the off-site facility with the first waste shipment.

Land Disposal Restrictions, 22 CCR § 66260.10: Land Disposal Restrictions: establishes specific treatment standards of hazardous waste prior to disposal to land. Applicable to off-site disposal.

Enclosure D – Letter from CalEPA to EPA identifying potential State ARARs

From: Wilder, Allison@EPA
To: [Friedli, Laura](#); [Albizu, Ramon](#)
Cc: [Javid, Hasti@EPA](#); [Anderson, Trevor@EPA](#)
Subject: Applicable or Relevant and Appropriate Requirements (ARARs) - Cal EPA Submission
Date: Thursday, May 1, 2025 8:00:52 AM
Attachments: [image001.png](#)
[ARAR Requirements - State ARARs.pdf](#)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Good morning,

Please see attached the following Applicable or Relevant and Appropriate Requirements (ARARs) we have received from the State Water Resources Control Board (SWRCB)/Central Coast Water Board and the Department of Toxic Substances Control (DTSC).

ARARs were not received from the following BDOs:

- California Air Resources Board (CARB)
- CalRecycle

Thank you for your patience and let us know if you have any questions.

Allison Wilder
Environmental Scientist
Office of the Secretary
California Environmental Protection Agency
1001 I Street, Sacramento, CA 95814
Work Cell: (279) 203-8737



**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

CHEMICAL	MAXIMUM CONCENTRATION ALLOWED	MEDIUM	REASON WHY REQUIREMENT IS AN ARAR	REGULATORY CITATION
Metals, dioxins and furans, polyaromatic hydrocarbons (PAHs), 1-1-difluoroethene homopolymer	Background. Cleanup to background must be done to the maximum extent feasible.	Soil, surface water, and groundwater	Chemicals of concern must be determined, delineated, and cleaned up to the maximum extent feasible when they impact or threaten to impact water quality.	State Water Resources Control Board Resolution 68-16 ¹ State Water Resources Control Board Resolution 92-49 ²
Determine all chemicals of concern A final itemization of chemicals of concern isn't yet possible because there has not been laboratory analysis to chemically profile waste materials associated with the Moss Landing Power Plant to be certain what is in the waste materials. Chemical profiling of burn waste material at the building ML 300 location should be done, at a minimum, for:	Background. Cleanup to background must be done to the maximum extent feasible.	Soil, surface water, and groundwater	Chemicals of concern must be determined, delineated, and cleaned up to the maximum extent feasible when the impact or threaten to impact water quality.	State Water Resources Control Board Resolution 68-16 State Water Resources Control Board Resolution 92-49

¹ Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

² Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

• Metals and cations • Anions • Dioxins and furans • PAHs • PFAS (including 1,1-difluoroethene homopolymer) • pH • Non-Target Analysis (NTA)				
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**Applicable or Relevant and Appropriate Requirements
Location-Specific Requirements**

LOCATION SUBJECT TO REQUIREMENT	REQUIREMENT	REASON WHY REQUIREMENT IS AN ARAR	REGULATORY CITATION
Land Disposal Restrictions	Solid waste disposal prohibitions require the disposal of Class I and Class II materials only at appropriately permitted sites and a prohibition to not discharge solid waste to rivers, streams, creeks, or any natural drainageways or floodplains of the forgoing.	Applicable for discharges of solid waste to land (including temporary storage of solid waste for staging and/or recycling).	Section 4.6.4.1. of the Water Quality Control Plan for the Central Coast Region, June 2024 Edition ¹
All Locations Impacted	Clean Closure	Required in Title 27 and 23	Clean Closure Regulations from Title 27 and 23 [23 Cal Code Regs ch. 15]
All locations on and off-site where discharges have or will have impacts.	Delineate full extent of impacts in soil, surface water, and groundwater resulting from discharge(s).	It is necessary to delineate the extent of discharge impacts so that decisions can be made to ensure that cleanup to the maximum extent that is both technical and economically feasible occurs.	State Water Resources Control Board Resolution 68-16 ² State Water Resources Control Board Resolution 92-49 ³

¹ Water Quality Control Plan:

https://www.waterboards.ca.gov/centralcoast/water_issues/programs/basin_plan/docs/2https://www.waterboards.ca.gov/centralcoast/water_issues/programs/basin_plan/docs/2024_basin_plan_r3.pdf024_basin_plan_r3.pdf

² Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

³ Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

ACTION SUBJECT TO REQUIREMENT	REQUIREMENT	REASON WHY REQUIREMENT IS AN ARAR	REGULATORY CITATION
Land Disposal Restrictions	If waste is not designated as Class I or Class II materials, the solid waste disposal requirements of Title 27 may apply if waste piles are used during the PRP-lead removal action. This includes siting criteria, design considerations, precipitation and drainage controls, etc.	Applicable for discharges of solid waste to land (including temporary storage of solid waste for staging and/or recycling).	Title 27 section 20080 ¹
Cleanup and Abatement Measures	Identification and implementation of cleanup and abatement actions that result in cleanup to the maximum extent feasible.	Applicable to discharges of waste that may adversely impact water quality.	State Water Resources Control Board Resolution 68-16 ² State Water Resources Control Board Resolution 92-49 ³

¹ Title 27: https://www.waterboards.ca.gov/water_issues/programs/land_disposal/docs/t27div2_2010.pdf

² Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

³ Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements for DTSC**

ACTION SUBJECT TO REQUIREMENT	REQUIREMENT	REASON WHY REQUIREMENT IS AN ARAR	REGULATORY CITATION
CA Hazardous Waste Laws and Regulations	Hazardous Waste Generator Requirements	Applicable to Generators of Hazardous Waste in California	22 CCR §§ 66262.10 - 66262.89
Hazardous Waste Determination	Waste generators must determine if the waste they generate must be managed as a hazardous waste.	Applicable to Generators of Hazardous Waste in California	§66262.11 & 66260.200(a) & (c)
Container Management	Storage container and accumulation requirements for hazardous waste generators	Applicable to Generators of Hazardous Waste in California	22 CCR §66262.17(a)
Hazardous Waste Treatment Notification	Notification of eligible onsite hazardous waste treatment activities.	Applicable to Generators of Hazardous Waste in California	HSC §25201(a); 22 CCR §66270.1
Facility Maintenance and Operation	Maintain and operate facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of HW or HW constituents to air, soil, or surface water which could threaten human health or the environment.	Applicable to Generators of Hazardous Waste in California	22 CCR §66262.251
California Land Disposal Restrictions	Prior to transporting for off-Site disposal, hazardous waste must be characterized to determine whether land disposal restriction treatment standards apply and whether the waste meets the treatment standards. This information must be provided to the off-site facility with the first waste shipment.	Applicable to Generators of Hazardous Waste in California	22 CCR § 66268.1
<i>Land use covenants</i>	Provides conditions for land use restrictions to run with the land and bind successive owners	Relevant and appropriate	California Civil Code §1471(a) through (d)

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements for DTSC**

<i>Land Use Covenants</i>	If site does not meet unlimited use / unrestricted exposure, then a land use covenant is required	Relevant and appropriate	CA Health and Safety Code 22 CCR § 67391.1
<i>Minimum Standards for Health and Ecological Risk Assessments</i>	Risk assessments for remedy selection must not only meet NCP requirements, but also must also include most current sound scientific methods, knowledge and practices of public health and environmental professionals	Relevant and Appropriate	California Health & Safety Code §25356.1.5(b)

REFERENCES:

<https://dtsc.ca.gov/hazardous-waste-generator-summary-chart/>

<https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/10/Final-Toxicity-Criteria-Rule-Text-2018-09-04-clean-A.pdf>

<https://dtsc.ca.gov/land-use-covenants-regulations/>

<https://dtsc.ca.gov/wp-content/uploads/sites/31/2022/03/Land-Use-Covenant.pdf>

Enclosure E – EPA Comments to State Potential ARARs List



REGION 9

SAN FRANCISCO, CA 94105

October 20, 2025

Hasti Javid
CalEPA Enforcement Coordinator
Office of the Secretary – Enforcement
California Environmental Protection Agency
1001 I Street, 25th Floor
Sacramento, CA 95814

**Subject: Request for Identification of State ARARs
Moss Landing Site
Moss Landing, California
EPA ID: A9F4**

Dear Hasti Javid:

On April 15, 2025, the United States Environmental Protection Agency ("EPA") provided you with a letter to inform you, as representative for the State of California ("State"), that EPA is preparing for a removal action at the Moss Landing Energy Storage Facility located in Moss Landing, California (the "Site"). EPA indicated that to perform this action, EPA will attempt to comply to the extent practicable with all applicable or relevant and appropriate requirements ("ARARs") of State environmental and facility siting laws. EPA requested the identification of potential State ARARs for the Site. On May 1, 2025, the OSC received a list of potential ARARs from you.

As noted in EPA's April 15, 2025, letter, the Superfund removal program is required to comply with ARARs to the extent practicable, considering the exigencies of the situation. On-Scene Coordinators ("OSCs") for the response make the determination of whether requirements identified by the State are ARARs or are impracticable to meet or qualify for a waiver. EPA has examined the list of potential ARARs identified by the State in order to determine whether they are applicable or relevant and appropriate for the Site.

Please see EPA's detailed determinations in **Enclosure A**, which reproduces the State's May 1, 2025, list of potential ARARs and provides EPA's determinations of ARARs status in the column under the heading "EPA ARAR Status Determination," and provides explanations in the column under the heading "EPA Comment."

Thank you for your assistance on this matter. For any questions, please contact me at albizu.ramon@epa.gov or (415)-972-3091.

Sincerely,

**RAMON ALBIZU
ANGULO**

 Digitally signed by RAMON
ALBIZU ANGULO
Date: 2025.10.20 11:35:12 -07'00'

Ramon D. Albizu Angulo
Federal On-Scene Coordinator

Enclosures

Enclosure A – EPA Comments to State Potential ARARs List

cc:

Ejan Petrie, EPA
Katherine Hull, EPA
Justin Marquez, EPA
Kazami Brockman, EPA
Laura Friedli, EPA

Enclosure A – EPA Comments to State Potential ARARs List

**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

CHEMICAL	MAXIMUM CONCENTRATION ALLOWED	MEDIUM	EPA ARAR STATUS DETERMINATION	DESCRIPTION	REGULATORY CITATION	EPA COMMENT
Metals, dioxins and furans, polycyclic aromatic hydrocarbons (PAHs), 1,1-difluoroethene homopolymer	Background. Cleanup to background must be done to the maximum extent feasible.	Soil, surface water, and groundwater	Not an ARAR.	Chemicals of concern must be determined, delineated, and cleaned up to the maximum extent feasible when they impact or threaten to impact water quality.	State Water Resources Control Board Resolution 68-16 ¹ State Water Resources Control Board Resolution 92-49 ²	Resolution 68-16 is not an ARAR for the response because it pertains only to activities that will occur off-site. Resolution 68-16 applies to “any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters . . .” “Discharge,” is generally defined in the glossary for the Central Coast Regional Water Board as “the passing of water or other liquid through an opening or along a conduit or channel.” No water or other liquid will be discharged on, or from, the site to waters of the State as part of the response activities. Any rainwater onsite will be captured and managed in the facility’s stormwater management system and will be sampled and characterized prior to off-site disposal (sampling will be based on the proposed receiving facility’s acceptance criteria and will generally include sampling for Title 22 metals and TCLP). The receiving facilities will be subject to discharge requirements; however, off-site legal requirements are not considered ARARs. Further, EPA takes the position that Resolution 68-16 is a statement of policy, and, as such, is not a cleanup standard, standard of control, or substantive requirement, criteria or limitation promulgated under state environmental law. Therefore, Resolution 68-16 is not an ARAR.

¹ Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

² Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

						Resolution 92-49 is not an ARAR for the response because it pertains to activities that are outside the scope of the response. Resolution 92-49 pertains to investigations and cleanup and abatement activities resulting from discharges of hazardous substances. The activities being conducted as part of EPA's response are battery removal activities necessary to address the near-term threats of the potential explosion or ignition of damaged batteries remaining at the site. The scope of the response, therefore, is limited to demolition of the fire-impacted building--to the extent necessary to safely access and remove battery modules-- and the off-site disposal of related materials including building debris, ash, and battery material. Accordingly, requirements pertaining to demolition, battery processing, and off-site disposal may be potential ARARs for the response action; however, requirements pertaining to the cleanup of soils, surfacewater, and groundwater contamination would not be ARARs for this response action because the response action is not intended to address soils, surfacewater, or groundwater, based on the potential discharge from the January and February 2025 fires. Moreover, response activities will not include any discharges of hazardous substances at the site, so the response activities will not trigger requirements for investigation and potential remediation.
Determine all chemicals of concern A final itemization of chemicals of concern isn't	Background. Cleanup to background must be done to the maximum extent feasible.	Soil, surface water, and groundwater	Not an ARAR.	Chemicals of concern must be determined, delineated, and cleaned up to the maximum extent feasible when the impact or threaten	State Water Resources Control Board Resolution 68-16 State Water Resources Control Board Resolution 92-49	Same comments as immediately above.

**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

yet possible because there has not been laboratory analysis to chemically profile waste materials associated with the Moss Landing Power Plant to be certain what is in the waste materials. Chemical profiling of burn waste material at the building ML 300 location should be done, at a minimum, for: •Metals and cations •Anions •Dioxins and furans •PAHs •PFAS (including 1,1-difluoroethene homopolymer) •pH •Non-Target Analysis (NTA)				to impact water quality.		
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**Applicable or Relevant and Appropriate Requirements
Chemical-Specific Requirements**

Basin Plan = Water Quality Control Plan for the Central Coast Region, June 2024 Edition

C.F.R. = Code of Federal Regulations

C.C.R. = California Code of Regulations

H.S.C. = California Health and Safety Code

Resolution 68-16 = State Water Resources Control Board Resolution 68-16

Resolution 92-49 = State Water Resources Control Board Resolution 92-49

**Applicable or Relevant and Appropriate Requirements
Location-Specific Requirements**

LOCATION SUBJECT TO REQUIREMENT	REQUIREMENT	EPA ARAR STATUS DETERMINATION	DESCRIPTION	REGULATORY CITATION	EPA COMMENT
Land Disposal Restrictions	Solid waste disposal prohibitions require the disposal of Class I and Class II materials only at appropriately permitted sites and a prohibition to not discharge solid waste to rivers, streams, creeks, or any natural drainageways or floodplains of the forgoing.	Not an ARAR.	Applicable for discharges of solid waste to land (including temporary storage of solid waste for staging and/or recycling).	Section 4.6.4.1. of the Water Quality Control Plan for the Central Coast Region, June 2024 Edition ³	Section 4.6.4.1 of the Basin Plan is not an ARAR for the response because it pertains only to activities that will occur off-site. Section 4.6.4.1 of the Basin Plan prohibits certain discharges of solid wastes. “Discharge” means, “the passing of water or other liquid through an opening or along a conduit or channel.” “Solid Waste” includes “any garbage, refuse, sludge from treatment activities, and other discarded material (including solid, liquid, and contained gaseous material) resulting from industrial, commercial, mining and agricultural operations and from community activities.” Section 4.6.4.1 is not applicable to the on-site response because no “discarded material” will be discharged to land at the site. Waste streams generated from the response activities at the site will generally include battery materials and building debris. Battery modules will be either sent off-site for recycling or will be treated on-site (brined and shredded) and the resulting material will be characterized for proper disposal as hazardous or non-hazardous waste and disposed of off-site. Building debris will also be characterized prior to off-site disposal. EPA’s position is that any temporary staging for treatment of battery modules on-site will not constitute “discharge,” within the meaning of the Basin Plan requirements. ⁴ The receiving facilities will be subject to

³ Water Quality Control Plan: https://www.waterboards.ca.gov/centralcoast/water_issues/programs/basin_plan/docs/2024_basin_plan_r3.pdf024_basin_plan_r3.pdf
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/basin_plan/docs/2

⁴ See the “Basin Plan” definitions found at: https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/bp_glossary.html#Dd. Even applying the definition of “discharge,” under 22 C.C.R. § 66260.10 (incorporated by reference in 23 C.C.R. § 2601 and 27 C.C.R § 20164, which means, “the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water,” leads to the conclusion that “discharge” will not be occurring at the site. While battery material may be temporarily placed on a limited, paved area of the site for treatment, the battery material will not be “emitted” or “dumped” on the land at the site.

**Applicable or Relevant and Appropriate Requirements
Location-Specific Requirements**

					discharge prohibitions; however, off-site legal requirements are not considered ARARs.
All Locations Impacted	Clean Closure	Not an ARAR.	Required in Title 27 and 23	Clean Closure Regulations from Title 27 and 23 [23 Cal Code Regs Ch. 15]	Clean Closure regulations are found at 23 C.C.R. § 2580 et seq. and 27 C.C.R. § 20950 et seq. 23 C.C.R. § 2580 et seq. and 27 C.C.R. § 20950 et seq. are not ARARs for the response because they pertain only to activities that will occur off-site. The requirements of 23 C.C.R. § 2580 et seq. pertain to “water quality aspects of waste discharge to land.” “Discharge” includes “the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.” See 23 C.C.R. § 2510(a).⁵ 23 C.C.R. § 2580 et seq. also includes “requirements for waste treatment, storage, or disposal in landfills, surface impoundments, waste treatment piles, and land treatment facilities.” Each of “landfill,” “surface impoundment,” “waste pile,” and “land treatment facility,” is defined as a “waste management unit.” A “waste management unit,” in turn, is defined as “an area of land, or a portion of a waste management facility, at which waste is discharged.” As discussed immediately above, the PRP’s response activities do not include “discharge” to land at the site. The temporary staging of battery material on a limited, paved area of the site does not meet the definition of “discharge,” as no waste will be “spill[ed], leak[ed], . . . emitt[ed], empt[ied], or dump[ed]” at those areas. Since there will be no areas at the site where

⁵ 23 C.C.R. § 2580 et seq. also contains requirements applicable “to cleanup and abatement actions for unregulated discharges to land of hazardous waste (e.g., spills), taken pursuant to . . . Resolution No. 92-49 . . .” See 23 C.C.R. § 2510(a). Requirements applicable to cleanup and abatement actions for unregulated discharges to land of hazardous waste (e.g., spills) do not pertain to the response action because the response activities are limited to addressing the potential near-term threats of fire or explosion of remaining battery modules.

**Applicable or Relevant and Appropriate Requirements
Location-Specific Requirements**

					waste is “discharged,” there are no areas at the site that meet the definition of “landfill,” “surface impoundment,” “waste pile,” and/or “land treatment facility.” 27 C.C.R. § 20950 et seq. similarly pertains to “discharge” and “waste management units.” 27 C.C.R. § 20950 et seq. provides closure standards applicable to “dischargers who are implementing final closure of a new or existing classified solid waste management unit . . . or are implementing complete final closure of a portion of a solid waste landfill,” as well as closure requirements for “surface impoundments,” “waste piles,” and “land treatment units.” Each of these provisions pertain to “waste management units,” defined as “an area of land, or a portion of a waste management facility, at which waste is discharged,” where “discharge,” has the meaning in 22 C.C.R. § 66260.10, or “the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.” There will not be discharge occurring at the site as part of the response; therefore, there will not be any “waste management units” requiring closure at the site. Receiving facilities of waste from the site may be subject to closure requirements, but off-site legal requirements are not considered ARARs.
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**Applicable or Relevant and Appropriate Requirements
Location-Specific Requirements**

All locations on and off-site where discharges have or will have impacts.	Delineate full extent of impacts in soil, surface water, and groundwater resulting from discharge(s).	Not an ARAR.	It is necessary to delineate the extent of discharge impacts so that decisions can be made to ensure that cleanup to the maximum extent that is both technical and economically feasible occurs.	State Water Resources Control Board Resolution 68-16 ⁶ State Water Resources Control Board Resolution 92-49 ⁷	See comments above regarding Resolution 68-16 and Resolution 92-49.
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C.F.R. = Code of Federal Regulations

C.C.R. = California Code of Regulations

H.S.C. = California Health and Safety Code

PRP = Potentially responsible party

Resolution 68-16 = State Water Resources Control Board Resolution 68-16

Resolution 92-49 = State Water Resources Control Board Resolution 92-49

⁶ Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

⁷ Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

ACTION SUBJECT TO REQUIREMENT	REQUIREMENT	EPA ARAR STATUS DETERMINATION	DESCRIPTION	REGULATORY CITATION	EPA COMMENT
Land Disposal Restrictions	If waste is not designated as Class I or Class II materials, the solid waste disposal requirements of Title 27 may apply if waste piles are used during the PRP-lead removal action. This includes siting criteria, design considerations, precipitation and drainage controls, etc.	Not an ARAR.	Applicable for discharges of solid waste to land (including temporary storage of solid waste for staging and/or recycling).	California Code of Regulations Title 27 section 20080 ⁸	27 C.C.R. § 20080 is not an ARAR for the response because it pertains to activities that will not occur at the site as part of the response. 27 C.C.R. § 20080 “pertain[s] to water quality aspects of discharges of solid waste to land for treatment, storage, or disposal” and “establish[es] waste and site classifications and waste management requirements for solid waste treatment, storage, or disposal in landfills, surface impoundments, waste piles and land treatment units.” “Discharge” includes “the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.” As discussed, the PRP’s on-site response activities will not include “discharge” to land. Specifically, “waste piles” will not be used at the site. A “waste pile” is defined as “a waste management unit at which only noncontainerized, bulk, dry solid waste is discharged and piled on the land surface.” A “waste management unit” is defined as “an area of land, or a portion of a waste management facility, at which waste is discharged.” It is EPA’s view that response activities at the site will not meet the definition of “discharge,” and therefore, there will be no “waste management units” at the site, including “waste piles.” Response activities will include staging of battery modules on a limited, paved area of the site near the damaged building prior to being either brined and shredded or loaded directly onto trucks for transportation off-site. Other materials, and processed battery materials, will be containerized in roll-off bins or similar containers. The staging and storage of battery materials in this manner does not constitute “the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste onto any land or water.”

⁸ Title 27: https://www.waterboards.ca.gov/water_issues/programs/land_disposal/docs/t27div2_2010.pdf

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

Cleanup and Abatement Measures	Identification and implementation of cleanup and abatement actions that result in cleanup to the maximum extent feasible.	Not an ARAR.	Applicable to discharges of waste that may adversely impact water quality.	State Water Resources Control Board Resolution 68-16 ⁹ State Water Resources Control Board Resolution 92-49 ¹⁰	See comments above regarding Resolution 68-16 and Resolution 92-49.
CA Hazardous Waste Laws and Regulations	Hazardous Waste Generator Requirements	Applicable if any state-regulated hazardous waste is generated.	Applicable to Generators of Hazardous Waste in California	22 C.C.R. §§ 66262.10 - 66262.89	The requirements in 22 C.C.R. §§ 66262.10-66262.89 apply to “generators” of “hazardous waste.” A “generator” is “any person, by site, whose act or process produces hazardous waste identified or listed in chapter 11 of [Title 22, Division 4.5] or whose act first causes a hazardous waste to be subject to regulation.” See 22 C.C.R. § 66260.10. “Hazardous waste” includes a waste that is not excluded from classification as a waste or a hazardous waste and meets the criteria for characteristic or listed hazardous waste. “Waste” includes material that is “accumulated, stored or treated, but not recycled, before or in lieu of, being relinquished by being disposed of burned, or incinerated.” Several waste streams will be generated on-site during response activities. These include the following, some of which may constitute hazardous waste: • Steel, aluminum, and metal for recycling; • Concrete for recycling; • Untreated battery modules for recycling; • Treated battery material for recycling; • Rainwater ponded in stormwater management system; and • Electronic waste. Waste generated during demolition or response activities must

⁹ Resolution 68-16: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf

¹⁰ Resolution 92-49: https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

					be characterized and managed in accordance with state hazardous waste management requirements.¹¹ The requirements in 22 C.C.R. §§ 66262.10-66262.89 are applicable to “treatment” and “storage” of hazardous waste and applicable to the response to the extent materials generated on-site are characterized as hazardous waste. 22 C.C.R. § 66260.10 defines “treatment” as “any method, technique, or process which changes or is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose including, but not limited to, energy recovery, material recovery, or reduction in volume.” Certain battery modules will be treated in a brining solution in stationary tanks to release potentially hazardous substances such as hydrogen fluoride, and the remaining material will be shredded. Certain battery modules will not be treated in a brining solution or shredded but will be de-energized at the site prior to disposal, which may also constitute “treatment.” Such treatment must comply with state hazardous waste management requirements for treatment. Further, 22 C.C.R. § 66260.10 defines “storage” as “the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.” “Storage” is anticipated during response activities in the following manner: (i) battery modules will be temporarily staged on pavement for de-energizing; (ii) some battery modules will be temporarily stored in brining solution tanks; (iii) residual battery material, building debris, and other remediation waste may be temporarily stored in roll-off bins (containers). Such storage must comply with state hazardous waste management requirements for storage.
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¹¹ The administrative portions of the regulations are not considered ARARs.

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

Hazardous Waste Determination	Waste generators must determine if the waste they generate must be managed as a hazardous waste.	Applicable if any state-regulated hazardous waste is generated.	Applicable to Generators of Hazardous Waste in California	22 C.C.R. §§ 66262.11 & 66260.200(a) & (c)	22 C.C.R. § 66262.11 provides that a person who generates a waste shall determine if that waste is hazardous by using the method set forth in 22 C.C.R. § 66262.11. 22 C.C.R. § 66260.200(a) states that a waste will be classified as a hazardous waste if it meets the definition of a hazardous waste in 22 C.C.R. § 66261.3. 22 C.C.R. § 66260.200(c) provides that it is a generator's responsibility to determine if the waste is classified as a hazardous waste pursuant to 22 C.C.R. § 66260.200(a). As discussed, hazardous waste may be generated as part of the response activities. Proper waste determinations must be made for waste generated during demolition or remediation must be characterized prior to off-site disposal.
Container Management	Storage container and accumulation requirements for hazardous waste generators	Applicable if any state-regulated hazardous waste is generated and managed in containers.	Applicable to Generators of Hazardous Waste in California	22 C.C.R. § 66262.17(a)	22 C.C.R. § 66262.17(a) is a reference to the Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste. If the PRP is a "large quantity generator" of hazardous waste and is storing any hazardous waste in containers on-site without a permit, it may do so for no more than 90 days provided that it meets the other conditions for management of containers set forth in 22 C.C.R. § 66262.17(a)(1). If the PRP will store the hazardous waste in excess of 90 days or would otherwise fail to meet the conditions for the management of containers set forth in 22 C.C.R. § 66262.17(a)(1), then the container requirements of 22 C.C.R. § 66264.170 et seq. will be applicable. Alternatively, if the PRP is a "small quantity generator" of hazardous waste and is storing hazardous waste in containers on-site without a permit, it may do so for it may do so for no more than 180 days, provided that it meets the other conditions for management of containers set forth in 22 C.C.R. § 66262.16(b)(2). If the PRP will store the hazardous waste in excess of 180 days or would otherwise fail to meet the conditions for the management of containers set forth in 22 C.C.R. § 66262.16(b)(2), then the container requirements of 22 C.C.R. § 66264.170 et seq. will be applicable.

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

Hazardous Waste Treatment Notification	Notification of eligible onsite hazardous waste treatment activities.	Not an ARAR.	Applicable to Generators of Hazardous Waste in California	H.S.C. § 25201(a); 22 C.C.R. § 66270.1	H.S.C. § 25201(a) and 22 C.C.R. § 66270.1 are not ARARs for the response insofar as they are administrative, not substantive, requirements. H.S.C. § 25201(a) provides that “no owner or operator of a storage facility, treatment facility, transfer facility, resource recovery facility, or disposal site shall accept, treat, store, or dispose of a hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste facilities permit or other grant of authorization from the department to use and operate the facility, area, or site, or the owner or operator is operating under a permit-by-rule pursuant to the department’s regulations, or a grant of conditional authorization or conditional exemption.” 22 C.C.R. § 66270.1 similarly imposes a permitting requirement for the “transfer,” “treatment,” “storage,” and “disposal” of any hazardous waste. On-site portions of response actions need only comply with “substantive” requirements, not “administrative” requirements. State requirements must be substantive in nature to qualify as ARARs. The permitting requirements are administrative requirements, and therefore, are not ARARs. Moreover, the permitting requirements do not apply to any on-site treatment because such on-site treatment is exempt from permitting requirements by Section 121(e) of CERCLA, 42 U.S.C. § 9621(e) and section 300.400(e) of the NCP, 40 C.F.R. § 300.400(e).
Facility Maintenance and Operation	Maintain and operate facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of HW or HW constituents to air, soil, or surface water	Applicable if any state-regulated hazardous waste is generated.	Applicable to Generators of Hazardous Waste in California	22 C.C.R. § 66262.251	22 C.C.R. § 66262.251 provides that a “large quantity generator shall maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.” The same requirement is also a condition for the exemption from permitting requirements for a small quantity generator of hazardous waste and a condition for the exemption from permitting requirements for a large quantity generator of hazardous waste. See 22 C.C.R. §§ 66262.16(b)(6)(A) and 66262.17(a)(6). As discussed, hazardous waste may be generated as part of the

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

	which could threaten human health or the environment.				response activities. If hazardous waste is generated, the facility must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
California Land Disposal Restrictions	Prior to transporting for off-Site disposal, hazardous waste must be characterized to determine whether land disposal restriction treatment standards apply and whether the waste meets the treatment standards. This information must be provided to the off-site facility with the first waste shipment.	Applicable if LDR waste is disposed off-site.	Applicable to Generators of Hazardous Waste in California	22 C.C.R. § 66268.1	22 C.C.R. § 662628.1 states that the LDRs “apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.” As discussed, the PRP will likely generate hazardous waste during the response. If the PRP generates hazardous waste, the LDRs are applicable. LDRs establish minimum treatment requirements (including Universal Treatment Standards for Underlying Hazardous Constituents (if applicable)) for certain hazardous wastes prior to their placement in land disposal units. All hazardous wastes generated on site that are proposed for off-site land disposal will need to be evaluated against these requirements to determine whether any treatment is required.
Land use covenants	Provides conditions for land use restrictions to run with the land and bind successive owners	Not an ARAR.	Relevant and appropriate	California Civil Code §1471(a) through (d)	Cal. Civ. § 1471(a)-(d) is not an ARAR for the response because it pertains to activities outside the scope of the response. Cal. Civ. § 1471(a)-(d) provides the conditions for “a covenant made by an owner of land or by the grantee of land to do or refrain from doing some act on his or her own land,” to “run with the land,” and explains the legal effect of such a covenant. 22 C.C.R. § 67391.1, discussed below, provides when a land use covenant is required.

**Applicable or Relevant and Appropriate Requirements
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Land Use Covenants	If site does not meet unlimited use / unrestricted exposure, then a land use covenant is required	Not an ARAR.	Relevant and appropriate	22 C.C.R. § 67391.1	22 C.C.R. § 67391.1 is not an ARAR for the response because it pertains to activities outside the scope of the response. 22 C.C.R. § 67391.1 states that “a land use covenant imposing appropriate limitations on land use shall be executed and recorded when: . . . (1) Facility closure, corrective action, remedial action, or other response actions are undertaken pursuant to division 20 of the Health and Safety Code; and (2) hazardous materials, hazardous wastes or constituents, or hazardous substances will remain at the property at levels which are not suitable for unrestricted use of the land.” As the response action is an action undertaken pursuant to CERCLA, and not division 20 of the H.S.C., the land use covenant requirements are not applicable to the response action. EPA also determined that 22 C.C.R. § 67391.1 is not “relevant and appropriate” to the response action because the land use covenant requirements generally address response actions that would entail cleanup of contamination (e.g., contaminated media such as soil, surfacewater or groundwater). EPA’s response is limited to battery removal activities necessary to address the near-term threats of the potential explosion or ignition of damaged batteries remaining at the site. While EPA agrees that, ultimately, institutional controls may be appropriate for the site, EPA does not believe that land use requirements “address problems or situations sufficiently similar to those encountered at the CERCLA site” or are “well-suited” to the site given the scope of the response activities. Therefore, the land use covenant requirements do not constitute “relevant and appropriate” requirements for the response.

**Applicable or Relevant and Appropriate Requirements
Action-Specific Requirements**

Minimum Standards for Health and Ecological Risk Assessments	Risk assessments for remedy selection must not only meet NCP requirements, but also must also include most current sound scientific methods, knowledge and practices of public health and environmental professionals	Not an ARAR.	Relevant and Appropriate	California Health & Safety Code §25356.1.5(b)	H.S.C. § 79265¹² is not an ARAR for the response because it pertains to activities outside the scope of the response. H.S.C. § 79265 provides criteria for “any health or ecological risk assessment prepared in conjunction with a response action taken or approved” pursuant to the HSAA. As the response action is an action undertaken pursuant to CERCLA, and not the HSAA, the ecological risk assessment requirements are not applicable to the response action. EPA also determined that H.S.C. § 79265 is not “relevant and appropriate” to the response action because health and ecological risk assessments not well-suited for the response action. Under Section 300.400(f) of the NCP, 40 C.F.R. § 300.400(f), health assessments “shall be performed by ASTDR at facilities on or proposed to be listed on the NPL and may be performed at other releases or facilities in response to petitions made to ASTDR.” The site is not listed on the National Priorities List and EPA does not anticipate ASTDR performing a health assessment for the site as part of the response activities. Health and ecological risk assessments are relevant to response actions that entail cleanup of contamination (e.g., contaminated media such as soil, surfacewater, and groundwater). As discussed, the response does not include an investigation and/or remediation of potential contamination from the January and February 2025 fires; rather, the response will address the immediate threats of fire or explosion from lithium-ion batteries. While EPA believes health and ecological risk assessments related to the initial fires may be appropriate, such assessments would be outside the scope of the response. Therefore, EPA does not believe that the health or ecological risk assessment requirements “address problems or situations sufficiently similar to those encountered at the CERCLA site,” or are “well-suited” to the site; and, thus, the health and ecological risk assessment requirements are not “relevant and appropriate” requirements.
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ASTDR = Agency for Toxic Substances and Disease Registry
Cal. Civ. = California Civil Code

¹² H.S.C. § 25356.1.5 has been repealed and replaced by H.S.C. § 79265.

Applicable or Relevant and Appropriate Requirements Action-Specific Requirements

CERCLA = Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

C.F.R. = Code of Federal Regulations

C.C.R. = California Code of Regulations

HSAA = California Carpenter-Presley-Tanner Hazardous Substances Account Act, H.S.C. § 78000 et seq.

H.S.C. = California Health and Safety Code

LDR = Land Disposal Restrictions

NCP = National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. §300.1 et seq.

PRP = Potentially responsible party

Resolution 68-16 = State Water Resources Control Board Resolution 68-16

Resolution 92-49 = State Water Resources Control Board Resolution 92-49

REFERENCES:

<https://dtsc.ca.gov/hazardous-waste-generator-summary-chart/>

<https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/10/Final-Toxicity-Criteria-Rule-Text-2018-09-04-clean-A.pdf>

<https://dtsc.ca.gov/land-use-covenants-regulations/>

<https://dtsc.ca.gov/wp-content/uploads/sites/31/2022/03/Land-Use-Covenant.pdf>

Enclosure F – Letter from CDFW to EPA identifying potential State ARARs



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 Central Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 19, 2025

Ejan Petrie
 Environmental Protection Agency, Region 9
 75 Hawthorne Street (SFD-9-1)
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Subject: Identification of State Applicable or Relevant and Appropriate Requirements (ARARs) for On-Site Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response actions at Moss Landing Power Plant (MLPP), Moss Landing, California

Dear Ejan Petrie:

On October 16, 2025, the California Department of Fish and Wildlife (CDFW) met with the Environmental Protection Agency (EPA) at EPA's request to discuss EPA's CERCLA response actions on-site¹ at the MLPP. CDFW has considered the information provided during the meeting and has completed review of additional information that EPA provided to CDFW via email following the meeting. CDFW is the State's trustee agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). CDFW is also designated as a trustee for natural resources pursuant to CERCLA Section 107 (f)(2)(B). In addition, CDFW's Elkhorn Slough Ecological Reserve/National Estuarine Reserve, Moss Landing Wildlife Area, and Moro Cojo Slough State Marine Reserve are present to the north, east, and southeast of the MLPP.

The MLPP is located at 11283 Dolan Road, in Moss Landing, California 95039. The MLPP includes a 300-megawatt battery energy storage system (ML300 BESS) comprised of lithium nickel manganese cobalt (Li-NMC) battery modules. On January 16, 2025, the ML300 BESS experienced an event that resulted in a fire that damaged Li-NMC batteries containing hazardous substances; subsequent reignition events occurred. Li-NMC batteries that were not directly affected by the fires are presumed to be unstable and pose a risk of further thermal runaway, or additional fires, and threat of release of toxic flammable gases if the remaining batteries go into thermal runaway. EPA's CERCLA response actions at the MLPP include dismantling the

¹ On-site is defined as "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action" (40 C.F.R. 300.400(e)(1).)

Ejan Petrie
Environmental Protection Agency, Region 9
November 19, 2025
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building containing the ML300 BESS to remove all Li-NMC battery modules, removing the batteries, and treating and packaging battery modules for off-site transportation and disposal which is expected to take approximately two years.

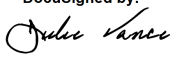
EPA requested that CDFW identify potential ARARs for removal of hazardous substances and waste in burn debris and in the remnant structures at the MLPP. Please accept this letter as notification to EPA's Federal On-Scene Coordinator of statutes or regulations that CDFW believes are potential ARARs for the CERCLA response actions at the MLPP. Please see Attachment 1 for location and action-specific ARARs, and references and citations to pertinent State statutes and regulations pertaining to the State's fish and wildlife resources. Please be advised that the potential ARARs are specific to the CERCLA response actions described above on-site at the MLPP (see Attachment 2) and based on information provided by EPA during the meeting and via email after the meeting.

CDFW appreciates this opportunity to provide State laws and regulations relevant to the CERCLA response actions at the MLPP. CDFW would appreciate being informed whether the ARARs provided are applicable or relevant and appropriate. In addition, if there are changes to the CERCLA response actions at the MLPP or if EPA determines that CERCLA response actions may occur outside of the MLPP, please immediately consult with CDFW. As noted above, CDFW owns lands adjacent to the MLPP. CDFW reserves the right to provide additional ARARs for the protection of the State's fish and wildlife resources.

Please let CDFW know if additional meetings would help facilitate EPA's review of the ARARs. If EPA has any questions about this letter or the ARARs provided, or require further details, please contact Ruby Kwan, Senior Environmental Scientist (Specialist), at (805) 748-3624 or Ruby.Kwan@wildlife.ca.gov.

Peer-Reviewer: Craig Bailey, Senior Environmental Scientist (Supervisor)
John Battistoni, Senior Environmental Scientist (Supervisor)
Legal Reviewer: Steven Ingram, Assistant Chief Counsel

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachments:

Attachment 1: Applicable or Relevant and Appropriate Requirements (ARARs)
Attachment 2: Moss Landing Power Plant ("On-Site")

ec: See Page Three

Ejan Petrie
Environmental Protection Agency, Region 9
November 19, 2025
Page 3 of 3

ec: California Department of Fish and Wildlife - Central Region
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Attachment 1

Applicable or Relevant and
Appropriate Requirements (ARARs)

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT
NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
Wildlife Species	Action must be taken to avoid take of birds and mammals by poison or other methods.	Fish and Game Code sections 3005, 3005.5	These code sections prohibit take of birds and mammals through unlawful means, including with poisonous substances. "Take" is defined by Fish and Game Code section 86 to include kill. "Poison" is not defined in these code sections. These are substantive, promulgated environmental protection requirements. The Site ¹ is located adjacent to the CDFW-owned Elkhorn Slough Ecological Reserve, Moss Landing Wildlife Area, and Moro Cojo Slough State Marine Reserve, as well as other open space. Elkhorn Slough itself is biologically significant as a vital estuary, supporting over 700 species and hosting a high concentration of southern sea otters (<i>Enhydra lutris nereis</i>). It is also a globally important site for migratory birds. Birds and mammals may nest in or otherwise utilize vegetation, trees, and structures adjacent to the Site or move through areas adjacent to the Site. Actions must be taken to avoid and/or minimize take of birds and mammals by poison where birds and mammals may encounter poisonous materials, including hazardous substances, that are the

¹ "On-site" is defined as "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action" (40 C.F.R. 300.400(e)(1).) The "Site", "on site", or "on-site" herein is the Moss Landing Power Plant ("MLPP"), inclusive of a 750 mega-watt battery energy storage system ("BESS") and a natural gas-powered electricity generation plant, located at 11283 Dolan Road, in Moss Landing, California, 95039. CERCLA actions will be conducted entirely on-site at the MLPP.

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			subject of the CERCLA ² response action. Poisonous materials should be completely contained on site and within the designated Battery Staging Area (Attachment 2) and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. All vehicles and equipment should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life. If there is a spill or leak, activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or clean up by qualified individuals any fuel or hazardous waste spills and leaks at the time of occurrence, or as soon as it is safe to do so. No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.
Waters of the State	Action must be taken to prevent deleterious materials from	Fish and Game Code section 5650 et seq.	This code section prohibits depositing, permitting to pass into, or placing where it can pass into Waters of the State any petroleum products; refuse from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of

² The proposed CERCLA actions include requiring the owners and/or operators of the MLPP to clean up the Site by dismantling the building containing the ML300 BESS as necessary to remove all lithium nickel manganese cobalt (Li-NMC) battery modules and removing the battery modules, characterizing the battery modules as Damaged, Defective, and Recalled ("DDR") or non-DDR, and treating and packaging the DDR and non-DDR battery modules for off-site transportation and disposal according to their proper characterization as DDR or non-DDR.

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	entering Waters of the State.		any kind; sawdust, shavings, slabs, or edgings; factory refuse, lime, or slag; cocculus indicus; or any substance deleterious to fish, mammals, plant life, or bird life. These are substantive, promulgated environmental protection requirements. These requirements impose strict criminal liability on violators. (<i>People v. Chevron Chemical Company (1983) 143 Cal. App. 3d 50</i>). By completely prohibiting a comprehensive list of substances from entry into Waters of the State, this code section imposes a standard that is more stringent than federal law. The Site is located adjacent to Waters of the State. Actions must be taken to avoid depositing, permitting to pass into, or placing where it can pass into Waters of the State deleterious materials that are the subject of the CERCLA action. No litter or debris should be dumped within streams or areas where such waste could wash into a stream. All debris and waste shall be picked up daily and properly disposed of at an appropriate on-site location. All deleterious materials should be completely contained on site within the designated Battery Staging Area (Attachment 2) and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. All vehicles and equipment should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life. Vehicles and equipment shall be moved away from streams prior to refueling and lubrication. If there

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT
NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			is a spill or leak of deleterious materials, activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or clean up by qualified individuals any deleterious materials spilled or leaked at the time of occurrence, or as soon as it is safe to do so. No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.
Fully Protected Species	Fully protected species may not be taken or possessed at any time. https://wildlife.ca.gov/Conservation/Fully-Protected	Fish and Game Code sections 3511, 4700, 5050, 5515	These sections provide that it is unlawful to take ³ or possess, among others, any of the following fully protected species: a. Santa Cruz long-toed salamander (<i>Ambystoma macrodactylum croceum</i>) b. Golden eagle (<i>Aquila chrysaetos</i>) c. Bald eagle (<i>Haliaeetus leucocephalus</i>) d. White-tailed kite (<i>Elanus leucurus</i>) e. Ringtail (genus <i>Bassariscus</i>) f. Southern sea otter (<i>Enhydra lutris nereis</i>)

³ "Take" is defined by Fish and Game Code section 86 meaning "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill".

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			The fully protected designation is the strongest and most restrictive protection of fish and wildlife species in the State. Fully protected species may not be taken or possessed except with authorization from CDFW and only under specific circumstances. This code section is applicable or relevant and appropriate to the extent that fully protected species and their habitat are potentially located on or near the Site which have the potential of being affected if actions are not taken to conserve the species. All activities related to the CERCLA action should be completely contained on site and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. Activities related to the CERCLA action should not be conducted, to the greatest extent possible, when it is actively raining, nor should activities be conducted if a 30 percent or greater chance of rainfall is predicted within 72-hour weather forecast. When activities related to the CERCLA action are conducted during the nesting bird season (February 1 – September 15), a qualified biologist should conduct focused surveys throughout the nesting bird season to identify nesting birds within or adjacent to the Site. This includes trees along Highway 1 and Dolan Road, and any structures within and adjacent to the Site that may be suitable for nesting birds. If a nesting bird is found, CDFW should be contacted as soon as possible for consultation when a nesting bird is identified. If activities occur at nighttime, nighttime lighting should be

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT
NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			cast downward and directed away from the nest. Nighttime lighting should be reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding habitat and open space or upward into the night sky. (also see <i>Endangered, Threatened, or Candidate Species</i> ARAR pertaining to vehicle speeds).
Endangered, Threatened, or Candidate Species	Action must be taken to avoid take of endangered, threatened, or candidate species. https://wildlife.ca.gov/Conservation/CESA	Fish and Game Code sections 2080, 2062, 2067, 2068 California Code of Regulations, title 14, section 783 et seq. provides the implementation regulations for the California Endangered Species Act (CESA).	These code sections prohibit take, possession, purchase, or sale within the State, of any species (including rare native plant species), or any product thereof, that the Fish and Game Commission determines to be an endangered or threatened species, or the attempt of any of these acts. It is unlawful to take any of the following species listed under CESA: <u>Endangered</u> a. Santa Cruz long-toed salamander (<i>Ambystoma macrodactylum croceum</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (a)(3)(A)) b. Bald eagle (<i>Haliaeetus leucocephalus</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (a)(5)(B)) <u>Threatened</u> a. California tiger salamander (<i>Ambystoma californiense</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (b)(3)(G)) b. Tricolored blackbird (<i>Agelaius tricolor</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (b)(5)(H))

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			<u>Candidate</u> a. Mountain lion (<i>Puma concolor</i>) (also see 'Specially Protected Mountain Lion', below) b. Western burrowing owl (<i>Athene cunicularia hypugaea</i>) c. Western bumble bee (<i>Bombus occidentalis occidentalis</i>) d. Crotch's bumble bee (<i>Bombus crotchii</i>) The provisions of Fish and Game Code section 2080 et seq. apply to any species designated as a candidate species under Fish and Game Code Section 2074.2. This code section is applicable or relevant and appropriate to the extent endangered, threatened, or candidate species and/or their habitat are located on or adjacent to the Site which have the potential of being affected if actions are not taken to conserve the species. Vehicle speeds should not exceed a daytime speed limit of 25 miles per hour (mph) and a nighttime speed limit of 15 mph on site. Nighttime is to mean the hours between 30 minutes before sunset and 30 minutes after sunrise (i.e., dawn to dusk) when wildlife is most active. (also see <i>Wildlife Species</i> and <i>Fully Protected Species</i> ARARs).
Birds	Action must be taken to avoid take or	Fish and Game Code section 3503	This code section generally prohibits take, possession, or needless destruction of the nest or eggs of any bird, except as otherwise provided by this code or any regulation made

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	destruction of the nest or eggs of any bird.		pursuant thereto. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. Any locations on or adjacent to the Site where birds of any kind have nests or eggs are subject to Fish and Game Code section 3503. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Birds of Prey	Action must be taken to avoid take, possession, or destruction of any birds-of prey or their eggs.	Fish and Game Code section 3503.5	This code section prohibits take, possession, or destruction of any birds in the orders of Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. There are numerous birds of prey known to occur adjacent to the Site including, but not limited to, bald eagle, golden eagle, white tailed-kite, red-tailed hawk, red-shouldered hawk, sharp-skinned hawk, and American kestrel. Any locations on or adjacent to the Site where birds-of prey have nests or eggs are subject to Fish and Game Code section 3503.5. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Migratory Birds	Action must be taken to avoid take or possession of any	Fish and Game Code section 3513	This code section makes it unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act (MBTA) or any part of such migratory nongame bird except as provided by rules and regulations adopted by

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	migratory nongame birds.		the Secretary of the Interior under provisions of the MBTA prior to January 1, 2017. This State law is a more stringent than the MBTA and rejects the position taken in the U.S Department of Interior Solicitor's memorandum dated December 22, 2017, titled The Migratory Bird Treaty Act Does Not Prohibit Incidental Take ("M-37050"). Any locations on or adjacent to the Site where nongame birds have nests or eggs are subject to Fish and Game Code section 3513. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Nongame birds	Action must be taken to avoid take.	Fish and Game Code section 3800	All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. This section makes it unlawful to take any nongame bird except as provided in accordance with regulations of the commission. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Aigrette or egret, osprey, bird of paradise, goura and numidi	Action must be taken to avoid take.	Fish and Game Code section 3505	This code section provides that aigrette or egret, osprey, bird of paradise, goura, and numidi may not be taken or possessed. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. Any locations on or adjacent to the Site where aigrette or egret, osprey, bird of paradise, goura, and numidi and/or their habitat are located are subject to Fish and Game Code section 3505. The Elkhorn Slough Ecological Reserve supports a rookery, or nesting site, where great blue herons, great egrets, and double-

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			crested cormorants nest annually. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Specially Protected Mountain Lion	Action must be taken to avoid injuring, taking, possessing, or transporting any mountain lion.	Fish and Game Code section 4800	The mountain lion is a specially protected mammal under the laws of the State. It is unlawful to take, injure, possess, transport, or sell any mountain lion or any part or product thereof. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. Action must be taken to avoid injuring, taking, possessing, or transporting any mountain lion. Mountain lions are present in the Elkhorn Slough area, and sightings are not unusual. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Nongame mammals	Action must be taken to avoid take or possession of nongame mammals	Fish and Game Code section 4150	A mammal occurring naturally in California that is not a game mammal, exotic game mammal, or fur-bearing mammal is a nongame mammal. A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Native Amphibians	Action must be taken to avoid take or possession of	California Code of Regulations, Title 14, Division 1, Subdivision 1,	This code section makes it unlawful to capture, collect, intentionally kill or injure, possess, purchase, propagate, sell, transport, import or export any native reptile or amphibian, or part thereof unless under special permit from

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	native amphibians.	Chapter 5, section 783	CDFW issued pursuant to California Code of Regulations, Title 14, sections 650, 670.7, or 783, or as otherwise provided in the Fish and Game Code or these regulations. Native species of amphibians including, but not limited to, Santa Cruz long-toed salamander, California tiger salamander, and California red-legged frog (<i>Rana draytonii</i>) present in the Elkhorn Slough area. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
Species of Special Concern (“SSC”)	Action to avoid and/or minimize impacts to Species of Special Concern. https://wildlife.ca.gov/Conservation/SSC CDFW California Natural Diversity Database (CNDDB)’s Special Animals List: https://nrm.dfg.ca.gov/FileHandler.a	California Code of Regulations, Title 14, Division 6, Chapter 3, section 15380	The intention in designating SSCs is to achieve conservation and recovery of SSCs before they meet California’s Endangered Species Act criteria for listing as threatened or endangered; focus attention on animals at conservation risk by the CDFW, other State, local and federal governmental entities, regulators, land managers, planners, consulting biologists and others; and stimulate research on poorly known species. An SSC is a species, subspecies, or distinct population of an animal* native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria**: • is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; • is listed as federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed; • is experiencing, or formerly experienced, serious

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	shx?DocumentID=109406&inline		(noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; • has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Fish and Game Code section 1002 prohibits take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific Collection Permit (SCP) issued by CDFW. Actions should be taken to avoid and/or minimize impacts to SSC on or adjacent to the Site including, but not limited to, California red-legged frog, western pond turtle (<i>Emys marmorata</i>), and Monterey shrew (<i>Sorex ornatus salarius</i>). (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs). *for the purposes of this discussion, “animal” means fish, amphibian, reptile, bird and mammal. **criteria for fishes are similar except that federally listed taxa are not defined as SSCs.
Monarch butterfly (<i>Danus plexippus</i>)	Action to avoid and/or minimize impacts to monarch butterfly	Monarchs are included on the CDFW Terrestrial and Vernal Pool Invertebrates of	Monarch butterfly is known to overwinter in a grove of trees located approximately 0.5 miles northwest of the Site and on CDFW’s Elkhorn Slough Ecological Reserve. Fish and Game Code section 1002 prohibits take or possession of wildlife for scientific research, education, or propagation

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	and overwintering habitat.	Conservation Priority list and identified as a Species of Greatest Conservation Need in California's State Wildlife Action Plan	purposes without a valid Scientific Collection Permit (SCP) issued by CDFW. Actions should be taken to avoid and/or minimize impacts to the species and overwintering habitat adjacent to the Site. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).
River, Stream, or Lake	Action must be taken for the general protection and conservation of fish and wildlife resources. Action must be taken to notify CDFW when an activity will substantially alter a river, stream, or lake, and may substantially adversely affect	Fish and Game Code section 1600 et seq.	The protection and conservation of the fish and wildlife resources of the State are of utmost public interest. This code section requires any person, State or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: • Divert or obstruct the natural flow of any river, stream, or lake; • Change the bed, channel, or bank of any river, stream, or lake; • Use material from any river, stream, or lake; or • Deposit or dispose of material into any river, stream, or lake. Any "river, stream, or lake" includes those that are dry for periods of time as well as those that flow year-round. The

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
	existing fish or wildlife resources. https://wildlife.ca.gov/Conservation/Environmental-Review/LSA		Site is located adjacent to water features that may be subject to Fish and Game Code section 1600 et seq. and therefore the requirements of Fish and Game Code section 1600 et seq. pertaining to the protection and conservation of resources pursuant to this code section should be considered. (see <i>Wildlife Species</i> , <i>Waters of the State</i> , and <i>Fully Protected Species</i> ARARs).
Wetlands	Action must be taken to protect, preserve, and restore wetland acreage or habitat value. https://fgc.ca.gov/About/Policies/Miscellaneous#Wetlands	Fish and Game Commission Wetlands Policy (adopted 1987) included in Fish and Game Code Addenda	This policy seeks to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California. Further, it strongly discourages any development or conversion of wetlands. It adopts the U.S. Fish & Wildlife Service's definition of a wetland which utilizes hydric soils, saturation or inundation, and vegetation criteria, and requires the presence of at least one of these criteria (rather than all three) in order to classify an area as a wetland. When all three wetland indicators (i.e., hydric soils, wetland vegetation, and hydrology) are present, the presumption of wetland existence shall be conclusive. Where less than three indicators are present, policy application shall be supported by the demonstrable use of wetland areas by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values. Wetlands adjacent to the Site are subject to the Fish and Game Commission Wetlands Policy and therefore the requirements of the policy including protecting, preserving, and restoring wetlands should be considered. Elkhorn Slough was designated a Ramsar site, a "Wetland of

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	ARAR EXPLANATION/REASON WHY REQUIREMENT IS AN ARAR
			International Importance," on June 25, 2018, recognizing its ecological value and the importance of its habitats, including salt marshes, mudflats, and eelgrass beds. This designation underscores the area's role as a critical habitat for a wide variety of species. (see <i>Wildlife Species</i> , <i>Waters of the State</i> , and <i>Fully Protected Species</i> ARARs).

Attachment 2

Moss Landing Power Plant ("On-Site")

Battery Trucking & Staging Routes



Enclosure G – EPA Comments to CDFW Potential ARARs List



REGION 9

SAN FRANCISCO, CA 94105

June 8, 2026

VIA EMAIL

Julie A. Vance
Regional Manager
Department of Fish and Wildlife
State of California – Natural Resources Agency
1234 East Shaw Avenue
Fresno, CA 93710
Ruby.Kwan@wildlife.ca.gov

**RE: Identification of State Applicable or Relevant and Appropriate Requirements (ARARs)
for On-Site Comprehensive Environmental Response, Compensation, and Liability Act
(CERCLA) response actions at Moss Landing Power Plan (MLPP), Moss Landing,
California**

Dear Julie A. Vance:

On October 15, 2025, the United States Environmental Protection Agency ("EPA") met with the State of California, Natural Resources Agency, Department of Fish and Wildlife ("CDFW" or "you") to discuss EPA's removal action at the Moss Landing Energy Storage Facility located in Moss Landing, California (the "Site"). EPA indicated that to perform this action, EPA will attempt to comply to the extent practicable with all applicable or relevant and appropriate requirements ("ARARs") of State environmental and facility siting laws. EPA requested the identification of potential ARARs for the Site from you. EPA followed up via email on October 16, 2025, providing you with a copy of EPA's letter, dated April 15, 2025, requesting the identification of ARARs and providing additional context on EPA's response action at the Site. On November 19, 2025, the On-Scene Coordinators ("OSCs") received a list of potential ARARs from you.

As noted in EPA's April 15, 2025, letter, the Superfund removal program is required to comply with ARARs to the extent practicable, considering the exigencies of the situation. OSCs for the response make the determination of whether requirements identified by the State are ARARs or are impracticable to meet or qualify for a waiver. EPA has examined the list of potential ARARs identified by CDFW in order to determine whether they are applicable or relevant and appropriate for the Site.

Please see EPA's detailed determinations in **Enclosure A**, which reproduces CDFW's November 19, 2025, list of potential ARARs and provides EPA's determinations of ARARs status in the column under

the heading "EPA ARAR Status Determination," and provides explanations in the column under the heading "EPA Comment." We are also enclosing a courtesy copy of the United States Fish and Wildlife Service ("USFW") communication regarding Emergency Informal Consultation for the response action in **Enclosure B**, which identifies various mitigation measures for the response.

Thank you for your assistance on this matter. For any questions, please contact me at petrie.ejan@epa.gov or (415)-972-3513.

Sincerely,

EJAN PETRIE

Digitally signed by
EJAN PETRIE
Date: 2026.06.09
10:30:17 -07'00'

Ejan Petrie
Federal On-Scene Coordinator

Enclosures

Enclosure A – EPA Comments to CDFW Potential ARARs List

Enclosure B – USFW Communication regarding Emergency Informal Consultation

cc: Ruby Kwan, CDFW (Ruby.Kwan@wildlife.ca.gov)
Krista Tomlinson, CDFW (Krista.Tomlinson@wildlife.ca.gov)
Craig Bailey, CDFW (Craig.Bailey@wildlife.ca.gov)
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Enclosure A – EPA Comments to CDFW Potential ARARs List

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
Wildlife Species	Action must be taken to avoid take of birds and mammals by poison or other methods.	Fish and Game Code sections 3005, 3005.5	These code sections prohibit take of birds and mammals through unlawful means, including with poisonous substances. "Take" is defined by Fish and Game Code section 86 to include kill. "Poison" is not defined in these code sections. These are substantive, promulgated environmental protection requirements. The Site ¹ is located adjacent to the CDFW-owned Elkhorn Slough Ecological Reserve, Moss Landing Wildlife Area, and Moro Cojo Slough State Marine Reserve, as well as other open space. Elkhorn Slough itself is biologically significant as a vital estuary, supporting over 700 species and hosting a high concentration of southern sea otters (<i>Enhydra lutris nereis</i>). It is also a globally important site for migratory birds. Birds and mammals may nest in or otherwise utilize vegetation, trees, and structures adjacent to the Site or move through areas adjacent to the Site. Actions must be taken to avoid and/or minimize take of birds and mammals by poison where birds and mammals may encounter poisonous materials, including hazardous substances, that are the subject of the CERCLA ² response action. Poisonous materials should be completely contained on site and within the designated Battery Staging Area (Attachment 2) and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. All vehicles and equipment	Not an ARAR.	F&G Code §§ 3005 and 3005.5 are not ARARs for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), "The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site." F&G Code §§ 3005 and 3005 prohibit the "capture" of birds and mammals or the "take" of birds and mammals through unlawful means, including with poisonous substances. The response actions occurring at the Site will not involve the "hunt[ing], pursu[ing], catch[ing], captur[ing], or kill[ing], or attempt[ing] to hunt, pursue, catch, capture, or kill" any bird or mammal, including by the use of poisonous substances. Therefore, F&G Code §§ 3005 and 3005.5 pertain to activities outside of the scope of the response action and are not applicable or relevant and appropriate.

¹ "On-site" is defined as "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action" (40 C.F.R. 300.400(e)(1).) The "Site", "on site", or "on-site" herein is the Moss Landing Power Plant ("MLPP"), inclusive of a 750 mega-watt battery energy storage system ("BESS") and a natural gas-powered electricity generation plant, located at 11283 Dolan Road, in Moss Landing, California, 95039. CERCLA actions will be conducted entirely on-site at the MLPP.

² The proposed CERCLA actions include requiring the owners and/or operators of the MLPP to clean up the Site by dismantling the building containing the ML300 BESS as necessary to remove all lithium nickel manganese cobalt (Li-NMC) battery modules and removing the battery modules, characterizing the battery modules as Damaged, Defective, and Recalled ("DDR") or non-DDR, and treating and packaging the DDR and non-DDR battery modules for off-site transportation and disposal according to their proper characterization as DDR or non-DDR.

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life. If there is a spill or leak, activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or clean up by qualified individuals any fuel or hazardous waste spills and leaks at the time of occurrence, or as soon as it is safe to do so. No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.		Nevertheless, the Mitigation Measures, described in Appendix A , will be implemented for the response.
Waters of the State	Action must be taken to prevent deleterious materials from entering Waters of the State.	Fish and Game Code section 5650 et seq.	This code section prohibits depositing, permitting to pass into, or placing where it can pass into Waters of the State any petroleum products; refuse from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind; sawdust, shavings, slabs, or edgings; factory refuse, lime, or slag; cocculus indicus; or any substance deleterious to fish, mammals, plant life, or bird life. These are substantive, promulgated environmental protection requirements. These requirements impose strict criminal liability on violators. (<i>People v. Chevron Chemical Company (1983) 143 Cal. App. 3d 50</i>). By completely prohibiting a comprehensive list of substances from entry into Waters of the State, this code section imposes a standard that is more stringent than federal law. The Site is located adjacent to Waters of the State. Actions must be taken to avoid depositing, permitting to pass into, or placing where it can pass into Waters of the State deleterious materials that are the subject of the CERCLA action. No litter or debris should be dumped within streams or areas where such waste could wash into a stream. All debris and waste shall be picked up daily and properly disposed of at an	Relevant and appropriate.	F&G Code §5650 is relevant and appropriate for the provisions restricting the placement of substances deleterious to fish, mammals, plant life, or bird life, where it can pass into Waters of the State. To prevent deleterious materials from entering Waters of the State, the Mitigation Measures, described in Appendix A , will be implemented for the response.

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			appropriate on-site location. All deleterious materials should be completely contained on site within the designated Battery Staging Area (Attachment 2) and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. All vehicles and equipment should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life. Vehicles and equipment shall be moved away from streams prior to refueling and lubrication. If there is a spill or leak of deleterious materials, activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or clean up by qualified individuals any deleterious materials spilled or leaked at the time of occurrence, or as soon as it is safe to do so. No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.		
Fully Protected Species	Fully protected species may not be taken or possessed at any time. https://wildlife.ca.gov/Conservation/Fully-Protected	Fish and Game Code sections 3511, 4700, 5050, 5515	These sections provide that it is unlawful to take³ or possess, among others, any of the following fully protected species: a. Santa Cruz long-toed salamander (<i>Ambystoma macrodactylum croceum</i>) b. Golden eagle (<i>Aquila chrysaetos</i>) c. Bald eagle (<i>Haliaeetus leucocephalus</i>) d. White-tailed kite (<i>Elanus leucurus</i>) e. Ringtail (genus <i>Bassariscus</i>) f. Southern sea otter (<i>Enhydra lutris nereis</i>) The fully protected designation is the strongest and most restrictive protection of fish and wildlife species in the State. Fully protected species may not be taken	Relevant and appropriate.	F&G Code §§ 3511, 4700, and 5050, are relevant and appropriate for the “take” provisions only. The substantive provisions of F&G Code § 5515 are not applicable or relevant and appropriate because § 5515 pertains to “fully protected fish,” but no fully protected fish species have been identified for the response by CDFW. Additionally, the work area to demolish and remove batteries from the fire-

³ “Take” is defined by Fish and Game Code section 86 meaning “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”.

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			or possessed except with authorization from CDFW and only under specific circumstances. This code section is applicable or relevant and appropriate to the extent that fully protected species and their habitat are potentially located on or near the Site which have the potential of being affected if actions are not taken to conserve the species. All activities related to the CERCLA action should be completely contained on site and vehicles and equipment associated with the CERCLA action should use only ingress and egress corridors identified in Attachment 2. Activities related to the CERCLA action should not be conducted, to the greatest extent possible, when it is actively raining, nor should activities be conducted if a 30 percent or greater chance of rainfall is predicted within 72-hour weather forecast. When activities related to the CERCLA action are conducted during the nesting bird season (February 1 – September 15), a qualified biologist should conduct focused surveys throughout the nesting bird season to identify nesting birds within or adjacent to the Site. This includes trees along Highway 1 and Dolan Road, and any structures within and adjacent to the Site that may be suitable for nesting birds. If a nesting bird is found, CDFW should be contacted as soon as possible for consultation when a nesting bird is identified. If activities occur at nighttime, nighttime lighting should be cast downward and directed away from the nest. Nighttime lighting should be reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding habitat and open space or upward into the night sky. (also see <i>Endangered, Threatened, or Candidate Species</i> ARAR pertaining to vehicle speeds).		impacted building, Moss Landing 300, is not immediately adjacent to any waterways, wetlands, sloughs, or ponds. Therefore, a fish would not be encountered at the project area (as there's no means for them to travel from the slough across land to the project area). Concerns with the Tidewater Goby (<i>eucyclogobius newberryi</i>) were previously identified with respect to the broader Moss Landing Power Plant site from the operation of the power plant's cooling water intake system. A plan was submitted to USFW to mitigate incidental take of tidewater goby and is being implemented for the power plant. To mitigate a "take" of California fully protected species, the Mitigation Measures, described in Appendix A, will be implemented for the response.
Endangered, Threatened, or Candidate Species	Action must be taken to avoid take of endangered, threatened, or	Fish and Game Code sections 2080, 2062, 2067, 2068	These code sections prohibit take, possession, purchase, or sale within the State, of any species (including rare native plant species), or any product thereof, that the Fish and Game Commission determines to be an endangered or threatened species,	Relevant and appropriate.	The substantive provisions of F&G Code § 2080 are relevant and appropriate for the "take" provisions only.

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
	candidate species. https://wildlife.ca.gov/Conservation/CESA	California Code of Regulations, title 14, section 783 et seq. provides the implementation regulations for the California Endangered Species Act (CESA).	or the attempt of any of these acts. It is unlawful to take any of the following species listed under CESA: <u>Endangered</u> a. Santa Cruz long-toed salamander (<i>Ambystoma macrodactylum croceum</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (a)(3)(A)) b. Bald eagle (<i>Haliaeetus leucocephalus</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (a)(5)(B)) <u>Threatened</u> a. California tiger salamander (<i>Ambystoma californiense</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (b)(3)(G)) b. Tricolored blackbird (<i>Agelaius tricolor</i>) (Cal. Code of Regs., tit. 14, § 670.5, subd. (b)(5)(H)) <u>Candidate</u> a. Mountain lion (<i>Puma concolor</i>) (also see 'Specially Protected Mountain Lion', below) b. Western burrowing owl (<i>Athene cunicularia hypugaea</i>) c. Western bumble bee (<i>Bombus occidentalis occidentalis</i>) d. Crotch's bumble bee (<i>Bombus crotchii</i>) The provisions of Fish and Game Code section 2080 et seq. apply to any species designated as a candidate species under Fish and Game Code Section 2074.2. This code section is applicable or relevant and appropriate to the extent endangered, threatened, or candidate species and/or their habitat are located on or adjacent to the Site which have the potential of being affected if actions are not taken to conserve the species. Vehicle speeds should not exceed a daytime speed limit of 25 miles per hour (mph) and a nighttime speed limit of 15 mph on site. Nighttime is to mean the hours between 30 minutes before sunset and 30 minutes after sunrise		F&G Code §§ 2062, 2067, and 2068 provide definitions of endangered, threatened or candidate species. To mitigate a "take," of a California endangered or listed species, the Mitigation Measures, described in Appendix A, will be implemented for the response.

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			(i.e., dawn to dusk) when wildlife is most active. (also see <i>Wildlife Species</i> and <i>Fully Protected Species</i> ARARs).		
Birds	Action must be taken to avoid take or destruction of the nest or eggs of any bird.	Fish and Game Code section 3503	This code section generally prohibits take, possession, or needless destruction of the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. Any locations on or adjacent to the Site where birds of any kind have nests or eggs are subject to Fish and Game Code section 3503. (see <i>Wildlife Species</i> , <i>Fully Protected Species</i> , and <i>Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 3503 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), “The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site,” and 40 C.F.R. § 300.400(g)(vi), “The type of place regulated and the type of place affected by the release or CERCLA action.” F&G Code § 3503 pertains to the taking, possession, or needless destruction of the nest or eggs of any bird. The response activities will not include the taking or possession of any birds or the needless destruction of nests or eggs. The response activities do not include the removal, relocation, or destruction of any trees or other natural habitat of birds. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted building, Moss Landing 300, no particular concerns have been identified with nests or eggs of any birds on-Site. Nevertheless, the Mitigation

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
					Measures, described in Appendix A , will be implemented for the response.
Birds of Prey	Action must be taken to avoid take, possession, or destruction of any birds-of prey or their eggs.	Fish and Game Code section 3503.5	This code section prohibits take, possession, or destruction of any birds in the orders of Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. There are numerous birds of prey known to occur adjacent to the Site including, but not limited to, bald eagle, golden eagle, white tailed-kite, red-tailed hawk, red-shouldered hawk, sharp-skinned hawk, and American kestrel. Any locations on or adjacent to the Site where birds-of prey have nests or eggs are subject to Fish and Game Code section 3503.5. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 3503.5 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), "The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site," and 40 C.F.R. § 300.400(g)(vi), "The type of place regulated and the type of place affected by the release or CERCLA action." F&G Code § 3503.5 pertains to the taking, possession, or destruction of birds in the orders of Falconiformes or Strigiformes or destruction of the nest or eggs of such birds. The response activities will not include the taking or possession of any birds or the needless destruction of nests or eggs. The response activities do not include the removal, relocation, or destruction of any trees or other natural habitat of birds. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted building, Moss Landing 300, no particular concerns have been identified with birds-of-prey, nests

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					or eggs of any such birds on-Site. Nevertheless, the Mitigation Measures, described in Appendix A, will be implemented for the response.
Migratory Birds	Action must be taken to avoid take or possession of any migratory nongame birds.	Fish and Game Code section 3513	This code section makes it unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act (MBTA) or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA prior to January 1, 2017. This State law is a more stringent than the MBTA and rejects the position taken in the U.S Department of Interior Solicitor's memorandum dated December 22, 2017, titled The Migratory Bird Treaty Act Does Not Prohibit Incidental Take ("M-37050"). Any locations on or adjacent to the Site where nongame birds have nests or eggs are subject to Fish and Game Code section 3513. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 3513 was updated effective October 6, 2025, and makes it unlawful to take or possess any migratory bird as designated in the federal Migratory Bird Treaty Act (MBTA) except as provided by rules and regulations adopted by the Secretary of the Interior pursuant to the MBTA, unless those rules or regulations are inconsistent with the F&G Code. F&G Code § 3513 is not an ARAR for the response action considering the factors for determining relevance and appropriateness 40 C.F.R. § 300.400(g)(iv), "The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site." F&G Code § 3513 pertains to the taking of migratory birds. The response activities will not include the taking of migratory birds. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted

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					building, Moss Landing 300, if migratory birds are identified on site, CDFW will be consulted, consistent with the Mitigation Measures, described in Appendix A .
Nongame birds	Action must be taken to avoid take.	Fish and Game Code section 3800	All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. This section makes it unlawful to take any nongame bird except as provided in accordance with regulations of the commission. (see <i>Wildlife Species, Fully Protected Species</i> , and <i>Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 3800 is not an ARAR for the response action considering the factors for determining relevance and appropriateness 40 C.F.R. § 300.400(g)(iv), “The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site.” F&G Code § 3800 pertains to the taking of nongame birds. The response activities will not include the taking of nongame birds. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted building, Moss Landing 300, no particular concerns with nongame birds have been identified on-Site. In any case, the Mitigation Measures, described in Appendix A, will be implemented for the response.
Aigrette or egret, osprey, bird of paradise, goura and numidi	Action must be taken to avoid take.	Fish and Game Code section 3505	This code section provides that aigrette or egret, osprey, bird of paradise, goura, and numidi may not be taken or possessed. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law.	Not an ARAR.	F&G Code § 3505 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), “The actions or

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			Any locations on or adjacent to the Site where aigrette or egret, osprey, bird of paradise, gaura, and numidi and/or their habitat are located are subject to Fish and Game Code section 3505. The Elkhorn Slough Ecological Reserve supports a rookery, or nesting site, where great blue herons, great egrets, and double-crested cormorants nest annually. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).		activities regulated by the requirement and the remedial action contemplated at the CERCLA site." F&G Code § 3505 pertains to the taking, selling, or purchasing of any aigrette or egret, osprey, bird of paradise, gaura, numidi, or any part of such a bird. The response activities will not include the taking, selling, or purchasing of any egret, osprey, bird of paradise, gaura, numidi, or any part of such a bird. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted building, Moss Landing 300, no particular concerns with egrets, osprey, birds of paradise, gaura, or numidi have been identified on-Site. Nevertheless, the Mitigation Measures, described in Appendix A , will be implemented for the response.
Specially Protected Mountain Lion	Action must be taken to avoid injuring, taking, possessing, or transporting any mountain lion.	Fish and Game Code section 4800	The mountain lion is a specially protected mammal under the laws of the State. It is unlawful to take, injure, possess, transport, or sell any mountain lion or any part or product thereof. This code section imposes a substantive, promulgated environmental protection requirement that is more stringent than federal law. Action must be taken to avoid injuring, taking, possessing, or transporting any mountain lion.	Not an ARAR.	F&G Code § 4800 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), "The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			Mountain lions are present in the Elkhorn Slough area, and sightings are not unusual. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).		site.” F&G Code § 4800 pertains to the take or injury of a mountain lion. The response activities will not include the taking or injury of a mountain lion. Mountain lions have not been observed on the Site. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. Nevertheless, the Mitigation Measures, described in Appendix A, will be implemented for the response.
Nongame mammals	Action must be taken to avoid take or possession of nongame mammals	Fish and Game Code section 4150	A mammal occurring naturally in California that is not a game mammal, exotic game mammal, or fur-bearing mammal is a nongame mammal. A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 4150 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(iv), “The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site.” F&G Code § 3505 pertains to the taking or possession of nongame mammals. The response activities will not include the taking or possession of nongame mammals. The response activities will occur entirely on-Site, which consists of a mostly paved area and the footprint of the fire-impacted building, Moss Landing 300, which is on a concrete pad. To the extent that the response activities include the demolition of the fire-impacted

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SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
					building, Moss Landing 300, no particular concerns with nongame mammals have been identified on-Site. Nevertheless, the Mitigation Measures, described in Appendix A, will be implemented for the response.
Native Amphibians	Action must be taken to avoid take or possession of native amphibians.	California Code of Regulations, Title 14, Division 1, Subdivision 1, Chapter 5, section 783	This code section makes it unlawful to capture, collect, intentionally kill or injure, possess, purchase, propagate, sell, transport, import or export any native reptile or amphibian, or part thereof unless under special permit from CDFW issued pursuant to California Code of Regulations, Title 14, sections 650, 670.7, or 783, or as otherwise provided in the Fish and Game Code or these regulations. Native species of amphibians including, but not limited to, Santa Cruz long-toed salamander, California tiger salamander, and California red-legged frog (<i>Rana draytonii</i>) present in the Elkhorn Slough area. (see <i>Wildlife Species, Fully Protected Species</i>, and <i>Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	14 C.C.R. § 40 <i>et seq.</i> is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(i), “The purpose of the requirement and the purpose of the CERCLA action.” 14 C.C.R. § 40(a) is intended to prescribe the conditions or circumstances under which native reptiles or amphibians can be captured, collected, intentionally killed or injured, possessed, purchased, propagated, sold, transported, imported or exported. 14 C.C.R. § 40(b) clarifies that “intentionally kill or injure” does not include death or injury that occurs incidental to an otherwise lawful activity. The purpose of the CERCLA action is to address threats from the release of a hazardous substance to human health or the environment, not to capture, collect, intentionally kill or injure, etc. any native reptile or amphibian. Accordingly, the provision is not relevant or appropriate for the response.

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
					Nevertheless, the Mitigation Measures, described in Appendix A , will be implemented for the response.
Species of Special Concern ("SSC")	Action to avoid and/or minimize impacts to Species of Special Concern. https://wildlife.ca.gov/Conservation/SSC CDFW California Natural Diversity Database (CNDDDB)'s Special Animals List: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline	California Code of Regulations, Title 14, Division 6, Chapter 3, section 15380	The intention in designating SSCs is to achieve conservation and recovery of SSCs before they meet California's Endangered Species Act criteria for listing as threatened or endangered; focus attention on animals at conservation risk by the CDFW, other State, local and federal governmental entities, regulators, land managers, planners, consulting biologists and others; and stimulate research on poorly known species. An SSC is a species, subspecies, or distinct population of an animal* native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria**: • is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; • is listed as federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed; • is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; • has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Fish and Game Code section 1002 prohibits take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific	Not an ARAR.	14 C.C.R. § 15380 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(i), "The purpose of the requirement and the purpose of the CERCLA action." 14 C.C.R. § 15380 is intended to direct attention on species with conservation risk and stipulate research on poorly known species. Additionally, the purpose of F&G Code § 1002 is to prescribe conditions under which wildlife can be possessed for scientific research, education, or propagation purposes. The purpose of the CERCLA action is to address threats from the release of a hazardous substance to human health or the environment and not scientific, educational, or other conservation purposes. Accordingly, the provisions are not relevant or appropriate for the response. Nevertheless, the Mitigation Measures, described in Appendix A, will be implemented for the response.

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
			Collection Permit (SCP) issued by CDFW. Actions should be taken to avoid and/or minimize impacts to SSC on or adjacent to the Site including, but not limited to, California red-legged frog, western pond turtle (<i>Emys marmorata</i>), and Monterey shrew (<i>Sorex ornatus salarius</i>). (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs). *for the purposes of this discussion, “animal” means fish, amphibian, reptile, bird and mammal. **criteria for fishes are similar except that federally listed taxa are not defined as SSCs.		
Monarch butterfly (<i>Danus plexippus</i>)	Action to avoid and/or minimize impacts to monarch butterfly and overwintering habitat.	Monarchs are included on the CDFW Terrestrial and Vernal Pool Invertebrates of Conservation Priority list and identified as a Species of Greatest Conservation Need in California's State Wildlife Action Plan	Monarch butterfly is known to overwinter in a grove of trees located approximately 0.5 miles northwest of the Site and on CDFW's Elkhorn Slough Ecological Reserve. Fish and Game Code section 1002 prohibits take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific Collection Permit (SCP) issued by CDFW. Actions should be taken to avoid and/or minimize impacts to the species and overwintering habitat adjacent to the Site. (see <i>Wildlife Species, Fully Protected Species, and Endangered, Threatened, or Candidate Species</i> ARARs).	Not an ARAR.	F&G Code § 1002 is not an ARAR for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(i), “The purpose of the requirement and the purpose of the CERCLA action.” The purpose of F&G Code § 1002 is to prescribe conditions under which wildlife can be possessed for scientific research, education, or propagation purposes. The purpose of the CERCLA action is to address threats from the release of a hazardous substance to human health or the environment and not scientific, educational, or other conservation purposes. Accordingly, F&G Code § 1002 is not relevant or appropriate for the response. The CDFW Terrestrial and Vernal Pool Invertebrates of Conservation Priority List (TVPICP List) and California's State Wildlife Action

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
					Plan (SWAP) are not ARARs for the response because they are not legally binding laws and regulations. The TVPICP List “does not give any species included on the TVPICP List any formal legal status,” and the SWAP does not provide any direct regulatory protection for Species of Greatest Conservation Need. The TVPICP List and SWAP are also not “To be considered” for the response action, because while they provide useful information to inform conservation strategies in the state, they are not particularly useful to design the CERCLA response action, as the CERCLA response action will occur entirely on-Site and not in the identified Monarch Butterfly habitat. Nevertheless, the Mitigation Measures, described in Appendix A, will be implemented for the response.
River, Stream, or Lake	Action must be taken for the general protection and conservation of fish and wildlife resources. Action must be taken to notify CDFW when an activity will substantially alter	Fish and Game Code section 1600 et seq.	The protection and conservation of the fish and wildlife resources of the State are of utmost public interest. This code section requires any person, State or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: • Divert or obstruct the natural flow of any river, stream, or lake; • Change the bed, channel, or bank of any river, stream, or lake; • Use material from any river, stream, or lake; or	Not an ARAR.	F&G Code § 1600 et seq. notification requirements are administrative requirements, and, therefore, are not ARARs. F&G Code § 1600 et seq. are also not ARARs for the response action considering the factors for determining relevance and appropriateness at 40 C.F.R. § 300.400(g)(i), “The purpose of the requirement and the purpose of the

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
	a river, stream, or lake, and may substantially adversely affect existing fish or wildlife resources. https://wildlife.ca.gov/Conservation/Environmental-Review/LSA		Deposit or dispose of material into any river, stream, or lake. Any “river, stream, or lake” includes those that are dry for periods of time as well as those that flow year-round. The Site is located adjacent to water features that may be subject to Fish and Game Code section 1600 et seq. and therefore the requirements of Fish and Game Code section 1600 et seq. pertaining to the protection and conservation of resources pursuant to this code section should be considered. (see <i>Wildlife Species, Waters of the State</i>, and <i>Fully Protected Species</i> ARARs).		CERCLA action,” and 40 C.F.R. § 300.400(g)(iv), “The actions or activities regulated by the requirement and the remedial action contemplated at the CERCLA site.” F&G Code § 1602 prescribes conditions under which activities directly affecting a river, stream or lake can be taken. The purpose of the CERCLA action is to address threats from the release of a hazardous substance to human health or the environment, not to conduct activities that would directly affect a river, stream or lake. Additionally, F&G Code § 1600 is not intended to address the circumstances of the CERCLA response, as F&G Code § 1610 specifically provides that the chapter does not apply to “immediate emergency work necessary to protect life or property.” Accordingly, the provision is not relevant or appropriate for the response. Further, the CERCLA removal action will not include the activities regulated by F&G Code § 1600 et seq. including the depositing or disposal of waste where it may pass into any river, stream, or lake. Water associated with the removal activities (i.e., other than unimpacted stormwater) will be contained and sampled prior to disposal off-site. Waste material will be contained on site prior to

**EPA COMMENTS TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LOCATION AND ACTION SPECIFIC ARARs
FOR CERCLA REMOVAL ACTIONS AT THE MOSS LANDING POWER PLANT NOVEMBER 2025**

SUBJECT OF REQUIREMENT	REQUIREMENT	REGULATORY CITATION	CDFW DESCRIPTION	EPA ARAR STATUS DETERMINATION	EPA COMMENT
					characterization and disposal off-Site.
Wetlands	Action must be taken to protect, preserve, and restore wetland acreage or habitat value. https://fgc.ca.gov/About/Policies/Miscellaneous#Wetlands	Fish and Game Commission Wetlands Policy (adopted 1987) included in Fish and Game Code Addenda	This policy seeks to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California. Further, it strongly discourages any development or conversion of wetlands. It adopts the U.S. Fish & Wildlife Service's definition of a wetland which utilizes hydric soils, saturation or inundation, and vegetation criteria, and requires the presence of at least one of these criteria (rather than all three) in order to classify an area as a wetland. When all three wetland indicators (i.e., hydric soils, wetland vegetation, and hydrology) are present, the presumption of wetland existence shall be conclusive. Where less than three indicators are present, policy application shall be supported by the demonstrable use of wetland areas by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values. Wetlands adjacent to the Site are subject to the Fish and Game Commission Wetlands Policy and therefore the requirements of the policy including protecting, preserving, and restoring wetlands should be considered. Elkhorn Slough was designated a Ramsar site, a "Wetland of International Importance," on June 25, 2018, recognizing its ecological value and the importance of its habitats, including salt marshes, mudflats, and eelgrass beds. This designation underscores the area's role as a critical habitat for a wide variety of species. (see <i>Wildlife Species</i> , <i>Waters of the State</i> , and <i>Fully Protected Species</i> ARARs).	Not an ARAR.	EPA takes the position that the Fish and Game Commission Wetlands Policy is a statement of policy and, as such, is not a cleanup standard, standard of control, or substantive requirement, criteria or limitation promulgated under state environmental law. Therefore, it is not an ARAR. The Fish and Game Commission Wetlands Policy is also not "To be considered" for the response action, because while it provides for the protection, preservation and restoration of wetlands, it is not particularly useful to design the CERCLA response action, as the work area for addressing the fire-impacted building, Moss Landing 300, is not immediately adjacent to any waterways, wetlands, sloughs, or ponds.

Appendix A: Mitigation Measures to be Implemented for the CERCLA Response Action

The following table summarizes the strategies recommended by the California Department of Fish and Wildlife to meet ARARs (“Mitigation Measures”) and the potentially responsible parties’ (“PRPs”) responses to the Mitigation Measures. The PRPs will implement the Mitigation Measures as described in the following table:

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Waters of the State; Fully protected species; Endangered, threatened, candidate species</i>	Poisonous materials/“all deleterious materials” should be completely contained on site and within the designated Battery Staging Area (Attachment 2)	Hazardous materials are contained within the fire impacted building (ML300) exclusion zone. All water from impacted areas is collected in the SPCC stormwater vault system and sent to Clean Harbors Seaport Facility for disposal. No surface water has left ML300, including during the fire.
<i>Waters of the State; Fully protected species; Endangered, threatened, candidate species</i>	Vehicles and equipment associated with the CERCLA action should only use ingress and egress corridors identified in Attachment 2.	Vehicles use designated access routes. An onsite and off-site traffic plan was established in cooperation with a third-party traffic engineer. The plan describes the traffic patterns for vehicles onsite and routes immediately leaving the site. The plan further describes the routes of the common materials leaving the site and other vehicles for delivery, equipment, and workers, providing safe routes for demolition debris and battery module onsite transport. The plan includes the map referenced in Attachment 2 of the CDFW ARARs Identification Letter, for battery trucking & staging routes, as well as maps for contractor access and demolition truck routes. See Appendix B .
<i>Waters of the State; Endangered, threatened, candidate species</i>	All vehicles and equipment should be properly maintained and checked daily to prevent spills and leaks that, if introduced to water, could be deleterious to aquatic and terrestrial life.	Vehicles are checked daily for any contamination and spills. Vehicles and equipment are washed down with water before leaving the exclusion zone.
<i>Waters of the State; Endangered, threatened, candidate species</i>	If there is a spill or leak [“of deleterious materials”], activities should stop immediately, and pursuant to pertinent State and federal statutes and regulations, arrange for repair and/or cleanup by qualified individuals any fuel or hazardous waste spills and leaks at the time of occurrence, or as soon as it is safe to do so.	Spills or leaks are cleaned up immediately. Spill kits are staged in various areas of the Moss Landing Power Plant for this purpose.
<i>Waters of the State; Endangered, threatened, candidate species</i>	No materials associated with the CERCLA action should be piled, staged, or placed where the material could pass into Waters of the State including, but not limited to, the dirt lot off Dolan Road at the location of the on-site truck scale (Attachment 2) which is located adjacent to a water source.	Hazardous materials are contained within the ML300 exclusion zone. Waste materials are covered with sheeting or in lidded, lined waste bins and staged away from any waterbodies.
<i>Waters of the State</i>	No litter or debris should be dumped within streams or areas where such waste could wash into a stream.	Trash is covered and placed in designated areas.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Waters of the State</i>	All debris and waste shall be picked up daily and properly disposed of at an appropriate on-site location.	Trash is placed in designated receptacles at the site. Site staff pick up trash daily as needed. The waste management service picks up trash dumpsters when full, as requested by site staff.
<i>Waters of the State</i>	Vehicles and equipment shall be moved away from streams prior to refueling and lubrication.	No streams are present in refueling and maintenance areas. The gasoline and diesel tanks for MLPP vehicles are located east of the cooling water intake pumps, north of the admin building. Heavy vehicle fueling is done by the contractor. A fueling vehicle comes to the site when needed, and containment is set up prior to fueling.
<i>Fully Protected Species; Endangered, threatened, candidate species</i>	All activities related to the CERCLA action should be completely contained on site.	Hazardous materials are contained within the ML300 exclusion zone
<i>Fully protected species; Endangered, threatened, candidate species</i>	Activities related to the CERCLA action should not be conducted, to the greatest extent possible, when it is actively raining, nor should activities be conducted if a 30 percent or greater chance of rainfall is predicted within 72-hour weather forecast.	Surface stormwater in the ML300 area is completely contained by the pre-existing subcatchment system and actively pumped as needed into storage tanks. No surface runoff has occurred from the ML300 area, including at the time of the fire. There is no runoff from the ML300 Exclusion Zone to other areas, as this area is effectively served by the existing subcatchment system and partially enclosed by curbing. If future rainfall threatens the Exclusion Zone perimeter, sandbags can be added to ensure no water departure from the subcatchment system. Sand bags are available on site at all times. There is no need to stop working during rain, as ML300 stormwater is effectively captured by the subcatchment system. This is collected in frac tanks and transported to Clean Harbors' Seaport facility for disposal. All water is also profiled for the contaminants of concern under the ASAO and the site's Stormwater Pollution Prevention Plan.
<i>Fully protected species; Endangered, threatened, candidate species</i>	When activities related to the CERCLA action are conducted during the nesting bird season (February 1—September 15), a qualified biologist should conduct focused surveys throughout the nesting bird season to identify nesting birds within or adjacent to the Site. This includes trees along Highway 1 and Dolan Road, and any structures within and adjacent to the Site that may be suitable for nesting birds. If a nesting bird is found, CDFW should be contacted as soon as possible for consultation when a nesting bird is identified.	MLPP has a contract biologist monitor bird activity on site throughout the year. The qualified biologist will be a representative of the EMC Planning Group. Monterey. They will contact CDFW as needed based on their assessment.
<i>Fully protected species; Endangered, threatened, candidate species</i>	If activities occur at nighttime, nighttime lighting should be cast downward and directed away from the nest.	Nighttime lighting is directed down towards the work area.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>Fully protected species; Endangered, threatened, candidate species</i>	Nighttime lighting should be reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding habitat and open space or upward into the night sky.	There are no planned night operations at ML300.
<i>Endangered, threatened, candidate species; Fully protected species</i>	Vehicle speeds should not exceed a daytime speed limit of 25 miles per hour (mph) and a nighttime speed limit of 15 mph on site. Nighttime is to mean the hours between 30 minutes before sunset and 30 minutes after sunrise (i.e. dawn to dusk) when wildlife is most active.	Vehicle speeds are limited to 10 mph throughout the plant.

Additionally, the PRPs will implement the following Mitigation Measures identified by the United States Department of Fish and Wildlife, as described in the following table:

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>General avoidance and minimization measures</i>	1) Prior to engaging existing or new personnel in construction activities, new construction personnel should participate in environmental awareness training conducted by a qualified biologist. Construction personnel will be informed regarding the identification, potential presence, habitat requirements, legal protections, avoidance and minimization measures, and applicable protection measures for all listed plant and animal species with the potential to occur in or immediately adjacent to the project site. Construction personnel will be informed of the procedures to follow should a listed plant or animal species is encountered during construction activities. If the qualified biologist is not regularly on the project site, training may be provided in an online/virtual meeting. Trainings should be translated to any language needed so that all construction personnel can understand the material. Brochures, books, and briefings may be used in the training session, provided that a qualified botanist or biologist is on hand to answer any questions.	Environmental Staff will provide training for current battery removal operations personnel, most of whom work inside ML300. A Qualified Biologist from EMC Planning Group, Monterey CA will provide training for personnel supporting upcoming external demolition work. Training from a qualified biologist will review protected species identification and notification procedures. A typical training includes: 1. Introduction and pass around worker sign in sheet; 2. Provide handout and discuss special-status species and protected habitats potentially occurring in the project vicinity (including photographs and brief descriptions); 3. Provide handout and discuss BMPs or other protective measures (such as water quality protection measures, work boundaries, work restrictions, etc.); 4. Walk to habitat areas requiring protection and describe specific measures (if in person) or show on map (virtual); and 5. Conclude meeting and reiterate contact information for biologists if species are observed.
<i>General avoidance and minimization measures</i>	2) Only qualified biologists should participate in activities associated with the capture, handling, and surveying for listed animals. All approved biologists should review these measures to ensure compliance with any special considerations.	Only "qualified biologists" will capture or handle listed animals. If the California Red-Legged Frog or California Tiger Salamander are found onsite, biologists will follow the <i>Declining Amphibian Populations Task Force Fieldwork Code of Practice</i> .

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>California Red-legged frog and california tiger salamander measures</i>	1) The activities should be monitored daily to ensure that no California red-legged frogs or California tiger salamanders are in the work area and could be killed or injured. Clearance surveys prior to the onset of activities each day would be prudent to make sure any California red-legged frog or California tiger salamander that have moved into the area overnight are captured.	Activities are monitored daily by work teams and at the start of every shift. If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered per the <i>Declining Amphibian Populations Task Force Fieldwork Code of Practice</i> , when applicable.
<i>California Red-legged frog and california tiger salamander measures</i>	2) A monitor familiar with the California red-legged frog and California tiger salamander should be present during activities to ensure that any individuals of these species' present are avoided or are allowed to move out of harm's way of their own volition. If suspending the activities is not possible until a California red-legged frog or California tiger salamander leaves on its own accord, a qualified biologist should move the individual animals to suitable habitat nearby to avoid direct injury or mortality.	If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered.
<i>California Red-legged frog and california tiger salamander measures</i>	3) Any California red-legged frogs or California tiger salamanders captured and relocated should be handled for as short a time as possible and transported to relocation sites as quickly as possible. The relocation site should be placed in suitable habitat as close to the capture site as possible, yet far enough to get them out of harm's way. Relocated animals may return to the project site.	If species are identified, a qualified biologist will move them to a suitable habitat, as close as feasible to the site where it was discovered.
<i>California Red-legged frog and california tiger salamander measures</i>	4) All biologists engaged in capture/relocation activities should follow the Declining Amphibian Population Task Force Fieldwork Code of Practice (attached) to avoid or minimize the potential to spread pathogens, such as chytrid fungus.	Biologists will be instructed on the <i>Declining Amphibian Population Taskforce Fieldwork Code of Practice</i> .
<i>California Red-legged frog and california tiger salamander measures</i>	5) All water impoundments should have at least 0.25-inch mesh blocking all intakes to prevent species from entering.	There are no water impoundments in the demolition area. Stormdrains are lined with intake filters, using filter fabric.
<i>California Red-legged frog and california tiger salamander measures</i>	6) All trash should be covered and/or taken off-site to minimize attraction of predators that may feed on amphibians.	Trash is placed in designated receptacles at the site. Containers are lined with bags and covered. Site staff pick up trash daily as needed. The waste management service picks up trash dumpsters when full, as requested by site staff.
<i>California Red-legged frog and california tiger salamander measures</i>	7) All refueling and equipment maintenance should be conducted away from waterbodies to avoid accidental contamination.	These activities are conducted away from water bodies and, where possible, with spill containment. The gasoline and diesel tanks for MLPP vehicles are located east of the cooling water intake pumps, north of the administration building. Heavy vehicle fueling is done by the contractor. A fueling vehicle comes to the site when needed, and containment is set up prior to fueling.

Associated ARAR(s)	Mitigation Measure	PRP Response
<i>California Red-legged frog and california tiger salamander measures</i>	8) Any open pits or holes should be covered at the end of each workday to avoid entrapment of amphibians that may be dispersing through the area.	There are no open pits or holes. If an excavation is needed for pipe or utility repair, for example, the hole is checked daily and only left open until the work is completed.
<i>California Red-legged frog and california tiger salamander measures</i>	9) Biologists should document the location(s) to where California red-legged frogs and California tiger salamanders are relocated, with a description of the habitat and whether any other California red-legged frogs or California tiger salamanders are already present.	If protected species are identified, captured, and relocated, the qualified biologist doing this work will document the locations.

Appendix B: ML300 Project Transportation Plan MLB25FO-DEM-010

APPLIES TO:	ML300 BESS	EFFECTIVE DATE:	8/1/2025	VERSION	0	PROCEDURE NO.	MLB25FO-DEM-010
SUBJECT	ML300 Project Transportation Plan						

1. Scope

- 1.1. The purpose of the ML300 Project Transportation is to provide a detailed plan for the onsite and offsite transportation of materials into and out of the ML300 work site including plans provided to the government organizations
- 1.2. ASAOC Requirement- 45. Work Removal Plans

j. Community impact mitigation: Perform community impact mitigation activities to: (a) reduce impacts (e.g., air emissions, dust, odor, traffic, noise, temporary relocation, negative economic effects) to surrounding businesses and any other places frequented by community members ("Community Areas") during implementation of the Removal Action; and (b) make adjustments during the implementation of the Removal Action in order to further reduce negative impacts to affected Community Areas.

2. Traffic Study-

- 2.1.1. The Traffic Study (Attachment B) was performed by a third party for submission to Monterey County to determine the effect of the project on traffic through the county including expected changes to site traffic with trucks, cars and other vehicles into and out of the site. The traffic counts for Dolan Road and using past data for surrounding roads. Significant items we will adhere to are:
 - 2.1.1.1. No trucks will exit the site to CA1. All trucks will go east on Dolan Road to Castroville Blvd.
 - 2.1.1.2. Truck arrivals should use SR156 to Castroville Blvd.
 - 2.1.1.3. North Truck departures should use Castroville Blvd to San Miguel Canyon to CA101
 - 2.1.1.4. South truck departures should use Castroville Blvd to SR156
 - 2.1.1.5. Workers discouraged from using CA1

3. Traffic Plans-

- 3.1. Traffic on site will be coordinated by the maps in Attachment A.

4. Attachments

- 4.1. Attachment A: Site Transportation Maps
- 4.2. Attachment B: Vistra Moss Landing Battery Cleanup Traffic Evaluation
- 4.3. Attachment C: Document Control Leave this as the last attachment

APPLIES TO:	ML300 BESS	EFFECTIVE DATE:	8/1/2025	VERSION	0	PROCEDURE NO.	MLB25FO-DEM-010
SUBJECT	ML300 Project Transportation Plan						

Attachment A: Site Transportation Maps



Battery Trucking & Staging Routes.pdf



Contractor Access Route.pdf



Demolition Truck Route.pdf

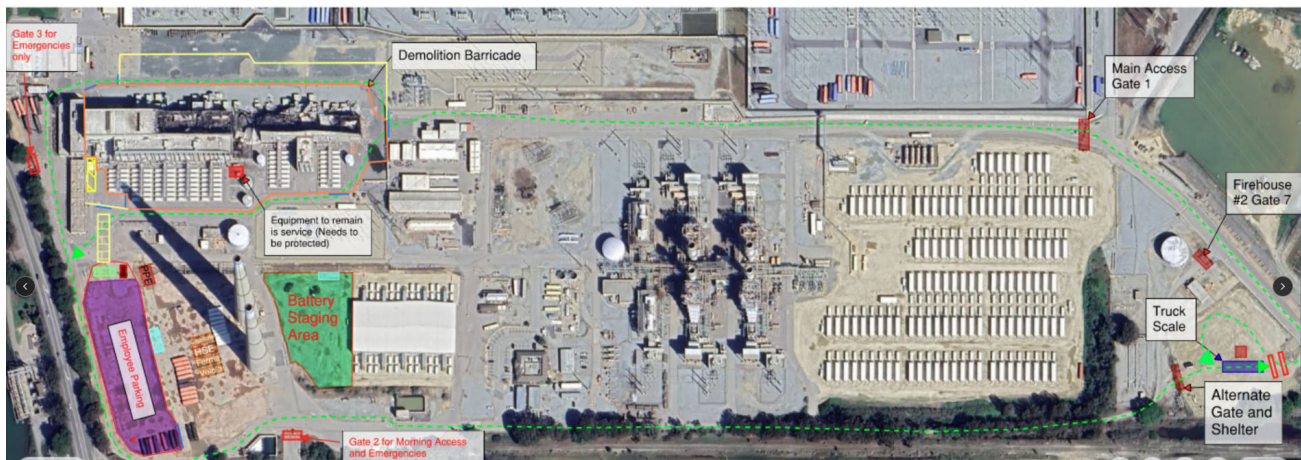
Battery Trucking & Staging Routes



Contractor Access Route



Demolition Truck Routes



APPLIES TO:	ML300 BESS	EFFECTIVE DATE:	8/1/2025	VERSION	0	PROCEDURE NO.	MLB25FO-DEM-010
SUBJECT	ML300 Project Transportation Plan						

Attachment B: Vistra Moss Landing Battery Cleanup Traffic Evaluation

Keith Higgins

Traffic Engineer

VISTRA MOSS LANDING BATTERY CLEANUP TRAFFIC EVALUATION

DRAFT REPORT

MONTEREY COUNTY, CALIFORNIA

Prepared for
EMC Planning Group
Monterey, CA 93940

Prepared by
Keith Higgins, Traffic Engineer
Gilroy, CA 95020

July 15, 2025



Enclosure B – USFW Communication regarding Emergency Informal Consultation

From: [Bartlett, Kirby M](#)
To: [Petrie, Ejan](#)
Cc: [Friedli, Laura](#); [Brockman, Kazami](#); [Hull, Katherine](#)
Subject: Moss Landing Vistra Energy Battery Fire Cleanup - Emergency Informal Consultation (FWS file no. 2025-0058598)
Date: Tuesday, March 3, 2026 3:51:56 PM

You don't often get email from kirby_bartlett@fws.gov. [Learn why this is important](#)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Hello Ejan,

We have reviewed your notification of the EPA's oversight of Vistra's battery removal work after the January 2025 fire at Vistra's Moss Landing Energy Storage Facility in Moss Landing California. EPA is overseeing Vista's demolition of the damaged building and removal of onsite debris to McCarran Nevada.

The project is in Moss Landing, California (36.803929, -121.776266) adjacent to Elkhorn Slough. Our receipt of your notification initiates informal emergency consultation procedures pursuant to the regulations implementing section 7 of the Endangered Species Act of 1973, as amended (50 CFR 402.05). The threatened California red-legged frog (*Rana draytonii*), the Central Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*), the Southern sea otter (*Enhydra lutris nereis*), and the endangered tidewater goby (*Eucyclogobius newberryi*) are all known to occur in the vicinity of the proposed project. Therefore, we are providing measures to avoid or minimize the effects on the species during the emergency demolition and removal. **Because you have determined that an imminent threat exists to life and/or property without the proposed action, under no circumstances should any of the measures be implemented if doing so will interfere with alleviating the emergency.**

General Avoidance and Minimization Measures:

1. Prior to engaging existing or new personnel in construction activities, new construction personnel should participate in environmental awareness training conducted by a qualified biologist. Construction personnel will be informed regarding the identification, potential presence, habitat requirements, legal protections, avoidance and minimization measures, and applicable protection measures for all listed plant and animal species with the potential to occur in or immediately adjacent to the project site. Construction personnel will be informed of the procedures to follow should a listed plant or animal species is encountered during construction activities. If the qualified biologist is not regularly on the project site, training may be provided in an online/virtual meeting. Trainings should be translated to any language needed so that all construction personnel can understand the material. Brochures, books, and briefings may be used in the training session, provided that a qualified botanist or biologist is on hand to answer any questions.
2. Only qualified biologists should participate in activities associated with the capture, handling, and surveying for listed animals. All approved biologists should review these measures to ensure

compliance with any special considerations.

California Red-legged Frog and California Tiger Salamander Measures:

1. The activities should be monitored daily to ensure that no California red-legged frogs or California tiger salamanders are in the work area and could be killed or injured. Clearance surveys prior to the onset of activities each day would be prudent to make sure any California red-legged frog or California tiger salamander that have moved into the area overnight are captured.
2. A monitor familiar with the California red-legged frog and California tiger salamander should be present during activities to ensure that any individuals of these species' present are avoided or are allowed to move out of harm's way of their own volition. If suspending the activities is not possible until a California red-legged frog or California tiger salamander leaves on its own accord, a qualified biologist should move the individual animals to suitable habitat nearby to avoid direct injury or mortality.
3. Any California red-legged frogs or California tiger salamanders captured and relocated should be handled for as short a time as possible and transported to relocation sites as quickly as possible. The relocation site should be placed in suitable habitat as close to the capture site as possible, yet far enough to get them out of harm's way. Relocated animals may return to the project site .
4. All biologists engaged in capture/relocation activities should follow the Declining Amphibian Population Task Force Fieldwork Code of Practice (attached) to avoid or minimize the potential to spread pathogens, such as chytrid fungus.
5. All water impoundments should have at least 0.25-inch mesh blocking all intakes to prevent species from entering.
6. All trash should be covered and/or taken off-site to minimize attraction of predators that may feed on amphibians.
7. All refueling and equipment maintenance should be conducted away from waterbodies to avoid accidental contamination.
8. Any open pits or holes should be covered at the end of each workday to avoid entrapment of amphibians that may be dispersing through the area.
9. Biologists should document the location(s) to where California red-legged frogs and California tiger salamanders are relocated, with a description of the habitat and whether any other California red-legged frogs or California tiger salamanders are already present.

After the emergency has abated (i.e., the emergency repair work has been completed) the EPA should assess whether any adverse effects to the California red-legged frog, California tiger salamander, the Southern sea otter, and the endangered tidewater goby occurred and report your

findings to us. As soon as possible, you should submit to us a letter describing the actions taken and your assessment of the effects on the California red-legged frog, California tiger salamander, the Southern sea otter, and the endangered tidewater goby, if any. We will either issue our concurrence if you have determined that no adverse effects occurred, if we agree, or we will initiate formal consultation on the actions that resulted in adverse effects. Please keep in mind that if any adverse impacts occur to these species or their habitats, compensation to offset impacts in accordance with our Service Endangered Species Act Mitigation Policy (attached) might be appropriate.

If you have any questions or updates, please contact me as indicated below. We have assigned number 2025-0058598 to this action, please include this number on all future correspondence reading this action.

Thank you,
Kirby

Kirby M. Bartlett (she/her)

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