

APPENDIX C

**RELEVANT FEDERAL AND STATE
ENVIRONMENTAL LAWS
AND REGULATIONS**

Relevant Laws and Regulations	Summary	Resource/ Consideration	Compliance
<i>Federal</i>			
National Environmental Policy Act (NEPA)	Requires Federal agencies to evaluate the environmental impacts of their actions, and integrate such evaluations into their decision-making processes.	All	This EIS fully complies with NEPA.
Council on Environmental Quality (CEQ) Regulations	These regulations (40 CFR 1500-1508) implement NEPA and establish two different levels of environmental analysis: the environmental assessment (EA) and the environmental impact statement (EIS). An EA determines whether significant impacts may result from a Proposed Action. If significant environmental impacts are identified, and EIS is required to provide the public with a detailed analysis of alternative actions, their impacts, and mitigation measure if necessary.	All	This EIS fully complies with the CEQ Regulations for implementing NEPA.
Clean Water Act (CWA)	Regulates the discharge of pollutants into navigable waters of the U.S. through a permit system (NPDES) administered by US EPA and the states (MPDES in Montana). Non-point sources requirements control pesticide runoff, agricultural runoff, forestry operations and parking lots/motor pools. Point sources require individual or group permits and must be monitored at the point they enter public waters, storm sewers, or natural waterways. Section 311(j) requires facilities to prepare a Spill	Water Resources, Biological Resources, Human Health and Safety	Once plans and specifications are available, and prior to SME constructing facilities on the ground, it may need to perform a Jurisdictional Determination and comply with CWA, in particular, section 404 on discharges of fill into waters and wetlands. In addition, SME and/or its contractors will have to utilize BMP's and a Stormwater Management Plan to minimize erosion, runoff, and sedi-mentation. Any effluent discharges to receiving waters would require

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	Prevention Control and Countermeasure Plan, containing minimum prevention facilities, restraints against drainage, and an oil spill contingency plan, etc. Section 404 regulates discharge of dredge and fill materials into “waters of the United States.”		an MPDES permit from MDEQ.
Executive Order 11514	Protection of Environment provides leadership for protecting and enhancing the quality of the Nation’s environment to sustain and enrich human life.	All	RUS and this EIS comply with E.O. 11514.
The Noise Control Act of 1972, as amended, by the Quiet Communities Act of 1978	Requires compliance with State and local noise laws and ordinances.	Noise, Human Health and Safety	Construction contractors will have to comply, and modify certain practices if public complaints are received.
Clean Air Act (CAA)	The State of Montana has federal approval to administer and enforce the Clean Air Act. Among the varied provisions, it establishes standards for air quality in regard to pollutants generated by internal combustion engines in vehicles, fossil fuel-burning power plants, and other industrial emissions. These standards, known as the National Ambient Air Quality Standards (NAAQS), define the concentrations of pollutants that are allowable in the air to which the general public is exposed (the “ambient” air).	Air Quality	SME is required to comply and obtain a Construction Permit and an Operation Permit for any air contaminant source or emission unit.

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Endangered Species Act (ESA)	Prohibits harming any species listed by the U.S. Fish and Wildlife Service as either being threatened or endangered. Harming such a species includes not only directly injuring or killing them, but also disrupting the habitat they depend upon.	Biological Resources	No federally listed species protected by the ESA appear to be present onsite. Offsite, the bald eagle forages and nests along the Missouri River.
Executive Order 12372	Intergovernmental Review of Federal Programs directs federal agencies to consult with and solicit comments from state and local government officials whose jurisdictions would be affected by Federal actions.	All	Consultation conducted with state and local officials.
40 CFR 423	Federal effluent limitations, performance standards, and pretreatment standards of any surface water discharged by a Steam Electric Power Generating Point Source.	Water Resources, Biological Resources, Human Health and Safety	SME will have to comply with standards during construction and operation of coal burning power plant.
40 CFR 262.11	Standards Applicable to Generators of Hazardous Waste: Hazardous Waste Determination lists the criteria defining hazardous wastes.	Waste Management	The handling and disposal of any hazardous wastes generated during the construction and operation of an SME power plant will be required to comply with all applicable standards and regulations.

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40 CFR 262.40	Standards Applicable to Generators of Hazardous Waste: Record keeping addresses the requirements of recording waste handling activities.	Waste Management	The handling and disposal of any hazardous wastes generated during the construction and operation of an SME power plant will be required to comply with all applicable standards and regulations.
Resource Conservation and Recovery Act (RCRA)	Regulates all aspects of the handling of hazardous waste through RCRA permits issued by the USEPA.	Hazardous Materials	The handling and disposal of any hazardous wastes generated during the construction and operation of an SME power plant will be required to comply with all applicable standards and regulations.
National Historic Preservation Act, Section 106	Provides the framework for Federal review and protection of cultural resources, and to ensure that they are considered during Federal project planning and execution. The implementing regulations for the Section 106 process (36 CFR Part 800) have been developed by the Advisory Council on Historic Preservation (ACHP). The Secretary of the Interior maintains a National Register of Historic Places (NRHP) and sets forth significance criteria for inclusion in the register. Cultural resources included in the NRHP, or determined eligible for inclusion, are considered “historic properties” for the purposed of consideration by Federal undertakings.	Cultural Resources	RUS, MDEQ, Montana SHPO, NPS, and ACHP will cooperate to minimize and mitigate adverse effects on Great Falls Portage National Historic Landmark and any other cultural resources yet to be discovered.

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Executive Order 11593	Protection and Enhancement of the Cultural Environment provides leadership for protecting, enhancing, and maintaining the quality of the Nation’s historic and cultural environment.	Cultural Resources	Cultural resources protected by MOA.
Native American Graves Protection and Repatriation Act (NAGPRA)	Protects Native American human remains, burials, and associated burial goods.	Cultural Resources	SME and its contractors will contact and cooperate closely with the relevant Tribal authorities and the Montana SHPO in the event of the unanticipated discovery of human remains at construction sites.
Executive Order 12898	Requires Federal actions to achieve Environmental Justice by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.	All	EIS complies with E.O. 12898.
Executive Order 12088	Requires the head of each executive agency to be responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution, including noise pollution, with respect to Federal facilities and activities under the control of the agency.	Noise	No Federal facility or agency would generate noise or environmental pollution under the Proposed Action.

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Executive Order 13045	Requires Federal actions and policies to identify and address disproportionately adverse risks to the health and safety of children.	All	Proposed Action does not entail particular risks to health and safety of children.
14 CFR Part 77	Requires compliance with the Federal Aviation Administration (FAA) to identify any potential impacts, such as emissions or height of construction, on air safety and navigable airspace.	Transportation	SME will have to comply, but distance to Great Falls airport under both alternatives means that impacts and regulatory intervention are unlikely.
Executive Order 11990: Protection of Wetlands	An overall wetlands policy for all agencies managing federal lands, sponsoring federal projects, or providing federal funds to state or local projects. It requires federal agencies to follow avoidance, mitigation and preservation procedures with public input before proposing new construction projects.	Water Resources, Biological Resources	Through the CWA Section 404 permitting process, SME will avoid or mitigate any impacts to jurisdictional wetlands.
Farmland Protection Policy Act	Requires federal agencies to use criteria to identify and take into account the adverse effects of their programs on the preservation of farmland, to consider alternative actions that could decrease adverse effects, and to ensure that their programs are compatible with State and local government and private programs and policies to protect farmland.	Farmland and Land Use	Since a loan guarantee from USDA Rural Development would assist SME to purchase farmland and permanently convert it to industrial development, RD may have to fill out Form AD 1066.

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<i>Montana</i>			
Montana Environmental Policy Act	Provides for the adequate review of state actions in order to ensure that environmental attributes are fully considered. Encourages productive and enjoyable harmony between humans and their environment. Protects the right to use and enjoy private property free of undue government regulation. Promotes efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans.	All	This EIS fully complies with MEPA.
Clean Air Act of Montana	Seeks to achieve and maintain levels of air quality that will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property. Supports local and regional air pollution control programs. Provides for a coordinated statewide program of air pollution prevention, abatement, and control.	Air Quality	DEQ has verified and confirmed the information in SME’s Air Quality and Operating Permits application, validated the models used to predict impacts, imposed Best Available Control Technology to reduce emissions, and issued a Draft Air Quality Permit.
Montana Solid Waste Management Act	DEQ issues licenses for construction and operation of landfills to properly dispose of solid waste.	Waste Management	SME has developed a Waste Management Plan for onsite disposal of ash and submitted a No Migration Petition to DEQ to demonstrate that no leachate will migrate offsite or to aquifers.

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Montana Hazardous Waste Act	Protects the public health, safety, and welfare through cooperation with the federal government under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the disposal and control of such hazardous substances and contaminants in a safe and environmentally sound manner.	Waste Management	Hazardous materials will be transported off-site for disposal in an approved facility. SME is working with DEQ to develop on-site disposal of ash in a manner that protects the environment.

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<p>Environmental Control Easement Act</p> <p>The Montana Solid Waste Management Act</p>	<p>Protects the public health and safety, the health of living organisms, and the environment from the effects of the improper, inadequate, or unsound management of hazardous wastes and used oil; to establish a program of regulation over used oil and the generation, storage, transportation, treatment, and disposal of hazardous wastes; to ensure the safe and adequate management of hazardous wastes and used oil within this state; and to authorize the department to adopt, administer, and enforce a hazardous waste program pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 through 6987), as amended.</p> <p>Protects the public health, safety, and welfare through cooperation with the federal government under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the disposal and control of such hazardous substances and contaminants in a safe and environmentally sound manner.</p>	<p>All</p> <p>Solid waste</p> <p>Waste</p>	
<p>Appendix C: Laws and Regulations</p> <p>Montana Hazardous Waste Act</p>			<p>C-10</p>

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75-5-101 et seq.	Protects, maintains, and improves the quality and potability of water for public water supplies and domestic uses	Water	
Clean Air Act of Montana	Prevent, abate, and control the pollution of state waters	Air	
85-1-101 et seq	Provides for a coordinated statewide program of air pollution prevention, abatement, and control; an appropriate distribution of responsibilities among the state and local units of government; facilitates cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; and provides a framework within which all values may be balanced in the public interest.	Water	
85-2-101 et seq	Governs water use	Water	
The Nongame and Endangered Species Conservation Act	Regulation of ground water and surface water and appropriation of water	Wildlife	
Territorial Integrity Act	To manage certain nongame wildlife for human enjoyment, for scientific purposes,	Construction	

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Mont. Admin. R. Chapter 8	and to ensure their perpetuation as members of ecosystems	Construction, Air	
Mont. Admin. R. Chapter 20	Regulated transmission territories for power transmission.	Construction	
Mont. Admin. R. Chapter 30	Governs emissions controls, stack height, and other factors affecting air quality	Water	
Mont. Admin. R. Chapter 36	Governs major facility siting	Construction, Water	
Mont. Admin. R. Chapter 40	Regulations governing water quality	Construction, Water	
Mont. Admin. R. Chapter 50	Regulations governing waste water treatment	Solid waste	
Mont. Admin. R. Chapter 53	Regulations governing water treatment plants and operators Solid waste management Regulation of hazardous waste.	Waste	

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