



## 10.0 Permit Requirements

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### 10.1 Permits and Other Regulations

TNEC must obtain permits under the following state, local and federal statutes and regulations prior to the construction of the Project.

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#### 10.1.1 State Permits

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##### 10.1.1.1 EFSB License

The Project will require a license to construct a major energy facility from the EFSB pursuant to Rhode Island General Laws (R.I.G.L.) Section 42-98-1 et seq.

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##### 10.1.1.2 RIDEM Freshwater Wetlands Permit

The Project will require a freshwater wetlands permit from RIDEM pursuant to R.I.G.L. Section 2-1-18 et seq. for alteration of freshwater wetlands in connection with the construction of certain structures and access roads.

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##### 10.1.1.3 RIPDES Storm Water Discharge Associated with Construction Activities

The Project will require a permit from RIDEM for approval of storm water discharge associated with construction activities pursuant to Rule 31 of the Rhode Island Pollutant Discharge Elimination System (RIPDES) Regulations. It is expected that the Project will qualify for authorization under the General Permit and will be automatically authorized as part of the freshwater wetlands permit.



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#### 10.1.1.4 Water Quality Certification

The Project will need a Water Quality Certification from RIDEM under Section 401 of the Clean Water Act. It is expected that the water quality certification will be issued as part of the freshwater wetlands permit.

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#### 10.1.2 Local Permits

The Project will require the following relief under local ordinances:

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##### 10.1.2.1 Portsmouth

###### Height and Use Restrictions

A dimensional variance from the Portsmouth Zoning Ordinance, Article IV, Section B height restrictions is required for the replacement transmission line structures. According to Portsmouth Zoning Ordinance, Article IV, Section B., a special use permit for public utilities is required for the TNEC owned property located on the west side of Jepson Lane.

###### Development Plan Review

A Development Plan Review is required for the proposed demolition work at the existing Jepson Substation. Portsmouth Zoning Ordinance, Article III, Section H.12.

###### Special Flood Hazard Areas

Pursuant to Portsmouth Zoning Ordinances Article III, Section F.8, the Zoning Inspector may impose restrictions or other flood protective measures on Public Utilities that are located within SFHAs. SFHAs are defined as Zone A, AE, V, or VE on the Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by FEMA for the administration of the National Flood Insurance Program. A portion of the ROW crosses a SFHA within the vicinity of Sisson Pond. There are only wires crossing above the SFHA so no relief is necessary.

###### Stone Walls

The Stone Wall Preservation Ordinance in Chapter 333-4-B of the Code of the Town of Portsmouth requires prior approval from the Planning Board for planned alteration or demolition of stone walls. The ordinance requires the stone walls to be restored or relocated in a manner consistent with the original construction. A variance from the Zoning Board of Review will be required for any deviations from the Stone Wall preservation standards.



### Watershed Protection District

Much of the Project occurs within Portsmouth's Watershed Protection District (Portsmouth Zoning Ordinance Article III, Section H.3), which was established to protect and preserve the quality of drinking water supplies. The portion of the Project in the Watershed Protection District occurs within each of the two Hydrological Zones:

- "A" Zone: The area within 500 feet from the edge of Lawton Valley Reservoir, Saint Mary's Pond, or Sisson Pond; areas of Stissing silt loam and Mansfield mucky silt loam; and all streams, wetlands and wetland buffers that serve as tributaries to a drinking water reservoir.
- "UD" Zone: The watershed area designated which is contributory to surface water runoff to the primary water bodies either through surface water runoff or groundwater movement that is not in the "A" Zone.

TNEC is required to submit a Project Plan to the Planning Board for formal review, pursuant to Portsmouth Zoning Ordinance Article III, Section H.12. This review also requires an Environmental Review Assessment (ERA) which will evaluate the impacts of the Project on the watershed with regard to pollutant loading and stormwater runoff. The ERA will also include a description of the physical environmental setting within 500 feet of the proposed Project area. Lastly, the ERA requires that TNEC consult with the Newport Water Division regarding the environmental impacts of the proposed Project on the watershed.

### Construction Work Hours

Section 257-5(J) of the Code of the Town of Portsmouth exempts sound from permitted construction and demolition activities between the hours of 7AM and 9PM. A variance from the Portsmouth Town Council will be required for any work performed outside of permitted hours.

### Erosion and Sediment Control

A Determination of Applicability must be filed with the Building Official for any Project that disturbs one acre or more of existing vegetation, grades, and contours of land to determine if an erosion and sediment control plan must be filed, Town of Portsmouth Ordinance Section 320-3. Upon a positive determination, TNEC will submit a soil erosion and sediment control plan for approval by the Building Official. The Building Official would approve, approve with conditions or disapprove such erosion and sediment control plan.



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## 10.1.2.2 Middletown

### Height and Use Restrictions

A dimensional variance from height restrictions will be required for transmission and substation structures in excess of 35 feet tall. Zoning Ordinance of the Town of Middletown, Article 3, Section 305. A special use permit from the Zoning Board of Review is required for the new substation on Jepson Lane. Zoning Ordinance of the Town of Middletown, Article 6, Section 602.

### Fence and Screening Wall

A dimensional variance will be required for the new substation's proposed fence and screening wall that will exceed the six (6) foot limitation in a residential neighborhood. Zoning Ordinance of the Town of Middletown, Article 7, Section 705(F)(1). A variance will also be required for the use of barbed wire fencing in a residential neighborhood. Zoning Ordinance of the Town of Middletown, Article 7, Section 705(G).

### Stone Walls

The Stone Wall Ordinance, Chapter 97 of the Town of Middletown Code of Ordinances, requires Planning Board approval for any alteration or demolition of a stone wall as part of a construction project. A variance from the Zoning Board of Review will be required for any deviation from the general provisions for the protection of stone walls, as listed under Section 97.03 of the Town of Middletown Code of Ordinance.

### Watershed Protection District

The Watershed Protection Districts in the Town of Middletown are divided into two zones (Zoning Ordinance of the Town of Middletown, Article 11, Section 1101-1104):

- Zone 1: The area within 200 feet from the centerline of a watercourse or the edge of a surface water body; areas of Stissing silt loam and Mansfield mucky silt loam.
- Zone 2: The watershed area which is contributory to surface water runoff to the primary water bodies contained in Zone 1, and which drains into Zone 1 areas either through surface water runoff or groundwater movement; it is delineated on the Middletown Official Zoning Map (2011).

Stissing and Mansfield soil units are mapped in the vicinity of the Jepson Substation and the relocated 63 Line. The Zoning Map identifies the proposed site of the new Jepson Substation within the watershed boundary draining to the public water



supply. As such, the Project is located within both Watershed Zones 1 and 2 and will require a Special Use Permit granted by the Zoning Board.

#### Construction Work Hours

Section 130.78(H) of the Middletown Town Code exempts “sound relative to permitted construction and demolition activities” from the Noise Abatement Chapter provided such noise occurs between 7 AM and 9 PM. A sound variance from the Middletown Town Council is required for any work performed outside of permitted hours.

#### Erosion and Sediment Control

Any development project that may cause a disturbance of greater than 50 CY to the terrain (and its contours) and topsoil or vegetative ground cover upon any property within the Town of Middletown mandates the submission of a determination of applicability to the Building Official, pursuant to Chapter 151.02, Construction Site Runoff Control (formerly Soil Erosion and Sedimentation Control). Upon a positive determination, TNEC will submit a SESC Plan for approval to the Building Official. The Building Official would approve, approve with conditions or disapprove such erosion and sediment control plan.

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### 10.1.3 Federal Permits

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#### 10.1.3.1 Army Corps of Engineers

The Project will require an ACOE Section 404 Permit for the filling of wetlands in connection with the construction of the structures in wetlands, clearing in wetlands, and the construction of certain temporary access roads.

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#### 10.1.3.2 Historic Preservation

Consultation with the RIHPHC (State Historic Preservation Office) and the Tribal Historic Preservation Office is ongoing and will be completed as required by Section 106 of the National Historic Preservation Act.

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#### 10.1.3.3 Federal Aviation Administration

The southern end of the Project site near the Jepson Substation is located within 0.7 miles of Runway 22 at Newport Airport, which has a non-precision instrument approach. As such, the Project is located within protected airspace and operational control areas used for air navigation. Protected surfaces extend over the Project site placing the Project within the jurisdiction of the FAA and triggering the need for an



FAA Obstruction Evaluation and Airport Airspace Analysis. TNEC will provide a Notice of Construction for each structure to the FAA along with information to enable the FAA to review the Project.