

**Environmental Impact Statement/
Overseas Environmental Impact Statement
Point Mugu Sea Range**

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6 Other Regulatory Considerations

In accordance with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act (NEPA), federal agencies shall, to the fullest extent possible, integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively. This chapter summarizes environmental compliance for the Proposed Action; consistency with other federal, state, and local plans, policies, and regulations not considered in Chapter 3 (Affected Environment and Environmental Consequences); the relationship between short-term impacts; the maintenance and enhancement of long-term productivity in the affected environment; and irreversible and irretrievable commitments of resources, and energy conservation.

6.1 Consistency with Other Applicable Federal, State, and Local Regulations, and Executive Orders

Implementation of the Proposed Action for the Point Mugu Sea Range (PMSR) Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) would comply with applicable federal, state, and local laws, regulations, and executive orders. The United States (U.S.) Department of the Navy (Navy) consulted with regulatory agencies, as appropriate, during the NEPA process and prior to implementation of the Proposed Action to ensure that requirements are met.

Table 6.1-1 summarizes the additional environmental compliance requirements not specifically assessed in the resource chapters. Section 1.7 (The Environmental Planning Process) provides brief excerpts of the primary federal statutes, executive orders, and guidance that form the regulatory framework for the resource evaluations in Chapter 3 (Affected Environment and Environmental Consequences).

Documentation of consultation and coordination with regulatory agencies is provided in Appendix G (Agency Correspondence).

Table 6.1-1: Summary of Environmental Compliance for the Proposed Action

<i>Laws, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
LAWS	
Abandoned Shipwrecks Act (43 United States Code [U.S.C.] sections 2101–2106)	For abandoned shipwrecks in United States (U.S.) Territorial Waters, the federal government asserts title to the resource. See Section 3.10 (Cultural Resources) for assessment and conclusion that the Proposed Action is consistent with the act.
Act to Prevent Pollution from Ships (33 U.S.C. sections 1901–1915)	At sea, the Navy complies with these regulations and operates in a manner that minimizes or eliminates any adverse effects to the marine environment. See Section 3.2 (Sediments and Water Quality) for the assessment.
Antiquities Act (16 U.S.C. sections 431–433)	In accordance with Navy procedures, the Proposed Action is consistent with the Act’s objectives for protection of archaeological and historical sites and objects, preservation of cultural resources, and the public’s access to them. See Section 3.10 (Cultural Resources) for the assessment.
California Coastal National Monument Designation (Presidential Proclamation 7264, January 11, 2000), expanded areas including the Point Arena-Stornetta Public Lands (Presidential Proclamation 9089, March 11, 2014), and the Boundary Enlargement of the California Coastal National Monument (Presidential Proclamation 9563, January 12, 2017)	The California Coastal National Monument is located along the California coastline and comprises more than 20,000 unappropriated or unreserved islands, rocks, exposed reefs, and pinnacles occurring within 12 nautical miles off the coast of California between Mexico and Oregon (over 1,100 miles). Navy activities are not proposed to occur in these areas. The Navy and the Bureau of Land Management have agreed on the terms of a Memorandum of Understanding dated November 5, 2007, regarding Navy activities in the vicinity of monument resources. Implementation of the Proposed Action would be consistent with the Memorandum of Understanding and would not affect monument resources.
Coastal Zone Management Act (16 U.S.C. sections 1451-1464)	The Navy has determined that the activities are fully consistent with the applicable enforceable policies of the California Coastal Management Plan. The Navy will submit a consistency determination to the California Coastal Commission during the Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) process. See Section 6.1.1 (Coastal Zone Management Act Compliance) for discussions of Navy compliance with the Coastal Zone Management Act.
Historic Sites, Buildings and Antiquities Act, 1935 (54 U.S.C. 320101 et seq.) Antiquities Act (54 U.S.C. sections 320301–320303)	In accordance with Navy procedures, the Proposed Action is consistent with the national policy for the preservation of historic sites, buildings, and objects of national significance. See Section 3.10 (Cultural Resources) for the assessment.

Table 6.1-1: Summary of Environmental Compliance for the Proposed Action (continued)

<i>Laws, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. sections 1801–1882)	The Proposed Action may have potential impacts on essential fish habitat and managed species (Section 6.1.3, Magnuson-Stevens Fishery Conservation and Management Act). The Navy will consult with the National Marine Fisheries Service (NMFS) for affected species and their habitats (Section 6.1.3).
Migratory Bird Treaty Act (16 U.S.C. sections 703–712)	Implementation of the Proposed Action is not anticipated to result in significant adverse effects on migratory bird populations; therefore, the Navy does not need to confer with the U.S. Fish and Wildlife Service. See Section 3.9 (Marine Birds) for the assessment. The Navy will write a Biological Assessment that will be used in consultation with the U.S. Fish and Wildlife Service on federally listed species that are covered by the Endangered Species Act.
National Fishery Enhancement Act (33 U.S.C. sections 2101–2106)	The Proposed Action is consistent with regulations administered by the NMFS and U.S. Army Corps of Engineers concerning artificial reefs in the navigable waters of the United States.
National Historic Preservation Act (16 U.S.C. sections 470 et seq.)	Pursuant to Section 106 of the National Historic Preservation Act, the Navy will consult with the State Historic Preservation Office and the Advisory Council on Historic Preservation. See Section 3.10 (Cultural Resources) for the assessment.
National Marine Sanctuaries Act (16 U.S.C. sections 1431–1445c-1)	Two National Marine Sanctuaries administered by the National Oceanic and Atmospheric Administration Office of National Marine Sanctuaries lie within or overlap the Study Area. These are discussed further in Section 6.1.2.3.1 (Channel Islands National Marine Sanctuary) and Section 6.1.2.3.2 (Monterey Bay National Marine Sanctuary); see Table 6.1-2 for more information on proposed activities and consistency determinations.
Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.)/Military Munitions Rule	Under the Resource Conservation and Recovery Act, the Military Munitions Rule identifies when conventional and chemical military munitions are considered solid waste. Military munitions are not considered solid waste based on the following condition stated in the 40 Code of Federal Regulations (CFR) section 266.202(a)(1)(i-iii). Specifically, munitions are not considered hazardous waste when used for their intended purpose, including training of military personnel and explosive emergency response specialists; research and development activities; and when recovered, collected, and destroyed during range clearance events. This condition covers the uses of munitions included in the Proposed Action; therefore, the Resource Conservation and Recovery Act does not apply.
Rivers and Harbors Act (33 U.S.C. section 401 et seq.)	Under the Rivers and Harbors Act, a permit is required when construction is proposed in navigable waterways. The Navy does not anticipate construction in navigable waters under the Proposed Action. Therefore, no Army Corps of Engineer permits would be required.

Table 6.1-1: Summary of Environmental Compliance for the Proposed Action (continued)

Laws, Executive Orders, International Standards, and Guidance	Status of Compliance
Submerged Lands Act of 1953 (43 U.S.C. sections 1301–1315)	In accordance with the states’ regulations, the Proposed Action is consistent with regulations concerning the Submerged Lands Act.
Sunken Military Craft Act (Public Law 108–375, 10 U.S.C. section 113 Note and 118 Stat. 2094–2098)	The Sunken Military Craft Act does not apply to actions taken by, or at the direction of, the United States. See Section 3.10 (Cultural Resources) for the assessment.
Wilderness Act (Public Law 88–577, 16 U.S.C. 1131–1136)	The Wilderness Act was enacted and amended in 1964 to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes. The Wilderness Act designates lands for preservation and protection in their natural condition, and in this instance applies to the Channel Islands National Park. The Navy would comply, as applicable, with the Wilderness Act when implementing the Proposed Action.
EXECUTIVE ORDERS	
Executive Order 11990, <i>Protection of Wetlands</i>	In accordance with Navy procedures, implementation of the Proposed Action would affect wetlands as defined in Executive Order 11990. See Section 3.2 (Sediments and Water Quality) for the assessment.
Executive Order 12114, <i>Environmental Effects Abroad of Major Department of Defense Actions</i>	The Navy prepared this EIS/OEIS in accordance with Executive Order 12114 and Navy-implementing regulations found at 32 CFR part 187, <i>Environmental Effects Abroad of Major Department of Defense Actions</i> , to inform Federal agencies that have the ultimate responsibility for authorizing and approving the Proposed Action.
Executive Order 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	In accordance with Navy procedures, the Proposed Action would not result in any disproportionately high and adverse human health or environmental effects on minority or low-income populations as all of the proposed activities occur in the ocean and in harbors and bays, where there are no human residences present.
Executive Order 12962, <i>Recreational Fisheries</i>	In accordance with Navy procedures, the Proposed Action would not affect federal agencies’ ability to fulfill certain duties with regard to promoting the health of the public and public access to recreational fishing areas. See Section 3.11 (Socioeconomic Resources) and Section 3.12 (Recreation) for the assessments.
Executive Order 13045, <i>Protection of Children from Environmental Health Risks and Safety Risks</i>	In accordance with Navy procedures, the Proposed Action would not result in disproportionate environmental health or safety risks to children.
Executive Order 13089, <i>Coral Reef Protection</i>	The Navy has prepared this EIS/OEIS in accordance with requirements that federal agencies whose actions affect U.S. coral reef ecosystems shall provide for implementation of measures needed to research, monitor, manage, and restore them, including reducing impacts from pollution and sedimentation. See Section 3.5 (Marine Invertebrates) for the assessment.

Table 6.1-1: Summary of Environmental Compliance for the Proposed Action (continued)

Laws, Executive Orders, International Standards, and Guidance	Status of Compliance
Executive Order 13112, <i>Invasive Species</i>	In accordance with Navy procedures, the Proposed Action would not increase the number of or introduce new invasive species nor require the Navy to take measures to avoid introduction and spread of those species. Naval vessels are exempt from 33 CFR part 151 subpart D, Ballast Water Management for Control of Nonindigenous Species in Waters of the United States; however, the Navy follows ballast water protocols as required by the Chief of Naval Operations Instructions M-5090.1, <i>Environmental Readiness Program Manual</i> .
Executive Order 13158, <i>Marine Protected Areas</i>	The Navy has prepared this EIS/OEIS in accordance with requirements for the protection of existing national system marine protected areas. See Section 6.1.2 (Marine Protected Areas) for more information.
Executive Order 13175, <i>Consultation and Coordination with Indian Tribal Governments</i>	In accordance with Navy procedures, the Proposed Action would not have substantial direct effects on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. See Table 7.2-1 for federally recognized tribes that were provided scoping notification letters of this PMSR EIS/OEIS.
Executive Order 13547, <i>Stewardship of the Ocean, Our Coasts, and the Great Lakes</i>	This EO was revoked and replaced by EO 13840, <i>Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States</i> .
EO 13693, <i>Planning for Federal Sustainability in the Next Decade</i>	This EO was revoked and replaced by EO 13834, <i>Efficient Federal Operations</i> .
Executive Order 13783, <i>On Promoting Energy Independence and Economic Growth</i>	The Proposed Action is consistent with the policy and immediate review of all agency actions that potentially burden the safe, efficient development of domestic energy resources. This Executive Order revokes Executive Order 13653, <i>Preparing the United States for the Impacts of Climate Change</i> .
Executive Order 13792, <i>Review of Designations Under the Antiquities Act</i>	On April 26, 2017, Executive Order 13792 was issued and directed the Secretary of the Interior to review designations of national monuments made since 1996.
Executive Order 13834, <i>Efficient Federal Operations</i>	The Proposed Action is consistent with the federal government's order to prioritize actions that reduce waste, cut costs, enhance the resilience of Federal infrastructure and operations, and enable more effective accomplishment of an agency's mission. This Executive Order revokes Executive Order 13693, <i>Planning for Federal Sustainability in the Next Decade</i> .
Executive Order 13840, <i>Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States</i>	The Proposed Action is consistent with the comprehensive national policy for the <i>Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States</i> (which replaced Executive Order 13547, <i>Stewardship of the Ocean, Our Coasts, and the Great Lakes</i>).

Table 6.1-1: Summary of Environmental Compliance for the Proposed Action (continued)

<i>Laws, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
INTERNATIONAL STANDARDS	
International Convention for the Prevention of Pollution from Ships	The Proposed Action does include vessel operation and incidental discharges from ships; however, Navy vessels operating in the Study Area comply with applicable law and regulations, minimizing or eliminating potential impact from discharges from ships.

Notes: U.S. = United States, NMFS = National Marine Fisheries Service, EIS = Environmental Impact Statement, OEIS = Overseas Environmental Impact Statement

6.1.1 Coastal Zone Management Act Compliance

The Coastal Zone Management Act of 1972 (16 United States Code [U.S.C.] section 1451, et seq.) encourages coastal states to be proactive in managing coastal zone uses and resources. The act established a voluntary coastal planning program and required participating states to submit a Coastal Management Plan to the National Oceanic and Atmospheric Administration for approval. Under the act, federal actions that have an effect on a coastal use or resource are required to be consistent, to the maximum extent practicable, with the enforceable policies of federally approved Coastal Management Plans. The Coastal Zone Management Act defines the coastal zone as extending “to the outer limit of State title and ownership under the Submerged Lands Act” (i.e., 3 nautical miles [NM] or 9 NM from the shoreline, depending on the location). The coastal zone extends inland only to the extent necessary to control the shoreline.

A consistency determination, a negative determination, or a *de minimis* exemption may be submitted for review of federal agency activities. A federal agency submits a consistency determination when it determines that its activity may have either a direct or an indirect effect on a state coastal use or resource. In accordance with 15 Code of Federal Regulations [CFR] section 930.39, the consistency determination will include a brief statement indicating whether the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the management program. The consistency determination must be based on evaluation of the relevant enforceable policies of the management program. In accordance with 15 CFR section 930.35, “if a Federal agency determines that there will not be coastal effects, then the Federal agency shall provide the State agencies with a negative determination for a Federal agency activity: (1) Identified by a State agency on its list, as described in section 930.34(b), or through case-by-case monitoring of unlisted activities; or (2) Which is the same as or is similar to activities for which consistency determinations have been prepared in the past; or (3) For which the Federal agency undertook a thorough consistency assessment and developed initial findings on the coastal effects of the activity.” Thus, a negative determination must be submitted to a state if the agency determines no coastal effects and one or more of the triggers above is met. *De minimis* exemptions are activities proposed by the federal agency that have already been reviewed and approved by the state (after allowing for public review and comment), and those that the state has recognized as having insignificant direct or indirect (secondary or cumulative) effects on its coastal resources.

6.1.1.1 California Coastal Management Program

The state of California has an approved Coastal Management Plan, administered by the California Coastal Commission, codifying the California Coastal Act of 1976 (California Public Resources Code,

section 30000 et seq.), the McAteer-Petris Act (created the San Francisco Bay Conservation and Development Commission), and the Suisun Marsh Preservation Act implement California's Coastal Management Program. The California Coastal Act includes policies to protect and expand public access to shorelines; and to protect, enhance, and restore environmentally sensitive habitats, including intertidal and nearshore waters, wetlands, bays and estuaries, riparian habitat, certain woods and grasslands, streams, lakes, and habitat for rare and endangered plants and animals.

Based on an evaluation of the effects of the Proposed Action discussed in this EIS/OEIS and the enforceable policies of the California's Coastal Management Plan, and pursuant to 15 CFR section 930.39, the Navy will submit a consistency determination to the California Coastal Commission. Copies of agency correspondence are found in Appendix G (Agency Correspondence).

6.1.2 Marine Protected Areas

Many areas of the marine environment have some level of federal, state, or local management or protection. Marine protected areas are designated and managed at all levels of government by a variety of agencies and have been established by more than 100 legal authorities. Marine protected areas vary widely in purpose, managing agencies, management approaches, level of protection, and restrictions on human uses. They have been designated to achieve objectives ranging from the conservation of biodiversity, to the preservation of sunken historic vessels, to the protection of spawning species important to commercial and recreational fisheries. The levels of protection provided by these marine protected areas range from fully protected reserves (i.e., no take of any species is permitted) to sites allowing multiple uses including fishing, recreation, and industrial uses (National Marine Protected Areas Center, 2008).

Executive Order 13158, *Marine Protected Areas* (*Federal Register* 65[105]: 34909–34911, May 26, 2000), directs the National Oceanic and Atmospheric Administration to establish a National Marine Protected Areas Center charged with developing a national system of marine protected areas and with maintaining a list of sites formally accepted into the national system. A full list and map of areas accepted in the national system of marine protected areas is available from the National Marine Protected Areas Center. Executive Order 13158 requires each Federal agency whose actions affect the natural or cultural resources that are protected by a national system of marine protected areas to identify such actions, and in taking such actions, avoid harm to those natural and cultural resources to the maximum extent practicable. Pursuant to Section 5 of Executive Order 13158, agency requirements apply only to the natural or cultural resources specifically afforded protection by the sites recognized in the List of National System Marine Protected Areas (National Marine Protected Areas Center, 2013). Although many sites contain coastal (within the continental shelf) lands and islands, only the resources of the protected coastal and ocean waters, and the submerged lands thereunder, are subject to Section 5 of Executive Order 13158 (National Park Service, 2006).

All resources of the marine protected areas located within the Study Area have been incorporated into the analyses in Sections 3.1 through 3.9 (Air Quality, Sediments and Water Quality, Marine Habitats, Marine Vegetation, Marine Invertebrates, Marine Fishes, Marine Mammals, Sea Turtles, and Marine Birds). In accordance with Executive Order 13158, the Navy has considered the potential impacts of its proposed activities under the Proposed Action to the national system marine protected areas that contain marine waters within the Study Area, factoring in Navy standard operating procedures and mitigation when applicable to the stressor and resource, to avoid or minimize harm to natural and cultural resources for which these marine protected areas were designated to the maximum extent

practicable. For example, the Navy implements standard operating procedures for aircraft safety, which involves pilots of Navy aircraft making every attempt to avoid large flocks of birds to reduce the safety risk involved with a potential bird strike. Since 2011, the Navy has required that all Navy flying units report all bird strikes through the Web-Enabled Safety System Aviation Mishap and Hazard Reporting System. The standard operating procedures for aircraft safety will benefit birds by reducing the potential for aircraft strike.

The Navy also has several standard operating procedures for vessel safety. For example, ships operated by or for the Navy assign personnel to stand watch at all times, day and night, when moving through the water (underway). Watch personnel undertake extensive training in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent. A primary duty of watch personnel is to ensure safety of the ship, including the requirement to detect and report all objects and disturbances sighted in the water that may be indicative of a threat to the ship and its crew, such as debris, a periscope, surfaced submarine, or surface disturbance. Per safety requirements, watch personnel also report any marine mammals sighted that have the potential to be in the direct path of the ship as a standard collision avoidance procedure. Navy vessels operate in accordance with the navigation rules established by the U.S. Coast Guard, and applicable navigation rules, including Inland Navigation Rules (33 CFR 83) and the International Regulations for Preventing Collisions at Sea (72 COLREGS), which were formalized in the Convention on the International Regulations for Preventing Collisions at Sea, 1972. Applicable navigation requirements include, but are not limited to, Rule 5 (Lookouts) and Rule 6 (Safe Speed). These rules require that vessels at all times proceed at a safe speed so that proper and effective action can be taken to avoid collision and so they can be stopped within a distance appropriate to the prevailing circumstances and conditions. The National Oceanic and Atmospheric Administration also implements a seasonal whale advisory notice to vessels transiting from Dana Point to Point Arguello from May 15 to November 15 requesting voluntary speed restrictions during periods of high whale densities in the area. The standard operating procedures for vessel safety result in secondary benefit to marine mammals through a reduction in the potential for vessel strike. For a full discussion of standard operating procedures see Chapter 5 (Standard Operating Procedures and Mitigation).

In addition to standard operating procedures, the Navy will implement mitigation to avoid potential impacts from explosives, and physical disturbance and strike stressors on applicable resources. For example, as described in Section 5.4.4 (Physical Disturbance and Strike Stressors), mitigation for vessel movements includes training Lookouts and watch personnel with Marine Species Awareness Training (which provides information on sighting cues, visual observation tools and techniques, and sighting notification procedures) and requiring underway vessels to maneuver to maintain a specified distance from marine mammals. For a full discussion of mitigation, see Chapter 5 (Standard Operating Procedures and Mitigation).

State governments have established marine protected areas, including state parks and species-specific sanctuaries, for the management of fisheries, nursery grounds, shellfish beds, recreation, tourism, and for other uses. These areas have a diverse array of conservation objectives, from protecting ecological functions, to preserving shipwrecks, to maintaining traditional or cultural interaction with the marine environment. There are 28 marine protected areas within the Study Area that are included in the National System of Marine Protected Areas (Table 6.1-2). In addition, there are three special closures, which are each a part of preexisting marine protected areas. In 1976, the United Nations Educational, Scientific and Cultural Organization (UNESCO) designated some of the natural Southern California coastal ecosystems as the last remaining natural Mediterranean ecosystems (including terrestrial and

coastal/marine) in North America. The Channel Islands National Park and National Marine Sanctuary are situated within the reserve.

6.1.2.1 National Parks

The National Park Service administers all national parks, national seashores, and some of the national recreation areas and national monuments to conserve the scenery and the natural and historic objects and wildlife contained within. Park managers control all park usage to ensure that park resources and values are preserved for the future. Unacceptable impacts are those that fall short of impairment but are still not acceptable within a particular park's environment, as determined by the professional judgment of the park manager in accordance with *National Park Service Management Policies 2006* (National Park Service, 2006). Military services may request the use of park areas for noncombat exercises. Permits are approved at the discretion of the park superintendent. There is one National Park (Channel Islands National Park) within the Study Area that is included in the National System of Marine Protected Areas (Figure 6.1-1). The *Channel Islands National Park Final General Management Plan/Wilderness Study/Environmental Impact Statement* was written to manage resource preservation and visitor experience (National Park Service, 2015). Management of the waters within the Park boundaries are given to a variety of federal agencies, but the Navy owns infrastructure facilities that support testing and training. The Navy does not conduct any testing or training activities in the waters of the Park.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
State Marine Protected Areas				
Anacapa Island State Marine Conservation Area	1	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource. The recreational take of spiny lobster and pelagic finfish, and the commercial take of spiny lobster are exceptions to the regulation.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Anacapa Island State Marine Reserve	2	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Begg Rock (San Nicolas Island Quad) State Marine Reserve	3	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Carrington Point (Santa Rosa Island) State Marine Reserve	4	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Footprint State Marine Reserve	8	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Gull Island (Santa Cruz Island) State Marine Reserve	10	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Harris Point (San Miguel Island) State Marine Reserve	12	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
State Marine Protected Areas (continued)				
Judith Rock (San Miguel Island) State Marine Reserve	13	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Laguna Point to Latigo Point ASBS State Water Quality Protection Area	14	Species and habitat	ASBS regulations prohibit waste, namely the pollutants that can be transported through runoff, from entering the protected area through direct drains, storm drains, and natural streams and creeks.	The Navy does not discharge waste in or near this area. Other testing or training activities are not likely to harm the area's protected natural resources. A detailed analysis of water quality impacts in the Study Area is included in Section 3.2 (Sediments and Water Quality). Therefore, no significant impacts are expected within this area.
Painted Cave (Santa Cruz Island) State Marine Conservation Area	16	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational use with the exception of recreational take of spiny lobster and pelagic finfish.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Point Conception State Marine Reserve	17	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Richardson Rock (San Miguel Island) State Marine Reserve	19	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
State Marine Protected Areas (continued)				
San Miguel, Santa Rosa, and Santa Cruz Islands ASBS State Water Quality Protection Area	20	Species and habitat	ASBS regulations prohibit waste, namely the pollutants that can be transported through runoff, from entering the protected area through direct drains, storm drains, and natural streams and creeks.	The Navy does not discharge waste in or near this area. Other testing or training activities are not likely to harm the area's protected natural resources. A detailed analysis of water quality impacts in the Study Area is included in Section 3.2 (Sediments and Water Quality). Therefore, no significant impacts are expected within this area.
San Nicolas Island and Begg Rock ASBS State Water Quality Protection Area	21	Ecosystem	Discharges incidental to underwater demolition and other in-water explosions are not allowed. Discharges must not result in a violation of the water quality objectives, including the protection of the marine aquatic life beneficial use, anywhere in the ASBS.	The Navy does not discharge waste in or near this area. Other testing or training activities are not likely to harm the area's protected natural resources. A detailed analysis of water quality impacts in the Study Area is included in Section 3.2 (Sediments and Water Quality). Therefore, no significant impacts are expected within the San Nicolas Island and Begg Rock ASBS State Water Quality Protection Area.
Santa Barbara and Anacapa Islands ASBS State Water Quality Protection Area	22	Species and habitat	ASBS regulations prohibit waste, namely the pollutants that can be transported through runoff, from entering the protected area through direct drains, storm drains, and natural streams and creeks.	The Navy does not discharge waste in or near this area. Other testing or training activities are not likely to harm the area's protected natural resources. A detailed analysis of water quality impacts in the Study Area is included in Section 3.2 (Sediments and Water Quality). Therefore, no significant impacts are expected within the Santa Barbara and Anacapa Islands ASBS State Water Quality Protection Area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
State Marine Protected Areas (continued)				
Santa Barbara Island State Marine Reserve	24	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Skunk Point (Santa Rose Island) State Marine Reserve	25	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
South Point (Santa Rose Island) State Marine Reserve	27	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Federal Conservation Area and Marine Reserves				
Anacapa Island Federal Marine Conservation Area	1	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial and/or recreational purposes, with the following specified exceptions: The recreational take of spiny lobster and pelagic finfish and the commercial take of spiny lobster is allowed. The following federally recognized tribe is exempt from the area and take regulations found in subsection 632(b)(112) and shall comply with all other existing regulations and statutes: Santa Ynez Band of Chumash Indians.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Anacapa Island Federal Marine Reserve	2	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
<i>Federal Conservation Area and Marine Reserves (continued)</i>				
Footprint (Anacapa Channel) Federal Marine Reserve	7	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Gull Island (Santa Cruz Island) Federal Marine Reserve	9	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Harris Point (San Miguel Island) Federal Marine Reserve	11	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Richardson Rock (San Miguel Island) Federal Marine Reserve	18	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Santa Barbara Island Federal Marine Reserve	23	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Scorpion Anchorage Federal Marine Reserve	-	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
South Point (Santa Rosa Island) Federal Marine Reserve	26	Ecosystem	It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
<i>Special Closures</i>				
San Miguel Island Special Closure (A-1)	30	Ecosystem	Boating is allowed except west of a line drawn between Judith Rock and Castle Rock where boats are prohibited closer than 300 yards from shore. Boats operated by commercial sea urchin divers may enter the restricted waters with a minimum amount of noise and not exceeding speeds of five miles per hour. Landing is allowed on San Miguel Island only at the designated landing beach in Cuyler Harbor.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Anacapa Island Special Closure (A)	28	Ecosystem	No net or trap may be used in waters less than 20 feet deep off Anacapa Island. A brown pelican fledging area is designated on the north side of West Anacapa Island. This area is restricted to everyone except California Department of Fish and Wildlife employees or National Park Service employees.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.
Anacapa Island Special Closure (B)	29	Ecosystem	No net or trap may be used in waters less than 20 feet deep off Anacapa Island. A brown pelican fledging area is designated on the north side of West Anacapa Island. This area is restricted to everyone except California Department of Fish and Wildlife employees or National Park Service employees.	No proposed activities are expected to occur in the area. Therefore, no impacts are expected within this area.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
National Parks				
Channel Islands National Park	6	Ecosystem	Vessel operations in excess of 5 mph or creating a wake in areas so designated or within 100 feet of a diver's marker, downed skier, or swimmer are prohibited; and operation of a vessel in excess of designated size, length, or width restrictions within restricted areas is prohibited.	The Channel Islands National Park contains the land area of the islands and extends to 1 NM offshore from each island. All activities proposed to occur within the Channel Islands National Park land boundaries, sea space, or airspace are coordinated and agreed upon with the National Park Service. No explosives are used in this marine protected area. Therefore, no impacts are expected on natural resources that are protected within the Channel Islands National Park.
National Marine Sanctuaries				
Channel Islands National Marine Sanctuary	5	Ecosystem	See Section 6.1.2.3.1 (Channel Islands National Marine Sanctuary) for details. Military activities pre-existing the Sanctuary effective date of Sanctuary regulations (September 1980) and those specifically listed in the <i>Channel Islands National Marine Sanctuary FMP/Final EIS</i> are exempt from the prohibitions identified in 15 CFR part 922.72 subpart G. Other activities that are modified, new, or not considered pre-existing may be exempted by the Director after consultation between the Director and the DoD.	Proposed military activities in the Channel Islands National Marine Sanctuary are consistent with those activities described in the Sanctuary's regulations and in Section 3.5.9 (Department of Defense Activities, preexisting activities) of the 2009 <i>Final Channel Islands National Marine Sanctuary Management Plan/Final Environmental Impact Statement</i> ¹ . The proposed activities are not significantly modified in such a way that possible adverse effects on Sanctuary resources or qualities are significantly different in manner than previously considered. The proposed military activities are pre-existing activities so consultation is not required. The Navy activities are carried out in a manner that avoids any adverse impacts on Sanctuary resources or qualities to the maximum extent practicable. Injury is not likely to have any adverse impacts on sanctuary resources from these pre-existing military activities.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
<i>National Marine Sanctuaries (continued)</i>				
Monterey Bay National Marine Sanctuary	15	Ecosystem	Regulations are identified in 15 CFR 922.132. The following activities are prohibited: exploring for or developing oil, gas, or minerals; discharging hazardous material; moving, removing, or injuring any historical resources; drilling and dredging; and taking or disturbing marine mammal, sea turtles, or marine birds. Military activities defined in the <i>1992 Monterey Bay National Marine Sanctuary Final EIS/MP</i> are exempt from the sanctuaries regulations. Other activities that are modified, new, or not considered pre-existing may be exempted by the Director after consultation between the Director and the DoD.	Proposed military activities in the Monterey Bay National Marine Sanctuary are consistent with those activities described in the Sanctuary's regulation and defined in the <i>1992 Monterey Bay National Marine Sanctuary Final EIS/MP</i> . The proposed activities are not significantly modified in such a way that possible adverse effects on sanctuary resources or qualities are significantly different in manner than previously considered. The proposed military activities are pre-existing activities so consultation is not required. The Navy activities are carried out in a manner that avoids any adverse impacts on Sanctuary resources or qualities to the maximum extent practicable. Injury is not likely to have any adverse impacts on sanctuary resources from these pre-existing military activities.

Table 6.1-2: Marine Protected Areas Within the Point Mugu Sea Range Study Area (continued)

<i>Marine Protected Area</i>	<i>Figure 6.1-1 Reference Number</i>	<i>Protection Focus</i>	<i>Summary of Relevant Regulations</i>	<i>Navy Proposed Activities Under the Proposed Action and Marine Protected Area Considerations</i>
UNESCO Biosphere Reserve				
Channel Islands	5/6	Biosphere Reserve	Relevant regulations regarding this designation are described under the Channel Islands National Marine Sanctuary and Channel Islands National Park discussions. Administrative authorities for this reserve include: - the California Department of Fish and Wildlife; - the U.S. National Park Service (overseeing Channel Islands National Park); - the National Oceanic and Atmospheric Administration (overseeing Channel Islands National Marine Sanctuary) (United Nations Educational and Scientific and Cultural Organization, 2015).	No impacts to protected natural resources within the Channel Islands National Park are expected. As described above for the Channel Islands National Marine Sanctuary, proposed military activities are consistent with those activities described in the sanctuary's regulations (Department of Defense Activities, preexisting activities) of the 2009¹ <i>Final Channel Islands National Marine Sanctuary Management Plan/Final Environmental Impact Statement</i> and would avoid to the maximum extent practicable any adverse impacts on sanctuary resources or qualities.

¹The Final Environmental Impact Statement/Management Plan (FEIS/MP) for the Channel Islands National Marine Sanctuary was released in 2009, although the regulations cite 2008 for the FEIS/MP.

²Sources: (California Department of Fish and Wildlife, 2018; Gregorio et al., 2006; National Oceanic and Atmospheric Administration, 2018)

Notes: ASBS = Area of Special Biological Significance, mph = miles per hour, CFR = Code of Federal Regulations, DoD = Department of Defense



6.1.2.2 Marine Reserves

Marine reserves, also referred to as “no take” areas, are established worldwide and provide a high level of protection to marine resources. Marine reserves restrict extractive uses in order to protect sensitive habitats and threatened species, or to sustain fisheries (Wenzel et al., 2014). There are 9 federal marine reserves and 12 state marine reserves within the Study Area that are included in the National System of Marine Protected Areas (see Figure 6.1-1).

6.1.2.3 National Marine Sanctuaries

Under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (also known as the National Marine Sanctuaries Act), the National Oceanic and Atmospheric Administration (NOAA) can establish as national marine sanctuaries areas of the marine environment with special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, or aesthetic qualities. Sanctuary regulations prohibit destroying, causing the loss of, or injuring any sanctuary resource managed under the law or regulations for that sanctuary (15 CFR part 922). National marine sanctuaries are managed on a site-specific basis, and each sanctuary has site-specific regulations. Most, but not all sanctuaries have site-specific regulatory exemptions from the prohibitions for certain military activities.

Additionally, section 304(d) of the National Marine Sanctuaries Act requires federal agencies to consult with the Office of National Marine Sanctuaries whenever their proposed actions are likely to destroy, cause the loss of, or injure a sanctuary resource. There are two national marine sanctuaries managed by the Office of National Marine Sanctuaries within the Study Area, the Channel Islands National Marine Sanctuary and a small portion of the Monterey Bay National Marine Sanctuary (see Table 6.1-2). The National Marine Sanctuaries are described in additional detail below.

6.1.2.3.1 Channel Islands National Marine Sanctuary

The Channel Islands National Marine Sanctuary is an ecosystem-based managed sanctuary consisting of an area of 1,109 square nautical miles (NM²) around Anacapa Island, Santa Cruz Island, Santa Rosa Island, San Miguel Island, and Santa Barbara Island to the south. About 877 NM², or 79 percent of the sanctuary, occurs within the Study Area (see Figure 6.1-1).

As an ecosystem-based managed sanctuary, key habitats include sandy beach, rocky shore, kelp forest and rocky reef, shallow sandy seafloor, deep seafloor, and pelagic habitat. The diversity of habitats onshore and offshore contributes to the high species diversity in the Channel Islands National Marine Sanctuary, with migratory birds along the Pacific Flyway and a diversity of breeding and nesting habitats, at least 33 species of cetaceans, 6 species of pinnipeds, 4 species of sea turtles, at least 492 species of algae and four species of sea grasses, a variety of invertebrates (including abalone, anemones, barnacles, clams, corals, crabs, jellyfish, mussels, nudibranchs, prawns, salps, scallops, sea cucumbers, sea slugs, sea stars, sea urchins, snails, spiny lobster, squid, tunicates, and worms), and more than 400 species of fish. In the Sanctuary and National Park, there may be over 140 historic maritime archaeological resources including ship and aircraft wrecks present (Office of National Marine Sanctuaries, 2019). See Section 3.3 to 3.10 (Marine Habitats, Marine Vegetation, Marine Invertebrates, Marine Fishes, Marine Mammals, Sea Turtles, Marine Birds, and Cultural Resources) for additional information on the discussion of impacts from proposed activities to these species and resources.

Channel Island National Marine Sanctuary regulations (15 CFR part 922, subpart G) provide that identified prohibitions do not apply to military activities carried out by the Department of Defense (DoD) as of September 1980 (effective date of the regulations) and specifically identified in Section 3.5.9 (Department of Defense Activities) of the *Final Channel Islands National Marine Sanctuary Management*

Plan/Final Environmental Impact Statement (January 2009). The regulations also provide that the DoD exemption does not apply should DoD activities be modified (1) in any way that requires preparation of an Environmental Assessment or Environmental Impact Statement pursuant to NEPA; or (2) in location or frequency, but not limited to these factors, such that possible adverse effects on Sanctuary resources are significantly greater or significantly different in manner than previously considered for the unmodified activity. In addition, the DoD exemption does not apply should there be new circumstances or information relevant to a Sanctuary resource or quality that were not addressed in the January 2009 *Final Channel Islands National Marine Sanctuary Management Plan/Final Environmental Impact Statement*. Lastly, all DoD activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities. In the event of the destruction of, loss of, or injury to a Sanctuary resource caused by DoD activity, the DoD, in coordination with NOAA, must promptly prevent and mitigate further damage and must restore or replace the resource in a manner approved by NOAA.

Of the DoD activities identified in the Final Channel Islands National Marine Sanctuary Management Plan/Final Environmental Impact Statement, aircraft overflights and vessels transiting from Port Hueneme to the PMSR, including surface targets, are the primary Navy activities proposed in this EIS/OEIS that most typically occur in the overlap area between the Sanctuary and the Study Area. Explosives are not proposed for use in the Sanctuary. Other activities, should they occur within the Sanctuary, would be consistent with those activities described in Section 3.5.9 (Department of Defense Activities) of the 2009 Final Channel Islands National Marine Sanctuary Management Plan/Final EIS.

In addition, the Proposed Action does not include the use of active acoustic sources (e.g., sonar); no missiles, munitions, explosives, or other live testing or training would be conducted within the Sanctuary boundaries. In addition, the Navy is not proposing the use of remotely operated vehicles, unmanned underwater vehicles, or bottom crawlers as part of this EIS/OEIS's Proposed Action. Surface targets may be towed or operated under their own power as they transit through the Sanctuary to the Sea Range. The Navy's standard operating procedures for vessel transits would minimize impacts to sanctuary resources, including the voluntary seasonal whale notice from Dana Point to Point Arguello. The proposed military activities are pre-existing activities so consultation is not required. The Navy activities are carried out in a manner that avoids any adverse impacts on Sanctuary resources or qualities to the maximum extent practicable. Injury is not likely to have any adverse impacts on sanctuary resources from these pre-existing military activities. Increases to military activities described in the Proposed Action would not occur in the Sanctuary. Although the Navy has prepared an EIS/OEIS, the basis for the EIS/OEIS is not due to a modification of activities within the Channel Islands Marine National Sanctuary overlap area or in a manner due to relevant new circumstances or information in relation to Sanctuary resources or qualities in that area. The military activities currently proposed are also the same activities previously analyzed in the Navy's 2002 PMSR EIS/OEIS and those DoD activities currently exempted under the 2009 Management Plan/Final EIS. These exempted activities include surface and aerial events; however, sub-surface activities are not part of the Proposed Action. These PMSR activities would continue to be exempt from the prohibitions identified in the Sanctuary's regulations.

The Navy does not propose new, modified, or increased frequency of activities in the Channel Islands National Marine Sanctuary, or activities that are different from those currently conducted in this area. Furthermore, the proposed military activities are not significantly modified in such a way that possible adverse effects on sanctuary resources or qualities are significantly different in manner than previously considered. The proposed military activities are pre-existing activities that are consistent with those

activities analyzed in the 2009 Management Plan/Final EIS and are not likely to cause the loss of, or injure sanctuary resources or qualities; therefore, consultation is not required.

The Navy has established mitigation areas that overlap the PMSR, which were developed for the 2018 Hawaii-Southern California Training and Testing EIS/OEIS. The Navy will continue to implement the limitations and restrictions for the San Nicolas Island and Santa Barbara Island Mitigation Areas. However, the restrictions on the use of explosives do not apply to testing events covered by the Hawaii-Southern California Training and Testing EIS/OEIS or those under the Proposed Action for this EIS/OEIS. Sonar use is not considered for use for the Proposed Action; therefore, the restrictions and limitations for sonar also do not apply for this EIS/OEIS. See Chapter 5 (Standard Operating Procedures and Mitigation) for more information on these mitigation areas and mitigations to be implemented for this EIS/OEIS.

6.1.2.3.2 Monterey Bay National Marine Sanctuary

The Monterey Bay National Marine Sanctuary is an ecosystem-based managed sanctuary consisting of an area of 4,601 NM² stretching from Marin to Cambria and extending an average of 30 miles from shore. Only 19 NM², or less than 1 percent of the sanctuary, occurs within the Study Area (see Figure 6.1-1).

As an ecosystem-based managed sanctuary, extensive kelp forests are a key habitat that take up a majority of the sanctuary. The sanctuary also contains one of North America's largest underwater canyons, rugged rocky shores, sandy beaches, estuaries, and other habitats. The diversity of habitats onshore and offshore contributes to the high species diversity in the Monterey Bay National Marine Sanctuary, with more than 180 species of birds, 36 species of marine mammals, and 525 species of fish (Monterey Bay National Marine Sanctuary, 2018). See Sections 3.4 to 3.9 (Marine Vegetation, Marine Invertebrates, Marine Fishes, Marine Mammals, Sea Turtles, and Marine Birds) for additional information on the discussion of impacts from proposed activities to these species.

Monterey Bay National Marine Sanctuary regulations (15 CFR part 922, subpart M) provide that identified prohibitions do not apply to existing military activities carried out by the DoD as specifically identified in Section III, Part E Military Activities of the *1992 Monterey Bay National Marine Sanctuary Final Environmental Impact Statement/Management Plan*. New activities may be exempt from the prohibitions by the Director after a consultation between the DoD and the NOAA. The 1992 Monterey Bay National Marine Sanctuary Final EIS/Management Plan provides that all DoD activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on sanctuary resources and qualities. In the event of the destruction of, loss of, or injury to a Sanctuary resource caused by DoD activity, the DoD in coordination with NOAA must promptly prevent and mitigate further damage and must restore or replace the resource in a manner approved by NOAA.

Proposed military activities for this EIS/OEIS are consistent with those activities described in Part II, Section E (Military Activities) of the *1992 Monterey Bay National Marine Sanctuary Final Environmental Impact Statement/Management Plan*. The 1992 EIS/OEIS describes the following Navy activities: surface and aerial transits, minehunting and sweeping, non-explosive torpedoes, sonar, amphibious landings, and expenditure of smoke markers, sonobuoys, and non-explosive ordnance released within the Sanctuary. Of these listed activities, the Navy proposes to conduct aerial and vessel transits through the Sanctuary. The Navy does not propose new, modified, or increased frequency of activities in the MBNMS, or activities that are different from those currently conducted in this area. Furthermore, the proposed military activities are not significantly modified in such a way that possible adverse effects on

sanctuary resources or qualities are significantly different in manner than previously considered. The proposed military activities are pre-existing activities that are consistent with those activities analyzed in the 2009 Management Plan/Final EIS and are not likely to cause the loss of, or injure sanctuary resources or qualities; therefore, consultation is not required.

6.1.3 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. section 1801–1891[d]), as amended by the 1996 Sustainable Fisheries Act (Public Law 104–297), and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109-479) governs marine fisheries management in U.S. waters in order to promote long-term economic and biological sustainability for fisheries up to 200 NM from shore. Its main objectives are to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood (National Oceanic and Atmospheric Administration Fisheries, 2017). The Sustainable Fisheries Act of 1996 amended the law to establish procedures that identify, conserve, and enhance Essential Fish Habitat for species regulated under a federal fisheries management plan. Consultation with the NOAA’s on all actions or proposed actions that may adversely affect Essential Fish Habitat is required for federal action agencies under section 305(b)(2) of the Magnuson-Stevens Act.

The Magnuson-Stevens Fishery Conservation and Management Act defines an adverse effect as “any impact that reduces quality and/or quantity of Essential Fish Habitat. Adverse effects may include direct or indirect physical, chemical or biological alterations of the waters or substrate and the loss of, or injury to, benthic organisms, prey species and their habitat and other ecosystem components, if such modifications reduce the quality and/or quantity of Essential Fish Habitat. Adverse effects to Essential Fish Habitat may result from actions occurring within Essential Fish Habitat or outside of Essential Fish Habitat and maybe include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions” (50 CFR 600.810). In addition to Essential Fish Habitat designations, areas called Habitat Areas of Particular Concern are also designated by the regional Fisheries Management Councils. Designated Habitat Areas of Particular Concern are discrete subsets of Essential Fish Habitat that provide extremely important ecological functions or are especially vulnerable to degradation.

Based on an evaluation of the effects of the Proposed Action discussed in this EIS/OEIS, the Proposed Action has the potential to impact essential fish habitat and managed species within the Study Area; see Sections 3.3 (Marine Habitats), 3.4 (Marine Vegetation), 3.5 (Marine Invertebrates), and 3.6 (Marine Fishes). Pursuant to 50 CFR 600.920 (a), the Navy will submit an Essential Fish Habitat Assessment to NOAA Fisheries to initiate consultation. Copies of agency correspondence are found in Appendix G (Agency Correspondence).

6.2 Relationship Between Short-Term Use of the Environment and Maintenance and Enhancement of Long-Term Productivity

In accordance with the Council on Environmental Quality regulations (40 CFR part 1502), this EIS/OEIS analyzes the relationship between the short-term impacts on the environment and the effects those impacts may have on the maintenance and enhancement of the long-term productivity of the affected environment. Impacts that narrow the range of beneficial uses of the environment are of particular concern. This means that choosing one option may reduce future flexibility in pursuing other options, or that committing a resource to a certain use may often eliminate the possibility for other uses of that

resource. The Navy, in partnership with the National Marine Fisheries Service (NMFS), is committed to furthering the understanding of marine resources and developing ways to lessen or avoid the impacts Navy testing and training activities may have on these resources. For example, the Navy and NMFS collaborate on the Integrated Comprehensive Monitoring Program for marine species to assess the impacts of testing and training activities on marine species and investigate population-level trends in marine species distribution, abundance, and habitat use in various range complexes and geographic locations where Navy testing and training occurs.

The Proposed Action could result in both short- and long-term environmental impacts. However, these are not expected to result in any impacts that would reduce environmental productivity; permanently narrow the range of beneficial uses of the environment; or pose long-term risks to health, safety, or general welfare of the public. The Navy is committed to sustainable military range management, including co-use of the Study Area with the general public and commercial and recreational interests. This commitment to co-use of the Study Area will maintain long-term accessibility of the PMSR testing and training areas. Sustainable range management practices are specified in range complex management plans under the Navy's Range Sustainment Program. Among other benefits, these practices protect and conserve natural and cultural resources and preserve access to testing and training areas for current and future training requirements while addressing potential encroachments that threaten to impact range and testing and training area capabilities.

6.3 Irreversible or Irretrievable Commitment of Resources

NEPA requires that environmental analysis include identification of "any irreversible and irretrievable commitments of resources which would be involved in the Proposed Action should it be implemented" (42 U.S.C. section 4332). Irreversible and irretrievable resource commitments are related to the use of nonrenewable resources and the effects that the uses of these resources have on future generations. Irreversible effects primarily result from the use or destruction of a specific resource (e.g., energy or minerals) that cannot be replaced within a reasonable time frame. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the action (e.g., the disturbance of a cultural site).

For the Proposed Action, most resource commitments would be neither irreversible nor irretrievable. Most impacts would be short term and temporary, or long lasting but within historical or desired conditions. Because there would be no building or facility construction, the consumption of material typically associated with such construction (e.g., concrete, metal, sand, fuel) would not occur. Energy typically associated with construction activities would not be expended and irretrievably lost.

Implementation of the Proposed Action would require fuels used by aircraft and vessels. Since fixed- and rotary-wing aircraft and ship activities may increase or decrease relative to the baseline, total fuel use would fluctuate depending on the year under the Proposed Action (Section 6.4, Energy Requirements and Conservation Potential of Alternatives and Efficiency Initiatives), and this nonrenewable resource would be considered irretrievably lost (see Chapter 4, Cumulative Impacts, and the following discussion on the Navy's Climate Change Roadmap).

6.4 Energy Requirements and Conservation Potential of Alternatives and Efficiency Initiatives

The DoD consumed approximately 1.3 percent of the total U.S. oil and petroleum consumption in Fiscal Year 2013. It is the largest single user in the nation (Burke, 2014). The Navy consumes approximately

26 percent of the total DoD share (U.S. Department of Defense, 2016). In Fiscal Year 2013, the Navy consumed almost 90 million barrels of liquid fuel (Burke, 2014). In 2016 the DoD published a new Operational Energy Strategy to update the 2011 strategy and transform the way energy is consumed in military operations; the strategy sets the overall direction for operational energy security (U.S. Department of Defense, 2011). The 2016 strategy shifts focus towards three objectives: (1) increasing future warfighting capability by including energy throughout future force development; (2) identifying and reducing logistic and operational risks from operational energy vulnerabilities; (3) and enhancing the force's mission effectiveness with updated equipment and improvements in training, exercises, and operations (U.S. Department of Defense, 2016).

Pursuant to the operational strategy report in 2011, the DoD published an implementation plan to integrate operational energy considerations and transformation into existing programs, processes, and institutions (U.S. Department of Defense, 2012). These documents provide guidance to the DoD in how to better use energy resources and transform the way we power current and future forces.

Testing and training activities within the Study Area under the Proposed Action would result in an increase in energy demand over the environmental baseline or current baseline conditions. The increased energy demand would arise from an increase in fuel consumption, mainly from aircraft and vessels participating in testing and training. Aircraft fuel consumption is estimated to increase by approximately 23 percent and 14 percent under Alternative 1 or 2, respectively, when compared to current rates of aircraft fuel consumption. Vessel fuel consumption is estimated to increase approximately by 22 percent under Alternative 1 and Alternative 2, when compared to current rates of vessel fuel consumption. Conservative assumptions were made in developing the estimates, and therefore the actual amount of fuel consumed during testing and training events may be less than estimated. The alternatives could result in a net cumulative reduction in the global energy (fuel) supply.

Energy requirements would be subject to any established energy conservation practices. The use of energy sources has been minimized wherever possible without compromising safety, or testing and training activities. No additional conservation measures related to direct energy consumption by the proposed activities are identified. The Navy's energy vision given in the Operational Energy Strategy report (U.S. Department of Defense, 2016) is consistent with energy conservation practices and states that the Navy values energy as a strategic resource, understands how energy security is fundamental to executing our mission afloat and ashore, and is resilient to any potential energy future.

The Navy is committed to improving energy security and environmental stewardship by reducing its reliance on fossil fuels. The Navy is actively developing and participating in energy, environmental, and climate change initiatives that will help conserve the world's resources for future generations.

Two Navy programs—the Incentivized Energy Conservation Program and the Naval Sea Systems Command's Fleet Readiness, Research and Development Program—are helping the fleet conserve fuel via improved operating procedures and long-term initiatives. The Incentivized Energy Conservation Program encourages the operation of ships in the most efficient manner while conducting their mission and supporting the Secretary of the Navy's efforts to reduce total energy consumption on naval ships. The Naval Sea Systems Command's Fleet Readiness, Research, and Development Program includes the High-Efficiency Heating, Ventilating, and Air Conditioning and the Hybrid Electric Drive for DDG-51 class ships, which are improvements to existing shipboard technologies that will both help with fleet readiness and decrease the ships' energy consumption and greenhouse gas emissions. These initiatives are expected to greatly reduce the consumption of fossil fuels (Section 3.1, Air Quality).

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