
6 Other Considerations

6 OTHER CONSIDERATIONS REQUIRED BY THE NATIONAL ENVIRONMENTAL POLICY ACT

6.1 CONSISTENCY WITH OTHER FEDERAL, STATE, AND LOCAL PLANS, POLICIES, AND REGULATIONS

Based on an evaluation with respect to consistency with statutory obligations, the Department of the Navy's alternatives, including the Proposed Action, for the Gulf of Alaska Navy Training Activities (GOA NTA) Final Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS), hereby referred to as the EIS/OEIS, does not conflict with the objectives or requirements of federal, state, regional, or local plans, policies, or legal requirements. Table 6-1 provides a summary of environmental compliance requirements that may apply.

Table 6-1: Summary of Environmental Compliance for the Proposed Action

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] §§ 4321 et seq.) Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [C.F.R.] §§ 1500-1508) Navy Procedures for Implementing NEPA (32 C.F.R. § 775)	Navy	Navy training activities that occur within the United States (U.S.). Air Force (Air Force) inland Special Use Airspace (SUA) and the U.S. Army (Army) training lands are analyzed under previous NEPA documentation (the <i>Alaska Military Operations Areas EIS</i> [USAF 1995], <i>Improvements to Military Training Routes in Alaska Environmental Assessment</i> [USAF 2007], <i>Alaska Army Lands Withdrawal Renewal Final Legislative EIS</i> [Army 1999], and the <i>Transformation of U.S. Army Alaska FEIS</i> [Army 2004]). These documents are incorporated by reference. Public participation and review of this EIS/OEIS is being conducted in compliance with NEPA.
Executive Order (EO) 12114, 32 C.F.R. 187, Environmental Effects Abroad of Major Federal Actions	Navy	This EIS/OEIS has been prepared in accordance with EO 12114 as implemented by 32 C.F.R. 187, which requires environmental consideration for actions that may affect the global commons and the environment outside of U.S. territorial waters within the U.S. Exclusive Economic Zone (EEZ) and on the high seas.
Federal Water Pollution Control Act (Clean Water Act [CWA]) (33 U.S.C. §§ 1344 et seq.)	U.S. Environmental Protection Agency (USEPA)	No permits are required under the CWA Sections 401, 402, or 404 (b) (1), since the activities in GOA occur outside 12nm and the proposed action does not involve construction.
Rivers and Harbors Act (33 U.S.C. §§ 401 et seq.)	U.S. Army Corps of Engineers	No permit is required under the Rivers and Harbors Act as no construction in navigable waterways is proposed.

Table 6-1: Summary of Environmental Compliance for the Proposed Action (continued)

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
Coastal Zone Management Act (CZMA) (16 C.F.R. §§ 1451 et seq.)	Alaska Department of Natural Resources (ADNR)	The Navy prepared a <i>de minimis</i> determination for compliance with the CZMA and, on October 14, 2010, received concurrence from the ADNR on that determination. See Section 6.1.1 for discussion of Navy activities and compliance with the CZMA.
Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801-1802)	National Marine Fisheries Service (NMFS)	The Navy prepared an Essential Fish Habitat Assessment (EFHA) to determine if the Proposed Action would have adverse effects to Essential Fish Habitat (EFH) within the TMAA. The EFHA determined that due to the temporary and minimal nature of Navy training activities in the TMAA, the Proposed Action would not have adverse effects to EFH within the TMAA. The EFHA was provided to NMFS Alaska Region for informational purposes on August 2, 2010. On January 4, 2011, NMFS Alaska Region disagreed with the Navy's conclusion of no adverse effects to EFH due to acoustic and expended materials impacts to EFH and provided four conservation recommendations to the Navy. On January 24, 2011, the Navy responded to these conservation recommendations in a letter to NMFS Alaska.
Endangered Species Act (ESA) (16 U.S.C. §§ 1531 et seq.)	U.S. Fish and Wildlife Service (USFWS) NMFS	The EIS/OEIS analyzes potential effects to species listed under the ESA. In accordance with ESA requirements, the Navy entered into consultation under Section 7 of the ESA with NMFS and USFWS on the potential that implementation of the Proposed Action may affect threatened and endangered listed species. Informal consultation for listed marine birds has been completed with USFWS with their concurrence letter of March 24, 2010. Consultation for listed marine species, including mammals, turtles, and fish, has been initiated with NMFS. Upon concluding Section 7 consultation, the Navy will adhere to any provisions of the Biological Opinion (BO).
Marine Mammal Protection Act (MMPA) (16 U.S.C. §§ 1431 et seq.)	NMFS	The MMPA governs activities with the potential to harm, disturb, or otherwise "harass" marine mammals. As a result of acoustic effects associated with mid-frequency active sonar use and underwater detonations of explosives, implementation of the alternatives including the Proposed Action may result in potential Level A (harm) or Level B (disturbance) harassment to marine mammals. Therefore, the Navy has submitted an application for a Letter Of Authorization (LOA) from NMFS to permit takes of marine mammals. A Notice of Receipt of the Navy's LOA application was published by NMFS on February 3, 2010. A Proposed Rule was published by NMFS on October 19, 2010, and was subjected to a 30-day public comment period. A Final Rule will be published for 30 days before becoming effective, and then a LOA permit will be issued to the Navy. The Navy will adhere to any provisions of the LOA and the monitoring plan.

Table 6-1: Summary of Environmental Compliance for the Proposed Action (continued)

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
The Sikes Act of 1960 (16 U.S.C. §§ 670a-670o, as amended by the Sikes Act Improvement Act of 1997, Pub. L. No. 105-85)	Navy	No Navy installations are a part of the Proposed Action. Therefore, no trigger exists for Sikes Act compliance.
National Historic Preservation Act (NHPA) (16 U.S.C. §§ 470 et seq.)	Navy	The Navy has determined that the Proposed Action would have no adverse effects on cultural and historic resources within the Temporary Maritime Activities Area (TMAA). This conclusion has been reviewed and agreed upon by the Alaska State Historic Preservation Office (SHPO) on May 18, 2010.
EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Navy	The Proposed Action would not result in any disproportionately high adverse human health or environmental effects on minority or low-income populations.
EO 13045, Protection of Children from Environmental Health Risks and Safety Risks	Navy	The Proposed Action would not result in environmental health and safety risks to children.
Alaska Native Claims Settlement Act of 1971 (ANCSA) (43 U.S.C. §§ 1601-1624)	Navy	No lands subject to aboriginal claims in Alaska exist within the TMAA. Therefore, there is no requirement for action by the Navy under the ANSCA.
EO 13089, Coral Reef Protection	Navy	No resources that are governed by this EO exist within the TMAA. Therefore, mitigation of effects will not be necessary for the protection of resources under EO 13089.
Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712)	USFWS	A review of the actions under the implementation of the alternatives presented (including the Proposed Action) shows that there would not be a significant adverse effect on a migratory bird population. Therefore, under 50 CFR § 21.15, there is no need to confer with USFWS regarding MBTA species.

6.1.1 Coastal Zone Management Act Compliance

The CZMA of 1972 (16 U.S.C. Section [§] 1451) encourages coastal states to be proactive in managing coastal zone uses and resources. The CZMA established a voluntary coastal planning program; participating states submit a Coastal Management Plan (CMP) to the National Oceanographic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM) for approval. Under CZMA, federal actions are required to be consistent, to the maximum extent practicable, with the enforceable policies of approved CMPs.

CZMA defines the coastal zone (16 U.S.C. § 1453) as extending, “to the outer limit of State title and ownership under the Submerged Lands Act.” The coastal zone extends inland only to the extent necessary to control the shoreline. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the federal government (16 U.S.C. § 1453). Accordingly, federal military lands are not within the coastal zone. In the state of Alaska, CZMA coastal boundaries are determined by each individual Coastal Resource District pursuant to 11 Alaska Administrative Code (AAC) 114.220.

The State of Alaska has an approved CMP, Alaska Coastal Management Program (ACMP), which is found at Alaska Statutes Annotated (AS) Title 46 Chapter 40. The ACMP received federal approval from the NOAA in 1979 and Alaska has adopted, and OCRM has approved, additional changes to the ACMP since that date. The ACMP provides stewardship for Alaska’s rich and diverse coastal resources to ensure a healthy and vibrant Alaskan coast that efficiently sustains long-term economic and environmental productivity. The Alaska Department of Natural Resources (ADNR) is the state’s designated coastal management agency and is responsible for reviewing projects for consistency with the CMP and issuing coastal management decisions under the provisions of 11 AAC Code Chapters 110 and 112. Specific statewide standards for review under the ACMP are found at 11 AAC Chapter 112.

The CZMA federal consistency determination process includes a review of the Proposed Action to determine whether it has potential direct or indirect effects on coastal zone resources or uses under the provisions of the CMP. An in-depth examination of any such effects, and a determination on whether those effects are consistent to the maximum extent practicable with the state’s enforceable policies, is then conducted by the action proponent. Specific standards of the ACMP that appear applicable to proposed training activities occurring in the TMAA are 11 AAC Chapter 112 Sections 300 (“Habitats”), and 310 (“Air, Land, and Water Quality”).

For the activities covered in this Final EIS/OEIS, the Navy has ensured compliance with the CZMA through coordination with the ADNR and the submission of a *de minimis* determination under 15 C.F.R. § 930.33(a)(3)(i) on 29 July 2010. This was based on the Navy’s determination that the activities analyzed under this EIS were expected to have only insignificant direct or indirect (secondary and cumulative) coastal effects. ADNR concurred with the *de minimis* determination on 14 October 2010.

6.2 RELATIONSHIP BETWEEN SHORT-TERM USE OF MAN’S ENVIRONMENT AND MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

NEPA requires an analysis of the relationship between a project’s short-term impacts on the environment and the effects that these 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 Proposed Action would result in both short- and long-term environmental effects. However, the Proposed Action would not be 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 the general welfare of the public. The Navy is committed to sustainable training area management, including co-use of all the training areas of the Alaska Training Area (ATA) with the general public and commercial interests to the extent practicable, consistent with accomplishment of the Navy mission and in compliance with applicable law. This commitment to co-use will enhance the long-term productivity of the training areas throughout the ATA.

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.” [NEPA Sec. 102 (2)(C)(v), 42 U.S.C. § 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 alternatives including the Proposed Action, most resource commitments are neither irreversible nor irretrievable. Most impacts are short-term and temporary or, if long lasting, are negligible. No habitat associated with threatened or endangered species would be lost as result of implementation of the Proposed Action. Since there would be no building or facility construction, the consumption of materials 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 irreversibly lost.

Implementation of the Proposed Action would require fuels used by aircraft, ships, and ground-based vehicles. Since fixed- and rotary-wing flight and ship activities could increase, relative total fuel use would increase. Therefore, total fuel consumption would increase and this nonrenewable resource would be considered irreversibly lost.

6.4 ENERGY REQUIREMENTS AND CONSERVATION POTENTIAL OF ALTERNATIVES AND MITIGATION MEASURES

Increased training activities in the ATA would result in an increase in energy demand over the No Action Alternative. This would result in an increase in fossil fuel consumption, mainly from aircraft, vessels, ground equipment, and power supply. Although the required electricity demands of increased intensity of land use would be met by the existing electrical generation infrastructure at the ATA, the alternatives would result in a net cumulative negative impact on the energy supply.

Energy requirements would be subject to any established energy conservation practices at each facility. No additional power generation capacity would be required for any of the activities. The use of energy sources has been minimized wherever possible without compromising safety or training activities. No additional conservation measures related to direct energy consumption by the proposed activities are identified.

6.5 NATURAL OR DEPLETABLE RESOURCE REQUIREMENTS AND CONSERVATION POTENTIAL OF VARIOUS ALTERNATIVES AND MITIGATION MEASURES

Resources that will be permanently and continually consumed by project implementation include water, electricity, natural gas, and fossil fuels; however, the amount and rate of consumption of these resources would not result in significant environmental impacts or the unnecessary, inefficient, or wasteful use of resources. Nuclear-powered vessels would be a benefit as they decrease use of fossil fuels. Pollution prevention is an important component of mitigation of the alternative’s adverse impacts. To the extent practicable, pollution prevention considerations are included.

Sustainable range management practices are in place that protect and conserve natural and cultural resources; and preservation of access to training areas for current and future training requirements, while addressing potential encroachments that threaten to impact range and training area capabilities.

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