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## 6 OTHER CONSIDERATIONS REQUIRED BY NEPA

### 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 (DoN's) alternatives including the Proposed Action for the Southern California (SOCAL) Range Complex Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) (hereafter referred to as "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 <i>et seq.</i> ) Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [C.F.R.] Sections [§§] 1500-1508) DoN Procedures for Implementing NEPA (32 C.F.R. § 775)	DoN	This EIS has been prepared in accordance with NEPA, CEQ regulations, and Navy NEPA procedures. Public participation and review was conducted in compliance with NEPA.
Executive Order (EO) 12114, 32 C.F.R. 187, Environmental Effects Abroad of Major Federal Actions	DoN	This OEIS has been prepared in accordance with EO 12114, which requires environmental consideration for actions that may result in significant harm to the environment anywhere in the world where NEPA does not apply.
Clean Air Act (CAA) (42 U.S.C. §§ 7401 <i>et seq.</i> ) CAA General Conformity Rule (40 C.F.R. § 93[B]) State Implementation Plan (SIP)	U.S. Environmental Protection Agency (USEPA) South Coast Air Quality Management District (SCAQMD) San Diego Air Pollution Control District	The Proposed Action would not conflict with attainment and maintenance goals established in SIPs. A CAA conformity determination will not be required because emissions attributable to the alternatives including the Proposed Action would be below <i>de minimis</i> thresholds.
Federal Water Pollution Control Act (Clean Water Act [CWA]) (33 U.S.C. §§ 1344 <i>et seq.</i> )	USEPA	No permits are required under the CWA Sections 401, 402, or 404 (b) (1).
Rivers and Harbors Act (33 U.S.C. §§ 401 <i>et seq.</i> )	U.S. Army Corps of Engineers	No permit is required under the Rivers and Harbors Act.

**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 <i>et seq.</i> )	California Coastal Commission	See Section 6.1.1, below, 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 Proposed Action would adversely affect Essential Fish Habitat (EFH) but the effects would be minimal and temporary.
Endangered Species Act (ESA) (16 U.S.C. §§ 1531 <i>et seq.</i> )	DoN U.S. Fish and Wildlife Service (USFWS) NMFS	<p>The EIS/OEIS analyzed potential effects to species listed under the ESA. In accordance with ESA requirements, the Navy completed consultation under Section 7 of the ESA with NMFS and USFWS on the potential that implementation of the Proposed Action may affect listed species. With regard to NMFS jurisdiction, the Navy will adhere to the terms and conditions of the Biological Opinion (BO).</p> <p>In addition, the Navy has applied for a Letter of Authorization (LOA) (see discussion below re: Marine Mammal Protection Act), which imposes terms and conditions that make ESA Section 9 prohibitions inapplicable to covered Navy activities. With regard to USFWS jurisdiction over species present in San Clemente Island (SCI), the Navy has conducted Section 7 consultation and will conduct its activities in accordance with any applicable BOs.</p>
Marine Mammal Protection Act (MMPA) (16 U.S.C. §§ 1431 <i>et seq.</i> )	NMFS	<p>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.</p> <p>Therefore, the Navy has engaged NMFS in the regulatory process to determine whether incidental “takes” of marine mammals are likely. The Navy will receive an LOA from NMFS to permit takes as appropriate.</p>

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

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
The National Marine Sanctuaries Act (16 U.S.C. §§ 1431 <i>et seq.</i> )	National Oceanic and Atmospheric Administration (NOAA)	<p>Channel Islands National Marine Sanctuary (CINMS) lies within the study area addressed in this EIS/OEIS. Per CINMS regulations (15 C.F.R. §922.71[a]), national defense activities in existence at the time of designation are not subject to CINMS regulatory prohibitions, provided they are “consistent with the [CINMS] regulations to the maximum extent practicable.” CINMS regulations also require that the exemption of additional activities having significant impact shall be determined after consultation with the Director of the National Marine Sanctuary Program (NMSP).</p> <p>The Navy does not propose new activities in the CINMS, or activities that are different from those currently conducted in the CINMS. Therefore, proposed activities are consistent with those activities currently conducted in the CINMS, are consistent with those described in the designation document, and are not being changed or modified in a way that would require consultation.</p> <p>Implementation of the alternatives including the Proposed Action would have no effect on sanctuary resources in the offshore environment of Southern California. Review of agency actions under Section 304 of the National Marine Sanctuaries Act is not required.</p>
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)	Department of Defense (DoD)	The alternatives including the Proposed Action would be implemented in accordance with the management and conservation criteria developed in the Sikes Act Integrated Natural Resources Management Plans (INRMPs) for SCI.
National Historic Preservation Act (NHPA) (16 U.S.C. §§ 470 <i>et seq.</i> )	DoN	The alternatives including the Proposed Action would be implemented in consultation with and under programmatic agreement with the State Historic Preservation Office (SHPO), and pursuant to the criteria developed in the Integrated Cultural Resources Management Plans (ICRMPs) for SCI.
EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	DoN	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	DoN	The Proposed Action would not result in environmental health and safety risks to children.

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

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
EO 13112, Invasive Species	DoN	EO 13112 requires agencies to identify actions that may affect the status of invasive species and take measures to avoid introduction and spread of these species. To the extent invasive species management relates to ESA compliance on SCI, the BO ensures compliance with EO 13112. This EIS/OEIS also otherwise satisfies the requirement of EO 13112.
EO 13089, Coral Reef Protection	DoN	EO 13089 preserves and protects the biodiversity, health, heritage, social, and economic value of U.S. coral reef ecosystems and the marine environments. All Navy actions that may affect U.S. coral reef ecosystems shall (a) identify their actions that may affect U.S. coral reef ecosystems; (b) utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and (c) to the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems. Navy Standard Operating Procedures (SOPs) ensure all precautions are made to comply with required statutes. No resources that are governed by this EO exist within the SOCAL Range Complex; therefore, mitigation of effects will not be necessary for the protection of resources under EO 13089.
EO 11990, Protection of Wetlands	DoN	Implementation of the alternatives including the Proposed Action would not have a significant impact on wetlands.
EO 12962, Recreational Fisheries	DoN	EO 12962 requires Federal agencies to fulfill certain duties with regard to promoting the health and access of the public to recreational fishing areas. The alternatives including the Proposed Action comply with EO 12962.
California Coastal National Monument Designation (Presidential Proclamation, January 11, 2000)	Bureau of Land Management (BLM) and California Department of Fish and Game (CDFG)	The proclamation designates all nonmajor U.S.-owned lands (rocks, islands, etc.) along the coast of California from mean high tide out to a distance of 12 nautical miles (nm) (22 kilometers [km]) as national monuments. The SOCAL Range Complex includes resources designated as part of the California Coastal National Monument area. The Navy has agreed with BLM on the terms of a memorandum of understanding (MOU) dated Nov. 5, 2007 regarding Navy activities in the vicinity of monument resources. Implementation of the alternatives including the Proposed Action would be consistent with the MOU and would not affect monument resources.

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

Plans, Policies, and Controls	Responsible Agency	Status of Compliance
California Marine Life Protection Act (MLPA) and Marine Managed Areas Improvement Act (California Fish and Game Code §§ 2850-2863)	CDFG	MLPA requires CDFG to confer with the Navy regarding issues related to Navy activities as such may engage Marine Managed Areas.
Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712)	USFWS	The Navy has concluded that implementation of the alternatives including the Proposed Action would cause no significant adverse effects on migratory birds, would comply with the MBTA, and would not require a permit under the MBTA.

### 6.1.1 Coastal Zone Management Act Compliance

The CZMA of 1972 (16 United States Code [U.S.C.] Section [§] 1451) encourages coastal states to be proactive in managing coastal zone uses and resources. CZMA established a voluntary coastal planning program; participating states submit a Coastal Management Plan (CMP) to the National Oceanographic and Atmospheric Administration (NOAA) 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” (i.e., 3 nautical miles [nm] from the shoreline). 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 such as San Clemente Island (SCI) are not within the coastal zone.

The State of California has an approved CMP. The *California Coastal Act* (CCA) of 1976 (California Public Resources Code, Division 20) implements California’s CZMA program. The CCA 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. The California Coastal Commission (CCC) administers the state’s CMP.

The CZMA Federal consistency determination process includes a review of the Proposed Action to determine whether it has reasonably foreseeable effects on coastal zone resources or uses, 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. Under the CZMA, the CCC must provide an opportunity for public comment and involvement in the Federal coastal consistency determination process.

In conjunction with the EIS process, the Navy completed a Consistency Determination (CD) under the Federal consistency review process. The CD finds that the Navy is consistent to the maximum extent practicable with the state’s enforceable CZMA policies. In particular, the Navy has determined that its Proposed Action is consistent with CCA Article 2 (Public Access), Section 30210 (Access, recreational opportunities, posting); Article 3 (Recreation), Section 30220 (Protection of water-oriented activities); Article 4 (Maritime Environment), Sections 30230 (Marine resources, maintenance), 30231 (Biological productivity, wastewater), and 30234.5

(Fishing; economic, commercial, and recreational importance); and Article 5 (Land Resources), Section 30240 (Environmentally sensitive habitat areas). The Navy has determined that other policies embodied in the articles and sections of the CCA are not applicable to the Proposed Action. On October 15, 2008, the Navy appeared before the California Coastal Commission (CCC) in Ventura, California. The CCC conditionally concurred with the CD. At this point, the Navy and the CCC are continuing the CZMA federal consistency process.

This EIS/OEIS addresses those coastal resources and uses which would be affected by the Proposed Action, although the impact analyses do not specifically distinguish effects within the coastal zone from those effects outside of it. Public access and recreation are discussed in Sections 3.4 (Water Resources) and 3.16 (Public Health and Safety). Marine resources and biological productivity are discussed in Sections 3.6 (Marine Plants and Invertebrates), 3.7 (Fish), 3.8 (Sea Turtles), 3.9 (Marine Mammals), and 3.10 (Sea Birds). Fishing and commercial and recreational economics is discussed in Sections 3.7 (Fish) and 3.14 (Socioeconomics). Cultural resources are discussed in Section 3.12 (Cultural Resources).

## **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 range management, including co-use of the SOCAL Range Complex 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 range areas surrounding SOCAL Range Complex.

## **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). Construction of the Shallow Water Training Range (SWTR) and the Shallow Water Minefield (SWM) would cause short-term and temporary impacts during construction. Once SWTR is put in place, anchoring points will be carefully chosen by the Navy in order to mitigate any possible effects the laying of SWTR cable might have on marine resources.

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, they are negligible. Culturally significant resources known to occur in the area proposed for training

activities are carefully managed under a comprehensive cultural resources program which the Navy is currently advancing through a programmatic agreement. This will ensure the future management of these resources. No habitat associated with threatened or endangered species would be lost as a 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 to the No Action Alternative, total fuel use would increase. Fuel use by ground-based vehicles involved in training activities would also 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 and testing operations on the SOCAL Range Complex 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 SOCAL Range Complex, 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 other than the potential use of generators would be required for any of the operations. The use of energy sources has been minimized wherever possible without compromising safety, training, or testing operations. No additional conservation measures related to direct energy consumption by the proposed operations 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 their use decreases use of fossil fuels.

In addition, construction activities related to increased training and testing operations on the SOCAL Range Complex would result in the irretrievable commitment of nonrenewable energy resources, primarily in the form of fossil fuels (including fuel oil), natural gas, and gasoline construction equipment. With respect to operational activities, compliance with all applicable building codes, as well as project mitigation measures, would ensure that all natural resources are conserved or recycled to the maximum extent feasible. It is also possible that new technologies or systems will emerge, or will become more cost effective or user-friendly, which will further reduce the site's reliance upon nonrenewable natural resources; however, even with implementation of conservation measures, consumption of natural resources would generally increase with implementation of the alternatives.

Pollution prevention is an important component of mitigation of the alternatives' adverse impacts. To the extent practicable, pollution prevention considerations are included.

By virtue of inclusion of proposed increases in SOCAL Range Complex operations in the SIP, the air emissions inventory, and emissions of nitrogen oxides (NO<sub>x</sub>) and reactive organic gases

(ROG) associated with the Proposed Action and alternatives are in conformity with the SIP and have demonstrated that they will not cause or contribute to a violation of the ozone standard (SOCAL, 2007 [Section 3.2, Air Quality]). Therefore, because the Proposed Action will not adversely affect the ability of the South Coast Air Basin to attain and maintain the National Ambient Air Quality Standards, the Proposed Action is presumed to conform with the SIP.

Aircraft operations at Naval Auxiliary Landing Field SCI are the single largest airborne noise source. Noise levels in excess of 90 decibal A-weighted can occur at the Basic Underwater Demolition/SEAL (BUD/S) Camp (SOCAL, 2007 [Chapter 3.5, Acoustic Environment]). Mitigation measures (structural attenuation features) are in place.

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 capabilities.