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## 6 Additional Regulatory Considerations



# **Supplemental Environmental Impact Statement/ Overseas Environmental Impact Statement Northwest Training and Testing**

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## 6 Additional 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 in addition to the ones discussed in Chapter 3 (Affected Environment and Environmental Consequences); the relationship between short-term impacts and the maintenance and enhancement of long-term productivity in the affected environment; irreversible and irretrievable commitments of resources; and energy conservation.

### 6.1 Consistency with Other Applicable Federal, State, and Local Plans, Policies, and Regulations

Implementation of the Proposed Action addressed in this Northwest Training and Testing (NWTT) Supplemental Environmental Impact Statement (EIS)/Overseas EIS (OEIS) (Supplemental) would comply with applicable federal, state, and local laws, regulations, and executive orders (EOs). The United States (U.S.) Department of the Navy (Navy) has consulted with and will continue to consult with regulatory agencies, as appropriate, during the NEPA process and prior to implementing the Proposed Action.

Table 6.1-1 summarizes environmental compliance requirements that were considered in preparing this Supplemental (including those that may be secondary considerations in the resource evaluations). Section 3.0.2 (Regulatory Framework) provides brief excerpts of the primary federal statutes, EOs, international standards, and guidance that form the regulatory framework for the resource evaluations. Section 1.6 (The Environmental Planning Process) provides brief excerpts of the primary federal statutes, EOs, 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 I (Agency Correspondence).

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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b><i>Statutes and Regulations</i></b>	
Abandoned Shipwreck Act (43 United States [U.S.] Code [U.S.C.] sections 2101–2106)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Act to Prevent Pollution from Ships (33 U.S.C. sections 1901–1915)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Antiquities Act (16 U.S.C. sections 431–433)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.

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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b><i>Statutes and Regulations (continued)</i></b>	
Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Clean Air Act (42 U.S.C. sections 7401 et seq.) Clean Air Act General Conformity Rule (40 CFR section 93[B]) State Implementation Plan (SIP)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Clean Water Act (33 U.S.C. 1251 et seq.)	In November 2019, the Environmental Protection Agency and Department of Defense Uniform National Discharge Standards (UNDS) for Vessels of the Armed Forces were updated (40 CFR 1700). The Navy would continue to work with the U.S. Environmental Protection Agency Headquarters regarding UNDS. The Navy would continue to implement and comply with these requirements as outlined in 40 CFR 1700.  Regarding other requirements of the Clean Water Act, the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Coastal Zone Management Act (16 U.S.C. sections 1451-1464)	The legal description and the definitions for this Act from the 2015 Final NWTT EIS/OEIS have not changed. A Consistency Determination was submitted to the Washington State Department of Ecology. A Negative Determination was submitted to the Oregon Department of Land Conservation and Development and the California Coastal Commission for review of federal agency activities. The Navy received conditional concurrence from Washington in a letter dated August 28, 2020, and is still in consultation with the Department of Ecology. Completion of consultations will be documented in the Record of Decision (ROD). The Navy received concurrence from Oregon on June 24, 2020, and from California on July 10, 2020. Alaska currently does not have an approved Coastal Management Program, and the Navy has no requirements to prepare and submit a Consistency Determination.

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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b>Statutes and Regulations (continued)</b>	
Endangered Species Act (ESA) (16 U.S.C. sections 1531 et seq.)	<p>This Supplemental analyzes potential effects to species listed under the ESA and is administered by both the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS).</p> <p>In accordance with Section 7 of the ESA (50 CFR section 402), during the preparation of the 2015 NWTT Final EIS/OEIS, the Navy prepared a Biological Assessment and submitted it to the USFWS. A Biological Opinion (BO) was issued by USFWS. The Navy reinitiated formal consultation in 2017 and received a revised BO in 2018 that remains valid. The Navy reinitiated formal consultation with the USFWS in 2019. A BO may be issued by the USFWS, and the Navy will adhere to any BO terms and conditions listed therein which upon implementation, causes the ESA Section 9 prohibitions to be inapplicable to covered Navy activities.</p> <p>The Navy prepared a Biological Assessment that was submitted to the NMFS in 2019 as part of formal consultation. A BO may be issued by NMFS, and the Navy will adhere to any BO terms and conditions listed therein which upon implementation, causes the ESA Section 9 prohibitions to be inapplicable to covered Navy activities.</p> <p>The Navy is still in ongoing consultation under Section 7 of the ESA with NMFS and USFWS on the potential that implementation of the Proposed Action may affect listed species. Completion of consultations will be documented in the ROD.</p>
<p>Historic Sites, Buildings and Antiquities Act, 1935 (54 U.S.C. 320101 et seq.)</p> <p>Antiquities Act (54 U.S.C. sections 320301–320303)</p>	<p>The citations and naming conventions for Historic Sites, Buildings and Antiquities Act have changed slightly since the 2015 NWTT Final EIS/OEIS. However, no substantive changes to the laws have occurred since 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.</p>
Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. sections 1801–1882)	<p>The Proposed Action has the potential to adversely affect essential fish habitat and managed species. The Navy prepared an Essential Fish Habitat Assessment and this consultation is ongoing. The results will be documented in the ROD.</p>
Marine Mammal Protection Act (MMPA) (16 U.S.C. sections 1431 et seq.)	<p>This Supplemental EIS/OEIS updates the analysis and is the basis for a request for a 7-year LOA, which is a change from the 2015 NWTT Final EIS/OEIS per the 2018 National Defense Authorization Act and the MMPA, as the NMFS permitting period has been changed from 5- to 7-year permits, to cover the Navy's proposed activities for the 2020–2027 timeframe.</p>

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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b><i>Statutes and Regulations (continued)</i></b>	
Migratory Bird Treaty Act (16 U.S.C. sections 703–712)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
National Fishery Enhancement Act (33 U.S.C. section 2101 et seq.)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
National Historic Preservation Act (NHPA) (54 U.S.C. section 306108)	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. Navy activities are currently covered under the completed Section 106 consultation for the 2015 NWTT Final EIS/OEIS. The Navy is engaged in consultation under NHPA Section 106 to support the Proposed Action in the Study Area under this Supplemental. Results of consultation will be documented in the ROD.
National Marine Sanctuaries Act (16 U.S.C. sections 1431–1445c-1)	The Navy and NMFS submitted a joint Sanctuary Resource Statement to Olympic Coast National Marine Sanctuary (OCNMS). This consultation is ongoing and the results will be documented in the ROD.
Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.) Military Munitions Rule	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Rivers and Harbors Act (33 U.S.C. section 401 et seq.)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
The Sikes Act of 1960 (16 U.S.C. sections 670a-670o, as amended by the Sikes Act Improvement Act of 1997, Public Law No. 105-85), requires military installations with significant natural resources to prepare and implement Integrated Natural Resource Management Plans (INRMPs).	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Submerged Lands Act of 1953 (43 U.S.C. sections 1301–1315)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.



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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b><i>Statutes and Regulations (continued)</i></b>	
Sunken Military Craft Act (Public Law 108–375, 10 U.S.C. section 113 Note and 118 Stat. 2094–2098)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
Wilderness Act (Public Law 88–577, 16 U.S.C. 1131–1136)	The Wilderness Act was not included in the 2015 NWTT Final EIS/OEIS. The Proposed Action is consistent with the management policies for the Daniel J. Evans Wilderness unit in Olympic National Park.
<b><i>Executive Orders (EOs)</i></b>	
EO 11990, <i>Protection of Wetlands</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 12962, <i>Recreational Fisheries</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 13045, <i>Protection of Children from Environmental Health Risks and Safety Risks</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 13089, <i>Coral Reef Protection</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 13112, <i>Invasive Species</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 13158, <i>Marine Protected Areas</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.

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

<i>Statutes, Regulations, Executive Orders, International Standards, and Guidance</i>	<i>Status of Compliance</i>
<b>EOs (continued)</b>	
EO 13175, <i>Consultation and Coordination With Indian Tribal Governments</i>	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.
EO 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> , since the 2015 NWTT Final EIS/OEIS.
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> since the 2015 NWTT Final EIS/OEIS.
EO 13783, <i>Promoting Energy Independence and Economic Growth</i>	This EO revokes EO 13653, <i>Preparing the United States for the Impacts of Climate Change</i> . The Proposed Action is consistent with the policy's goals for the safe, efficient development of domestic energy resources.
EO 13792, <i>Review of Designations Under the Antiquities Act</i>	On April 26, 2017, EO 13792 was issued and directed the Secretary of the Interior to review designations of national monuments made since 1996. The Proposed Action is consistent with this EO and considers all national monuments that are still designated as such.
EO 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 EO 13693, <i>Planning for Federal Sustainability in the Next Decade</i> .
EO 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 EO 13547, <i>Stewardship of the Ocean, Our Coasts, and the Great Lakes</i> ).
<b>International Standards</b>	
International Convention for the Prevention of Pollution from Ships (MARPOL)	These legal requirements have not changed since the 2015 NWTT Final EIS/OEIS, and the Navy has verified that the updated activity array and stressor quantities do not change its compliance with these requirements.

Notes: CFR = Code of Federal Regulations, U.S. = United States, NMFS = National Marine Fisheries Service, NWTT = Northwest Training and Testing, EIS = Environmental Impact Statement, OEIS = Overseas Environmental Impact Statement, MMPA = Marine Mammal Protection Act, MBTA = Migratory Bird Treaty Act, ESA = Endangered Species Act, INRMP = Integrated Natural Resource Management Plan, OCNMS = Olympic Coast National Marine Sanctuary, BO = Biological Opinion

### 6.1.1 Coastal Zone Management Act Compliance

The 2015 Final NWTT EIS/OEIS describes the *Coastal Zone Management Act of 1972* (16 United States Code [U.S.C.] section 1451, et seq.). This description and the definitions from the 2015 Final NWTT

EIS/OEIS have not changed. See Sections 4.3.5.5 (Shoreline Development) and 4.4.6.3 (Coastal Development) in the 2015 Final NWTT EIS/OEIS for additional information regarding management of the coastal zone within the NWTT Study Area.

As described in the 2015 Final NWTT EIS/OEIS, a Consistency Determination (CD) or a Negative Determination were submitted for review of federal agency activities.

#### **6.1.1.1 Washington Coastal Zone Management Program**

In 1976, the State of Washington's Coastal Zone Management Program (CZMP) was the first to be accepted and approved by the National Oceanic and Atmospheric Administration, and implemented by the Washington Department of Ecology. Washington's CZMP is primarily based on their Shoreline Management Act of 1971, as well as other state land use and resource management laws. Any public federal project carried out with a federal agency, or private project licensed or permitted by a federal agency, or carried out with a federal grant, must be determined to have "Federal Consistency," which means the project is consistent with the enforceable policies of Washington's CZMP.

The coastal zone includes all lands and waters from the coastline seaward to 3 NM. The coastline along the inland marine waters is located at the seaward limit of rivers, bays, estuaries, or sound. The inland political boundaries of the counties are used as the Coastal Zone limit because they generally follow drainage divides. The Act specifically excludes from the coastal zone those lands that are subject solely by law to the discretion of or held in trust by the federal government (e.g., military reservations and other defense installations, all lands within National Parks, the Olympic Coast National Marine Sanctuary, Indian lands held in trust by the federal government, and National Forest lands and National Recreation Areas owned or leased by the federal government) (Washington State Department of Ecology, 2001).

The federal CZMA also gives special funding to assist in making improvements to the state CZMP. Washington State participates in these voluntary Improvement Grants, otherwise known as the Section 309 Program, in order to update and amend the Shoreline Master Program Guidelines under Washington's Shoreline Management Act. Washington conducted a self-assessment of their CZMP that was finalized in 2015 for improvements to the program from 2016 to 2020. The various updates to the program will be considered in the CD process between the Navy and Washington Department of Ecology (Washington Department of Ecology, 2015).

In June 2018, the State of Washington finalized and adopted a new Pacific Coast Marine Spatial Plan. The Marine Spatial Plan includes scientific information on ocean uses and resources, provides a framework for evaluating future ocean use proposals, and establishes protections for sensitive areas and fisheries. The plan was submitted to NOAA to be reviewed and approved for incorporation into Washington State's CZMP and was approved in November of 2019 as an enforceable policy via a Routine Program Change to Washington's Coastal Program. Since there is a history of military presence off the coast of Washington State, the Marine Spatial Plan includes a section about military operations (Washington State Department of Ecology, 2018). Under a Federal Consistency determination, the Navy must be compliant with the state's implementation of the Marine Spatial Plan since it was approved and is an enforceable policy of the Washington Coastal Program.

The Navy submitted a consistency determination to the Washington State Department of Ecology on May 28, 2020, and received conditional concurrence on August 28, 2020 (see Appendix I, Agency Correspondence). The Navy continues to consult with the Department of Ecology, and completion of consultations will be documented in the Record of Decision.

#### **6.1.1.2 Oregon Coastal Management Program**

The Oregon Coastal Management Program was described in the 2015 NWTT Final EIS/OEIS and has not changed. The Navy submitted a negative determination to the Oregon Department of Land Conservation and Development for the 2015 NWTT Final EIS/OEIS, and the State of Oregon concurred. The activities proposed to occur off the coast of Oregon are similar in type and level of intensity to those covered in the 2015 negative determination, for which the Department of Land Conservation and Development issued a concurrence on June 3, 2015. Therefore, the Navy submitted a negative determination for its proposed activities on May 14, 2020. The Navy received concurrence on June 24, 2020, from the Department of Land Conservation and Development (see Appendix I, Agency Correspondence) stating that the Navy can assume concurrence with the Navy's negative determination unless otherwise notified.

#### **6.1.1.3 California Coastal Management Program**

The California Coastal Act was described in the 2015 NWTT Final EIS/OEIS and has not changed. Previously, the Navy submitted a negative determination to the California Coastal Commission for the 2015 NWTT Final EIS/OEIS. The California Coastal Commission concurred with the Navy's negative determination, in which the Commission agreed that it does not appear reasonably foreseeable that the proposed activities would affect California coastal zone resources. The activities proposed to occur off the coast of California are similar in type and level of intensity to those covered in the 2015 negative determination, for which the California Coastal Commission concurred. Therefore, the Navy submitted a negative determination for its proposed activities on May 13, 2020. The Navy received concurrence with the determination on July 10, 2020 (see Appendix I, Agency Correspondence).

#### **6.1.1.4 Alaska Coastal Management Program**

The Alaska Coastal Management Program (CMP) ended at 12:01 a.m., Alaska Standard Time on July 1, 2011 per state legislative action (AS 44.66.030). The Legislature adjourned the special legislative session May 14, 2011 without passing legislation required to extend the Alaska CMP. Therefore, Alaska currently does not have an approved CMP, and the Navy has no requirements to prepare and submit a CD.

#### **6.1.2 Marine Protected Areas**

The 2015 NWTT Final EIS/OEIS discussed Marine Protected Areas (MPA) that overlapped with the Study Area (U.S. Department of the Navy, 2015). EO 13792, *Review of Designations Under the Antiquities Act*, authorized a review by the Secretary of Interior of certain designated National Monuments under the Antiquities Act. Figure 6.1-1 and Figure 6.1-2 show MPAs in the Offshore Area and Inland Waters. These areas include the Olympic Coast National Marine Sanctuary (OCNMS), National Wildlife Refuges, state or local MPAs that are included in the National System of Marine Protected Areas, and the marine component of the Olympic National Park. This Supplemental has been prepared in accordance with requirements for natural or cultural resources protected under the National System of MPAs. While several MPAs are located within the Study Area and are included in the National System of MPAs, it is important to note that through standard operating procedures, the Navy takes every precaution to train or test in these areas sparingly. Table 6.1-2 provides information on the MPAs that are new, have regulations that have changed since the 2015 NWTT Final EIS/OEIS, or have new or different Navy training and testing activities proposed to occur. Further analysis and discussion of Marine Protected Areas can be found in the 2015 NWTT Final EIS/OEIS Chapter 6 (Table 6.1-2). Additionally, the OCNMS within the Study Area receives protection under both EO 13158 and the National Marine Sanctuaries Act and is described in more detail below the table.

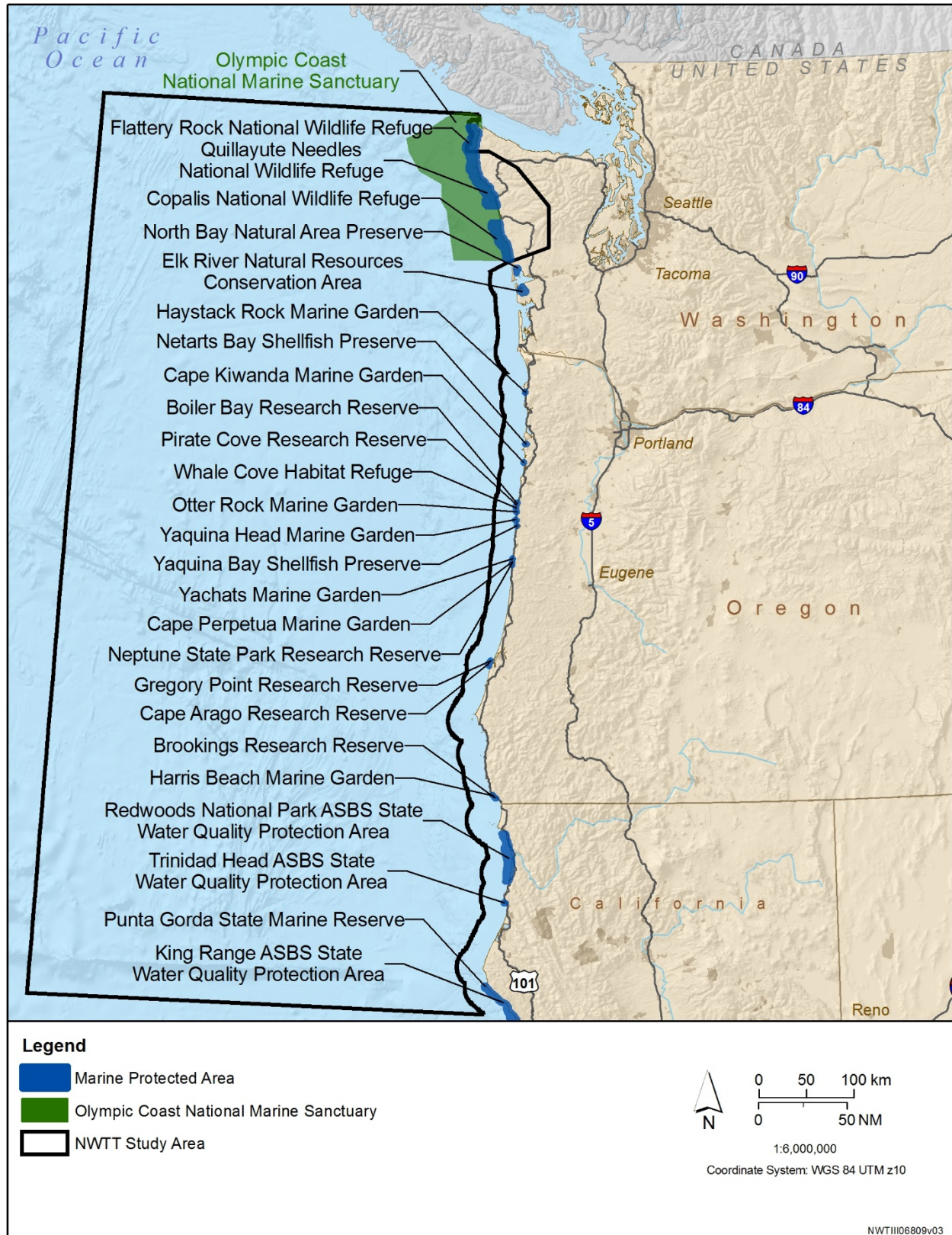


Figure 6.1-1: Marine Protected Areas in and Near the Offshore Area Portion of the Study Area



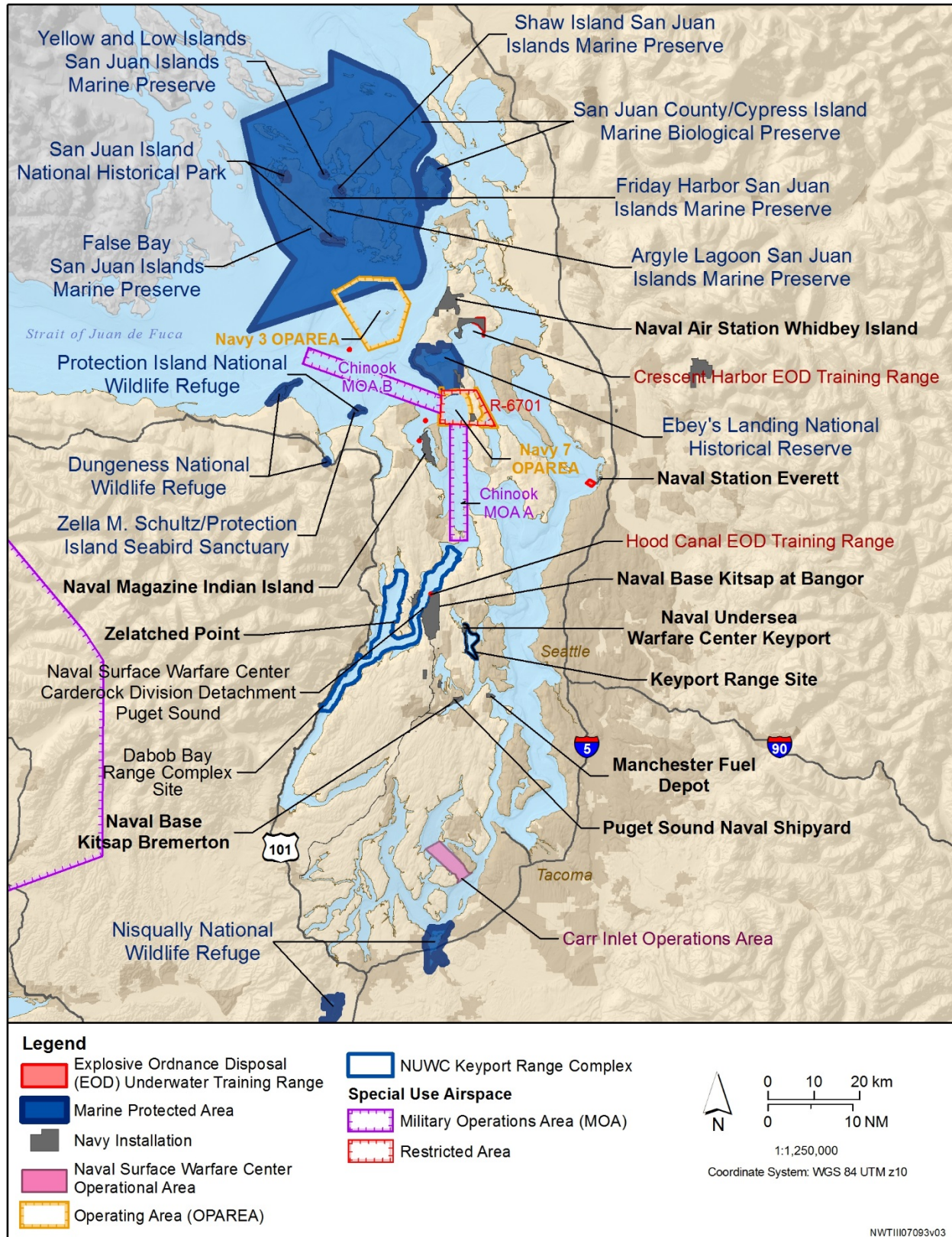


Figure 6.1-2: Marine Protected Areas in and Near the Inland Waters Area of the Study Area

**Table 6.1-2: Marine Protected Areas Located Within the Northwest Training and Testing Study Area**

Marine Protected Area	Location Within the Study Area	Protection Focus	Regulations Applicable to Navy Activities	Navy Proposed Training and Testing Activities and Potential Impacts
Copalis National Wildlife Refuge	Washington (Offshore Area)	Ecosystem	The Refuge is closed to visitation to protect wildlife and other natural, cultural, and other resources consistent with the conservation purpose of the Refuge.	The Navy conducts no activities in or near this area, but Navy ships may transit near or through the reserve.
Ebey's Landing National Historical Reserve	Washington (Puget Sound)	Natural Heritage	The Reserve covers the entire central Whidbey Island area, including Penn Cove.	The Navy's proposed activities in the Inland Waters would not occur within the limits of the Reserve and therefore would not violate the spatial boundaries or restrictions of the Reserve.
Flattery Rocks National Wildlife Refuge	Washington (Offshore Area)	Ecosystem	The Refuge is closed to visitors to protect wildlife and other natural, cultural, and other resources consistent with the conservation purpose of the Refuge.	The Navy conducts no activities in or near this area, but Navy ships may transit near or through the Refuge.
Olympic Coast National Marine Sanctuary	Washington (Offshore Area)	Ecosystem	The regulations state that "all Department of Defense (DoD) activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on sanctuary resources and qualities." If a DoD activity causes any destruction, loss, or injury to a Sanctuary resource, then the "DoD, in coordination with the Director, must promptly prevent and mitigate further damage and must restore or replace the Sanctuary resource or quality in a manner approved by the Director."	The Navy and NMFS submitted a joint Sanctuary Resource Statement to the Olympic Coast National Marine Sanctuary (OCNMS). OCNMS has 45 days to respond with conservation recommendations for the agencies to consider.

**Table 6.1-2: Marine Protected Areas Located Within the Northwest Training and Testing Study Area (continued)**

Marine Protected Area	Location Within the Study Area	Protection Focus	Regulations Applicable to Navy Activities	Navy Proposed Training and Testing Activities and Potential Impacts
Olympic National Park	Washington (Offshore Area)	Ecosystem	Vessels are prohibited from creating a wake or exceeding 5 miles per hour, 100 yards from shoreline in undeveloped areas. Permits are required for aircraft and air delivery; delivery/retrieval of a person/object by parachute, helicopter, or other airborne means; or removal of a downed aircraft.  As a designated World Heritage Site, the Olympic National Park was analyzed in the 2015 NWTT Final EIS/OEIS in Appendix K (World Heritage Site Analysis).	The Navy does not conduct ship or submarine activities in Olympic National Park but does conduct flight activities in the Olympic Military Operations Areas in national airspace above the Park. The environmental analysis for placement of mobile emitters on U.S. Forest lands outside the Olympic National Park supporting these activities was included in the Navy's Electronic Warfare Range Environmental Assessment. The Navy received special use permits from the U.S. Forest Service for placement of these emitters. Analysis of flight activities over the Olympic National Park within the MOA airspace is included in this Proposed Action. The Navy completed a noise study in Appendix J (Airspace Noise Analysis for the Olympic Military Operations Area) to support determinations made in this Supplemental that noise impacts on the Park and its resources would not rise to the level of significance (see Appendix J, Airspace Noise Analysis for the Olympic Military Operations Area).
Quillayute Needles National Wildlife Refuge	Washington (Offshore Area)	Seabirds/ Wildlife	No discharge/depositing, no dredging or altering the seabed, no motorized aircraft below 2,000 ft. or within 1 NM seaward, and no bombing activities.	The Navy does not discharge/deposit into, dredge, or alter the seabed; fly motorized aircraft below 2,000 ft. or within 1 NM seaward of Quillayute Needles National Wildlife Refuge; or conduct bombing activities in the refuge.

Notes: DoD = Department of Defense, EIS/OEIS = Environmental Impact Statement/Overseas Environmental Impact Statement, Navy = United States Department of the Navy, NM = nautical miles, NMFS = National Marine Fisheries Service, OCNMS = Olympic Coast National Marine Sanctuary, U.S. = United States, MOA = Military Operations Area



#### 6.1.2.1 Olympic Coast National Marine Sanctuary

Details of the OCNMS are discussed in the 2015 NWTT Final EIS/OEIS, and the dimensions, species, and descriptions of the area have not changed. The offshore portion of the Study Area encompasses the OCNMS. The mitigation developed for MMPA/ESA impacts (see Chapter 5, Mitigation) would be applied to all activities occurring near or within the Sanctuary.

Because some of the activities have changed in the Proposed Action for the 2020 NWTT Final EIS/OEIS, the Navy and NMFS have submitted a new joint Sanctuary Resource Statement to OCNMS. To ensure compliance with the National Marine Sanctuary Program regulations and the interagency consultation requirements of National Marine Sanctuaries Act section 304(d), the Navy considered all proposed modifications to training and testing activities to determine whether they have the potential to destroy, cause the loss of, or injure sanctuary resources, or result in adverse impacts on sanctuary resources or qualities. The Navy submitted a Sanctuary Resource Statement to the NOAA Office of National Marine Sanctuaries (ONMS) on April 30, 2020. After ONMS's request for additional information and clarification, the Navy submitted a revised SRS on July 9, 2020. On July 15, 2020, ONMS found the SRS sufficient. On August 28, 2020, ONMS provided an injury determination and recommended alternatives to minimize injury and to protect sanctuary resources (see Appendix I, Agency Correspondence). This consultation is ongoing and the results will be documented in the Record of Decision. The Navy has considered additional mitigation measures as indicated in Appendix K (Geographic Mitigation Assessment). Mitigation for the Olympic Coast National Marine Sanctuary Mitigation Area will consequently also help the Navy avoid or reduce potential impacts on other marine protected areas in the NWTT Offshore Area. The Flattery Rocks National Wildlife Refuge, Quillayute Needles National Wildlife Refuge, and Copalis National Wildlife Refuge are located within the boundaries of the Olympic Coast National Marine Sanctuary in the nearshore portion of the Study Area that abuts the Washington shoreline (well within 12 NM from shore). Therefore, proposed training and testing activities are consistent with those described in Section 6.4.5 (Department of Defense Activities) of the *Olympic Coast National Marine Sanctuary Final Management Plan and Environmental Assessment* (2011), authored and published by the National Oceanic and Atmospheric Administration. Further, the Navy would continue to regulate which training and testing activities occur within the Sanctuary based on existing requirements, as discussed above.

#### 6.1.3 Magnuson-Stevens Fishery Conservation and Management Act

The Proposed Action has the potential to impact Essential Fish Habitat (EFH) and managed species within the Study Area. The Navy prepared an EFH Assessment for this Supplemental and submitted it to NMFS on February 11, 2020 (see Appendix I, Agency Correspondence). On July 30, 2020, NMFS provided their draft response letter for review. On August 1, 2020, the Navy submitted clarifying information.

The Navy will continue to coordinate with NMFS to ensure that the best available data is considered for continued compliance with the Magnuson-Stevens Fishery Conservation and Management Act. This consultation is ongoing and the results will be documented in the Record of Decision.

### 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 (Part 1502), this Supplemental 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. This analysis has not changed since the analysis conducted in the 2015 NWTT Final

EIS/OEIS. See Section 6.2 (Relationship Between Short-Term Use of the Environment and Maintenance and Enhancement of Long-Term Productivity) of the 2015 NWTT Final EIS/OEIS for more information (U.S. Department of the Navy, 2015).

### **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). This analysis has not changed since it was conducted in the 2015 NWTT Final EIS/OEIS and the Navy’s activities have been ongoing and continuous since then. See Section 6.3 (Irreversible or Irretrievable Commitment of Resources) of the 2015 NWTT Final EIS/OEIS for more information (U.S. Department of the Navy, 2015).

### **6.4 Energy Requirements and Conservation Potential of Alternatives**

Pursuant to the operational strategy report in 2011, the Department of Defense (DoD) published an implementation plan to integrate operational energy considerations and transformation into existing programs, processes, and institutions (U.S. Department of Defense, 2012). 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, 2016). 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 through updated equipment and improvements in training, exercises, and operations (U.S. Department of Defense, 2016). These documents provide guidance to the DoD in how to better use energy resources and transform the way we power current and future forces.

Training and testing activities within the Study Area would result in an overall decrease in energy demand over current activities. The energy demand would arise from fuel (e.g., gasoline, diesel) consumption, mainly from aircraft and vessels participating in training and testing. Details of fuel consumption by training and testing activities on an annual basis are set forth in the air quality emissions calculation spreadsheets available on the project website. Total fuel consumption is estimated to decrease by approximately 11 percent and 9 percent per year under Alternative 1 and Alternative 2, respectively, when compared to Baseline rates of aircraft fuel consumption for training and testing activities. The main reason for the overall decrease in fuel consumption is that Baseline training activities include flights supporting the High-Speed Anti-Radiation Missile (HARM) operation. The HARM activity was broken out separately in the 2015 analysis but has since been removed, and the flights that conduct it have been absorbed into the other Electronic Warfare flights, resulting in a decrease in fuel consumption associated with aircraft training exercises. Overall, aircraft fuel consumption is estimated to decrease by 12 percent under Alternative 1 and by 10 percent under Alternative 2, when compared to current rates of aircraft fuel consumption during training and testing activities. Vessel fuel consumption is estimated to increase by 2 percent under Alternative 1 and by 14 percent per year under Alternative 2, when compared to current rates of vessel fuel consumption during training and testing activities. The increase in vessel testing fuel consumption for Alternatives 1 and 2 is due to additional

testing operations compared to the baseline, including operations that were previously not analyzed, and a change of methodology for estimating the emissions. The alternatives could result in a net cumulative increase 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, training, or testing activities. No additional conservation measures related to direct energy consumption by the proposed training and testing activities are identified. The Navy's energy vision given in the Operational Energy Strategy report (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. The Navy Climate Change Roadmap identifies actions the Environmental Readiness Division took to implement EO 13653, *Preparing the United States for the Impacts of Climate Change* (which has since been revoked and replaced with EO 13783, *Promoting Energy Independence and Economic Growth*).

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 supports 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. These initiatives are expected to greatly reduce the consumption of fossil fuels (Section 3.2, Air Quality).

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