

APPENDIX A

SUMMARY OF SCOPING COMMENTS

Monterey Bay National Marine Sanctuary

Summary of Scoping Comments

December 11, 2015

Table of Contents

| | |
|---|----|
| Table of Contents | 1 |
| Introduction..... | 2 |
| Comment statistics | 4 |
| Comments categorized by topic..... | 5 |
| Categorized topics..... | 6 |
| Collaborative Research and Management..... | 6 |
| Artificial reef | 6 |
| Beach nourishment | 6 |
| Birds..... | 7 |
| Boundary changes..... | 7 |
| Climate change | 7 |
| Coastal armoring..... | 8 |
| Desalination | 8 |
| Fisheries: anchovy fisheries..... | 8 |
| Fisheries: fishing..... | 9 |
| Management plan update/action plans | 9 |
| Marine debris..... | 10 |
| Mooring buoys..... | 10 |
| Motorized Personal Watercraft (MPWC)/jet-ski..... | 10 |
| Sanctuary advisory council (AC) | 11 |
| Science and monitoring | 11 |
| Sanctuary ecological significant areas (SESAs)..... | 11 |
| Water quality protection: miscellaneous | 12 |
| Water quality protection: regional monitoring | 12 |
| Water quality protection: run-off of contaminants | 13 |
| Wildlife disturbance: entanglement..... | 13 |
| Wildlife disturbance: harassment | 13 |
| Wildlife disturbance: soundscape..... | 14 |
| Wildlife disturbance: unmanned aircraft systems | 14 |
| Education, Outreach and Citizen Science | 15 |
| Citizen science..... | 15 |
| Education | 15 |
| Regulatory Changes and Clarification | 15 |
| Regulations | 15 |
| Federal Register Notice..... | 17 |

Introduction

In August of 2015, Monterey Bay National Marine Sanctuary (MBNMS) initiated an update of its management plan, a collaborative document, broad in scope, providing important guidance for sanctuary programs and operations. It is time to refresh the 2008 document and update its contents to ensure the sanctuary's natural and cultural resources are better understood and continue to be protected through management informed by current knowledge of this special place and the threats and pressures placed upon it.

A sanctuary management plan is a site-specific planning and management document describing the objectives, policies and activities for a sanctuary, and guides management actions. Management plans summarize existing programs and regulations, articulate visions, goals, objectives, and priorities of the sanctuary, guide management decision-making, guide development of annual operating plans, guide future planning, ensure public involvement in management processes, and contribute to the attainment of national marine sanctuary goals and objectives.

Over time, all management plans should be reviewed and updated to account for changing conditions and needs. At MBNMS, we recognize since our 2008 management plan was implemented, new partners, new issues and new opportunities have emerged. Moreover, much has been implemented and accomplished and no longer needs to be in the plan. Revising the management plan allows the sanctuary superintendent and staff to reflect state-of-the-art marine management approaches and ensures limited resources are focused on priorities. The review examines and potentially changes sanctuary programs and operations, action plans, regulations and boundaries. Management Plan Review (MPR) is the process by which all national marine sanctuaries review and revise their sanctuary management plans and is required under the National Marine Sanctuaries Act. Monterey Bay National Marine Sanctuary's MPR will be conducted in phases over the next few years.

This process involves proactively reaching out to members of the community to gather input, weighing collected information against the best available science and the agency's management expertise, and developing a plan that drives the sanctuary to meet the goals and objectives of the review. The MPR process and Sanctuary Advisory Council will provide guidance and direction for this review. The council is a community-based advisory group established to provide advice and recommendations to the sanctuary superintendent. The council members serve as liaisons between their constituents in the community and the sanctuary and provide expertise on both the local community and sanctuary resources, strengthen connections with the community and help build increased stewardship for sanctuary resources. MBNMS Advisory Council members represent agriculture, business and industry, conservation, diving, education, fishing (commercial and recreational), recreation, research, tourism, local governments, state and federal agencies and the community at large.

This review formally began in August 2015, when a public notice of intent to review the management plan was issued requesting public comments during the scoping period. Scoping comments were received from September 10 through October 30th. Comments on the direction the sanctuary should take to best protect and conserve the living marine resources and submerged

cultural resources of MBNMS were accepted electronically at www.regulations.gov under docket number NOAA-NOS-2015-0099, letters to the Sanctuary Superintendent and at four public meetings held in communities adjacent to the sanctuary. 220 comments were submitted and encompassed a range of topics. Comments may be viewed in their entirety at www.regulations.gov under docket number NOAA-NOS-2015-0099. This document summarizes and groups the variety of comments submitted during the scoping period.

Next Steps

Monterey Bay National Marine Sanctuary and the Sanctuary Advisory Council will use the public comments for guidance to best determine the high priority resource management issues to address in this review and evaluate management alternatives. In the coming year, MBNMS staff and the Advisory Council will develop recommendations, using the input from the scoping meetings, for NOAA to consider, and staff will assess the environmental impacts of these recommendations, which may include modifications or additions to sanctuary regulations. A draft management plan, along with an environmental analysis and possible regulatory changes, will be presented to the public. NOAA will gather public comment on the proposal. Finally, a final management plan and associated documents will be adopted and implemented.

Contact Information

Monterey Bay National Marine Sanctuary
99 Pacific Street, Bldg. 455A
Monterey, California 93940
(831) 647-4201
montereybay@noaa.gov

Comment statistics

Scoping comments on the MBNMS management plan review and regulations were submitted at the public scoping meetings, either as facilitated verbal comments or via comment cards; as letters via the mail; or electronically on line via the e-Rulemaking Portal at www.regulations.gov/#!docketDetail:D=NOAA-NOS-2015-0099. Comments not received electronically were posted to the e-Rulemaking Portal, thereby assembling all the scoping comments into the electronic docket for public viewing.

Comments submitted during the scoping period can be characterized as follows:

- The four scoping meetings produced four scoping summary reports that are posted online.
- 220 comments were submitted. A comment or comment letter may raise several issues and provide more than one suggestion on how to revise the MBNMS management plan.
- Of the 220 comments submitted, 51 comments were either clear duplicates (100%) or near duplicates (80%), rendering the total amount of individual comments as 169 comments.
- The overwhelming majority of comments were submitted by public citizens.
- Government partners submitted six comment letters.
- Educational partners submitted three comment letters.
- User groups submitted seven comment letters.
- Conservation groups submitted six comment letters.

Comments categorized by topic

When summarizing the public comments, MBNMS staff started with no pre-conceived list of topics or categories. For each comment, staff assessed the issue being discussed and either created a topic heading to describe the issue or binned the comment under a topic heading that had already been created based on an earlier comment. Some comments belong under more than one topic, but not many. Eventually a list 26 topic categories was created, which can be divided into three overarching themes: Collaborative Research and Management; Education, Outreach and Citizen Science; and Regulatory Changes and Clarifications.

COLLABORATIVE RESEARCH AND MANAGEMENT

- Artificial reef
- Beach nourishment
- Birds
- Boundary changes
- Climate change
- Coastal armoring
- Desalination
- Fisheries:
 - anchovy fisheries
 - fishing
- Management plan update/action plans
- Marine debris
- Mooring buoys
- Motorized personal watercraft (MPWC)/jet-ski
- Sanctuary advisory council (AC)
- Science and monitoring
- Sanctuary Ecological Significant Areas (SESAs)
- Water quality protection:
 - miscellaneous
 - regional monitoring
 - run-off of contaminants
- Wildlife disturbance:
 - entanglement
 - harassment
 - soundscape
 - unmanned aircraft systems

EDUCATION, OUTREACH AND CITIZEN SCIENCE

- Citizen science
- Education

REGULATORY CHANGES AND CLARIFICATIONS

- Regulations

Categorized topics

Comments were divided into 26 topic categories (in bold). The topic categories are grouped according to three overarching themes: Collaborative Research and Management; Education, Outreach and Citizen Science; and Regulatory Changes and Clarifications. Under each topic category comments were paraphrased and entered as either “issue or concern”, or “suggested strategies and tools” (to address the issue or concern).

COLLABORATIVE RESEARCH AND MANAGEMENT

Artificial reef

Issue or concern

- Dive community requests an artificial reef (boat, plane, other)
- Artificial reef would contribute to local economy
- Wildlife would attach to and congregate at artificial structure
- Reefs would serve as seed (production) sites for surrounding area
- Divers would come from elsewhere to dive on a wreck
- Sanctuary is not pristine: artificial reefs reverse/restore damage done by human uses
- Less pressure on existing reefs/dive sites
- Artificial reefs are also a draw for recreational fishermen

Suggested strategies and tools

- Raise funds for establishing artificial reef through Kickstarter/Indiegogo campaign.
- Divers or dive boats would pay a fee to the county to fund establishment of artificial reef.
- Divers would be very willing to help with this endeavor, whether financially or by volunteering.
- MBNMS needs to do the necessary research (e.g cost benefit analysis) and research possible beneficial locations for an artificial reef.
- Site an artificial reef that does not impact commercial fishing.
- Ensure hyperbaric chamber operations continue.
- Support the placement of artificial reefs within the MBNMS management framework.
- Permit an artificial reef to include enhanced multiple use opportunities.

Beach nourishment

Issue or concern

- Severe erosion at Surfer’s Beach (Half Moon Bay)

Suggested strategies and tools

- Continue to coordinate with local entities to find a solution.
- Restore sediment transport - need permanent location to place sand.
- Use other sources of clean sand if sand inside breakwater cannot be used.
- Conduct a pilot study on beach erosion - need enough sediment to have effect on curbing erosion.
- Review historic photos to understand severity of beach erosion.
- Consult the Regional Sediment Management Plan for the Santa Cruz Littoral Cell.

- Revise management plan to include beneficial reuse of clean dredged materials to mitigate coastal erosion.
- Amend sanctuary regulations/designation document to allow for the dredge and disposal of clean, compatible sediments from Pillar Point Harbor.

Birds

Issue or concern

- Miscellaneous
- Chumming to attract birds for offshore/pelagic bird observations

Suggested strategies and tools

- Use Sea Bird Company database for Ashy Storm Petrel - species of concern.
- Monitor persistence of dichlorodiphenyltrichloroethane (DDT) to study effects on California Condors.
- Create guidelines for chumming to attract birds.
- Permit chumming to attract birds for educational purposes.
- Change regulation to allow chumming to attract sea birds.

Boundary changes

Issue or concern

- San Francisco - Pacifica Exclusion area near San Mateo
- Chumash Heritage National Marine Sanctuary (CHNMS)

Suggested strategies and tools

- Consider impacts to partners/agencies if any boundaries are changed.
- Evaluate marine renewable energy potential and prepare a “Statement of Energy Effects” for any expanded areas.
- Include the San Francisco - Pacifica exclusion area to MBNMS or Greater Farallones National Marine Sanctuary (GFNMS).
- Expand MBNMS south if NOAA does not move forward with CHNMS designation.

Climate change

Issue or concern

- Climate change
- Ocean acidification
- Sea level rise

Suggested strategies and tools

- Increase coordination and cooperation among science and resource management agencies to improve planning, monitoring, and adaptive management.
- Adopt “Greening the Sanctuary” / reduce carbon footprint.
- Create a climate action plan in the MBNMS management plan with
 - measurable objectives
 - emphasis on outreach/education.
- Assess other action plans for MBNMS and include climate-related measures.

- Prepare better for climate-related coastal hazards (e.g. sea level rise, erosion, etc.).
- Build resilience into coastal communities.
- Expand monitoring of ocean acidification.

Coastal armoring

Issue or concern

- Climate-related sea level rise, increased erosion, shoreline loss
- Coastal erosion of hiking trails from increased tourism

Suggested strategies and tools

- Prioritize and use planned (or managed) retreat as a response measure to climate change.
- Develop an action plan with specific measures in support of the Coastal Regional Sediment Management Plan.
- Increase coordination with other local entities.
- Mitigate impacts from increased tourism through outreach/education and coordination with partners.

Desalination

Issue or concern

- Drought/water shortage
- Three desalination projects proposed within the sanctuary
- Brine discharge is toxic to marine life
- One or more regional desalination projects are of critical importance to our economy and the well-being of our citizens.

Suggested strategies and tools

- Update existing action plan
 - by improving desalination guidance
 - to reflect progress
 - by adding emphasis on monitoring and enforcement.
- Update desalination webpage.
- Educate public on environmental impacts to sanctuary.
- Do not permit brine discharge or allow a desalination plant within the sanctuary
- Permit desalination.
- Issue guidelines, regulations, or permit conditions that balance ocean environmental concerns with the needs of the humans.

Fisheries: anchovy fisheries

Issue or concern

- 99% collapse of anchovy population
- Overfishing of anchovy
- Anchovy filled with domoic acid – not fit for consumption
- Anchovy are the basis of food chain and needed for whales and other marine mammals
- Anchovy are important for the sanctuary ecosystem
- Anchovy are ground up for aquaculture

- Lax regulations
- Waste of dead anchovy found floating in the ocean waters
- Use of ‘seal bombs’ to scare sea lions away from the nets

Suggested strategies and tools

- Conduct a new stock assessment.
- Update catch limits.
- Encourage sustainable harvest.
- Enforce stricter limitations.
- Protect the ecosystem rather than commercial or sport fishing interests.
- Make Monterey Bay a true marine protected area.
- Monitor the harvest of anchovy.
- Consider how anchovy harvest is regulated within MBNMS.
- Establish a closer relationship with NMFS.
- Pursue the restriction of anchovy harvest by presenting an ecosystem-based perspective to fishery managers.
- Halt anchovy fishery.

Fisheries: fishing

Issue or concern

- Overfishing is a problem
- Reckless overfishing in Monterey Bay must be checked
- Fishermen view MBNMS in negative manner and feel alienated from process

Suggested strategies and tools

- Inform the public of the situation.
- Only create fishing regulations (or fishing zones) with support from recreational and commercial fishing leaders. If there is support, advise fishery managers.
- Oppose fishermen’s request to have approval (veto power) of any fishing rules.
- Have Alliance for Communities of Sustainable Fisheries (ACSF) represent fishing interests to MBNMS.
- Halt fishing in the sanctuary.

Management plan update/action plans

Issue or concern

- Revisions are needed
- Limited funding

Suggested strategies and tools

- Update fishing practices in management plan.
- Update action plan on bottom trawling.
- Renew “Fishermen in the Classroom”.
- Prioritize number of action plans
 - consider key ecosystem components and key stressors.

- create a category of action plans that are addressed only when funding is available.
- Collaborate with partners to implement action plans.
- Use best available science when developing action plans.
- Use peer review or consensus process if conflicts arise about science.
- Use community needs to guide revisions of management plan
- Leverage funding and resources with like-minded groups/agencies.

Marine debris

Issue or concern

- Lost fishing gear (fishing line, lead weights, traps, nets)
- Plastics

Suggested strategies and tools

- Support and expand existing discarded or lost fishing gear retrieval programs.
- Reduce sources of plastics entering the sanctuary.
- Expand beach clean-up efforts.
- Maintain and increase education.
- Develop a sign for restaurants “straws upon request.”

Mooring buoys

Issue or concern

- Dive community requests placement of moorings at popular dive sites
- Preserves benthic habitat/no hook-ups on kelp or other living organisms
- Less disturbance to wildlife
- Better dive safety (no slipped anchors)

Suggested strategies and tools

- Add a "mooring due" to all boat charters to pay for installation/maintenance of moorings.
- Allow dive community (e.g., dive clubs, diver charter boats) to fund, set and maintain moorings.
- Permit the placement of mooring buoys in the sanctuary.

Motorized Personal Watercraft (MPWC)/jet-ski

Issue or concern

- Modern MPWC are largely used as personal lifeguards for big wave surfers
- Legal use of MPWCs at Mavericks is unrealistic (27 conditions): mostly a two buddy system
- MPWC use at other high surf locations
- Need areas and opportunity to practice surfer rescue
- MPWC's are a multiple-use (National Marine Sanctuaries Act mandates ONMS to facilitate multiple use) and should therefore be allowed

Suggested strategies and tools

- Conduct an independent peer-review of science justification to ban all vessels (instead of go-slow areas).
- Prioritize training of public safety personnel using MPWC.
- Have official on site to monitor activity during all conditions.
- Study current MPWC use and the wave conditions in which they are used.
- Increase utility and effectiveness of the existing MPWC use zones
- Expand recreational opportunities of MPWC to other locations to allow for practice of rescue methods.
- Allow MPWC use at other selected big wave areas under “large surf warning” conditions.
- Allow for MPWC use as a safety tool, and for increased recreational opportunity.
- Amend the MBNMS rule on MPWC use to allow their use at Maverick’s in “high surf advisory” condition.
- Review and amend the existing sanctuary rule which prohibits the use of MPWC in most of the sanctuary.
- Prohibit MPWC use in the sanctuary, except under special circumstances.

Sanctuary advisory council (AC)

Issue or concern

- Sanctuary AC operations
- Business has little representation on Sanctuary AC

Suggested strategies and tools

- Explore establishing the Sanctuary AC under a local joint-powers authority.
- Add a renewable energy industry representative to Sanctuary AC
- Add a tribal representative to Sanctuary AC

Science and monitoring

Issue or concern

- Miscellaneous

Suggested strategies and tools

- Study contribution of Marine Life Protection Act sites to ecosystem health.
- Conduct more research to inform policy.
- Conduct more characterization, research and monitoring to understand sanctuary ecosystem.
- Provide to science collaborators funding, ship time, dive services, etc.
- Distribute and stress research on the natural cycles of MBNMS ecosystem.
- Study effects of sea lion population on ecosystem.

Sanctuary ecological significant areas (SESAs)

Issue or concern

- Need more information

Suggested strategies and tools

- Conduct more research in SESAs.
- Continue following the EFH review process.
- Continue collaborative research and pilot management activities with fishermen in SESAs.

Water quality protection: miscellaneous

Issue or concern

- Beach Closure and Contamination Action Plan
- Water quality concerns at San Simeon creek
- Habitat degradation due to pumping (e.g., steelhead)
- Drought
- Fukushima radiation
- USS Independence radiation
- Nuclear dump site by Farallon Islands
- Chemical use to eradicate non-natives
- Industrial ags use of GMOs and toxins

Suggested strategies and tools

- Identify focus areas toward which to direct more sanctuary resources.
- Include Surfrider's volunteer Blue Water Task Force labs into the on-line portal.
- Collaborate with local municipalities and focus on identifying and fixing the sources of pollution at beaches.
- Collaborate with other agencies to maintain water quality in local watersheds.
- Maintain whole lifecycle of fish.
- Balance and control amount of tourism.
- Monitor radiation impacts from 2011 Fukushima accident in Japan and educate public of findings.
- Monitor radioactive impacts from USS Independence and nuclear dump site off of Farallons and educate public of findings.
- Support multi-benefit water supply and conservation projects in local communities, such as "Ocean Friendly" gardens.
- Increase public education and outreach with like-minded organizations.
- Limit impairment to watersheds from collection of watershed waters.

Water quality protection: regional monitoring

Issue or concern

- Coordinated regional monitoring program
- Marine species as sentinels for water quality

Suggested strategies and tools

- Establish a coordinated regional monitoring network, building on successful models elsewhere.
- Participate in the Central Coast Regional Water Quality Control Board's efforts to list and remedy Clean Water Act Section 303(d) water bodies.

- Incorporate marine species mortalities into regional monitoring reports.

Water quality protection: run-off of contaminants

Issue or concern

- Reduce non-point sources of pollution from landscapes
- Harmful algal blooms (HABs) in the ocean
- HABs that occur within watersheds that feed into the sanctuary

Suggested strategies and tools

- Include training and outreach to the professional and amateur landscaping/gardening communities.
- Conduct trainings around retrofitting public landscapes that could be used as demonstration projects for implementation of best management practices.
- Eliminate fires on beaches.
- Encourage beach clean ups after holidays.
- Conduct more monitoring of HABs.
- Develop better regulations on “Roundup” discharge.

Wildlife disturbance: entanglement

Issue or concern

- Whale and turtle entanglement

Suggested strategies and tools

- Focus on prevention, response, data collection, and collaborative working group.
- Increase effectiveness of entanglement response.
- Develop best fishing practices to reduce entanglements – ACSF will participate.
- Oppose Navy’s plan for increasing sonar buoys, which are an entanglement risk.
- Continue with Pacific leatherback sea turtle as a focal species.
- Explore a sister sanctuary program with Indonesia (for leatherbacks).

Wildlife disturbance: harassment

Issue or concern

- Harassment of sea otters, whales, seals, and marine birds by
 - kayakers
 - paddle boarders
 - drones (see Wildlife disturbance: unmanned aircraft system)
 - increased tourism
 - fishermen using bombs and other noise making devices
 - MPWC
 - low overflights
 - Radio-frequency radiation (RF)

Suggested strategies and tools

- Add more enforcement.
- Support funding for enforcement.

- Cross deputize enforcement officers.
- Initiate a wide-spread public education program, using the public media.
- Support more on-site trained Bay Net and Team OCEAN docents/volunteers.
- Support funding for Bay Net and Team OCEAN.
- Adopt a kayak company by Bay Net/Team OCEAN volunteers.
- Install effective signage.
- Develop training videos for kayak/paddle board rental shops
- Identify key areas for nesting, hauling out, mating, and feeding for key species and outline methods for reducing disturbance.
- Consider alternative and/or additional measures to reduce disturbances while seeking to continue to allow responsible recreational access.
- Study impacts from RF on wildlife, including RF tagging, webcams, cell towers, and Wi-Fi.
- Add Devil's Slide rock to overflight restricted zones.
- Add Ano Nuevo Island to overflight zones or enforce existing 1000' overflight restriction.
- Explore setting a spectator or approach distance from marine mammals.
- Raise the approach distance to at least 100 feet (10 kayak lengths).
- Regulate, not just recommend, the distance for approaching marine mammals.
- Ban the use of seal bombs by fishermen.
- Regulate kayak companies to display their name and identifying number on each kayak.

Wildlife disturbance: soundscape

Issue or concern

- Acoustic impacts to wildlife
- Sonar and electromagnetic field (EMF) testing by Navy and research institutions

Suggested strategies and tools

- Coordinate research to better understand the sanctuary soundscape.
- Define dangerous levels of high-energy seismic testing.
- Participate in the NOAA-level effort to understand soundscapes.
- Study the range of acoustic impacts on MBNMS resources.
- Ban all sonar and EMF testing in sanctuary.

Wildlife disturbance: unmanned aircraft systems

Issue or concern

- Drones used in Elkhorn Slough
- Disturbances of seabird colony and marine mammal haul out areas
- Drones are useful for some research projects

Suggested strategies and tools

- Educate user group of regulations and impacts to wildlife.
- Implement geo-fencing
- Continue use of drones for some research programs.
- Ban drones from the sanctuary.

EDUCATION, OUTREACH AND CITIZEN SCIENCE

Citizen science

Issue or concern

- Citizen science needs to be a priority
- Creating more ocean stewardship needs to be a priority
- Invest in future generations of ocean stewards
- Missed opportunities for additional public outreach, involvement, and education in the most direct and relevant manner by not having sufficient Bay Net and Team OCEAN volunteers.

Suggested strategies and tools

- Expand partnerships and other external support to help ensure continuation of the Bay Net, Team OCEAN, and BeachCOMBER programs.
- Standardize and merge programs with GFNMS, e.g., Beach COMBERS and Beach Watch.
- Expand Bay Net, Team OCEAN with more funding.
- Hire a full-time volunteer coordinator.
- Develop citizen science programs.
- Support LiMPETS in the Cambria area of MBNMS.
- Expand NOAA Ocean Guardian School.

Education

Issue or concern

- Need improvements to education and outreach

Suggested strategies and tools

- Develop NOAA branding for Coastal Discovery Center, San Simeon Cove Beach and throughout Cambria and San Simeon.
- Implement live webcams at San Simeon Cove and audio on Friends of the Elephant Seal webcam.
- Improve readability of SIMon website.
- Purchase Sanctuary Exploration Center (SEC) as access for divers.
- Provide more support for SEC.
- Collaborate with schools to create learning opportunities for elementary thru high school.
- Communicate cause and effect of sea star wasting disease.

REGULATORY CHANGES AND CLARIFICATIONS

Regulations

Issue or concern

- Miscellaneous
- Beach nourishment
- Birds
- Boundary change

- Desalination
- Fisheries: anchovy fisheries
- Fisheries: fishing
- Motorized Personal Watercraft (MPWC)/jet-ski
- Water quality protection: run-off of contaminant
- Wildlife disturbance: harassment
- Wildlife disturbance: soundscape

Suggested strategies and tools

- Clarify the application of MBNMS' regulations on "abandoned" vessels.
- Enforcement officers shouldn't be allowed to speed through kelp.
- Require boats are cleaned before they are moved to prevent spread of invasive species.
- Amend sanctuary regulations/designation document to allow for the dredge and disposal of clean, compatible sediments from Pillar Point Harbor.
- Change regulation to allow chumming to attract sea birds.
- Include the San Francisco - Pacifica exclusion area to MBNMS or Greater Farallones National Marine Sanctuary (GFNMS).
- Expand MBNMS south if NOAA does not move forward with CHNMS designation.
- Issue desalination guidelines, regulations, or permit conditions that balance ocean environmental concerns with the needs of the humans.
- Halt anchovy fishery.
- Halt fishing in the sanctuary.
- Expand recreational opportunities of MPWC to other locations to allow for practice of rescue methods.
- Allow MPWC use at other selected big wave areas under "large surf warning" conditions.
- Allow for MPWC use as a safety tool, and for increased recreational opportunity.
- Amend the MBNMS rule on MPWC use to allow their use at Maverick's in "high surf advisory" condition.
- Review and amend the existing sanctuary rule which prohibits the use of MPWC in most of the sanctuary.
- Develop better regulations on "Roundup" discharge.
- Add Devil's Slide rock to overflight restricted zone.
- Add Ano Nuevo Island to overflight zone or enforce existing 1000' overflight restriction.
- Explore setting a spectator or approach distance from marine mammals.
- Raise the approach distance to at least 100 feet (10 kayak lengths).
- Require, not just recommend, the distance for approaching marine mammals with regulations.
- Ban the use of seal bombs by fishermen.
- Regulate kayak companies to display their name and identifying number on each kayak.
- Ban all sonar and EMF testing in sanctuary.
- Ban drones from the sanctuary.

Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the ADDRESSES section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface in the International Falls, MN area. This action would contain aircraft while in IFR conditions under control of Minneapolis ARTCC by safely vectoring aircraft from en route airspace to terminal areas.

Class E airspace areas are published in Paragraph 6006 of FAA Order 7400.9Y, August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, “Environmental Impacts: Policies and

Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas

* * * * *

AGL MN E6 International Falls, MN [New]

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 49°00′00″ N., long. 095°00′00″ W.; to lat. 49°00′00″ N., long. 093°30′00″ W.; to lat. 48°06′30″ N., long. 090°06′00″ W.; to lat. 47°53′00″ N., long. 090°55′00″ W.; to lat. 48°34′00″ N., long. 094°00′00″ W.; to lat. 48°40′00″ N., long. 095°00′00″ W., thence to the point of beginning, excluding that airspace within Federal airways.

Issued in Fort Worth, TX, on August 13, 2015.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–21087 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Initiation of Review of Management Plan and Regulations of the Monterey Bay National Marine Sanctuary; Intent To Conduct Scoping and Prepare Draft Environmental Impact Statement and Management Plan

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Initiation of review of management plan and regulations; intent to conduct scoping and prepare environmental impact statement.

SUMMARY: Monterey Bay National Marine Sanctuary (MBNMS or sanctuary) was designated in September 1992. It spans 4,601 square nautical miles (6,094 square miles) of marine waters off the central California coast, encompassing several large, nearshore submarine canyons, an offshore seamount and numerous marine habitats representative of the central California coastal and marine ecosystem. The present management plan was written and published in 2008 along with a final environmental impact statement in accordance with the National Environmental Policy Act (NEPA). In accordance with Section 304(e) of the National Marine Sanctuaries Act, as amended, (NMSA), the Office of National Marine Sanctuaries (ONMS) of the National Oceanic and Atmospheric Administration (NOAA) is initiating a review of the MBNMS management plan, to evaluate substantive progress toward implementing the goals for the sanctuary, and to make revisions to the plan and regulations as necessary to fulfill the purposes and policies of the NMSA. NOAA anticipates regulatory and management plan changes will require preparation of an environmental analysis under the National Environmental Policy Act (NEPA). NOAA will conduct public scoping meetings to gather information and other comments from individuals, organizations, tribes, and government agencies on the scope, types and significance of issues related to the MBNMS management plan and regulations and the proper scope of environmental review for the project. The scoping meetings are scheduled as detailed below.

DATES: Written comments should be received on or before October 30, 2015.

Scoping meetings will be held on:

(1) September 10, 6–8 p.m., Monterey Conference Center, Monterey, CA.

(2) September 23, 6–8 p.m., Loudon Nelson Center, Santa Cruz, CA.

(3) October 23, 6–8 p.m., Veteran's Memorial Hall, Cambria, CA.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2015–0999, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NOS-2015-0999, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* 99 Pacific Street, Bldg. 455A, Monterey, California 93940, Attn: Paul Michel, Superintendent.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Dawn Hayes, 831.647.4256, mbnmsmanagementplan@noaa.gov.

SUPPLEMENTARY INFORMATION: Reviewing the MBNMS management plan may result in proposed changes to existing plans and policies to address contemporary issues and challenges, and better protect and manage the sanctuary's resources and qualities. The review process is composed of four major stages: (1) Information collection and characterization; (2) preparation and release of a draft management plan and environmental impact statement, and any proposed amendments to the regulations; (3) public review and comment; (4) preparation and release of a final management plan and environmental document, and any final amendments to the regulations. NOAA will also address other statutory and regulatory requirements that may be required pursuant to the Endangered Species Act, Marine Mammal Protection Act, Essential Fish Habitat provisions of

the Magnuson-Stevens Act, and the National Historic Preservation Act.

Preliminary Priority Topics

NOAA has prepared a preliminary list of priority topics to consider during the MBNMS management plan review process. We are interested in public comment on these topics, as well as any other topics of interest to the public or other agencies in the context of the MBNMS management plan review. This list does not preclude or in any way limit the consideration of additional topics raised through public comment, government-to-government and interagency consultations, and discussions with partner agencies.

Collaborative Research and Management

There is a continuing need for characterization, research and monitoring to understand baseline conditions of marine resources within the sanctuary, ecosystem functions, and status and trends of biological and socioeconomic resources. NOAA relies on the continued support of multiple partners and volunteers, and strives to address critical resource protection through collaborative multi-stakeholder management efforts. In addition to updating existing action plans in the management plan, NOAA is considering adding strategies and activities to address the following issues:

Climate Change—Climate change is widely acknowledged, yet there is considerable uncertainty about current and future consequences at local, ecosystem and oceanic scales. Increased coordination and cooperation among science and resource management agencies are required to improve planning, monitoring and adaptive management to address this phenomenon as it pertains to the protection of MBNMS resources.

Wildlife Disturbance—MBNMS is an active area with abundant human use, offering some of the most significant marine wildlife viewing in the world. NOAA is concerned about a variety of human activities that have the ability to disturb marine wildlife. The harassment of wildlife, in particular marine mammals, has increased in recent years due to increased numbers (and proximity) of certain whale species and humans involved in on-the-water activities. Impacts to the MBNMS soundscape are also a concern, as the cumulative effects of underwater noise generated by a variety of human activities have grown over the past half century. Expanded use of unmanned aircraft systems over the sanctuary may also require additional analysis to

determine the degree to which these aircraft may, or may not, be causing harm to wildlife.

Water Quality Protection—Water quality is key to ensuring protection for all sanctuary resources. Given the level of coastal development along MBNMS's extensive coastline, runoff of contaminants such as sediments, nutrients, fecal bacteria, pesticides, oil, grease, metals, and detergents from the approximately 7,000 square miles of coastal watershed areas makes the sanctuary vulnerable to coastal water pollution problems. Although MBNMS has an award-winning water quality protection program, NOAA believes that more focused attention on specific water quality issues is needed, as well as a coordinated regional monitoring program to provide meaningful information on conditions, trends, and contaminant loads.

Marine Debris—Coastal marine debris is a persistent and poorly diagnosed problem within the sanctuary that negatively impacts natural and socioeconomic resources and qualities, including marine mammals, turtles and seabirds. NOAA is seeking input on innovative source controls and cleanups could help minimize impacts to sanctuary waters and habitats.

Regulatory Changes and Clarifications

NOAA is considering several modifications to MBNMS regulations and definitions to facilitate resource protection, clarify legal intent, and enhance public understanding. These include: Clarifying the extent of the shoreward sanctuary boundary line and the means by which some of the zones within MBNMS are delineated; clarifying the intent of the prohibition on the take of historical resources; and prohibiting tampering with MBNMS signage and buoys. Other regulatory changes may be considered based on public scoping comments and staff work to adjust various action plans within the management plan.

Other potential regulatory modifications on which NOAA is seeking public input include:

(1) Reducing the required High Surf Warning (HSW) condition for Motorized Personal Watercraft operations at Mavericks to a High Surf Advisory (HSA) condition.

(2) Minimizing disturbance from low overflights in the area of the Common Murre colony at Devil's Slide, a restoration site just beyond the MBNMS boundary line at Point San Pedro (San Mateo County).

(3) Designating of specific zones where fireworks may be permitted within MBNMS.

(4) Updating regulations to clarify the extent of the shoreward sanctuary boundary line.

(5) Ensuring that salvers operating within MBNMS meet minimum industry standards for safety, liability, capacity, and environmentally sensitive salvage techniques during both emergency and non-emergency operations.

(6) Clarifying the definition of “cruise ship” to include not only ships with berths for hire as is currently defined, but also ships with condominiums under private ownership.

(7) Clarifying the intent and applicability of the existing prohibition on deserting a vessel in MBNMS.

Education, Outreach and Citizen Science

Enhancing the public’s awareness and appreciation of sanctuary resources is a cornerstone of MBNMS’s mission. Recent initiatives, such as visitor centers, video media production, and partnering with recreation and tourism industry offer opportunities for NOAA and other entities to expand educational and outreach contributions and reach larger audiences. NOAA is seeking the public’s view on developing and enhancing programs designed to enhance public awareness, including opportunities to participate in environmental research and monitoring.

Condition Report

To inform the MBNMS management plan review, NOAA is updating the Monterey Bay National Marine Sanctuary Condition Report, which was first published in 2009. The 2009 report provided a summary of resources in MBNMS, pressures on those resources, current conditions and recent trends within the Sanctuary, and management responses to mitigate negative impacts. The 2015 Condition Report will update current conditions and recent changes for water quality, habitat, living resources and maritime archaeological resources in the sanctuary. It will also include an assessment of the Davidson Seamount Management Zone which NOAA added to MBNMS in 2009.

A summary of the 2015 Condition Report will be available to the general public during the public scoping period and on the Internet at: <http://sanctuaries.noaa.gov/science/condition/welcome.html>. The final report will be made available in late December 2015 on the same Web site.

Public Comments

NOAA is interested in hearing the public’s view on:

- The potential impacts of the proposed actions discussed above and ways to mitigate these impacts.

- The topics discussed above for the next five to ten years and whether these are the right topics, the priority topics, or if there are additional topics NOAA should consider.

- The effectiveness of the existing management plan in meeting both the mandates of the NMSA and MBNMS goals and objectives.

- The public’s view on the effectiveness of the MBNMS programs, including programs focused on: Resource protection; research and monitoring; education; volunteer; and outreach.

- NOAA’s implementation of MBNMS regulations and permits.

- Adequacy of existing boundaries to protect sanctuary resources.

- Assessment of the existing operational and administrative framework (staffing, offices, vessels, etc.).

Federal Consultations

This document also advises the public that NOAA will coordinate its consultation responsibilities under section 7 of the Endangered Species Act (ESA), Essential Fish Habitat (EFH) under the Magnuson Stevens Fishery Conservation and Management Act (MSA), section 106 of the National Historic Preservation Act (NHPA, 16 U.S.C. 470), and Federal Consistency review under the Coastal Zone Management Act (CZMA), along with its ongoing NEPA process including the use of NEPA documents and public and stakeholder meetings to also meet the requirements of other federal laws.

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, and other consulting parties; involve the public in accordance with NOAA’s NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: August 20, 2015.

John Armor,

Acting Director, Office of National Marine Sanctuaries.

[FR Doc. 2015–21132 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–109813–11]

RIN 1545–BK18

Residence Rules Involving U.S. Possessions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations for determining whether an individual is a bona fide resident of a U.S. territory. These proposed amendments affect individuals establishing bona fide residency in a U.S. territory by allowing additional days of constructive presence in a U.S. territory.

DATES: Written or electronic comments and requests for a public hearing must be received by November 25, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–109813–11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–109813–11), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–109813–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Stephen Huggs, (202) 317–6941; concerning submission of comments and/or requests for a hearing, Oluwafunmilayo (Funmi) Taylor, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 937 of the Internal Revenue Code (Code). Section 937 was added to the Code by the American Jobs Creation Act of 2004 (Public Law 108–357, 118

APPENDIX B

OUTLINE OF DRAFT MANAGEMENT PLAN

Issue Based Action Plans

Climate Change Strategies

- Strategy CC-1: Address coastal resilience and adaptation planning
- Strategy CC-2: Reduce greenhouse gas emissions
- Strategy CC-3: Communicate ocean-climate impacts and solutions
- Strategy CC-4: Implement Coastal Regional Sediment Management Plans (CRSMP)
- Strategy CC-5: Track and share ocean acidification research

Coastal Erosion and Sediment Management Strategies

- Strategy CESM-1: Support progress on Coastal Regional Sediment Management Plans (CRSMPs) for MBNMS
- Strategy CESM-2: Collaborate on land management plan for CEMEX site
- Strategy CESM-3: Reduce the loss of Elkhorn Slough habitat
- Strategy CESM-4: Implement site-specific beach nourishment programs
- Strategy CESM-5: Coordinate with regulatory agencies to determine appropriate disposal of dredge material
- Strategy CESM-6: Track and reduce coastal armoring
- Strategy CESM-7: Reduce impacts to sanctuary resources due to landslides and subsequent emergency responses
- Strategy CESM-8: Reduce impacts to sanctuary resources due to anthropogenic coastal changes to river mouths

Davidson Seamount Strategies

- Strategy DS-1: Conduct site characterizations
- Strategy DS-2: Conduct ecological processes investigations
- Strategy DS-3: Conduct seamount education and outreach initiatives

Emerging Issues Strategies

- Strategy EI-1: Identify and track emerging issues
- Strategy EI-2: Develop process to address emerging issues

Introduced Species Strategies

- Strategy IS-1: Manage pathways and promote prevention
 - Strategy IS-2: Promote early detection and rapid response
 - Strategy IS-3: Implement eradication or control
 - Strategy IS-4: Sustain research and monitoring
 - Strategy IS-5: Implement restoration
-

- Strategy IS-6: Implementation in Elkhorn Slough

Marine Debris Strategies

- Strategy MD-1: Assess scope and scale of marine debris
- Strategy MD-2: Foster public participation and support policies leading to reduced marine debris (focus on plastic pollution)
- Strategy MD-3: Reduce marine debris threats by removing the debris and preventing point source inputs

Water Quality Protection Program Strategies

- Strategy WQ-1: Facilitate and coordinate regional efforts to improve water quality through the Water Quality Protection Program Committee (and MOA), Agriculture Water Quality Alliance (AWQA), stormwater programs and Integrated Regional Water Management programs
- Strategy WQ-2: Understand the land-sea connection
- Strategy WQ-3: Quantify effectiveness of management practices
- Strategy WQ-4: Monitor and reduce pollutant loads flowing into MBNMS
- Strategy WQ-5: Promote public engagement and stewardship through citizen science monitoring programs and other WQPP efforts
- Strategy WQ-6: Communicate findings of projects and monitoring conducted by the WQPP

Wildlife Disturbance Strategies

- Strategy WD-1: Mitigate wildlife disturbance from marine vessels and shore-based activities
- Strategy WD-2: Mitigate wildlife disturbance from aircraft
- Strategy WD-3: Develop acoustic baseline profiles within MBNMS
- Strategy WD-4: Reduce underwater low-frequency mechanical sound emissions
- Strategy WD-5: Use administrative methods to reduce wildlife disturbance
- Strategy WD-6: Use law enforcement resources to reduce wildlife disturbance
- Strategy WD-7: Reduce the risk of wildlife entanglement in fishing gear
- Strategy WD-8: Respond to wildlife entangled in fishing gear

Program Based Action Plans

Education, Outreach, and Communication Strategies

- Strategy EO-1: Coordinate education programs through sanctuary visitor centers
 - Strategy EO-2: Enhance sanctuary interpretation and outreach programs
 - Strategy EO-3: Promote public engagement and stewardship through citizen science monitoring programs
 - Strategy EO-4: Maintain and develop sanctuary-wide exhibits and interpretive signage
 - Strategy EO-5: Foster and promote government and community relations
 - Strategy EO-6: Increase awareness of the sanctuary through effective media and communication tools
-

- Strategy EO-7: Engage in local, regional and national collaborations to leverage education and outreach opportunities
- Strategy EO-8: Evaluate effectiveness of sanctuary education and outreach efforts

Marine Spatial Planning Strategies

- Strategy MSP-1: Implement sanctuary ecologically significant areas (SESAs)
- Strategy MSP-2: Track and monitor vessel traffic compliance
- Strategy MSP-3: Collaborate on fishery management issues
- Strategy MSP-4: Assess motorized personal water craft (MPWC) zones
- Strategy MSP-5: Coordinate regionally, nationally and internationally on marine protected areas
- Strategy MSP-6: Maintain aircraft overflight zones
- Strategy MSP-7: Track and respond to offshore wind and wave energy proposals
- Strategy MSP-8: Initiate assessment for the use of artificial reefs for recreation, restoration, or other uses in MBNMS
- Strategy MSP-9: Monitor and assess golf ball deposition and remediation efforts associated with errant golf ball deposition to the sanctuary from area golf courses

Maritime Heritage Strategies

- Strategy MH-1: Inventory and assess submerged sites
- Strategy MH-2: Threat assessment for shipwrecks and submerged structures
- Strategy MH-3: Protect and manage submerged archaeological resources
- Strategy MH-4: Develop maritime cultural landscape-focused education and outreach programs

Operations and Administration Strategies

- Strategy OA-1: Management of MBNMS budget
- Strategy OA-2: Support management plan priorities
- Strategy OA-3: Coordinate and support Sanctuary Advisory Council
- Strategy OA-4: Support technical requirements of MBNMS staff and facilities
- Strategy OA-5: Oversee MBNMS facilities
- Strategy OA-6: Facilitate field operations
- Strategy OA-7: Provide general administrative support
- Strategy OA-8: Administer human resources

Research and Monitoring Strategies

- Strategy RM-1: Characterize biological and physical features in MBNMS
 - Strategy RM-2: Maintain and expand the Sanctuary Integrated Monitoring Network (SIMoN)
 - Strategy RM-3: Support science focused on priority sanctuary needs
 - Strategy RM-4: Facilitate the flow of science information among academic institutions, government agencies, and other institutions
 - Strategy RM-5: Coordinate with and participate in implementing research components of the Office of National Marine Sanctuaries West Coast Regional Office
-

- Strategy RM-6: Coordinate with and participate in implementing policies of the Office of National Marine Sanctuaries Conservation Science Program
- Strategy RM-7: Interpret select technical science information

Resource Protection Strategies

- Strategy RP-1: Continue to build partnerships and leverage opportunities for protecting sanctuary wildlife, habitats, qualities, and cultural resources through collaborative planning and management
 - Strategy RP-2: Enhance socioeconomic program through collaboration with ONMS Headquarters socioeconomic team.
 - Strategy RP-3: Maintain and enhance permitting and environmental review program
 - Strategy RP-4: Review projects, plans, and permits of other agencies
 - Strategy RP-5: Implement enforcement programs
 - Strategy RP-6: Interpret and distribute resource protection information
 - Strategy RP-7: Coordinate resource protection programs including interpretive enforcement and citizen science programs
 - Strategy RP-8: Coordinate with and participate in implementing resource protection components of the Office of National Marine Sanctuaries West Coast Regional Office
 - Strategy RP-9: Coordinate with and participate in implementing policies and programs of the Office of National Marine Sanctuaries
 - Strategy RP-10: Review and revise the sanctuary's spill response plan and emergency response information
 - Strategy RP-11: Develop and implement restoration and recovery plans to address habitat damages and endangered species
-

APPENDIX C

ONMS BEST MANAGEMENT PRACTICES FOR FIELD ACTIVITIES

All ONMS vessels must comply with the operational protocols and procedures in the NOAA Small Boats Policy (NAO 209-125). In addition, the following best management practices are used as applicable during ONMS-related field activities:

Lookouts/Staying at the Helm

- While underway, vessel operators should always stay alert for marine mammals, sea turtles, and other collision hazards.
- While transiting in areas where marine mammals and sea turtles are likely to occur, vessel operators should post a minimum of one dedicated lookout and operators should remain vigilant at the helm controls (keeping hands on the wheel and throttle at all times) and be ready to take action immediately to avoid an animal in their path.
- When operating in areas where marine mammals and sea turtles are present, a dedicated lookout is required in addition to the operator. A second lookout may be posted in circumstances where visibility is restricted.
- When marine mammals are riding the bow wake, or porpoising nearby, operators should exercise caution and take actions that avoid possible contact or collisions.
- When operating within visual range of whales, vessel operators should follow NOAA National Marine Fisheries Service (NMFS) Whale Watching guidelines unless otherwise covered by a NMFS permit, and only then with extreme caution.

Vessel Speed

- All vessels must reduce to prudent speed when marine mammals and sea turtles are visible within 1 nautical mile (nm) of the vessel and should not exceed 10 knots.

Maintaining Distance

- Once large whales are sighted, vessel operators should stay at least 100 yards away, 200 yards away from killer whales and 50 yards away from sea turtles.
- If large whales surface within 100 yards, vessel operators should stop immediately and use prudent seamanship to decide to either move away slowly or wait for the animal to move away on its own.
- In the case of northern right whales, a distance of at least 500 yards should be maintained per NMFS regulations.

Towing Divers

- Divers will be towed at approximately 3 knots.
-

Operation of Vessels during Daylight Hours

- Due to the increased risk of collision at night, vessel operations, whenever possible, should be planned for daylight hours (i.e., between ½ hour before sunrise and ½ hour after sunset when possible).
- Restricted visibility can hinder an operator's ability to see and respond to a marine mammals and sea turtles. Prudent seamanship should be applied, including posting an additional lookout when there is the potential for marine animals in the vicinity.

Operation of Vessels during Night Hours

- Standing Order for Nighttime Operations – If night time operations are essential and integral to the mission, the principal investigator must discuss mitigations for avoiding whales and other objects within the vessel operation corridor and incorporate them into the cruise plan. Mitigation measures could include: speed restrictions, additional lookouts, use of navigation lights, and use of sound signals, etc.

Standing Order for Operations around Marine Mammals

- This order requires several precautionary measures such as: incorporating whale sighting information in cruise planning, slowing to 10 knots. in a Seasonal or Dynamic Management Area, following the Whale Watching Guidelines, maintaining a constant lookout for whales, and following specific procedures if a whale is struck.

Anchoring and Deployment of Instruments

- In the West Coast region, anchoring will be limited to sandy-bottom substrates to avoid damage to seagrasses and coral habitat.
- In the West Coast region, sargassum interaction is limited, as much as is reasonable feasible, to prevent impact on sea turtle hatchling habitat.
- In general, instruments are deployed and lowered onto sandy substrate whenever possible; deployment of instruments occurs slowly and under constant supervision to minimize risk and mitigate impacts if a collision or entanglement occurs; and while vehicles or personnel are deployed, spotters monitor the activities at all times.

Safety

- Safety Briefings: All ONMS vessel captains include safety information during pre-cruise briefings for staff and volunteers.
 - All divers working on ONMS vessels are diver-certified.
-

APPENDIX D

CONSULTATION DOCUMENTS AND PROTECTED SPECIES LIST

For the purposes of this analysis, protected species include:

- Marine and terrestrial species believed to be present in the action area that are listed or proposed or are candidate species for listing as Threatened or Endangered by the U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) pursuant to the Endangered Species Act (ESA);
- Marine species believed to be present in the action area that are listed as Rare, Threatened, or Endangered by California Department of Fish and Wildlife (CDFW) pursuant to the California Endangered Species Act (CESA) that are protected by MBNMS regulations (i.e. White Shark);
- Marine species believed to be present in the action area that area protected under the Marine Mammal Protection Act (MMPA).

ESA-Listed Species under USFWS Jurisdiction

ONMS identified 9 ESA-listed species under USFWS jurisdiction that are found in the project action area and could be affected by the proposed action. These species are: southern sea otter, green sea turtle, California red-legged frog, California condor, California least tern, short-tailed albatross, California clapper rail, marbled murrelet, and western snowy plover.

ONMS does not believe the following ESA-listed species or designated critical habitat occur in the action area or that MBNMS activities would affect these species because the majority of MBNMS activities would occur in marine environments or at a few onshore locations outside of the habitat and range of these terrestrial species: giant kangaroo rat, salt marsh harvest mouse, San Joaquin kit fox, Least Bell's vireo, northern spotted owl, southwestern willow flycatcher, yellow-billed cuckoo, blunt-nosed leopard lizard, San Francisco garter snake, California tiger salamander, Santa Cruz long-toed salamander, delta smelt, Kern primrose sphinx moth, mission blue butterfly, Myrtle's silverspot butterfly, ohlone tiger beetle, San Bruno elfin butterfly, Smith's blue butterfly, Zayante band-winged grasshopper, vernal pool fairy shrimp, beach layia, Ben Lomond spineflower, Ben Lomond wallflower, California jewelflower, Chorro Creek bog thistle, clover lupine, coastal dunes milk-vetch, Contra Costa goldfields, Hickman's potentilla, Marin dwarf-flax, marsh sandwort, Menzies' wallflower, Monterey clover, Monterey gilia, Monterey spineflower, salt marsh bird's-beak, San Mateo woolly sunflower, Santa Cruz tarplant, Scotts Valley polygonum, Scotts Valley spineflower, showy indian clover, spreading navarretia, white-rayed pentachaeta, Yadon's piperia, Gowen cypress, Santa Cruz cypress.

The species lists obtained through the USFWS IPaC website from the Sacramento and Ventura Fish and Wildlife Offices are provided below.

ESA-Listed Species under NMFS Jurisdiction

ONMS identified 23 ESA-listed species (or distinct population segment (DPS)/evolutionarily significant unit (ESU)) under NMFS jurisdiction that are found in the project action area and could be affected by the proposed action. These species are: black abalone, Sacramento River winter-run chinook salmon, Central Valley spring-run chinook salmon, California coastal chinook salmon, Central California coast coho salmon, Central California coast steelhead, South Central California coast steelhead, North American green sturgeon southern DPS, longfin smelt, tidewater goby, eulachon, leatherback sea turtle, green sea turtle, loggerhead sea turtle, olive ridley sea turtle, Guadalupe fur seal, blue whale, humpback whale, fin whale, sperm whale, killer whale, North Pacific right whale, and sei whale.

ONMS does not believe the following species or DPS/ESU occur in the action area or that MBNMS activities would affect these species: western North Pacific gray whales, white abalone, Puget Sound DPSs of bocaccio and yelloweye rockfish, Eastern Pacific DPS of scalloped hammerhead shark, and Gulf grouper. In addition, ONMS determined that the following DPSs or ESUs of West Coast salmon and steelhead do not occur in the action area: Hood Canal summer-run chum salmon, Ozette Lake sockeye salmon, Puget Sound chinook salmon, Puget Sound steelhead, Middle Columbia River steelhead, Snake River fall-run chinook salmon, Snake River spring / summer-run chinook salmon, Snake River sockeye salmon, Snake River steelhead, Upper Columbia River spring-run chinook salmon, Upper Columbia River steelhead, Columbia River chum salmon, Lower Columbia River chinook salmon, Lower Columbia River coho salmon, Lower Columbia River steelhead, Upper Willamette River chinook salmon, Upper Willamette River steelhead, Oregon Coast coho salmon, Southern OR / Northern CA Coasts coho salmon, Northern California steelhead, California Central Valley steelhead, and Southern California steelhead.

Protected Species Table

Table D1 provides a list of the protected species known or likely to occur in the action area, the species listing status, habitat requirements, regional occurrence and potential to occur in the MBNMS action area.

Table D1. List of Protected Species in the Action Area

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|------------------------|----------------------|--|--|---------------------|---|
| Southern sea otter | ESA Threatened; MMPA | A top carnivore in its coastal range and a keystone species of the nearshore coastal zone and associated with kelp forests. | No | Year-round-Common | High. Otters are commonly found in the nearshore waters of Monterey Bay, along the Big Sur Coastline and in Elkhorn Slough. |
| California sea lion | MMPA | Coastal waters of Monterey Bay are used for foraging with haul-out sites near Fishermen's Wharf; most abundant pinniped in MBNMS. | No | Seasonal-Common | High. Main haul-out sites are located up and down the coast. |
| Steller sea lion | MMPA | Occasional visitor in fall and winter utilizing the coastal waters of Monterey Bay for foraging, usually found among the California sea lions on the Coast Guard jetty in Monterey harbor. | Yes, 3000 feet seaward of basepoint of rookery at Año Nuevo and extending 3000 feet above rookery. | Seasonal-Occasional | Low. A small population breeds on Año Nuevo Island, just north of Monterey Bay and occasional individuals transit through MBNMS waters |
| Harbor seal | MMPA | Commonly observed pinniped along MBNMS coastline. Use the offshore waters of Monterey Bay for foraging and beaches for resting. Occur on offshore rocks, on sand and mudflats in estuaries and bays, and on some isolated beaches. | No | Year-round-Common | High. Residents of the study area throughout the year, occurring mainly close to shore. |
| Northern fur seal | MMPA Depleted | Usually come ashore in California only when debilitated, however, few individuals observed on Año Nuevo Island. Occur off of central California during winter following migration from northern breeding grounds. | No | Seasonal-Rare | Low. Usually 18-28 km from shore in California, however, they have been observed within 5 km of Point Pinos. |
| Northern elephant seal | MMPA | Usually observed offshore swimming and foraging and only come ashore to | No | Year-round, Common | Low. Northern elephant seals are widely distributed in MBNMS. They are sighted regularly |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|--------------------|-------------------------------|--|--|-----------------------|---|
| | | one of the established rookeries. Three rookeries are on mainland beaches in MBNMS at Pt. Piedras Blancas, Cape San Martin/Gorda, and Año Nuevo State Park. | | | over shelf, shelf-break, and slope habitats and they are also present in deep ocean habitats seaward of the 2000 m isobaths. |
| Guadalupe fur seal | ESA Threatened; MMPA Depleted | Breed along the eastern coast of Guadalupe Island, approximately 200km west of Baja California. In addition, individuals have been sighted in the southern California Channel Islands, including two males who established territories on San Nicolas Island. Guadalupe fur seals have been reported on other southern California islands, and the Farallon Islands off northern California with increasing regularity since the 1980s and only occasional observed foraging and swimming in the waters of Monterey bay. | No | Seasonal-Very Rare | Low. Not known to regularly haul out or breed in MBNMS, but occasionally individuals have been sighted in MBNMS waters or have stranded on beaches located within the study area. ¹ Reference: Monterey Bay National Marine Sanctuary (MBNMS), 2016a. Marine Mammals. II. Pinnipeds (seals and sea lions). http://montereybay.noaa.gov/sitechar/mamm2.html . Accessed on June 15, 2016. |
| Harbor porpoise | MMPA | Observed in shallow sandy bottom areas of the Monterey Bay shelf where they forage. | No | Year-round-Common | Moderate. The main population is located offshore Sunset Beach State Park, individuals have been reported in the nearshore waters adjacent to the former Fort Ord military base. |
| Risso's dolphin | MMPA | Generally found in waters greater than 1,000m in depth and seaward of the continental shelf and slopes but have been sighted associated with squid congregations in the nearshore environment of Monterey Peninsula. | No | Year-round-Occasional | High An increase in the number of Risso's dolphins in MBNMS has occurred since 1973. They feed on squid. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|-------------------------------|----------------|--|--|-----------------------|--|
| Common dolphin – long-beaked | MMPA | Found relatively close to shore swimming and foraging. | No | Year-round-Common | High. The common dolphin is the most abundant cetacean found in the coastal waters of California, and the abundance within MBNMS has increased in recent years. |
| Common dolphin – short-beaked | MMPA | A more pelagic species than the long-beaked common dolphin, they utilize Monterey Bay for foraging. ³ | No | Year-round-Rare | Low. Generally found offshore. Short-beaked common dolphins are often found in association with underwater ridges, seamounts, and continental shelves where upwelling occurs and prey is abundant. |
| Dall's porpoise | MMPA | The most pelagic of the porpoises in MBNMS, they utilize Monterey Bay for foraging. | No | Year-round-Rare | Low. Most frequently seen off of Point Pinos and over the Monterey Canyon |
| Bottlenose dolphin | MMPA Depleted | Includes coastal and offshore populations. Both species use the waters of Monterey Bay for foraging. | No | Year-round-Common | Moderate. More than 45 individuals have been sighted during one recent survey. This species is now considered a resident of Monterey Bay, and is confined to within one km of shore. ³ |
| Pacific white-sided dolphin | MMPA | Commonly seen near the shelf break in the offshore waters of Monterey Bay. | No | Year-round Common | Moderate. This had been the most frequently seen dolphin in Monterey Bay but has recently been replaced by the common dolphin. Occurs primarily within 15km west of Carmel Bay and within 25km southwest of Santa Cruz |
| Northern right whale dolphin | MMPA | Deep, cold temperate waters over the continental shelf and slope in offshore Monterey Bay. | No | Year-round-Rare | Low. Sighting patterns from aerial and shipboard surveys suggest seasonal north-south movements, with animals found primarily off California during the colder water months and shifting northward into Oregon and Washington as water temperatures increase in late spring and summer. |
| Minke whale | MMPA | Can be in coastal/inshore and oceanic/offshore areas of Monterey bay. | No | Year-round-Occasional | Low. Occasional sightings in the nearshore waters of Monterey Bay. Sightings are usually of single individuals |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|----------------|----------------------------------|--|--|-----------------------|---|
| Blue whale | ESA Endangered; MMPA Depleted | In Monterey Bay, blue whales often occur near the edges of the submarine canyon and shelf-break edges where krill tends to concentrate. Blue whales feed only on krill and are in Monterey Bay between June and October, during times of high krill abundance. Blue whales begin to migrate south during November. | No | Seasonal-Common | Moderate. Regularly observed in Monterey Bay but mostly in deep waters. |
| Humpback whale | ESA Endangered; MMPA Depleted | Central California population of humpback whales migrates from their winter calving and mating areas off Mexico to their summer and fall feeding areas off coastal California. Humpback whales occur in Monterey Bay from late April to early December. | No. Proposed critical habitat for the Central American and Mexico DPSs of humpback whales include the waters of MBNMS (84 FR 54354). | Seasonal-Common | High. Observed throughout Monterey Bay. The humpback whale ESA listing final rule (81 FR 62259, September 8, 2016) established 14 distinct population segments (DPSs) with different listing statuses. The CA/OR/WA humpback whale stock primarily includes whales from the endangered Central American DPS and the threatened Mexico DPS, plus a small number of whales from the non-listed Hawaii DPS. |
| Fin whale | ESA Endangered; MMPA Depleted | More common farther from shore; occasionally encountered during the summer and fall in Monterey Bay. | No | Seasonal-Occasional | Moderate. Fin whales found mainly farther offshore in deep waters. Most migrate from the Arctic and Antarctic feeding areas in the summer to tropical breeding and calving areas in the winter |
| Sperm whale | ESA Endangered; MMPA Depleted | Occur in many open oceans; live at the surface of the ocean but dive deeply to catch giant squid. | No | Year-round-Occasional | Low. Offshore mostly in deep waters. |
| Gray whale | MMPA Depleted | Predominantly occur within the nearshore coastal waters of Monterey Bay. This species has been delisted under ESA but remains protected under MMPA. | No | Seasonal-Common | Moderate. Occurring in coastal waters during late fall-winter southward migration and again late winter to early summer during their northward migration. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|---------------------------|-------------------------------|---|--|----------------------|--|
| Killer whale | ESA Endangered; MMPA | Transient species observed throughout coastal California waters. The Southern Resident DPS is endangered and occurs mainly within the inland waters of Washington State and southern British Columbia, but also in coastal waters from Southeast Alaska through California | No (however, critical habitat for Southern Resident Killer Whale DPS might be revised based on 80 FR 9682 from February 24, 2015). | Seasonal-Occasional | Moderate. Most common during April, May, and June as they feed on northbound migrating gray whales. |
| North pacific right whale | ESA Endangered; MMPA Depleted | Seasonally migratory; inhabit colder waters for feeding, and then migrate to warmer waters for breeding and calving. Although they may move far out to sea during their feeding seasons, right whales give birth in coastal areas. | No | Seasonal-Very Rare | Low. Sightings in MBNMS are very rare. Migration patterns of the North Pacific right whale are unknown, although it is thought the whales spend the summer in far northern feeding grounds and migrate south to warmer waters, such as southern California, during the winter. |
| Sei whale | ESA Endangered; MMPA Depleted | Sighted in offshore waters throughout the latitudinal range of MBNMS, though usually occur seaward of the sanctuary's western boundary. Observed generally in deep water habitats including along the edge of the continental shelf, over the continental slope, and in the open ocean. | No | Seasonal-Very Rare | Low. Sightings have become rare in MBNMS since the 1980s. The movement patterns of sei whales are not well known, but they are typically observed in deeper waters far from the coastline. Sei whales have an unpredictable distribution. Many whales may be found in one area for a period and then not return for years or decades. |
| Short-finned pilot whale | MMPA | Found primarily in deep waters in warmer tropical and temperate waters. Forage in areas with high densities of squid. | No | Year-round-Very Rare | Low. Generally found in deep water |
| Baird's beaked whale | MMPA | Inhabit deep offshore waters in the North Pacific. Baird's beaked whales generally migrate seasonally based on surface water temperature. During summer and fall they are found in or | No | Seasonal-Rare | Low. Sightings in the fall in Monterey Bay and in deep waters. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|-------------------------|----------------|---|--|-------------------------------|--|
| | | near the waters of the continental slope. Between April and October, Baird's beaked whales have been observed in the nearshore waters of the Bering Sea and Okhotsk Sea. They will move farther offshore during winter and spring when sea temperatures have decreased. | | | |
| Cuvier's beaked whale | MMPA | Deep pelagic waters (usually greater than 1,000m deep) of the continental shelf and slope. Seasonality and migration patterns are unknown. ⁶ | No | Seasonality unknown-Very Rare | Low. Generally, occur in the deep waters. Infrequent strandings in Monterey Bay. |
| Leatherback sea turtle | ESA Endangered | Offshore pelagic environment and often associated with the 50 m isobaths, and can be found quite close to shore, even reported as such in Monterey Bay. | Yes | Seasonal-Occasional | Low. Leatherback sea turtles are most commonly seen between July and October, when the surface water temperature warms to 15-16° C and large jellyfish, the primary prey of the turtles, are seasonally abundant offshore. |
| Green sea turtle | ESA Threatened | Common inhabitants of coastal regions, embayments, and lagoons, but mainly occur in tropical regions, occasionally ranging into Monterey Bay during periods of warm water. | No | Seasonal-Occasional | Low. In the eastern Pacific, green turtles have been sighted from Baja California to southern Alaska but most commonly occur from San Diego south. |
| Loggerhead sea turtle | ESA Endangered | An oceanic species in temperate and tropical regions. | No | Seasonal-Occasional | Low. In the U.S., most recorded sightings are of juveniles off the coast of California but occasional sightings are reported along the coasts of Washington and Oregon. |
| Olive ridley sea turtle | ESA Threatened | Found in warm temperate and tropical waters, typically < 15 km from mainland shores but also in oceanic waters. In the eastern Pacific, the range of the Olive Ridley turtle extends from southern California to northern Chile. | No | Year-round-Very Rare | Not Expected. An olive ridley sea turtle stranded in Pacific Grove in the fall of 2011 and if the surface waters are warm (approaching 60 degrees), In the eastern Pacific, olive ridley sea turtles are highly migratory and those migratory pathways vary annually. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|--|----------------|--|---|---------------------|--|
| California red-legged frog | ESA Threatened | This species occurs from sea level to elevations of about 1,500 meters (5,200 feet). It has been extirpated from 70 percent of its former range and now is found primarily in coastal drainages of central California, from Marin County, California, south to northern Baja California, Mexico (74 FR 51825). | Yes, found in rivers within which water sampling during Snapshot Day occurs | Seasonal, rare | Low. Uses a variety of habitats but do require a breeding pond, or slow-flowing stream reaches or deep pools which hold water long enough for the tadpoles to metamorphosize. The breeding season runs from November through April and mating depends on seasonal climatic patterns but commonly occurs in February or March. |
| Chinook salmon (Sacramento River winter-run ESU) | ESA Endangered | Anadromous and semelparous. As adults they migrate from a marine environment into the fresh water streams and rivers of their birth (anadromous) where they spawn and die (semelparous). | No | Seasonal | Moderate. Chinook salmon typically enter the Sacramento River from November to June and spawn from late-April to mid-August, with a peak from May to June. They inhabit nearshore coastal waters of Central California throughout the year, but especially during migration periods. |
| Chinook salmon (Central Valley spring-run ESU) | ESA Threatened | Anadromous and semelparous. As adults they migrate from a marine environment into the fresh water streams and rivers of their birth (anadromous) where they spawn and die (semelparous). | No | Seasonal | Moderate. Chinook salmon typically enter the Sacramento River from November to June and spawn December to April. They inhabit nearshore coastal waters of Central California throughout the year, but especially during migration periods. |
| Chinook salmon (California Coastal ESU) | ESA Threatened | Juveniles may spend 3 months to 2 years in freshwater before migrating to estuarine areas as smolts and then into the ocean to feed and mature. They prefer streams that are deeper and larger than those used by other Pacific salmon species. | No | Seasonal | Low. Historically, the range extended from Oregon to the Ventura River in California. Chinook salmon in this ESU exhibit an ocean-type life history and use Monterey Bay waters for foraging. |
| Coho Salmon (Central California coast ESU) | ESA Endangered | Spend approximately the first half of their life cycle rearing and feeding in streams and small freshwater tributaries with stable gravel substrates. The remainder of the life | Yes, found in rivers within which water sampling during Snapshot Day occurs | Seasonal | Moderate. Historically, runs were common in the Pajaro and Salinas Rivers but have not been observed since the 1990s. Current runs exist in Waddell Creek, Scott Creek, San Lorenzo River, Soquel Creek, and Aptos Creek. In Monterey County, only two small runs in the Carmel and Big |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|--|----------------|--|--|---------------------|---|
| | | cycle is spent foraging in estuarine and marine waters of the Pacific Ocean. | | | Sur Rivers exist. May potentially occur in the waters adjacent to the Action Area during migration. |
| Steelhead (Central California Coast DPS) | ESA Threatened | Steelhead are anadromous and can spend up to 7 years in fresh water prior to smoltification, and then spend up to 3 years in salt water prior to first spawning. | Yes, found in rivers within which water sampling during Snapshot Day occurs | Seasonal | Low. The nearest naturally spawned populations occur in Aptos Creek, north of the Project site within Santa Cruz County. **: In estuarine areas extreme high water is the best descriptor of lateral extent for critical habitat. We are designating the area inundated by extreme high tide because it encompasses habitat areas typically inundated and regularly occupied during the spring and summer when juvenile salmon are migrating in the nearshore zone and relying heavily on forage, cover, and refuge qualities provided by these occupied habitats. |
| Steelhead (South Central California Coast DPS) | ESA Threatened | Steelhead are anadromous and can spend up to 7 years in fresh water prior to smoltification, and then spend up to 3 years in salt water prior to first spawning. | Yes, found in rivers within which water sampling during Snapshot Day occurs | Seasonal | Moderate. This DPS occupies rivers from the Pajaro River in Santa Cruz County to (but not including) the Santa Maria River in Santa Barbara County. |
| North American green sturgeon, southern DPS | ESA Threatened | Within the marine environment, the Southern DPS occupies coastal bays and estuaries from Monterey Bay to Puget Sound in Washington. Individuals occasionally enter coastal estuaries to forage. All of Monterey Bay is designated critical habitat for green sturgeon. | Yes, within 60 fathoms (fm) depth from Monterey Bay, California (including Monterey Bay) | Seasonal | Moderate. Subadult and adult green sturgeon mainly occupy coastal marine and estuarine habitats throughout the water column but typically feed in benthic environments (Erickson and Hightower 2007; Dumbauld et al. 2008). Subadult and adult green sturgeon may undergo extensive seasonal migrations to reach productive feeding grounds, including Monterey Bay (NOAA, 2009). In marine waters off the Rogue River, Green sturgeon primarily occupied the water column between 40 and 70 m (~130' to ~230') depths (Erickson and Hightower 2007). However, off Newport, Oregon, tagged sturgeon were found mainly in association |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|-------------------|---------------------------|---|--|------------------------|--|
| | | | | | with highly complex seafloor habitats (e.g., boulders) between 20–60 m (Huff et al. 2011). Subadult Green sturgeon have been recorded just outside of San Francisco Bay at average depths of 24 m (Ethan Mora, University of California, Santa Cruz, pers. comm.). |
| Longfin smelt | ESA Candidate for Listing | Anadromous estuarine species occupying the middle or bottom of water column in salinities between 15-30 ppt. | No | Seasonal | Low. A single longfin smelt collected from the Monterey Bay area was reported by Eschmeyer et al. (1983) but the San Francisco Bay-Delta population is considered to be the southernmost population for the species. |
| Tidewater goby | ESA Endangered | California's coastal estuaries and enclosed lagoons near the mouths of coastal streams, and can also be found in brackish waters of adjoining marshes and streams. | Yes | Year-round | Low. Seasonally present in estuarine habitats within Monterey Bay including Elkhorn Slough, Bennet Slough, and Salinas River, all of which are outside of the study area. |
| Eulachon | ESA Threatened | Spawning and rearing in estuarine river habitat; migrate to saltwater where they spend three years and then return to river spawning locations. | No | Seasonal-Very Rare | Low. Monterey Bay is at the southernmost limit of this species distribution, and the population is in decline (NMFS, 2016). |
| Black abalone | ESA Endangered | Coastal and offshore island intertidal habitats on exposed rocky shores where bedrock provides deep, protective crevices for shelter. | Yes | Year-round Common | Moderate. Could be present on hard substrate areas in the nearshore, intertidal portions of the Action Area. |
| California condor | ESA Endangered | Adult will lay single egg between January and March; in 2006, a Big Sur pair was found nesting in a Coast Redwood and also condors were discovered feeding on a Gray Whale carcass on the Big Sur coast; captive bred condors have release site in Big Sur area | No | Year-round; Occasional | Moderate. Often flies over MBNMS in Big Sur area and could feed on dead marine mammals in or adjacent to MBNMS. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|-------------------------|----------------|--|--|----------------------------------|---|
| California least tern | ESA Endangered | The Pacific Coast of California, from San Francisco to Baja California. See 5-year review (PDF) for detailed, up-to-date distribution information. California least terns winter in Mexico. When feeding, they follow schools of fish and are sometimes seen as far north as southern Oregon. Nest on open beaches kept free of vegetation by the tide. Mating in April or May | No | Seasonal (April-September); rare | Low. Highest frequency of birds seen in July and early August (eBird bar chart for Monterey, Santa Cruz and San Luis Obispo Counties Jan-Dec 1900-2019). |
| Short-tailed albatross | ESA Endangered | Both adult and juvenile birds extensively use areas of the western Pacific east of Japan. | No | Year-round; very rare | Low. Short-tailed albatross 5-year review states juvenile (< 1 year old) short-tailed albatrosses travel much more broadly throughout the North Pacific than adult birds; breed in Japan (USFWS, 2014) |
| California clapper rail | ESA Endangered | Historically, the range may have extended from salt marshes of Humboldt Bay to Morro Bay. The salt marshes of San Francisco Bay have been the center of its abundance. The California clapper rail now occurs only within the tidal salt and brackish marshes around San Francisco Bay where it is restricted to less than 10 percent of its former geographic range. | No | Year-round; very rare | Not expected. South of the San Francisco Bay Area (Bay Area), clapper rails formerly occurred in Elkhorn Slough, Monterey County (Silliman 1915), and Morro Bay, San Luis Obispo County (Brooks 1940). Clapper rails were consistently detected in Elkhorn Slough up to 1972, when an estimated 10 pairs were observed (Varoujean 1972). Subsequently, rails were observed only sporadically (Winter and Laymon 1979), and were last documented there in 1980 (Roberson 1985). (p.7); breeding begins by February, nesting starts mid-march and extends into August (USFWS, 2013). |
| Marbled murrelet | ESA Threatened | Nest in forested areas containing characteristics of older forests; For nesting habitat to be accessible to marbled murrelets, it must occur close enough to the marine environment for marbled murrelets to fly back and forth. | Yes, 81 FR 51348 | Seasonal; occasional | Low. Often in small flocks on coastal waters, where it dives underwater searching for fish. |

Appendix D: Consultation Documents and Protected Species List

| Common Name | Listing Status | Habitat Requirements | Designated Critical Habitat found in Action Area | Regional Occurrence | Potential to Occur in the Action Area |
|----------------------|----------------|---|---|---------------------|---|
| | | The farthest inland distance for a site with nesting behavior detections is 24 mi (39 km), respectively (81 FR 51348). | | | |
| Western snowy plover | ESA Threatened | Barren to sparsely vegetated sand beaches, dry salt flats in lagoons, dredge spoils deposited on beach or dune habitat, levees and flats at salt-evaporation ponds, river bars, along alkaline or saline lakes, reservoirs, and ponds. Nests are a natural or scraped depression on dry ground | Yes, Critical habitat: 06/19/2012: 77 FR 36727 | Year-round | Moderate to High. Nesting: March-September |
| White sharks | CSC | In California, important white shark habitat occurs around Monterey Bay and Greater Farallones, national marine sanctuaries. White shark populations are impacted by purposeful and incidental capture by fisheries, marine pollution, and coastal habitat degradation. "Protected" by MBNMS regulations: prohibited to attract any white shark within the Sanctuary (15 CFR 922.132 (a)(13). | Not applicable | Year-round | Moderate to High. Present in coastal waters throughout the State and juveniles and adults are known to frequent the nearshore coastal waters along Monterey Bay coastline. |



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Sacramento Fish And Wildlife Office
Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
Phone: (916) 414-6600 Fax: (916) 414-6713

In Reply Refer To:

June 18, 2020

Consultation Code: 08ESMF00-2019-SLI-2224

Event Code: 08ESMF00-2020-E-06779

Project Name: Monterey Bay National Marine Sanctuary Revisions to Management Plan and Regulations

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, under the jurisdiction of the U.S. Fish and Wildlife Service (Service) that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Please follow the link below to see if your proposed project has the potential to affect other species or their habitats under the jurisdiction of the National Marine Fisheries Service:

http://www.nwr.noaa.gov/protected_species/species_list/species_lists.html

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Sacramento Fish And Wildlife Office

Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
(916) 414-6600

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Ventura Fish And Wildlife Office

2493 Portola Road, Suite B
Ventura, CA 93003-7726
(805) 644-1766

Project Summary

Consultation Code: 08ESMF00-2019-SLI-2224

Event Code: 08ESMF00-2020-E-06779

Project Name: Monterey Bay National Marine Sanctuary Revisions to Management Plan and Regulations

Project Type: ** OTHER **

Project Description: NOAA proposes to operate Monterey Bay National Marine Sanctuary by managing activities occurring within the sanctuary, conducting research, monitoring and resource protection, conducting routine field operations, and implementing various outreach and educational activities, consistent with the NMSA.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.71745122750306N122.30746751695605W>



Counties: Marin, CA | Monterey, CA | San Francisco, CA | San Luis Obispo, CA | San Mateo, CA | Santa Cruz, CA

Endangered Species Act Species

There is a total of 23 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

| NAME | STATUS |
|--|------------|
| Salt Marsh Harvest Mouse <i>Reithrodontomys raviventris</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/613 | Endangered |
| Southern Sea Otter <i>Enhydra lutris nereis</i> No critical habitat has been designated for this species. <i>This species is also protected by the Marine Mammal Protection Act, and may have additional consultation requirements.</i> Species profile: https://ecos.fws.gov/ecp/species/8560 | Threatened |

Birds

| NAME | STATUS |
|--|------------|
| California Clapper Rail <i>Rallus longirostris obsoletus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4240 | Endangered |
| California Least Tern <i>Sterna antillarum browni</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8104 | Endangered |
| Marbled Murrelet <i>Brachyramphus marmoratus</i> Population: U.S.A. (CA, OR, WA) There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4467 | Threatened |
| Northern Spotted Owl <i>Strix occidentalis caurina</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1123 | Threatened |
| Short-tailed Albatross <i>Phoebastria (=Diomedea) albatrus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/433 | Endangered |
| Western Snowy Plover <i>Charadrius nivosus nivosus</i> Population: Pacific Coast population DPS-U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast) There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8035 | Threatened |
| Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is proposed critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911 | Threatened |

Reptiles

| NAME | STATUS |
|---|------------|
| Green Sea Turtle <i>Chelonia mydas</i> Population: East Pacific DPS No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6199 | Threatened |
| San Francisco Garter Snake <i>Thamnophis sirtalis tetrataenia</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5956 | Endangered |

Amphibians

| NAME | STATUS |
|--|------------|
| California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2891 Species survey guidelines: https://ecos.fws.gov/ipac/guideline/survey/population/205/office/11420.pdf | Threatened |

Fishes

| NAME | STATUS |
|--|------------|
| Delta Smelt <i>Hypomesus transpacificus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/321 | Threatened |
| Tidewater Goby <i>Eucyclogobius newberryi</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/57 | Endangered |

Insects

| NAME | STATUS |
|--|------------|
| Mission Blue Butterfly <i>Icaricia icarioides missionensis</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/6928 | Endangered |
| Myrtle's Silverspot Butterfly <i>Speyeria zerene myrtleae</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6929 | Endangered |
| San Bruno Elfin Butterfly <i>Callophrys mossii bayensis</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/3394 | Endangered |

Flowering Plants

| NAME | STATUS |
|---|------------|
| Hickman's Potentilla <i>Potentilla hickmanii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6343 | Endangered |
| Marin Dwarf-flax <i>Hesperolinon congestum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5363 | Threatened |
| San Mateo Woolly Sunflower <i>Eriophyllum latilobum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7791 | Endangered |
| Santa Cruz Tarplant <i>Holocarpha macradenia</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6832 | Threatened |
| Showy Indian Clover <i>Trifolium amoenum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6459 | Endangered |
| White-rayed Pentachaeta <i>Pentachaeta bellidiflora</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7782 | Endangered |

Critical habitats

There are 4 critical habitats wholly or partially within your project area under this office's jurisdiction.

| NAME | STATUS |
|---|--------|
| California Red-legged Frog <i>Rana draytonii</i> https://ecos.fws.gov/ecp/species/2891#crithab | Final |
| Marbled Murrelet <i>Brachyramphus marmoratus</i> https://ecos.fws.gov/ecp/species/4467#crithab | Final |
| Tidewater Goby <i>Eucyclogobius newberryi</i> https://ecos.fws.gov/ecp/species/57#crithab | Final |
| Western Snowy Plover <i>Charadrius nivosus nivosus</i> https://ecos.fws.gov/ecp/species/8035#crithab | Final |



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish And Wildlife Office
2493 Portola Road, Suite B
Ventura, CA 93003-7726
Phone: (805) 644-1766 Fax: (805) 644-3958

In Reply Refer To:

June 18, 2020

Consultation Code: 08EVEN00-2019-SLI-0565

Event Code: 08EVEN00-2020-E-01006

Project Name: Monterey Bay National Marine Sanctuary Revisions to Management Plan and Regulations

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed list identifies species listed as threatened and endangered, species proposed for listing as threatened or endangered, designated and proposed critical habitat, and species that are candidates for listing that may occur within the boundary of the area you have indicated using the U.S. Fish and Wildlife Service's (Service) Information Planning and Conservation System (IPaC). The species list fulfills the requirements under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the species list should be verified after 90 days. We recommend that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists following the same process you used to receive the enclosed list. Please include the Consultation Tracking Number in the header of this letter with any correspondence about the species list.

Due to staff shortages and excessive workload, we are unable to provide an official list more specific to your area. Numerous other sources of information are available for you to narrow the list to the habitats and conditions of the site in which you are interested. For example, we recommend conducting a biological site assessment or surveys for plants and animals that could help refine the list.

If a Federal agency is involved in the project, that agency has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a major construction project*, the Federal agency has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the Federal agency determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve

conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, the Federal agency may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species is listed or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementation.

Candidate species are those species presently under review by the Service for consideration for Federal listing. Candidate species should be considered in the planning process because they may become listed or proposed for listing prior to project completion. Preparation of a biological assessment, as described in section 7(c) of the Act, is not required for candidate species. If early evaluation of your project indicates that it is likely to affect a candidate species, you may wish to request technical assistance from this office.

Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Wildlife's Natural Diversity Data Base. You can contact the California Department of Fish and Wildlife at (916) 324-3812 for information on other sensitive species that may occur in this area.

[*A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.]

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Ventura Fish And Wildlife Office

2493 Portola Road, Suite B
Ventura, CA 93003-7726
(805) 644-1766

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Sacramento Fish And Wildlife Office

Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
(916) 414-6600

Project Summary

Consultation Code: 08EVEN00-2019-SLI-0565

Event Code: 08EVEN00-2020-E-01006

Project Name: Monterey Bay National Marine Sanctuary Revisions to Management Plan and Regulations

Project Type: ** OTHER **

Project Description: NOAA proposes to operate Monterey Bay National Marine Sanctuary by managing activities occurring within the sanctuary, conducting research, monitoring and resource protection, conducting routine field operations, and implementing various outreach and educational activities, consistent with the NMSA.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.71745122750306N122.30746751695605W>



Counties: Marin, CA | Monterey, CA | San Francisco, CA | San Luis Obispo, CA | San Mateo, CA | Santa Cruz, CA

Endangered Species Act Species

There is a total of 43 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

| NAME | STATUS |
|--|------------|
| Giant Kangaroo Rat <i>Dipodomys ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6051 | Endangered |
| San Joaquin Kit Fox <i>Vulpes macrotis mutica</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2873 | Endangered |
| Southern Sea Otter <i>Enhydra lutris nereis</i> No critical habitat has been designated for this species. <i>This species is also protected by the Marine Mammal Protection Act, and may have additional consultation requirements.</i> Species profile: https://ecos.fws.gov/ecp/species/8560 | Threatened |

Birds

| NAME | STATUS |
|--|------------|
| California Clapper Rail <i>Rallus longirostris obsoletus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4240 | Endangered |
| California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193 | Endangered |
| California Least Tern <i>Sterna antillarum browni</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8104 | Endangered |
| Least Bell's Vireo <i>Vireo bellii pusillus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5945 | Endangered |
| Marbled Murrelet <i>Brachyramphus marmoratus</i> Population: U.S.A. (CA, OR, WA) There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4467 | Threatened |
| Southwestern Willow Flycatcher <i>Empidonax traillii extimus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6749 | Endangered |
| Western Snowy Plover <i>Charadrius nivosus nivosus</i> Population: Pacific Coast population DPS-U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast) There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8035 | Threatened |

Reptiles

| NAME | STATUS |
|--|------------|
| Blunt-nosed Leopard Lizard <i>Gambelia silus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/625 | Endangered |
| San Francisco Garter Snake <i>Thamnophis sirtalis tetrataenia</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5956 | Endangered |

Amphibians

| NAME | STATUS |
|--|------------|
| California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2891 | Threatened |
| California Tiger Salamander <i>Ambystoma californiense</i> Population: U.S.A. (Central CA DPS) There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2076 | Threatened |
| Santa Cruz Long-toed Salamander <i>Ambystoma macrodactylum croceum</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/7405 | Endangered |

Fishes

| NAME | STATUS |
|--|------------|
| Tidewater Goby <i>Eucyclogobius newberryi</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/57 | Endangered |

Insects

| NAME | STATUS |
|---|------------|
| Kern Primrose Sphinx Moth <i>Euproserpinus euterpe</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/7881 | Threatened |
| Ohlone Tiger Beetle <i>Cicindela ohlone</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8271 | Endangered |
| Smith's Blue Butterfly <i>Euphilotes enoptes smithi</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/4418 | Endangered |
| Zayante Band-winged Grasshopper <i>Trimerotropis infantilis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1036 | Endangered |

Crustaceans

| NAME | STATUS |
|---|------------|
| <p>Vernal Pool Fairy Shrimp <i>Branchinecta lynchi</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/498</p> | Threatened |

Flowering Plants

| NAME | STATUS |
|---|------------|
| Beach Layia <i>Layia carnosa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6728 | Endangered |
| Ben Lomond Spineflower <i>Chorizanthe pungens</i> var. <i>hartwegiana</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7498 | Endangered |
| Ben Lomond Wallflower <i>Erysimum teretifolium</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7429 | Endangered |
| California Jewelflower <i>Caulanthus californicus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4599 | Endangered |
| Chorro Creek Bog Thistle <i>Cirsium fontinale</i> var. <i>obispoense</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5991 | Endangered |
| Clover Lupine <i>Lupinus tidestromii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4459 | Endangered |
| Coastal Dunes Milk-vetch <i>Astragalus tener</i> var. <i>titi</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7675 | Endangered |
| Contra Costa Goldfields <i>Lasthenia conjugens</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7058 | Endangered |
| Hickman's Potentilla <i>Potentilla hickmanii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6343 | Endangered |
| Marsh Sandwort <i>Arenaria paludicola</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2229 | Endangered |
| Menzies' Wallflower <i>Erysimum menziesii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2935 | Endangered |
| Monterey Clover <i>Trifolium trichocalyx</i> No critical habitat has been designated for this species. | Endangered |

| NAME | STATUS |
|--|------------|
| Species profile: https://ecos.fws.gov/ecp/species/4282 | |
| Monterey Gilia <i>Gilia tenuiflora ssp. arenaria</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/856 | Endangered |
| Monterey Spineflower <i>Chorizanthe pungens var. pungens</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/396 | Threatened |
| Salt Marsh Bird's-beak <i>Cordylanthus maritimus ssp. maritimus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6447 | Endangered |
| Santa Cruz Tarplant <i>Holocarpha macradenia</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6832 | Threatened |
| Scotts Valley Polygonum <i>Polygonum hickmanii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3222 | Endangered |
| Scotts Valley Spineflower <i>Chorizanthe robusta var. hartwegii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7108 | Endangered |
| Spreading Navarretia <i>Navarretia fossalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1334 | Threatened |
| Yadon's Piperia <i>Piperia yadonii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4205 | Endangered |

Conifers and Cycads

| NAME | STATUS |
|--|------------|
| Gowen Cypress <i>Cupressus goveniana ssp. goveniana</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8548 | Threatened |
| Santa Cruz Cypress <i>Cupressus abramsiana</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1678 | Threatened |

Critical habitats

There are 5 critical habitats wholly or partially within your project area under this office's jurisdiction.

| NAME | STATUS |
|---|--------|
| California Red-legged Frog <i>Rana draytonii</i> https://ecos.fws.gov/ecp/species/2891#crithab | Final |
| Monterey Spineflower <i>Chorizanthe pungens var. pungens</i> https://ecos.fws.gov/ecp/species/396#crithab | Final |
| Robust Spineflower <i>Chorizanthe robusta var. robusta</i> For information on why this critical habitat appears for your project, even though Robust Spineflower is not on the list of potentially affected species at this location, contact the local field office. https://ecos.fws.gov/ecp/species/9287#crithab | Final |
| Tidewater Goby <i>Eucyclogobius newberryi</i> https://ecos.fws.gov/ecp/species/57#crithab | Final |
| Western Snowy Plover <i>Charadrius nivosus nivosus</i> https://ecos.fws.gov/ecp/species/8035#crithab | Final |

APPENDIX E

DEPARTMENT OF DEFENSE EXEMPTED ACTIVITIES IN DAVIDSON SEAMOUNT MANAGEMENT ZONE

The current Monterey Bay National Marine Sanctuary (MBNMS) regulation at 15 CFR 922.132(c)(1) states, in part, that a list of exempted Department of Defense (DOD) activities at the Davidson Seamount Management Zone (DSMZ) is published in the 2008 MBNMS Management Plan Final Environmental Impact Statement (FEIS). However, due to an administrative error, the list of exempted activities (identified in a December 18, 2006 letter to NOAA from the U.S. Air Force 30th Space Wing) was never included in the 2008 FEIS. The MBNMS Superintendent subsequently confirmed in a January 5, 2009 letter to the U.S. Air Force 30th Space Wing that NOAA acknowledged the list of exempted activities as valid from the effective date of inclusion of the DSMZ within MBNMS (March 9, 2009) and that NOAA would subsequently correct the administrative record and regulations to properly document the exempted DOD activities within the DSMZ.

Accordingly, NOAA proposes to modify 15 CFR 922.132(c)(1) by replacing “2008 Final Environmental Impact Statement” with “2020 Environmental Assessment for MBNMS Management Plan Review”. This appendix serves as the published list of exempted DOD activities within the DSMZ referenced and confirmed by the MBNMS Superintendent’s January 5, 2009 letter to the U.S. Air Force 30th Space Wing. NOAA herein affirms that the exemptions requested by the Air Force in 2006 and confirmed by NOAA in 2008 have been valid since the effective date of the DSMZ’s addition to MBNMS - March 9, 2009.

The December 18, 2006 letter to NOAA from the U.S. Air Force 30th Space Wing identifying existing DOD activities at the DSMZ, and NOAA’s March 9, 2009 affirmation letter to the U.S. Air Force 30th Space Wing are included in this appendix.

Below is a summarized list of U.S. Air Force exempted activities within the DSMZ:

1) Spacelift Operations

- a. Rocket launches for the purpose of inserting satellites into orbit.
 - b. In-flight jettisoning into the ocean of spent booster stages, strap-on boosters, and other launch vehicle debris (including residual propellant).
-

- c. Discharge into the ocean of launch vehicle debris from positive flight termination actions that halt thrust or destroy vehicles following non-nominal trajectories.

2) Intercontinental Ballistic Missile (ICBM) Testing

- a. Missile launches for the purpose of testing ICBMs.
- b. In-flight jettisoning into the ocean of spent booster stages, strap-on boosters, and other launch vehicle debris (including residual propellant).
- c. Discharge into the ocean of launch vehicle debris from positive flight termination actions that halt thrust or destroy vehicles following non-nominal trajectories.

3) Missile Defense Testing and Operations

- a. Missile defense tests that destroy both attack and target vehicles in-flight.
- b. In-flight jettisoning into the ocean of spent booster stages, post-boost vehicles, and other launch vehicle debris (including residual propellant).
- c. Discharge into the ocean of launch vehicle debris from purposeful mid-air impact and multiple launch vehicle destruction.
- d. Discharge into the ocean of launch vehicle debris from positive flight termination actions that halt thrust or destroy vehicles following non-nominal trajectories.

4) Aircraft Operations and Short/Medium Range Missile Testing

- a. Testing of military and civilian aircraft, ballistic missiles, guided missiles, anti-aircraft artillery, and other weapon systems, launched over the ocean from land, sea, and air.
 - b. Routine military aircraft operations (fixed-wing and rotary wing), such as training, transfer, and transport.
 - c. Discharge into the ocean of flares, chaff, sea dye, and other debris related to aircraft training operations.
 - d. Water survival training, including, but not limited to, simulated emergency egress through a cockpit frame, life raft deployment and use, low-altitude helicopter evacuation operations.
 - e. Discharge into the ocean of aircraft debris from positive flight termination actions that halt thrust or destroy vehicles following non-nominal trajectories.
-



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

Monterey Bay National Marine Sanctuary

299 Foam Street
Monterey, California 93940

January 5, 2009

Mr. Ronald Cortopassi
30 SW/CD
747 Nebraska Boulevard, Suite 201
Vandenberg Air Force Base, California 93437-5000

Dear Mr. Cortopassi:

This letter acknowledges and identifies previous and ongoing United States Air Force (USAF) activities in and adjacent to the Davidson Seamount area (off central California) that are exempted from federal prohibitions for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary).

Two years ago, the National Marine Sanctuary Program (NMSP) of the National Oceanic and Atmospheric Administration (NOAA) published for public review and comment a Draft Management Plan and Environmental Impact Statement for the MBNMS. Subsequently, the NMSP received a 6-page correspondence (enclosure 1) from you on behalf of the 30th Space Wing dated December 18, 2006.

Your letter and attachment identified several previous and ongoing activities by the USAF in the vicinity of the Davidson Seamount, an underwater formation that had been identified in NOAA's Draft Management Plan for potential inclusion within the boundaries of the MBNMS. Specifically, the USAF requested that certain activities be exempted from any future MBNMS prohibitions promulgated for the Davidson Seamount.

On November 20, 2008, NOAA published a Final Rule (73 FR 70488) that, among other things, expanded the boundaries of the MBNMS to incorporate the waters and submerged lands of the Davidson Seamount area, henceforth referred to as the Davidson Seamount Management Zone (DSMZ). Page 70537 of the Final Rule (enclosure 2) includes revised regulatory text for 15 CFR 922.132(c)(1) providing that military activities listed in the 2008 MBNMS Final Environmental Impact Statement (FEIS) are exempted from the indicated MBNMS prohibitions within the DSMZ. However, due to an error, pre-existing military activities in the DSMZ were not listed in the FEIS as intended.

This letter thus serves as official acknowledgement and confirmation by the NMSP, NOAA that the activities specifically identified in the USAF December 18, 2006 letter to the NMSP (enclosure 1) are exempted from the indicated MBNMS prohibitions within the DSMZ. In the remainder of the MBNMS, only those USAF activities specifically identified in the 1992 MBNMS FEIS are exempt from the indicated Sanctuary prohibitions. New activities may be exempted from MBNMS prohibitions by the Director of the Office of National Marine Sanctuaries, NOAA after consultation between the Director and the Department of Defense. Should any discharges occur within the Sanctuary such as those described in your December 18, 2006 comment letter, or other incidents, please notify our office as soon as possible in accordance with the regulatory requirements of 15 CFR 922.132(c)(2) (enclosure 2).



The USAF has been cooperative throughout the management plan revision process, and we appreciate your participation. We apologize for the omitted list of USAF activities in the FEIS. Thank you for bringing this to our attention. If you have any further questions regarding USAF exemptions applicable within the DSMZ or other parts of the MBNMS, please do not hesitate to contact me.

Sincerely,



Paul Michel
Superintendent

Enclosures: (2)

cc: Walter Schobel, USAF
Daniel J. Basta, NOAA
William Douros, NOAA



DEPARTMENT OF THE AIR FORCE
30TH SPACE WING (AFSPC)



#5

Mr. Ronald Cortopassi
30 SW/CD
747 Nebraska Blvd, Suite201
Vandenberg AFB, CA 93437-5000

Brady Phillips
JMPR Coordinator
NOAA-National Marine Sanctuary Program
1305 East-West Hwy, N/ORM-6
Silver Spring, MD 20910

Dear Mr. Phillips,

The 30th Space Wing (30 SW) appreciates the opportunity to comment on the proposed changes to 15 CFR Part 922, and will continue, to the maximum extent practicable as has been done in the past, avoid any adverse impacts to the Monterey Bay National Marine Sanctuary. In particular, 30 SW concurs with the language found on-section 922.132(c) of the proposed regulation.

The 30 SW located at Vandenberg AFB conducts military activities off the Coast of California. Some of these operations are conducted within the scope of the Monterey Bay National Marine Sanctuary Draft Management Plan/Environmental Impact Statement. Per the Federal Register/Vol. 71, No. 194/Friday, October 6, 2006/Proposed Rules, Page 59062, Paragraph 922.132 (c) (1), (All Department of Defense Activities...), we are submitting the required documentation to be incorporated within the Final Draft Management Plan/Environmental Impact Statement describing our military activities to be exempt from Sanctuary regulations (Attachment 1).

5-1

If you any questions, or need any clarifications, please call me at 805-606-4752.

Wh 18 Dec 06
RONALD B. CORTOPASSI, GM-15
Executive Director

Attachment:
30th Space Wing Military Activities

cc: Sean Morton, NOAA

Vandenberg AFB Baseline Activities
Monterey Bay National Marine Sanctuary (MBNMS)
Draft Management Plan

1.0 Overview

Vandenberg Air Force Base (AFB) is located on California's central coast between Los Angeles and San Francisco, about 55 miles northwest of Santa Barbara. Vandenberg's unique location provides 42 miles of Pacific Ocean shoreline, over 99,000 acres of varied terrain and restricted airspace for spacelift, ballistic test, aeronautical operations, and military exercises. A 15,000-foot runway, boat dock, railway system and several major highways service Vandenberg AFB.

Most of Vandenberg's coastline faces West, with the remainder facing South. This unique geography permits a wide range of over-ocean launch azimuths, from the southeast to the northwest. Vandenberg is the only location in the continental United States where spacecraft can be launched into polar orbit without overflying land. Additionally, the West Coast Offshore Operating Area (WCOOA) provides approximately 200,000 square miles of over-water and sea-land transition zones for launch, aeronautical and cruise missile testing/operations.

2.0 Vandenberg AFB Activities

The types of activities conducted at Vandenberg AFB, which may have an impact on marine resources, can be categorized into the following areas:

- Spacelift Operations
- Intercontinental Ballistic Missile (ICBM) Testing
- Missile Defense Testing and Operations
- Aircraft Operations and Short/Medium Range Missile Testing

A description of each category is provided below.

2.1 Spacelift Operations

Spacelift operations consist of launching rockets for the purpose of inserting satellites into earth orbit. Launch vehicles, such as, but not limited to Atlas, Delta, and Pegasus, are generally composed of multiple stages that are stacked one upon another. Each stage consists of a rocket motor and a supply of propellant (fuel and oxidizer). After the propellant in one stage is consumed, the entire stage is jettisoned from the rest of the launch vehicle and the next stage is ignited to resume powered flight. Some launch vehicles are configured with two or more strap-on boosters, which are attached to the

sides of the launch vehicle. Strap-on boosters and the vehicle's first stage are fired concurrently in order to provide additional thrust during the initial minutes of flight.

Spent booster stages, strap-on boosters, and other launch vehicle debris are jettisoned into the Pacific Ocean during spacelift operations. Ground launches from Vandenberg (e.g., Delta and Atlas) are not expected under any circumstance to impact the Monterey Bay National Marine Sanctuary (MBNMS), but air-launched vehicles (i.e., Pegasus) could. Historically our launch rates for spacelift have varied and our future launch rates are subject to change based on mission need. From 2000-2005, there have been a total of 30 spacelift operations, or an average of 5 launches per year. In 1966, the number of spacelift launches peaked at about 46 in that year alone. A large majority of these launches were ground-based and did not impact the MBNMS. The small number of launches that were air-based could have resulted in debris being deposited in or near the MBNMS.

As previously mentioned, a typical booster stage consists of a rocket motor and a large tank used for storing propellant. Booster stages of air-launched vehicles of the type that can impact the MBNMS are less than 30 feet in height. Comparatively, the size of ground-launched booster stages vary from vehicle to vehicle, but some of the larger booster stages can have a 10-foot diameter and be nearly 90 feet in height. Large strap-on boosters can have a 10-foot diameter and exceed 110 feet in height. Booster stages, which consist primarily of metal components, fall into the ocean after their propellant has been consumed. Residual amounts of propellant may reside inside booster stages when they fall into the ocean.

Jettisoned objects sink to the ocean floor and are not recovered due to the extreme difficulty in locating and recovering such objects in deep ocean waters. Furthermore, the high costs associated with deep recovery operations would be prohibitive. On rare occasion, launch anomalies occur. Various sized fragments from a destroyed vehicle as well as pieces of unburned solid propellants could be dispersed over a wide area potentially inside portions of the MBNMS. Liquid propellants would likely burn during the explosion or evaporate shortly thereafter.

The Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), other government agencies, and various commercial enterprises conduct Spacelift operations at Vandenberg AFB. As the appointed executive agent for space, the AF is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activities. All launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (that phase of flight when thrust is provided by engines/motors that may include overflight near the MBNMS). In this role, the DoD is responsible for positive flight termination actions taken for all launches whether they are DoD, civil or commercial in nature.

2.2 ICBM Testing

Vandenberg AFB is the primary location in the United States where ICBMs are launched for testing purposes. Ballistic missiles, such as, but not limited to, Minuteman, are usually launched to targets located near the Kwajalein Atoll in the Western Pacific; however, some missiles are launched to targets in other broad ocean areas. The marine impact of ballistic missile testing is similar to the impact of spacelift operations.

Spent booster stages fall into the Pacific Ocean during ICBM testing operations. Highly variable testing configurations result in jettisoned objects falling over a wide area of the ocean. Jettisoned objects and other missile debris sink to the ocean floor and are not recovered due to the extreme difficulty in locating and recovering such objects in deep ocean waters. Furthermore, the high costs associated with deep recovery operations would be prohibitive. Deposition of ICBM stages into the MBNMS would be rare, but could happen.

In the event of ICBM launch anomalies, variously sized fragments from a destroyed vehicle as well as unburned solid propellants and some unburned liquid propellant (upper stages such as post boost vehicles), could be dispersed over a very wide area and potentially inside portions of the MBNMS. Such launch anomalies are rare.

ICBM operations at Vandenberg AFB are conducted by the Department of Defense (DoD). As the appointed executive agent for space, the AF is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activities. All launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (that phase of flight where ICBM stages or debris could be deposited into or near the MBNMS).

2.3 Missile Defense Testing and Operations

Missile defense testing operations also occur from Vandenberg AFB, where a target is destroyed down range by an interceptor missile, laser, or other weapon system. Missile intercept operations result in debris being dispersed over a wide area of the ocean and potentially inside portions of the MBNMS. In addition to missile defense testing operations, a number of operational interceptors are on alert at Vandenberg AFB in the event of an actual missile attack on the United States.

Spent booster stages fall into the Pacific Ocean during missile defense testing operations. Highly variable testing configurations result in jettisoned objects falling over a wide area of the ocean. Jettisoned objects and other missile debris sink to the ocean floor and are not recovered due to the extreme difficulty in locating and recovering such objects in deep ocean waters. Furthermore, the high costs associated with deep recovery operations would be prohibitive. Depositing stages from missile defense testing in the MBNMS would be rare, but could happen.

In the event of a missile defense launch, variously sized fragments from a destroyed vehicle as well as unburned solid propellants and some unburned liquid propellant (upper stages such as post boost vehicles), could be dispersed over a very wide area and potentially inside portions of the MBNMS. Such launch anomalies are rare.

Missile defense testing operations at Vandenberg AFB are conducted by the Department of Defense (DoD). As the appointed executive agent for space, the AF is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activities. All launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (that phase of flight where missile stages or debris could be deposited into or near the MBNMS).

2.4 Aircraft Operations, Space Operations, and Short/Medium Range Missile Testing

Extending 200 miles offshore and traversing the entire west coast of the United States, the West Coast Offshore Operating Area (WCOOA) provides the ideal airspace for testing military and civilian aircraft, ballistic missiles, guided missiles, and other weapon systems. Most WCOOA tests/operations are conducted off the California coast due to the stable air mass, utilizing radar, telemetry and optical sensors at Vandenberg AFB and the Naval Air Warfare Center at Point Mugu.

Different types of ballistic and guided missiles are launched from land, sea and air (over water) for various reasons, including, but not limited to, testing guided missiles, intercept technologies for a national missile defense system, and testing anti-aircraft artillery. The target area for some short range missiles may only be a couple miles offshore, which could result in missile debris being deposited into the MBNMS. Past aircraft overflight operations have occurred inside the MBNMS and such activity is expected to continue in the future.

Other operations conducted in the WCOOA consist of aircraft and aeronautical test operations. Airspace corridors (over-land and over-water) are routinely used for aircraft flight test operations. Additionally, aircraft from other military installations routinely use the 15,000-foot landing strip at Vandenberg AFB for refueling and training exercises. Training exercises, involving both fixed wing and rotor aircraft, are conducted at all altitudes within the MBNMS Study Area. Devices used for training include, but are not limited to, flares, chaff, and sea dye. Water survival training is also conducted within the study area, which consists of, but is not limited to, simulating emergency egress through a cockpit, practicing life raft usage, and hoisting people from the ocean. Low altitude flights near the shore are infrequent, but do occur occasionally.

Missile testing, space operations, and aircraft operations in the WCOOA are conducted by the Department of Defense. As the executive agent for space, the AF is responsible

17 Oct 2006

for ensuring public safety. As such, positive control measures are employed during all missile, aircraft, and space operations. Except for some small missile systems having a maximum affected flight area entirely over water and away from population areas, all vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (that phase of flight where missile stages or debris could be deposited into or near the MBNMS).



Federal Register

**Thursday,
November 20, 2008**

Part III

**Department of
Commerce**

**National Oceanic and Atmospheric
Administration**

15 CFR Part 922

**Gulf of the Farallones National Marine
Sanctuary Regulations; Monterey Bay
National Marine Sanctuary Regulations;
and Cordell Bank National Marine
Sanctuary Regulations; Final Rule**

harvesting, aquaculture, or lawful fishing activities.

(4) Drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary, except as incidental and necessary to:

- (i) Conduct lawful fishing activities;
- (ii) Anchor a vessel;
- (iii) Conduct aquaculture or kelp harvesting;
- (iv) Install an authorized navigational aid;

(v) Conduct harbor maintenance in an area necessarily associated with a Federal Project in existence on January 1, 1993, including dredging of entrance channels and repair, replacement, or rehabilitation of breakwaters and jetties;

(vi) Construct, repair, replace, or rehabilitate a dock or pier; or

(vii) Collect jade pursuant to paragraph (a)(1) of this section, provided that there is no constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary, other than temporary placement of an authorized hand tool as provided in paragraph (a)(1) of this section. The exceptions listed in paragraphs (a)(4)(ii) through (a)(4)(vii) of this section do not apply within the Davidson Seamount Management Zone.

(5) Taking any marine mammal, sea turtle, or bird within or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.*, Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.*, Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.*, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.

(6) Flying motorized aircraft, except as necessary for valid law enforcement purposes, at less than 1,000 feet above any of the four zones within the Sanctuary described in Appendix B to this subpart.

(7) Operating motorized personal watercraft within the Sanctuary except within the five designated zones and access routes within the Sanctuary described in Appendix E to this subpart. Zone Five (at Pillar Point) exists only when a High Surf Warning has been issued by the National Weather Service and is in effect for San Mateo County, and only during December, January, and February.

(8) Possessing within the Sanctuary (regardless of where taken, moved, or removed from), any marine mammal, sea turtle, or bird, except as authorized by the MMPA, ESA, MBTA, by any

regulation, as amended, promulgated under the MMPA, ESA, or MBTA, or as necessary for valid law enforcement purposes.

(9) Deserting a vessel aground, at anchor, or adrift in the Sanctuary.

(10) Leaving harmful matter aboard a grounded or deserted vessel in the Sanctuary.

(11) (i) Moving, removing, taking, collecting, catching, harvesting, disturbing, breaking, cutting, or otherwise injuring, or attempting to move, remove, take, collect, catch, harvest, disturb, break, cut, or otherwise injure, any Sanctuary resource located more than 3,000 feet below the sea surface within the Davidson Seamount Management Zone. This prohibition does not apply to fishing below 3000 feet within the Davidson Seamount Management Zone, which is prohibited pursuant to 50 CFR part 660 (Fisheries off West Coast States).

(ii) Possessing any Sanctuary resource the source of which is more than 3,000 feet below the sea surface within the Davidson Seamount Management Zone. This prohibition does not apply to possession of fish resulting from fishing below 3000 feet within the Davidson Seamount Management Zone, which is prohibited pursuant to 50 CFR part 660 (Fisheries off West Coast States).

(12) Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (*Morone saxatilis*) released during catch and release fishing activity.

(13) Attracting any white shark within the Sanctuary.

(14) Interfering with, obstructing, delaying, or preventing an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

(b) The prohibitions in paragraphs (a)(2) through (11) of this section do not apply to an activity necessary to respond to an emergency threatening life, property, or the environment.

(c)(1) All Department of Defense activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities. The prohibitions in paragraphs (a)(2) through (12) of this section do not apply to existing military activities carried out by the Department of Defense, as specifically identified in the Final Environmental Impact Statement and Management Plan for the Proposed Monterey Bay National Marine Sanctuary (NOAA, 1992). (Copies of the FEIS/MP are available from the Monterey Bay National Marine Sanctuary, 299 Foam Street, Monterey,

CA 93940.) For purposes of the Davidson Seamount Management Zone, these activities are listed in the 2008 Final Environmental Impact Statement. New activities may be exempted from the prohibitions in paragraphs (a)(2) through (12) of this section by the Director after consultation between the Director and the Department of Defense.

(2) In the event of destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an incident, including but not limited to discharges, deposits, and groundings, caused by a Department of Defense activity, the Department of Defense, 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.

(d) The prohibitions in paragraph (a)(1) of this section as it pertains to jade collection in the Sanctuary, and paragraphs (a)(2) through (11) and (a)(13) of this section, do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.133 or a Special Use permit issued pursuant to section 310 of the Act.

(e) The prohibitions in paragraphs (a)(2) through (a)(8) of this section do not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation (January 1, 1993) and issued by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with 15 CFR 922.49, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities. Amendments, renewals, and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date of Sanctuary designation.

(f) Notwithstanding paragraphs (d) and (e) of this section, in no event may the Director issue a National Marine Sanctuary permit under 15 CFR 922.48 and 922.133 or a Special Use permit under section 310 of the Act authorizing, or otherwise approve: the exploration for, development, or production of oil, gas, or minerals within the Sanctuary, except for the collection of jade pursuant to paragraph (a)(1) of this section; the discharge of primary-treated sewage within the Sanctuary (except by certification,



AMERICA'S UNDERWATER TREASURES