

CHAPTER 2.

CONSISTENCY WITH OTHER FEDERAL, STATE, AND LOCAL LAND USE PLANS, POLICIES, AND CONTROLS

A summary of the laws, implementing regulations, and Executive Orders (EOs) applicable to the proposed actions is provided below. The Description of Proposed Actions and Alternatives for each volume and the Guam Joint Military Master Plan have been developed to ensure consistency with land use guidelines for the project areas and with the objectives of federal, regional, state, and local land use plans, policies, and controls. Table 2.1-1 provides a summary of the status of compliance with relevant federal, state, and local plans, policies, and controls, and the agency responsible for enforcing the laws.

Table 2.1-1. Status of Compliance with Relevant Plans, Policies, and Controls

<i>Plans, Policies, and Controls</i>	<i>Responsible Agency</i>	<i>Status of Compliance</i>
National Environmental Policy Act (NEPA) of 1969 (42 U.S. Code [USC] §§ 4321, <i>et seq.</i>), Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] §§ 1500-1508), and Navy Procedures for Implementing NEPA (32 CFR § 775)	Deputy Assistant Secretary of the Navy	This Environmental Impact Statement (EIS) has been prepared in accordance with the President's Council on Environmental Quality (CEQ) Regulations implementing NEPA and Navy NEPA procedures. Preparation of this EIS and provisions for its public review are being conducted in compliance with NEPA.
EO 12114, <i>Environmental Effects Abroad of Major Federal Actions</i>	Action Proponents, (Marine Corps, Navy, Army)	This EIS has been prepared in accordance with Navy procedures for implementing EO 12114 by addressing components of the proposed action beyond 12 nautical miles (22.2 kilometers) from shore.
Coastal Zone Management Act (16 CFR 1451 <i>et seq.</i>), and 15 CFR 923.33(b) that requires assessment of spillover effects from federal property to State's coastal zone.	Guam Bureau of Statistics and Plans Commonwealth of the Northern Mariana Islands (CNMI) Coastal Resources Management Office	Consistency determination assessments are being reviewed by Bureau of Statistics and Plans and CNMI Coastal Resources Management Office.
Coastal Zone Management Regulations, (15 CFR 923), Subpart D – Boundaries, §33 Excluded Lands	National Oceanic and Atmospheric Administration (NOAA)	The boundary of a state's coastal zone must exclude lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the federal government, its officers or agents.
Federal Water Pollution Control Act or Clean Water Act (§§ 401 and 404; 33 USC 1251 <i>et seq.</i>)	U.S. Environmental Protection Agency (USEPA), U.S. Army Corps of Engineers (USACE)	The proposed actions analyzed in this EIS would be implemented in accordance with these Acts.
Rivers and Harbors Act (§ 10 33 USC 401 <i>et seq.</i>)	USACE	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Marine Protection, Research and Sanctuary Act of 1972 (USC 1401-1445)	USEPA, USACE	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.

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<i>Plans, Policies, and Controls</i>	<i>Responsible Agency</i>	<i>Status of Compliance</i>
Clean Air Act (42 USC 7401 et seq.)	USEPA	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Air Pollution Control Act (Public Law [PL] 10-74): Chapter 49, Title 10 of the Guam Code Annotated (GCA)	Guam Environmental Protection Agency (GEPA) Air Pollution Control Program	The proposed actions analyzed in this EIS would be implemented in accordance with these regulations.
EO 11990, <i>Protection of Wetlands</i>	Action Proponents, USACE	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.
Endangered Species Act (16 USC 1531 et seq.)	U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS)	Formal consultations with the responsible agencies are ongoing and proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801-1802)	NMFS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Coral Reef Conservation Act of 2000 (16 USC 6401 et seq.) and Coral Reef Ecosystem Conservation Amendments Act of 2007	NOAA	The proposed actions analyzed in this EIS would be implemented in accordance with these Acts.
EO 13089, <i>Coral Reef Protection</i>	NOAA, USACE	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.
Fish and Wildlife Coordination Act (16 USC 661-667e, as amended)	USFWS, NMFS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Marine Mammal Protection Act (16 USC 1431 et seq. and 50 CFR Part 216)	NMFS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
EO 13186, <i>Responsibilities of Federal Agencies to Protect Migratory Birds</i>	USFWS	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.
Migratory Bird Treaty Act (16 USC 703-712)	USFWS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 USC 4701 et seq.)	USFWS, U.S. Coast Guard (USCG), NMFS, USEPA	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
EO 13112, <i>Non-Native Species</i>	USFWS, NMFS, U.S. Department of Agriculture (USDA). Enforcement assistance from Guam Department of Agriculture	Coordination with USFWS and other agencies is ongoing and proposed actions would be in accordance with this EO. Compliance would be achieved in part by development and implementation of a comprehensive biosecurity plan.

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Brown Tree Snake Control and Eradication Act of 2004 (PL 108-384, 118 Statutes 2221-2226)	USFWS, NMFS, USDA, USGS, Office of Insular Affairs. Enforcement by Guam Department of Agriculture	Coordination with USFWS and other agencies is ongoing and proposed actions would be in accordance with this Act. Compliance would be achieved in part by development and implementation of a comprehensive biosecurity plan.
EO 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations</i>	Action Proponents	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.
EO 13045, <i>Protection of Children from Environmental Health Risks and Safety Risks</i>	Action Proponents	Children would be unaffected by the proposed actions so it is in full compliance with this Order.
1993 Memorandum of Understanding (MOU) among the Government of Guam, Air Force, Navy and the USFWS for the Establishment and Management of the Guam National Wildlife Refuge and 1994 Cooperative Agreement between the Navy, Air Force and the USFWS for the Establishment and Management of the Guam National Wildlife Refuge	USFWS, Air Force, Navy	The proposed actions analyzed in this EIS would be implemented in accordance with this MOU.
National Historic Preservation Act (§ 106; 16 USC 470 et seq.) (refer to Volume 9, Appendix G, Chapter 4 for more specific information on this Act)	Guam State Historic Preservation Office, CNMI Historic Preservation Office, National Park Service (NPS)	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Consolidated Natural Resources Act of 2008 (Public Law 110-229) (refer to Volume 9, Appendix G, Chapter 4 for more specific information on this Act)	NPS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
The National Park Service Organic Act (16 USC 1 2 3, and 4) (refer to Volume 9, Appendix G, Chapter 4 for more specific information on this Act)	NPS	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.

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National Park Service Management Policies (MP) 2006 (refer to Volume 9, Appendix G, Chapter 4 for more specific information on these policies)	National Park Service (NPS)	The proposed actions analyzed in this EIS would be implemented in accordance with the following management policies. <ul style="list-style-type: none"> • Visitor Use (MP 8.2): provide enjoyment opportunities suited to resources in parks • Natural Resources (MP 1.6, 4.1.4): preserve natural resources, perpetuate best possible air quality in park, preserve natural soundscapes, and resolve potential conflicts with NPS through cooperative conservation efforts • Cultural/Historic Resources (MP 1.12, 5.3.5.1.4): maintain relationships with native peoples, help with administration of Native American Graves Protection and Repatriation Act and National Historic Preservation Act, and protect archaeological resources
General Authorities Act of 1970 (16 USC 1, 2-4), as amended by the Redwood Act of 1978 (16 USC 1a-1 through 1a-8, amended under Public Law 95-250, 92 Stat. 163, 16 USC 1a-1) (refer to Volume 9, Appendix G, Chapter 4 for more specific information on these Acts)	NPS	The proposed actions analyzed in this EIS would be implemented in accordance with these Acts.
Archaeological Resources Protection Act (Public Law 96-95; 16 USC 470aa-mm)	Applies only to federally owned lands	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Native American Graves Protection and Repatriation Act (Public Law 101-601, 104 Stat. 3048)	Does not apply to Guam or CNMI	The proposed actions analyzed in this EIS are not subject to the conditions of this Act.
EO 11593, <i>Protection and Enhancement of the Cultural Environment</i>	Action Proponents	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.
National Marine Sanctuaries Act (16 USC 1431 et seq.)	NOAA	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
EO 13158, <i>Marine Protected Areas</i>	NMFS	The proposed actions analyzed in this EIS would be implemented in accordance with this Order.

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Military Munitions Response Program	Department of Defense (DoD)	DoD is currently establishing policy and guidance for munitions response actions under the Military Munitions Response Program. Key program drivers developed to date conclude that munitions response actions would be conducted under the process outlined in the National Contingency Plan (40 CFR 300) as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9605), as amended by Superfund Amendments and Reauthorization Act (PL 99-499).
33 CFR 334, Danger Zone and Restricted Area Regulations	USACE	The proposed actions analyzed in this EIS would be implemented in compliance with these regulations.
Domestic Animal Control, Marine Corps Order 11000.22	Marine Corps	The proposed actions analyzed in this EIS would be implemented in accordance with these requirements.
Presidential Proclamation, Contiguous Zone of the United States, September 2, 1999	Government of Guam, CNMI	The proposed actions analyzed in this EIS would be implemented in accordance with this Proclamation.
Guam Public Law 20-147, as amended by Public Law 26-76	Guam Bureau of Statistics and Plans	The proposed actions analyzed in this EIS would be implemented consistent with this law.
Executive Order 78-37 (Government of Guam), Guam Land-Use Policies	Guam Bureau of Statistics and Plans	The proposed actions analyzed in this EIS would be implemented consistent with this law and the policies from the Guam Comprehensive Development Plan.
Chapter 26 of Title 17 of the GCA: GEPA Guam Soil Erosion and Sediment Control Regulations	GEPA	Implementation of BMPs specified in the CWA NPDES permits would address measures to prevent erosion and water quality impacts.
Guam Public Law 12-126. (Guam Historic Preservation Act)	Guam Historic Resources Division	The proposed actions analyzed in this EIS would be implemented consistent with this regulation.
Section 60410 (Minerals: Mining) of Chapter 60 (Land Management) Title 21 (Real Property Management) of the GCA: regulations requiring submittal of all proposals for mining/commercial earth materials removal on government lands to Guam Natural Resources Board	Guam Natural Resources Board	The proposed actions analyzed in this EIS would be implemented consistent with this regulation.
§ 5103(b)(6) and (7) of the Guam Water Quality Standards, relative to Specific Numerical Water Quality Criteria on Suspended Matters and Turbidity	GEPA	Implementation of BMPs specified in the CWA NPDES permits would address measures to prevent erosion and water quality impacts.

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<i>Plans, Policies, and Controls</i>	<i>Responsible Agency</i>	<i>Status of Compliance</i>
<i>CNMI Wastewater Treatment and Disposal Rules and Regulations</i>	CNMI Department of Environmental Quality (DEQ)	The proposed actions analyzed in this EIS would be implemented consistent with these rules and regulations.
Commonwealth Environmental Protection Act, § 3101	CNMI DEQ	The proposed actions analyzed in this EIS would be implemented consistent with this Act.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 USC 9601 et seq.)	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with CERCLA.
Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.)	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with RCRA.
Farmland Protection Policy Act (7 USC 4201 et seq.)	USDA, Action Proponents	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Toxic Substances Control Act (TSCA) (15 USC 2601 et seq.)	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with TSCA.
Oil Pollution Act (OPA) (33 USC 2701 et seq.)	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with OPA.
Pollution Prevention Act of 1990 (PPA) (42 USC 13101-13109)	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with PPA.
Final Military Munitions Rule (40 CFR 266, Subpart M)	USEPA	The proposed actions analyzed in this EIS would be implemented in accordance with this Rule.
Noise Control Act of 1972 (PL 92-574) and Amendments of 1978 (PL 95-609)	USEPA	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Title 10 GCA, Hazardous Waste Management Program	GEPA	The proposed actions analyzed in this EIS would be implemented in accordance with this program.
CNMI Title 65 §65-50, Hazardous Waste Management Regulations	CNMI DEQ	The proposed actions analyzed in this EIS would be implemented consistent with these regulations.
Sikes Act of 1960	Action Proponents	Proposed actions would be in accordance with the integrated Natural Resource Management Plans that implement this Act.
Lacey Act Amendments of 1981	USDA Animal Plant Inspection Health Service (APHIS) Plant Protection and Quarantine (PPQ)	The proposed actions analyzed in this EIS would be implemented in accordance with this Act.
Federal Aviation Administration Orders 7400.2G and 1050.1E. MOU	Federal Aviation Administration, DoD	The proposed actions analyzed in this EIS/ would be implemented in accordance with this MOU.

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Safe Drinking Water Act	USEPA	The proposed actions analyzed in this EIS would be implemented in compliance with this Act.
Executive Order 2005-35 CNMI and Guam Stormwater Management Manual	CNMI DEQ and Guam EPA	The planning, design and construction of all project actions would be consistent with these regulations.

2.1 DOD LAND USE PLANNING

The Navy does not have zoning laws or codes, but there are ideal functional relationships among land uses that guide development. In general, the working zone that includes industrial, operational, and mission support functions is distinct from the living areas, such as housing and community support. A May 2008 land use plan for Navy Main Base, generated by Naval Facilities Engineering Command Marianas Asset Management Business Line, currently guides land use planning. The Regional Commander, in consultation with base planners, would direct future development to be consistent with the objectives of the land use plan.

Regional Shore Infrastructure Planning (RSIP) Plans have historically been the Navy master planning effort. The purpose of a RSIP Plan is to consolidate facility infrastructure, streamline business line operations, and reduce surplus or demolish redundant structures on a regional basis. Individual RSIP functional plans were prepared for different activities including administration, public works, public safety, ordnance, bachelor quarters, training, and waterfront. Each plan identified and analyzed facility consolidation opportunities and presented several possible scenarios for consolidation based on cost, facility requirements, and operational needs.

The Air Force has a system of strategic plans and master plans that serve the purpose of the Navy RSIP plans. Federal actions on federal lands/submerged lands are subject to Regional/Base Command approval, but are not required to conform with state/territory land use plans or zoning codes, laws, or policies. The proposed action alternatives of this EIS have been developed in consultation with Base Command planners and approved by the Regional Commander.

Governing procedures for the use of training areas, ranges, and airspace operated and controlled by the Commander U.S. Naval Forces, Marianas, including instructions and procedures for the use of Guam and Tinian, are included in Commander Navy Region Marianas Instruction 3500.4, Marianas Training Handbook (DoD 2000). This guidance identifies specific land use constraints to enable protection of environmental resources during military training. In addition, specific regulations and information for use of units are provided to troops to protect the environment as part of the Range and Training Area Management procedures under Marine Corps Order P3550.10 (Navy 2005). All of the proposed actions would be in compliance with these regulations.

Construction on military bases is standardized and dictated by Unified Facilities Criteria (UFC) documents that provide planning, design, construction, sustainment, restoration, and modernization criteria. They are applicable to military departments, defense agencies, and DoD field activities. They were relied upon in the development of project designs and would be incorporated into construction documents and permits, and operations and maintenance activities. The documents address issues such as design standards for wharves, the space allowance for an enlisted family, the amount of parking spaces

permitted and the spatial configuration of those spaces, sustainable development, Low Impact Development, stormwater management, and the size of a swimming pool based on installation population. There is little flexibility in minimal design standards, but there is flexibility in site planning. Congressional appropriations require the incorporation of all relevant UFCs in design.

2.2 GUAM LAND USE PLANNING

2.2.1 Land Use Management

The Department of Land Management (DLM) is responsible for managing Guam's public lands. Its mandates include land use planning, maintaining legal documents on property, including deeds and survey maps, and guiding development through the zoning and building approval process. Federal lands are not subject to DLM management or control, but consistency with surrounding non-federal land uses is an important consideration for land use planning on federal and non-federal lands.

The DLM includes the Chamorro Land Trust Commission (CLTC) and Guam Ancestral Lands Commission (GALC). Other entities including the Department of Agriculture and Department of Parks and Recreation have land management functions specific to a land classification. The DLM provides administrative support to two important commissions that oversee zoning and seashore clearance permits, the Guam Land Use Commission (GLUC) and the Guam Seashore Protection Commission (GSPC). Federal lands are not subject to DLM management or control, but consistency with surrounding non-federal land uses is an important consideration for land use planning on federal and non-federal lands.

2.2.2 Guam Land Use Plan

Land use plans include goals, objectives and maps to guide future development and describe existing land uses at a point in time. Recognizing that community objectives and land use planning requirements change over time, plans are prepared to address development for a specific duration, such as five or ten years. The plans lay the foundation for zoning regulations. Federal lands are excluded from Guam land use planning unless there is anticipated release of federal lands. The Territory of Guam Master Plan that was prepared for the Territorial Planning Commission in 1966 is the adopted land use plan for Guam. Other plans have been developed such as the Guam Comprehensive Development Plan (1977) and *I Tano-ta* (Territorial Planning Council 1994). The 1977 Plan was valid for a planning period up to 2000 and the *I Tano-ta* was not adopted (Bureau of Statistics and Plans 2008). These plans provide valuable information on existing and planned land uses at points in time.

Although the 1966 land use plan is the official land use plan, it has limited utility when describing existing land use and describing trends for future development. The Guam Mapbook (Bureau of Statistics and Plans 2008) is based on aerial photography and general land uses can be discerned from the images such as:

- Residential neighborhoods
- Vacant lands – vegetated or disturbed
- Airports
- Roads

The Bureau of Statistics and Plans is preparing the *North and Central Guam Land Use Plan* (Bureau of Statistics and Plans 2009). A draft was provided by the Bureau of Statistics and Plans for reference in this EIS.

Although the plan has not been finalized, the assumption in it represents the direction of the Government of Guam and the community with respect to guiding future land use development in the central and northern areas of Guam. The Guam Joint Military Master Plan is being developed to be consistent with existing land use plans and zoning regulations of Guam.

2.3 TINIAN LAND USE PLANNING

There was no land use plan for Tinian available for use in this EIS; however, one was being prepared by the Department of Public Lands during the timeframe of the EIS. The Draft Plan is expected in 2010.

2.4 NATIONAL PARK SERVICE MANAGEMENT POLICIES

The National Park Service (NPS) sites addressed in this EIS are the War in the Pacific National Historic Park on Guam (comprised of seven units) and the North Field National Historic Landmark on Tinian. NPS is a cooperating agency for this EIS (refer to Section 1.9.2 in Volume 1). In addition, NPS has participated in the agency partnering process (refer to Section 1.9.3 in Volume 1) and is a signatory to the Programmatic Agreement being prepared as part of the Section 106 (National Historic Preservation Act) consultation process (refer to Section 12.2.1.2 of Volume 2).

The Department of the Interior submitted comments on the Draft EIS on February 17, 2010, including comments from NPS. Responses to all public comments (including NPS comments) are included in Volume 10 of this EIS. Since many of the NPS comments on the Draft EIS relate to the Programmatic Agreement, the specific NPS comment package is also included in the cultural resources technical appendix (Volume 9, Appendix G, Chapter 4). Assessment of direct and indirect effects on NPS sites are addressed in the cultural resources and recreational resources chapters of the Volumes of this EIS. In addition, NPS comments on the Draft EIS included concerns about adverse indirect effects due to an increase in population from the proposed actions; this indirect impact is discussed in Volume 1, Chapter 4.

NPS management policies for all parks are presented in *Management Policies 2006* (NPS 2006). This document focuses on management of the national park system in accordance with the NPS mission: “preserving unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The National Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.” NPS authorities are mandated in the Organic Act of 1916, the General Authorities Act (as amended by Redwood Act), National Historic Preservation Act, and the Consolidated Natural Resources Act of 2008. NPS management policies and authorities relevant to the proposed actions are listed in Table 2.1-1. Details on NPS authorities and management policies are presented in Volume 9, Appendix G, Chapter 4 (pages 74-78 of the NPS comments package).

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