

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/ Overseas Environmental Impact Statement (EIS/OEIS) has been prepared in accordance with CEQ Regulations implementing NEPA and Navy NEPA procedures. Preparation of this EIS/OEIS 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/OEIS 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>)	Guam Bureau of Statistics and Plans Commonwealth of the Northern Mariana Islands (CNMI) Coastal Resources Management Office	Concurrent with the EIS/OEIS Coastal Zone Management Act, consistency determination notices are being filed for the actions proposed on Guam and Tinian. Consistency determination is prepared and submitted by Navy seeking concurrence from Guam Bureau of Statistics and Plans and from 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/OEIS 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/OEIS would be implemented in accordance with this Act.

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Marine Protection, Research and Sanctuary Act of 1972 (USC 1401-1445)	USEPA, USACE	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Clean Air Act (42 USC 7401 et seq.)	USEPA	The proposed actions analyzed in this EIS/OEIS 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/OEIS 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/OEIS 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/OEIS 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/OEIS 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/OEIS would be implemented in accordance with these Acts.
EO 13089, <i>Coral Reef Protection</i>	NOAA, USACE	The proposed actions analyzed in this EIS/OEIS 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/OEIS 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/OEIS 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/OEIS would be implemented in accordance with this Order.
Migratory Bird Treaty Act (16 USC 703-712)	USFWS	The proposed actions analyzed in this EIS/OEIS 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/OEIS 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/OEIS 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/OEIS would be implemented in accordance with this MOU.
National Historic Preservation Act (§ 106; 16 USC 470 et seq.)	Guam Historic Preservation Office, CNMI Historic Preservation Office	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
EO 11593, <i>Protection and Enhancement of the Cultural Environment</i>	Action Proponents	The proposed actions analyzed in this EIS/OEIS 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/OEIS would be implemented in accordance with this Act.
EO 13158, <i>Marine Protected Areas</i>	NMFS	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Order.
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	Responsible for establishing, amending and disestablishing danger zones and restricted areas.

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Presidential Proclamation, Contiguous Zone of the United States, September 2, 1999	Government of Guam, CNMI	The proposed actions analyzed in this EIS/ OEIS 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	It is the responsibility of the Guam Bureau of Statistics and Plans to undertake any planning activity that is not being carried out or that is not the function of another department. The Bureau has the legislative flexibility to appraise, coordinate, prepare and assist in the development of a wide range of plans, policies and studies that further economic, social, land use, environmental and infrastructure goals, priorities and planning activities.
Executive Order 78-37 (Government of Guam), Guam Land-Use Policies	Guam Bureau of Statistics and Plans	Implement policies from the Guam Comprehensive Development Plan.
Chapter 26 of Title 17 of the GCA: GEPA Guam Soil Erosion and Sediment Control Regulations	GEPA	Erosion and sediment control plans would be prepared as set forth in § 10109 of these regulations and submitted to the Agency in time to allow 14 working days review.
§ 5103(b)(6) and (7) of the Guam Water Quality Standards, relative to Specific Numerical Water Quality Criteria on Suspended Matters and Turbidity	GEPA	All earth moving activities in the Territory would be conducted in a manner that prevents accelerated land erosion, transportation of sediment to and along waterways, and siltation of rivers, estuaries and marine waters. All developers engaged in earth moving activities shall proceed in accordance with the erosion and sediment control plan specifications set forth under §10108 through §10113 of these regulations.
CNMI <i>Wastewater Treatment and Disposal Rules and Regulations</i>	CNMI Department of Environmental Quality (DEQ)	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with these rules and regulations.
Commonwealth Environmental Protection Act, § 3101	CNMI DEQ	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601 et seq.)	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Resource Conservation and Recovery Act (42 USC 6901 et seq.)	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Farmland Protection Policy Act (7 USC 4201 et seq.)	USDA, Action Proponents	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.

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Toxic Substances Control Act (15 USC 2601 et seq.)	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Oil Pollution Act (33 USC 2701 et seq.)	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Pollution Prevention Act (42 USC 13101-13109)	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Final Military Munitions Rule (40 CFR 266, Subpart M)	USEPA	The proposed actions analyzed in this EIS/OEIS 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/OEIS would be implemented in accordance with this Act.
Title 10 GCA, Hazardous Waste Management Program	GEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this program.
CNMI Title 65 §65-50, <i>Hazardous Waste Management Regulations</i>	CNMI DEQ	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance 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/OEIS 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/OEIS would be implemented in accordance with this MOU.
Safe Drinking Water Act	USEPA	The proposed actions analyzed in this EIS/OEIS would be implemented in accordance with this Act.
Executive Order 2005-35 CNMI and Guam Stormwater Management Manual	CNMI DEQ	The planning, design and construction of all project actions would be in compliance 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 are 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/OEIS 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 (DoD 2000). All of the proposed actions would be in compliance with these regulations.

Construction on military bases is standardized and dictated by Unified Facility Code (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/OEIS.

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/OEIS; however, one is being prepared by the Department of Public Lands. The Draft Plan is expected in 2009.

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