



Chumash Heritage National Marine Sanctuary

Final Environmental Impact Statement: Volume II



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**NATIONAL
MARINE
SANCTUARIES**

Cover photos: Top: *Urticina* sp., anemone, offshore Montaña de Oro State Park; Photo: Robert Schwemmer/NOAA. Bottom: Pismo Beach, Bird Rock; Photo: Robert Schwemmer/NOAA.



About This Document

This document is the second volume of the Chumash Heritage National Marine Sanctuary Final Environmental Impact Statement, and contains the appendices.

The National Oceanic and Atmospheric Administration (NOAA) is proposing to designate a national marine sanctuary to manage nationally significant resources off the coast of San Luis Obispo and Santa Barbara counties, California. In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code (U.S.C.) 4321 et seq.) and the 2020 Council on Environmental Quality (CEQ) NEPA regulations (85 Federal Register (Fed. Reg.) 43304, July 16, 2020), and the National Marine Sanctuaries Act (NMSA), 16 U.S.C. § 1431 et seq., NOAA has prepared a final environmental impact statement (EIS), which is separated into two volumes; the first considers alternatives for the proposed national marine sanctuary and identifies a Final Preferred Alternative, and the second contains the appendices. This document is Volume II.

This document also serves as a repository of information, including: NOAA's Response to Comments from the August–October 2023 public comment period; Scoping Summary of comments received from November 2021–January 2022; Best Management Practices for resource protection mitigation measures; Cost Benefit Analysis of sanctuary designation; Compliance with Regulatory Requirements; Relevant Statutes; Biological Species List of protected species in the sanctuary area; Known Permitted Infrastructure and Activities; Existing Department of Defense Activities; and Document Preparers.

Lead agency: National Oceanic and Atmospheric Administration

Cooperating agencies: Santa Ynez Band of Chumash Indians, Bureau of Safety and Environmental Enforcement, Bureau of Ocean Energy Management, Department of Defense

For further information on the project, see the project website at:

<https://sanctuaries.noaa.gov/chumash-heritage/>

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Glossary of Acronyms

| | |
|----------|--|
| ATBA | Area To Be Avoided |
| BOEM | Bureau of Ocean Energy Management |
| BSEE | Bureau of Safety and Environmental Enforcement |
| CCC | California Coastal Commission |
| CCRWQCB | Central Coast Regional Water Quality Control Board |
| CDFW | California Department of Fish and Wildlife |
| C.F.R. | Code of Federal Regulations |
| CHNMS | Chumash Heritage National Marine Sanctuary |
| CINMS | Channel Islands National Marine Sanctuary |
| COLREGS | International Regulations for Preventing Collisions at Sea |
| CSLC | California State Lands Commission |
| CWA | Clean Water Act |
| CZMA | Coastal Zone Management Act |
| DCPP | Diablo Canyon Power Plant |
| DoD | Department of Defense |
| EEZ | U.S. Exclusive Economic Zone |
| EFH | Essential Fish Habitat |
| EIS | Environmental Impact Statement |
| E.O. | Executive Order |
| ESA | Endangered Species Act |
| GFNMS | Greater Farallones National Marine Sanctuary |
| HAPCs | Habitat Areas of Particular Concern |
| IPC | Intergovernmental Policy Council |
| MBNMS | Monterey Bay National Marine Sanctuary |
| MBTA | Migratory Bird Treaty Act |
| MMPA | Marine Mammal Protection Act |
| MOA | Memorandum of Agreement |
| MOU | Memorandum of Understanding |
| MPA | Marine Protected Area |
| MPWC | Motorized Personal Watercraft |
| MSA | Magnuson-Stevens Fishery Conservation and Management Act |
| NEPA | National Environmental Policy Act |
| NHPA | National Historic Preservation Act |
| NMSA | National Marine Sanctuaries Act |
| NOAA | National Oceanic and Atmospheric Administration |
| NPDES | National Pollutant Discharge Elimination System |
| NWP | Nationwide Permit |
| OCSLA | Outer Continental Shelf Lands Act |
| ONMS | Office of National Marine Sanctuaries |
| PAC-PARS | Pacific Coast Port Access Route Study |
| PFMC | Pacific Fisheries Management Council |
| SAC | Sanctuary Advisory Council |
| SVRA | State Vehicular Recreation Areas |



| | |
|--------|--------------------------------------|
| USACE | U.S. Army Corps of Engineers |
| U.S.C. | United States Code |
| USCG | U.S. Coast Guard |
| USEPA | U.S. Environmental Protection Agency |
| USFWS | U.S. Fish and Wildlife Service |
| VSFB | Vandenberg Space Force Base |

Appendix A:

Response to Comments on the Draft EIS, Proposed Rule, and Management Plan

This Response to Comments Appendix was prepared in full compliance with 40 Code of Federal Regulations (C.F.R.) 1503.4 of the Council on Environment Quality National Environmental Policy Act (NEPA) Regulations (2020), Phase 1.

A.1 Introduction and Summary

Comment Overview

The National Oceanic and Atmospheric Administration (NOAA) received 2,292 comment submissions on the draft designation documents, which include the draft environmental impact statement (EIS), Notice of Proposed Rulemaking (proposed rule), and draft management plan, during the 60-day public review period from August 25 to October 25, 2023 for the proposed Chumash Heritage National Marine Sanctuary (CHNMS). Comments were received via postal mail, electronic entries on the regulations.gov website, and oral testimony at three public meetings. These comments are all publicly accessible as posted at regulations.gov (docket #NOAA-NOS-2021-0080). The comment submissions included petition signatures and comments based on campaign templates, raising the total number of public comments received to 110,551. NOAA summarized all of the comments, and organized them into 26 issue categories, resulting in the 492 individual substantive comments presented in this appendix. NOAA's responses below address all of these consolidated substantive issues received on the three draft designation documents. Comments were received from members of the public, a variety of stakeholder groups and organizations, government agencies, federally recognized Tribes, non-federally recognized Tribes, and Indigenous community groups. Overall, strong support was expressed for designation of the proposed sanctuary. Most comments were focused on the proposed sanctuary boundaries, concerns about how Indigenous Peoples should be involved, and regulatory aspects related to offshore oil, wind energy development, and submarine fiber optic cable permitting. Each of these issues is addressed in Appendix A.2 (below), along with other various individual issues related to the proposed action of designating the sanctuary. For more information on the public comment process, see Section 1.3.2 of the final EIS.

Key Comment Issues and Change from Draft Documents

NOAA summarized comments according to the content of substantive issues or questions put forward in written statements or oral testimony regarding the proposed action and alternatives. NOAA also made changes to the draft EIS, proposed rule, and draft management plan in response to comments received, where appropriate. These changes included updates to data and analyses, where issues raised warranted changes to impact assessments or were relevant to the proposed sanctuary regulations or non-regulatory action plans. Several technical or editorial comments on the draft EIS and management plan were also taken under consideration by NOAA and, where appropriate, applied to the final EIS and/or management plan.

All public and agency comments on the draft EIS were considered by NOAA, but the comments did not result in any changes to the conclusions of the draft EIS with regard to significance of impacts. EIS Section 1.5 outlines changes that were made to the draft EIS, management plan, and rule, subsequent to the public comment period. The responses to comments reference numerous changes that were made between the draft and final documents to address issues raised in public comments. Several key changes and comment topics are interrelated and are highlighted here:

- Agency-Preferred Alternative – NOAA has identified a Final Preferred Alternative that is comprised of Alternative 4, plus Sub-Alternative 5b, plus a small area to more fully protect the Santa Lucia Bank that had been part of the Initial Boundary Alternative (see Figure 5-1a in Section 5.4.9 of the final EIS). See response to comment BO-1 for a detailed explanation.
- Sanctuary name – NOAA is not revising the sanctuary’s name. See response to comment SN-1.
- Purpose and need for the sanctuary; purpose of EIS – Clarifications of the sanctuary’s purpose, as well as the purpose and scope of the EIS are provided in response to comments PN-1, PN-2, and PN-3.
- Indigenous Collaborative Co-Stewardship Management Framework – Clarifications and additional details are provided in a revised Indigenous Collaborative Co-Stewardship Framework described in the final management plan introduction, as well as in response to comments TI-8-, TI-12, TI-13, and other responses in the Tribal and Indigenous section of this appendix.
- Permit processes for future offshore wind and fiber optic cable development – Clarification regarding future offshore wind facility permitting is provided in response to comment OW-16; additional clarifications are in the offshore wind energy development section.
- Concerns about impacts on fiber optic cables – NOAA’s analysis of fiber optic cables and permitting processes are described in comments FC-3, FC-4, and FC-10 and FC-11.
- Concerns about potential fishing regulations – See responses to comments FA-7, FA-8, and FA-9 for clarification.
- Concerns about access to the sanctuary – See responses to comments RP-4 and SE-8.

A.2 Comments and Responses

In this appendix, the subject matter of each comment issue category is first summarized, followed by NOAA's response. Comments and responses may refer to portions of the EIS, rule, or management plan that have been modified as a result of responding to and incorporating comments. Comments were grouped into categories and organized as shown in Table A-1, starting with general issues, followed by comments raising specific issues, most of which correspond to EIS issue area topics (e.g., biological resources, fishing, oil and gas facilities, military uses). Table A-1 lists the general topics and the specific issues addressed within each topic. For most topics, there are numerous subcategories or issues, under which several comments may have been combined.

Table A-1a. Index of Topics and Issues in Responses to Comments, Part 1 – General, Boundaries, Designation Process

| Topics | Issues Addressed | Page Number |
|---|---|-------------|
| General Support and Opposition of Proposed Sanctuary (GN) | Designation support; opposition to process; government oversight; transparency; duplicative regulations; restricting access; restricting recreational use; funding; worship interference; refocus marine protection; confiscating property; interest group benefits; Chumash aid; management plan objection; national marine sanctuary success; ocean economies; lack of community support; National Marine Sanctuaries Act; stakeholder engagement, and consensus building | 7 |
| Boundaries (BO) | Close the gap (between Cambria and Montaña de Oro); Initial Boundary Alternative; Alternative 1; expand Monterey Bay National Marine Sanctuary; "special treatment area" for cables; Morro Rock; expansion action plan; different alternatives and sub-alternatives; exclusion requests; smaller alternatives; Santa Barbara Channel; California sanctuary contiguity; concentrated harmful activities; natural resource focus | 12 |
| Purpose and Need for Proposed Sanctuary (PN) | Environmental impact statement purpose; justification and need; beneficial impacts; minimal size; Agency-Preferred Alternative; Indigenous perspective on management; 30x30 goals; unique conservation; spatial planning | 23 |
| Sanctuary Designation Process (DP) | Involvement of the Chumash People, fishers, local committee; review process; "Indigenous proposed" sanctuary; designation document revision; pause designation; National Environmental Policy Act compliance; effects analysis; regulatory benefits; evaluation of threats; qualitative comparison; cumulative spatial impact; Bureau of Ocean Energy Management mitigation | 26 |

Table A-1b. Index of Topics and Issues in Responses to Comments, Part 2 – Regulations, Offshore Energy, and Telecommunication Cables

| Topics | Issues Addressed | Page Number |
|---------------------------------------|--|--------------------|
| Regulations & Permitting (RP) | Stronger regulations; permitting conditions, best available science; prohibition of development; opposition to regulations; regulatory coordination; shipwrecks; seafloor disturbance; Outer Continental Shelf Lands Act mineral definition; fiber optic cable permitting process; new technology, climate change adaptation; certification and authorization guidance; shell gathering; impeding science | 30 |
| Offshore Oil and Gas Development (OG) | Permanent prohibitions; lease cancellation; restarting platforms; high energy seismic testing; oil-related pipelines; well stimulation discharges; economic losses; exemptions; Santa Ynez Unit; oil spill risk; Santa Barbara County restrictions; production delays; leaseholder rights; facility certification; injection and material storage; decommissioning; Platform Irene; agency coordination; Las Flores Canyon; National Marine Sanctuaries Act consultation | 36 |
| Offshore Wind Energy Development (OW) | Opposition; incompatibility with sanctuaries; research impacts; Diablo Canyon Power Plant; offshore wind platforms; conservation priorities; siting; Diablo Canyon Call Area; NOAA's role permitting cables, facility design; subsea electrical transmission cables (compatibility, impact analysis, seabed disturbance, number of cables, grid connection access, routing, spacing, permitting, Morro Rock, leaseholder easements, regulatory exceptions, removal plans); permits and permitting process; green hydrogen; seafloor mapping; exceptions (discharge, anchoring, research and monitoring); Port San Luis Harbor support; National Historic Preservation Act Section 106 consultation; programmatic environmental review process; BW Ideol offshore floating wind project and CADEMO Offshore Wind Energy Development Project (both state projects); federal vs. state project treatment; support; zero emissions; support facilities | 44 |
| Submarine Fiber Optic Cables (FC) | Mischaracterization in the EIS; compatibility; impact analysis; consideration of public comments; regulation and permitting of cables; smaller, discrete boundary; competition for space; de facto exclusion zone; treatment of private development; continued operation; certification process; permit exemption; permit consultations; repairs; special use permit; investment; innovative management approaches; issue-specific exceptions; overlay zone; remove certification and authorization; consistency with international law; "obligation of contracts" | 60 |

Table A-1c. Index of Topics and Issues in Responses to Comments, Part 3 – Specific Issue Areas

| Topics | Issues Addressed | Page Number |
|--|---|-------------|
| Desalination (DE) | Coastal development impact analysis; desalination in the Gaviota Coast Extension; allowable activity; regulatory allowances; Monterey Bay National Marine Sanctuary's approach | 74 |
| Air Quality and Climate Change (AC) | Morro Bay battery facility; Vandenberg Space Force Base missile launch; sea level rise, coastal erosion, hydrodynamic processes; lower emissions; Diablo Canyon Wind Energy Area; climate resilience; natural laboratory and special transition zone; Ocean Climate Action Plan; adaptive management; mitigation and adaptation | 75 |
| Biological Resources (BO) | Baseline information; "the gap" resources; upwelling; UNESCO International Biosphere Reserve; Santa Lucia Bank; Morro Bay Estuary; sea otters; migration; marine life disturbance; fish stocks; seafloor disturbance; Endangered Species Act-listed species; complementary protections; no-take areas; cumulative impacts assessment; shipping lanes, acoustic disturbance; Rodriguez Seamount; introduced species; research; best practices | 77 |
| Cultural and Maritime Resources (CR) | Chumash history sections; baseline information; sensitive areas; Humqag (Point Conception, the Western Gate), Cave of Eleywen (Swordfish), and Lisamu; injustices; shipwrecks; resource impacts; wording; fisher heritage; lineal descendancy; State Lands Commission consultation | 89 |
| Diablo Canyon Power Plant (DC) | Operational status; decommissioning; continuation | 94 |
| Fishing and Aquaculture (FA) | Economic importance; societal benefits; restrictions; Gaviota Coast access; fisher culture; recreational fishing; socioeconomic impacts; regulations requests (category I and II fisheries, pop-up gear; Indigenous fishing rights); opposition to regulations; no-take areas; management coordination; 30x30 goals; offset payments; fees; special privileges; bottom-up approach; Tribal-Proposed Marine Protected Area; new technologies; aquaculture; offshore wind impacts | 96 |
| Geologic Resources (GE) | Morro Rock; Estero Bay Shelf Break; protecting Rodriguez Seamount, Santa Lucia Bank, Arguello Canyon; Santa Lucia Bank (deep-water and western portion); pockmarks; physical resources assessment | 104 |
| Marine Transportation (MT) | Pacific Coast Port Access Route Study; terminology (ballast water, vessel discharge); biofouling; abandoned vessels; terms of designation; alternative exemption language; heavy lift vessels; exception for discharges (incidental and necessary to decommissioning); licensed pilots; ballast water discharge; impact determinations; liveaboard vessels; harbors and economic opportunities; vessel desertion; fuels | 105 |
| Department of Defense and Military Uses (MU) | Military limitations; regulatory exemptions; adjusting exemptions; defining 'new activity'; exemption opposition; Vandenberg Space Force Base launches | 109 |
| Motorized Personal Watercraft Use (MW) | Motorized personal watercraft use; safety; emergency response; recreational use | 110 |
| Oceanographic Issues (OI) | Upwelling | 110 |

| Topics | Issues Addressed | Page Number |
|---|--|-------------|
| Socioeconomic Issues (SE) | Impact analysis; cost-benefit analysis; qualitative data; agriculture; Oceano Dunes State Vehicular Recreation Area; taxpayer burden; environmental justice; Executive Order 12898; Tribal rights self-government and sovereignty; access (public, recreational, disabilities); new income-producing activities; recreation, tourism, and Blue Economy opportunities; entry fees; visitor center | 112 |
| Ship Strikes and Vessel Speed (SS) | Vessel speed regulation, restrictions; Blue Whales and Blue Skies; vessel speed focus group; spatial planning; monitoring compliance; areas to be avoided | 116 |
| Water Quality, Discharges and Dredging (WQ) | Needs assessment; discharge regulations; regulatory exceptions; large and commercial vessels; enter and injure; ballast water concentration; runoff; pollution; cruise ships; duplicative regulations; overlapping authority; fireworks; land-based discharges; agriculture; sewage pumpout facilities; marine sanitation device; dredging; oil and gas facilities; National Pollutant Discharge Elimination System permits; water quality impacts | 117 |

Table A-1d. Index of Topics and Issues in Responses to Comments, Part 4 – Management-Related Comments

| Topics | Issues Addressed | Page Number |
|--------------------------------|---|-------------|
| Sanctuary Name (SN) | Indigenously inclusive name; proposed name; exclusion of Salinan in proposed name; inequitable treatment; name recognition benefits; honoring Indigenous Peoples; gravity of name concerns; special management zone; separate names; Tribal consensus | 127 |
| Tribal and Indigenous (TI) | Tribal legitimacy and inclusion, documented ancestry, and Chumash authenticity; Tribal inclusion, federally and non-federally recognized Tribes; Indigenous Collaborative Co-Stewardship Framework, Tribal Advisory Council; Indigenous representation on the Sanctuary Advisory Council; Intergovernmental Policy Council; Indigenous Cultures Advisory Panel; collaborative management, territorial rights, and acknowledgement; Tribal consultation; involvement in sanctuary management; Tribal liaison; United Nations Declaration on the Rights of Indigenous Peoples; Tribal Ecological Knowledge; federal recognition | 129 |
| Sanctuary Administration (SA) | Sanctuary Advisory Council (representation, purpose and function, working groups); adaptive management; interagency coordination; funding; budgeting | 146 |
| Sanctuary Management Plan (MP) | Level of detail, partnerships, Tribal perspectives, equitable inclusion; “compatible use;” transparency; meaningful protection; action plans: blue economy, climate change, cultural resources, education and outreach, maritime heritage, offshore energy, research and monitoring, resource protection, water quality, wildlife disturbance; add desalination and marine debris; non-governmental engagement; national marine sanctuaries collaboration | 150 |

General Support and Opposition of Proposed Sanctuary

Support for Proposed Sanctuary

Comment GN-1: An overwhelming majority of comments (over 98%) voiced support for the proposed sanctuary, its goals and objectives, and the proposed regulations. Commenters encouraged NOAA to proceed with the sanctuary designation process due to the importance of resources in the study area and the need to provide additional protection of these resources.

Response: NOAA agrees with the view that this sanctuary area contains nationally significant natural, historical, and cultural resources worthy of protection. Numerous opportunities exist to collaborate on the management of this area with a diversity of Native American Tribes and Indigenous organizations.¹ The new sanctuary would help both the state and federal governments achieve their biodiversity conservation goals that have been established. The sanctuary would promote various forms of engagement with and use of the sanctuary and its resources (e.g., cultural activities, fishing, recreation, and research), while establishing additional regulations and non-regulatory programs to conserve the area's nationally-significant resources. It would help promote mitigation and adaptations in response to climate change, from establishing conservation actions, to promoting “blue carbon” ecosystem components, such as kelp forests and [whale populations](#). NOAA, working in collaboration with partners, would bring outreach activities, education programs, and research and monitoring to aid our understanding of the area and promote co-stewardship.

General Opposition to Proposed Sanctuary

Comment GN-2: General opposition to the overall sanctuary process was expressed for a variety of reasons, including the potential that it could lead to additional regulations or potentially restricted access.

Response: NOAA has followed a very deliberate public process for designation of the new sanctuary. The process is consistent with NOAA's contemporary practice for designating other national marine sanctuaries and consistent with the provisions of the National Marine Sanctuaries Act (NMSA), in particular Section 304 (Procedures for Designation and Implementation), 16 United States Code (U.S.C.) 1434. More information is available on ONMS' Designation [webpage](#). Preceding the designation process, NOAA conducted an extensive public review at the five-year interval for the original nomination of the sanctuary; the proposed designation process began in November, 2021 with publication of the [Notice of Intent To Conduct Scoping and To Prepare a Draft Environmental Impact Statement for the Proposed Chumash Heritage National Marine Sanctuary](#) (hereafter, “2021 Notice of Intent”), which provided for additional opportunity for public input during the scoping phase. NOAA received more than 14,300 comments and 22,000 comments, respectively, in these two public processes,

¹ This final EIS uses “Tribes and Indigenous communities” and other related phrases to refer broadly to federally recognized Tribes, Native American Tribes that are not federally recognized, and other Indigenous groups and organizations. Where appropriate to reference the federally recognized Tribe in this area, the Santa Ynez Band of Chumash Indians, the EIS specifically names that Tribe. Where appropriate to reference federally recognized Tribes more broadly, the EIS uses the terms “federally recognized Tribe(s)” or “federally recognized Tribal Nation(s).” As such, use of the term “Tribe” or “Tribal” is not intended to refer only to federally recognized Tribes unless otherwise specified.

nearly all in favor of designation and additional protections. Many of the comments formed the basis of alternatives and regulations proposed for designation. NOAA continued this highly public process with various public workshops preceding the release of the draft designation documents. More than 110,000 comments were received on the draft designation materials. NOAA has diligently reviewed, considered, and responded to the issues raised in those comments throughout this appendix.

The designation materials include the rule, the final EIS and the final management plan. These materials have been revised through the extensive public process outlined above. Only the regulations that are necessary to address threats to sanctuary resources are included in the designation. See also the Regulations and Permitting section of comments and responses. Regarding concerns about restricted access, NOAA's sanctuary regulations impose no limits on public access to sanctuary waters (see response to comment SE-8), and encourage responsible use and enjoyment of the sanctuary (see, for example, the management plan's Blue Economy Action Plan).

Comment GN-3: One local Chumash group stated that further regulation of Chumash homewaters is not wanted or needed for several reasons: other federal agencies already monitor the area and can work and collaborate with Chumash groups; the sanctuary would interfere with the ability of Chumash People to worship as a spiritual People by placing more regulation, surveillance, and obstacles for cultural access; there is no interest in being further regulated and bureaucratized; and the sanctuary is being used as a symbolic figurehead for a non-Indigenous, non-Chumash conservation agenda.

Response: NOAA respects the views of the commenter. The sanctuary designation was proposed and requested by a local Chumash organization on behalf of a broad-based community consortium, and subsequently supported by the Santa Ynez Band of Chumash Indians. The nominators further proposed that the sanctuary have connections to Tribes and Indigenous organizations,² and be collaboratively managed. NOAA seeks to support and assist Indigenous Peoples who wish to maintain or increase their cultural connection to the coastal waters of this area. NOAA understands and respects that Chumash and other Indigenous Peoples have a right to identify with and practice their cultures, and has no intent to prevent or prohibit the exercise of those rights. NOAA does not believe that sanctuary regulations would prevent the cultural access or practices of any Chumash or other Indigenous Peoples, organizations, or Tribal Nations. NOAA is aware of the existing government agencies that currently manage various activities and resources within the sanctuary area, and plans to work in coordination with these entities to ensure comprehensive ecosystem-based management that is effective and not duplicative.

² This final EIS uses "Tribes and Indigenous communities" and other related phrases to refer broadly to federally recognized Tribes, Native American Tribes that are not federally recognized, and other Indigenous groups and organizations. Where appropriate to reference the federally recognized Tribe in this area, the Santa Ynez Band of Chumash Indians, the EIS specifically names that Tribe. Where appropriate to reference federally recognized Tribes more broadly, the EIS uses the terms "federally recognized Tribe(s)" or "federally recognized Tribal Nation(s)." As such, use of the term "Tribe" or "Tribal" is not intended to refer only to federally recognized Tribes unless otherwise specified.

NOAA's purpose and objectives for working in partnership with the local Tribes and Indigenous organizations are expressed in the Indigenous Collaborative Co-Stewardship Framework section of the management plan's introduction. NOAA welcomes the opportunity to build trust and relations over time with any Indigenous governments, organizations, and Peoples that have interest in the sanctuary or concerns.

Comment GN-4: NOAA is urged to refocus conservation efforts on more critical marine systems in U.S. waters already suffering from the lack of protection, such as those in the Atlantic, Arctic, and the Caribbean Sea. These resources are vulnerable to unprecedented pressures and so are the coastal economies that depend on those systems.

Response: NOAA is [actively advancing multiple designations](#) of new national marine sanctuaries including two in the tropical Pacific Ocean, and one in the North Atlantic. While NOAA agrees other areas in the U.S. marine and Great Lake waters may warrant sanctuary conservation, NOAA has conducted a thorough public process for this designation effort, beginning with receipt of the nomination for CHNMS, and has determined that the nationally-significant resources of this area warrant long-term protection and management.

Comment GN-5: There is a concern of confiscating property and taking jurisdiction over a local asset.

Response: NOAA's designation of the new sanctuary does not result in or cause the confiscation of public or private property. Sanctuary regulations and management plan programs are intended to conserve and protect sanctuary resources for everyone. Certain provisions of the NMSA give law enforcement the authority to board, search, inspect, or seize a vessel suspected of being used to violate a sanctuary regulation or permit, or to seize any evidence of a sanctuary violation, including seizing any sanctuary resources taken in violation of a sanctuary regulation or permit (see Section 307, and also 312 of the NMSA; 16 U.S.C. 1437, 1443).

Comment GN-6: There is a concern that once NOAA is given control, nothing can stop it from imposing more restrictions, like eliminating recreational uses that belong to everyone. No specific human uses should be banned. Most of what NOAA says it will allow can be done right now, without giving NOAA control of the ocean and beaches that belong to everyone.

Response: NOAA has only developed regulations for the sanctuary to restrict or eliminate human activities that can harm sanctuary resources. Any limits on recreation or other activities would be to reduce harm to resources, such as discharge of untreated sewage from a recreational vessel. Sensible exceptions are included in the regulations for activities that, on their face, could be prohibited, but for which NOAA has concluded they could nonetheless continue, such as exceptions to the submerged lands disturbance regulation for anchoring a vessel. The proposed exceptions are intended to facilitate public and private uses of sanctuary resources to the extent compatible with the primary objective of resource protection. Any future change in these regulations would require that NOAA conduct a public review process that mirrors the extensive process it has undertaken for this initial designation of the sanctuary.

Comment GN-7: If NOAA wants public support for the sanctuary, NOAA must be transparent and tell the people why the Agency-Preferred Alternative was identified. NOAA cannot be

trusted after leading everyone on regarding this sanctuary, and then excluding the most beautiful untouched area of the coast.

Response: NOAA was fully transparent in describing why it identified the Agency-Preferred Alternative at the draft phase for this sanctuary designation (see draft EIS Section 5.4.9). As detailed in the response to comment BO-1 below and further explained in final EIS Section 5.4.9, NOAA has identified the combination of Alternative 4 and Sub-Alternative 5b, plus a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank, as the Final Preferred Alternative.

Comment GN-8: The California shoreline should benefit all Californians, not just a special interest group.

Response: NOAA respects the relationship that Californians have with the coastline. Nothing in the sanctuary designation alters Californians' relationship with the coast, and many of the regulations and non-regulatory management actions serve to protect, conserve, and wisely use this coastline and adjacent marine waters.

Comment GN-9: The Chumash do not need the publicity, and they do not need the money due to their casino. Our relations with the Chumash need no enhancement. The Tribe needs no more funding than owning its own casino.

Response: NOAA believes there will be value in conserving the resources of the sanctuary and in working in collaboration with Indigenous Peoples. CHNMS would help draw attention to this important coastline, its resources, and its rich heritage. NOAA endorses the goals of the nomination to help raise awareness of the Indigenous heritages and cultures of this region and the value a healthy ecosystem brings to a community and its residents.

Opposed to Spending Funds on Sanctuary

Comment GN-10: The government should postpone CHNMS discussions for now and direct the already limited sanctuary funding towards improving existing sanctuaries, rather than overpromising and under delivering conservation to the central coast region through CHNMS designation. A 2021 Center for American Progress report on sanctuary conditions found that “many existing sanctuaries are experiencing worsening conditions, have limited statutory authority to control damaging activities within their borders, and lack sufficient funding.”

Response: NOAA would indeed require additional resources to manage the new sanctuary and will seek those through the normal budget processes. NOAA disagrees that this or other designation efforts should be halted or effort redirected to other initiatives. Protecting the nation's biodiversity and ecosystems through collaborations with local communities, Tribes, and Indigenous organizations to conserve additional land and ocean areas is a priority for the federal government.

Sanctuary Protections are Unnecessary or Duplicative

Comment GN-11: Concern with specific sanctuary regulations or the need for sanctuary regulations in general was expressed, as well as objection to specific management plan activities and strategies.

Response: Responses to general and specific comments about sanctuary regulations are addressed in the Regulations and Permitting section below, as well as other activity-focused sections. Comments about activities and strategies in the management plan are addressed in the Sanctuary Management Plan section. See also final EIS Section 2.2.1 for information about the sanctuary complementing and supplementing existing regulatory authorities.

Comment GN-12: The proposed sanctuary will have no real benefit for marine life; only for subsistence and recreational uses. Sanctuary benefits to the ecosystem are unproven. Despite claims, existing marine protected sanctuaries show no scientifically proven benefits to the ocean; successes of marine protected sanctuaries remain highly debatable.

Response: The final EIS for this designation reaches different findings, identifying numerous significant beneficial impacts from sanctuary designation on resources of the region, including biological resources and oceanographic processes such as upwelling, upon which living marine resources depend. [Condition reports from existing sanctuaries](#), produced periodically in advance of management plan review processes, regularly identify healthy marine resources managed within a sanctuary due to sanctuary actions and those of partners concentrated within a sanctuary.

Comment GN-13: The proposed plan would not support ocean-dependent economies; it would only protect fishes, etc.

Response: The final EIS for this designation reaches different findings, identifying beneficial impacts from sanctuary designation on commercial and recreational fishing, cultural and maritime heritage resources, other recreational uses, land use, and research and education.

Lack of Community Support

Comment GN-14: Office of National Marine Sanctuaries (ONMS) disregard of information that might interfere with the expansion ambitions of the ONMS has been represented in the dismissal of diverse and widespread opposition to CHNMS since its nomination. Previous comments on the nomination have included opposition from local governments, chambers of commerce, current and former elected leaders, and many and diverse stakeholder organizations. This failure to acknowledge the large opposition is a violation of the ONMS' own standards (adopted June, 2014) for accepting new national marine sanctuary nominations and designation decisions. This constitutes a fatal flaw in the CHNMS designation process, eroding public confidence in the ONMS.

Response: The [NOAA nomination process](#) for new national marine sanctuaries contains one evaluation criterion that assesses whether or not there is community-based support for the nomination expressed by a broad range of interests. Broad community-based support may exist even if there is also some opposition to the nomination. NOAA carefully considered the public comments received through the sanctuary nomination process, concluded that there was widespread community support for the proposed sanctuary, and accepted the nomination into the inventory. This was affirmed in 2020 when NOAA conducted a public process to receive input on whether or not the nomination should remain in the inventory, and in 2023 when an overwhelming majority of comments on the draft EIS (over 98%) voiced support for the

proposed sanctuary, its goals and objectives, and the proposed regulations. See also the response to comments GN-2 and GN-15.

Comment GN-15: There is very little community support for the proposed sanctuary now at the time of designation. NOAA does not appear that it is adequately considering input from multiple impacted stakeholders putting at risk the collaborative process delineated in sections 303, 304 and 315 of the NMSA. To enable NOAA to adequately achieve consensus building, NOAA should engage the expertise of current and future stakeholders with interests within the proposed sanctuary.

Response: The sanctuary designation process allows NOAA to evaluate the presence of and reasons for opposition to a sanctuary designation. NOAA has carefully considered and acknowledged comments in opposition of the designation throughout this process; for instance, Appendix A of the draft EIS indicates opposition comments received during the initial scoping phase (included as Appendix B in the final EIS). At appropriate points in the final EIS, NOAA discusses responsible opposing views that were not adequately discussed in the draft EIS and provided NOAA's response to the issues raised. NOAA has also provided a description of and responses to opposition to the designation in this response to comments appendix. As noted elsewhere, NOAA received over 110,000 public comments on the proposed designation and greater than 98% of those were in support of completing the designation. See also response to comment OG-24.

Boundaries

Eliminate the Gap Between Cambria and Montaña de Oro

Comment BO-1: NOAA should close the gap created between Cambria and Montaña de Oro, including the waters off Morro Rock, by designating the final sanctuary with the Initial Boundary Alternative or Alternative 1 rather than the Agency-Preferred Alternative. Many reasons were given including the area's important ecological characteristics and connectivity to other sanctuaries, sacred significance to Indigenous communities, and the importance for NOAA to have regulatory oversight for offshore wind and other types of uses or development and overall resource protection in this area.

Response: NOAA acknowledges that a final sanctuary boundary that originates at the southern end of Monterey Bay National Marine Sanctuary (MBNMS) (at Cambria) and extends southward, "closing the gap," as achieved by the Initial Boundary Alternative or Alternative 1, would protect important ecological characteristics, historical resources, and sacred Indigenous heritage resources in that area. However, as discussed in detail in Section 5.4.9 in the final EIS, NOAA has included a Final Preferred Alternative with the coastal boundary and offshore waters of Alternative 4, plus Sub-Alternative 5b, plus a small area to more fully protect the Santa Lucia Bank that had been part of the Initial Boundary Alternative (see Figure 5-1a in Section 5.4.9 of the final EIS). This alternative has been identified after thorough consideration of public and Indigenous community comments, NOAA's responses to those comments, Administration priorities, and consultation among federal agencies.

The reasons for further reducing the final sanctuary boundary at this time center around clarifying information provided by the three Morro Bay Wind Energy Area leaseholders during

the public comment period, and NOAA’s consideration of this information in light of renewable energy and conservation goals, the purposes and policies of the NMSA, and the purpose and need of the proposed sanctuary. NOAA also considered public comments supporting offshore wind energy development, as well as the state of California’s support for sanctuary designation and the state’s goal for transitioning to 100% clean energy. In public comments, the leaseholders identified a need to develop between 15–24 subsea electrical transmission cables between offshore leases and two landing sites at Morro Bay and Diablo Canyon Power Plant (DCPP) grid connections. Presently they estimate landing roughly half of the cables at each grid connection. The three leaseholders’ current design requirements may mean they will seek access to a portion of the seabed between 30–45 miles wide, narrowing as cables approach land and shallower water. Their comments on the draft EIS note that subsea electrical transmission cables need broad gradual bends (rather than sharp turns) and need to cross other cables at largely 90-degree angles. With these parameters, all of the boundaries analyzed in the EIS for CHNMS would be expected to require cable routing from the Morro Bay lease areas through the sanctuary to shore, except for Alternative 4. While the draft EIS anticipated the leaseholders may need to route cables to DCPP and that NOAA could rely on its permitting process to review such cable placement, the leaseholders expressed persistent concerns. Several of the Morro Bay Wind Energy Area leaseholders expressed persistent concerns with the NOAA permit process for subsea cables and whether or not, in the end, they would be able to obtain permit approvals from NOAA to construct 15–24 subsea electrical transmission cables within the sanctuary from the offshore lease areas to onshore grid connections. They also expressed concerns that existing sanctuary permitting procedures could jeopardize their ability to obtain financing for their development, and they sought to avoid the introduction of any permitting risk that NOAA might be unable in the future to approve one, several or all permit requests for cables in the sanctuary.

In considering an area for designation, the NMSA requires NOAA to, “enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment...,” 16 U.S.C. § 1431(b)(4), and to evaluate, among other factors, the manageability of the area, the negative impacts produced by management restrictions on resources development, and socioeconomic effects of sanctuary designation (16 U.S.C. § 1433(b)). At this final designation phase, NOAA has reconsidered offshore wind industry concerns regarding the sanctuary in the particular context of the Morro Bay leases, in conjunction with existing infrastructure and competing uses of the proposed sanctuary area, and in light of the purposes and policies of the NMSA as referenced above. NOAA has identified this adjusted boundary, which would further the purpose and need of the sanctuary designation while also supporting renewable energy goals of the Administration and the state of California through allowing offshore wind developers to complete siting and permitting for subsea electrical transmission cables from the three Morro Bay offshore wind leases to landing sites at both Morro Bay and Diablo Canyon without having to route cables through the new sanctuary, given their permitting uncertainty concerns as described above. The Final Preferred Alternative would be the most manageable boundary at this time and would allow the new sanctuary to focus on numerous core activities outlined in the management plan without the need to focus resources on myriad permitting issues related to offshore wind development. If NOAA decides to adopt sanctuary protections at a later time for additional areas (see the final management plan’s Boundary

Adjustment Action Plan), such a process would be informed by an improved, more certain understanding of offshore wind development in this area.

The Final Preferred Alternative meets the purposes and need for the designation as described in Chapter 2 of the final EIS, and it meets the designation standards identified in Section 303 of the NMSA. NOAA also acknowledges and affirms its commitment to respecting Indigenous Knowledge³ and promoting co-stewardship in this area while advancing climate and conservation goals. This final sanctuary boundary would allow protection of nationally-significant natural, ecological, historical, and cultural resources along 116 miles of the California coast, out to nearly 60 miles from shore and a maximum depth of 11,580 feet. The total area within the Final Preferred Alternative is 4,543 square miles, making it one of the largest national marine sanctuaries in the National Marine Sanctuary System, if the Final Preferred Alternative is selected.

The draft EIS and the proposed rule provided notice to the public that, based on public comments received on the draft designation documents and NOAA's experience administering the National Marine Sanctuary System, pursuant to NEPA and the Administrative Procedure Act, NOAA may choose to identify an alternative in the final rule and final EIS that is within the geographic and regulatory scope of the alternatives considered in the draft EIS. Alternative 4 and Sub-Alternative 5b along with the small, additional area included over the Santa Lucia Bank (analyzed in the Initial Boundary Alternative), and impacts associated with these alternatives, are thoroughly discussed in the draft EIS. NOAA received public comments on these alternatives that it carefully considered in identifying the Final Preferred Alternative. As explained in Section 3.6 of the final EIS, the minor variation in the boundary for Alternative 4 south of DCPD is also within the scope of alternatives discussed in the draft EIS and does not result in environmental impacts not previously considered. The Final Preferred Alternative is thus within the geographic and regulatory scope of the alternatives considered in the draft EIS. Based on this information, NOAA has determined that there are no substantial changes to the proposed action that are relevant to environmental concerns, nor are there significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. As such, preparation of a supplemental EIS is not required.

NOAA considers the Final Preferred Alternative to be Phase 1 for establishing national marine sanctuary protection for this important coastline and nationally-significant resources. At the first management plan review process beginning on or before January 2032, NOAA commits to evaluating and considering the need for and suitability of several potential boundary adjustments to protect additional areas, including moving the CHNMS boundary to the southern end of MBNMS. Resources worthy of and requiring sanctuary protection would be assessed at that time and the appropriateness of expanding the sanctuary would be evaluated. Any subsequent boundary adjustments would be guided by Section 304 of the NMSA and would

³ In the [2022 Guidance for Federal Departments and Agencies on Indigenous Knowledge](#), the Council on Environmental Quality describes Indigenous Knowledge as “a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes and Indigenous Peoples through interaction and experience with the environment” (see also: Office of Science and Technology Policy & CEQ, 2022).

require a separate public process under the NSMA and NEPA. A Boundary Adjustment Action Plan has been added to the final management plan.

Comment BO-2: NOAA should close the gap by expanding MBNMS from Cambria to Montaña de Oro, which will provide critical conservation of this area via a national marine sanctuary with a name that does not create conflicts.

Response: NOAA's Final Preferred Alternative in the final EIS does not "close the gap" at this time between Cambria to Montaña de Oro, and in fact the Final Preferred Alternative creates a larger gap. Response to comment BO-1 explains NOAA's reasoning for this alternative. As noted in that response, NOAA is including a new Boundary Adjustment Action Plan in the management plan and would consider expanding sanctuary protection to nationally-significant resources in this part of Central California as a future Phase 2. The Phase 2 process would inform NOAA's consideration of future options for sanctuary protection of this area, which could include northward expansion of the CHNMS boundary, or southward expansion of the MBNMS boundary through a separate public process.

Comment BO-3: NOAA should close the gap between Montaña de Oro and Cambria, and then designate that area a "special treatment area" with different regulations to allow subsea cables. Impose different restrictions like for vessel speed in this special treatment area.

Response: NOAA's Final Preferred Alternative does not close the gap. For reasons explained in response to comment BO-1, NOAA prefers to create a large area where the offshore wind leaseholders may plan subsea electrical transmission cables to connect to both grid connections at Morro Bay and DCP, without passing through the new sanctuary. Because NOAA envisions a future process as part of Phase 2 for sanctuary protection in this area, NOAA anticipates as part of this process (subject to adequate staff and other resources) participating in assessments of the impacts of offshore wind development, and other activities that may occur in this area (see offshore energy, wildlife disturbance, and research and monitoring action plans). If the sanctuary is expanded in the future subject to a separate public process, and if NOAA determines additional regulatory action is needed to protect sanctuary resources in the expanded area, such as restrictions for vessel speed, NOAA could take that action through a separate rulemaking process. Should an issue arise in the future, the sanctuary superintendent and staff would also have the option to seek non-regulatory solutions by working closely with sanctuary advisory bodies, affected stakeholders, and partner agencies to address an emerging problem.

Comment BO-4: NOAA should protect the waters from Morro Rock north because, as it has noted for other sections of the proposed sanctuary, this area includes numerous state parks—Morro Bay, Estero Bluffs, Harmony Headland—as well as other state conservation areas, such as Morro Strand State Beach Campground, Cayucos State Beach, and White State Marine Conservation Area, all of which could benefit from adjacent sanctuary protection. By protecting adjacent areas, a larger overall protected zone is created, each side supporting the other.

Response: NOAA would consider future protection of this area as part of the Phase 2 process, which would inform NOAA's consideration of future options for sanctuary protection of this area (see Boundary Adjustment Action Plan under EIS Section 3.2.3 and Section 5.4.9 for more

information on Phase 2). As contemplated in the final management plan's new Boundary Adjustment Action Plan, NOAA anticipates conducting studies about resources that may warrant sanctuary protection prior to 2032, when it would formally initiate a process to consider adjusting the sanctuary's boundary.

Comment BO-5: NOAA should not close the gap at this time, rather create a sanctuary expansion action plan to consider expanding the sanctuary over that area in the future, after offshore cables are built and can be certified by NOAA as an acceptable, existing use.

Response: NOAA agrees with the premise of the comment and has included a new Boundary Adjustment Action Plan in the final management plan for the proposed sanctuary.

Support for Different Alternatives and Sub-Alternatives in the EIS

Comment BO-6: NOAA should include the Gaviota Coast Extension (Sub-Alternative 5b) in the final sanctuary boundary because of important biological and cultural resources, and the value that area holds for coastal recreation.

Response: The boundary for the Final Preferred Alternative includes the Gaviota Coast Extension (Sub-Alternative 5b). The EIS recognizes that there are important resources in this area that would benefit from sanctuary protection, such as biological resources, cultural resources, and coastal recreation.

Comment BO-7: NOAA should include Morro Bay Estuary (Sub-Alternative 5a) in the final sanctuary boundary as it is important to Indigenous communities and is an important part of the overall ecosystem.

Response: At this time, NOAA is not including the Morro Bay Estuary within the sanctuary, and would consider if future sanctuary protection of the estuary is warranted as part of the new Boundary Adjustment Action Plan. NOAA is open to considering a future boundary expansion to include the Morro Bay Estuary through a separate process under Section 304 of the NMSA.

Comment BO-8: The final boundary for the sanctuary should be the Initial Boundary Alternative plus both sub-alternatives (Sub-Alternative 5a - Morro Bay Estuary and Sub-Alternative 5b - Gaviota Coast Extension), because the largest possible area is the best sanctuary design.

Response: NOAA's Final Preferred Alternative does not include the area and resources analyzed in the Initial Boundary Alternative for reasons explained in the response to comment BO-1. The Phase 2 consideration of potential expanded sanctuary boundaries and protections could occur through actions envisioned in the new Boundary Adjustment Action Plan. The Final Preferred Alternative includes the Gaviota Coast Extension, Sub-Alternative 5b.

Comment BO-9: Any final boundary needs to include the deep water portions removed by alternatives 1, 2, and 4, because that area is a newly-discovered ecological hotspot, is important to bird species, and may hold important seafloor habitats not yet discovered.

Response: NOAA considered the inclusion of these areas in the Initial Boundary Alternative. The Final Preferred Alternative for the sanctuary does not include the area west of the Santa Lucia Bank, beyond approximately 60 miles from shore. NOAA fully considered existing

resource information for this area. The public comments did not provide substantial new information about why that area should be included in the final sanctuary boundary relative to the reasons NOAA provided for excluding it in Section 5.4.9 in the draft EIS. NOAA still has concerns about the extra management burden without existing evidence regarding clearly nationally-significant natural or maritime heritage resources in the area. Data are also unclear as to the threats to resources in this area and NOAA lacks information that would support why a sanctuary designation is the proper management tool to protect these resources. As outlined in the new Boundary Adjustment Action Plan in the final management plan, if new data demonstrate that significant living marine, submerged maritime heritage and/or cultural resources in this area would benefit from sanctuary protections, NOAA could consider a boundary expansion in the future. See also the response to comment BR-5.

Comment BO-10: NOAA should designate the Agency-Preferred Alternative in the final sanctuary action because it offers the best balance to multiple uses including conservation.

Response: While NOAA agrees that the Agency-Preferred Alternative from the draft EIS provided balance to the multiple and competing uses in the area, for reasons explained in response to comment BO-1 above, NOAA has identified the Final Preferred Alternative to best meet the competing demands in this area. It would include less area in the new sanctuary but NOAA has committed to initiating a process to consider expanding the sanctuary boundaries in the future.

Boundary Exclusions to Benefit Offshore Wind Development

Comment BO-11: NOAA should designate a smaller sanctuary to allow the offshore wind industry to connect subsea electrical transmission cables to DCP (and Morro Bay) without passing through the new sanctuary. If that does not provide ample space for the cables given industry standards for distance at three times the water depth, adopt the boundaries from Alternative 4.

Response: NOAA understands that the draft EIS Agency-Preferred Alternative would not achieve the industry's goal to plan, route, and build cables that avoid sanctuary waters and the need to get a sanctuary permit. The Final Preferred Alternative provides that additional space sought by the three leaseholders outside of sanctuary boundaries for the reasons explained in the response to comment BO-1. See also the response to various comments in the offshore wind energy development section of the response to comments, including comments OW-14 and OW-16.

Comment BO-12: NOAA should create an exclusion zone around the [proposed CADEMO Offshore Wind Energy Development Project](#) in state waters near Point Arguello to treat wind projects in federal and state waters consistently.

Response: As explained in the response to comment OW-34, the reasons for excluding wind project leases from federal waters of the sanctuary boundary do not apply to offshore wind development projects in state waters. The response to comment OW-34 further explains why NOAA is not adopting the particular requests made by CADEMO that it be given special regulatory exceptions or boundary exclusions for developing its project. NOAA's proposed final regulations for the proposed sanctuary treat all offshore wind projects consistently. All projects

that have actions or propose activities that violate a sanctuary prohibition would not be able to proceed without a sanctuary general permit or an ONMS authorization of a valid federal, state, or local government permit or lease.

Comment BO-13: The final action should be Alternative 3 to allow additional offshore wind development and more open access to Diablo Canyon (both the offshore Diablo Canyon Call Area and the grid connection at DCPD), yet still protect a large area.

Response: NOAA agrees that Alternative 3 (as modified, see final EIS Section 3.5.1) would protect a relatively large area while still allowing additional offshore wind development at the Diablo Canyon Call Area (see final EIS Section 4.7.1 and Figure 4.7-1) as well as wind energy transmission cable routing outside the sanctuary to grid connections at DCPD. Alternative 3 would be expected to require some wind energy transmission cable routing from the Morro Bay lease areas through the sanctuary to shore. For reasons detailed in the response to comment BO-1, Morro Bay Wind Energy Area leaseholders expressed persistent concerns that existing sanctuary permitting procedures could jeopardize their ability to obtain financing for subsea cable development, and therefore sought to avoid the introduction of any permitting risk. Alternative 4 (as modified, see final EIS Section 3.6.1) is the only alternative analyzed that would not require cable routing from the Morro Bay lease areas through the sanctuary to shore under any reasonably foreseeable development scenario. NOAA's identified Final Preferred Alternative reflects the need to increase protection of the ecological, historical, and cultural qualities of the Central California coastal marine environment, while considering the current and potential future development needs within the study area.

Boundary Exclusions to Benefit Harbors

Comment BO-14: NOAA should create an exclusion zone for the existing harbor area off Vandenberg Space Force Base (VSFB) so that the military's current harbor-related activities are not within the sanctuary.

Response: NOAA's intent is to exclude existing coastal harbors from the boundaries of the sanctuary in recognition that there can be numerous activities and structures necessary within a harbor that may otherwise be inconsistent with a national marine sanctuary and are best managed by local authorities. The Initial Boundary Alternative in the draft EIS excluded three harbors—Morro Bay, the private marina at DCPD, and all of Port San Luis. It should have also excluded an area that contains the existing harbor activities at VSFB. The analysis of all alternatives in the final EIS and the boundary for the Final Preferred Alternative excludes this small area from the sanctuary (see final EIS Figure 3-3). This is a technical correction that is consistent with the purposes and goals of the draft designation materials. This change is also a minor variation of the boundary alternatives previously presented, the impacts of which are encompassed in the scope of alternatives in the draft EIS, and is thus qualitatively within the spectrum of alternatives assessed in the draft EIS. Based on this information, NOAA has determined that there are no substantial changes to the proposed action that are relevant to environmental concerns, nor are there significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. As such, preparation of a supplemental EIS is not required for this minor change. See final EIS Section 4.9 for more information.

Comment BO-15: NOAA should exclude additional waters and coastline beyond existing harbors at VSFB, Port San Luis, and the private marina at DCP, to allow for future, as-yet undefined, expansion of those harbors without requiring a sanctuary permit.

Response: NOAA's Final Preferred Alternative excludes existing harbors (i.e., harbors at VSFB and Port San Luis), as noted in response to comment BO-14. Note that the waters off Morro Bay Harbor and DCP marina are not included in the proposed sanctuary under the Final Preferred Alternative. Although NOAA considered larger exclusion areas beyond public and private harbors, NOAA is not adopting any additional harbor exclusion areas. NOAA is not aware of expansion plan details at this time, but in the future could evaluate projects for potential permit issuance. See also response to comment BO-16.

Comment BO-16: NOAA should reconsider an alternative that it rejected that would have created buffer zones around the harbors and along their shorelines so that harbor-related activities would not occur within the sanctuary.

Response: As explained in the draft EIS, NOAA considered but eliminated from detailed study the request for large exclusion zones around the two main public harbors in the study area—Morro Bay and Port San Luis (see EIS Section 3.9.6). None of the facts have changed related to consideration of exclusion areas for those harbors. In the Final Preferred Alternative, NOAA is excluding all waters and the submerged lands that fall within the two existing harbors along this stretch of coast (Port San Luis and VSFB). Note the waters off Morro Bay Harbor and DCP marina are not part of the Final Preferred Alternative. Activities that occur within the harbors are not affected by sanctuary regulations (with limited exceptions, e.g., the “enter and injure” element of the discharge regulation could be relevant if, for instance, a hazardous discharge originated within a harbor and flowed beyond the harbor into the sanctuary and injured resources). Further, all existing dredge material disposal sites authorized by the U.S. Environmental Protection Agency (USEPA) are being excepted by regulation (see 15 C.F.R. 922.232(a)(2)(i)(G)); presently NOAA is only aware of dredge material disposal sites offshore Morro Bay that would meet this regulatory exception; but as noted above, the waters off Morro Bay Harbor are not included in the Final Preferred Alternative. Other regulations have exceptions for activities that are often commonplace in a sanctuary near a harbor, such as: maintenance dredging of harbor entrance channels; anchoring a vessel; installing or maintaining an authorized navigational aid; discharging fish or fish parts during the conduct of lawful fishing activities. NOAA believes that the final boundary and the regulations, with appropriate exceptions, accommodate existing harbor activities and this alternative is not necessary. See also response to comment BO-27.

Comment BO-17: NOAA should exclude the entire area of the state tidelands granted to Port San Luis Harbor District (along the shoreline from Point San Luis to approximately South Palisades Park in Shell Beach to three miles offshore). The Harbor District has authority for uses of the submerged lands within this area and applying sanctuary regulations would create an unnecessary redundancy.

Response: NOAA has already excluded from the sanctuary a very large area within (shoreward of) the COLREGS (International Regulations for Preventing Collisions at Sea) demarcation line for Port San Luis, approximately 1.6 square miles under the Initial Boundary Alternative,

alternatives 1–4, and the Final Preferred Alternative. No specific plans or development proposals have been provided to NOAA to indicate that the sanctuary’s overlapping state tidelands granted to Port San Luis Harbor District would create conflicts. The state of California has granted certain state tidelands to various locally-organized harbor districts for the purposes of creating public access for commercial or recreational activities through harbor facilities. The state’s mandate for use of these areas is not concentrated on resource conservation, research and monitoring, education and outreach, and the other various mandates Congress has established for the National Marine Sanctuary System. Thus, the regulations and other sanctuary management programs that NOAA could pursue in these waters are not redundant with the purpose of the waters and state tidelands granted to Port San Luis Harbor District by the state. See also response to comment BO-27.

Additional Coastal Boundary Exclusions

Comment BO-18: NOAA should designate the final boundary for the sanctuary with an exclusion zone along the coast of Pismo Beach, out to two miles offshore.

Response: NOAA considered but did not conduct a detailed analysis of this alternative because there was inadequate justification as to why a separate, special exclusion area was needed for the coastal waters and submerged lands off the city of Pismo Beach. In the absence of such justification, this broad exclusion would not meet the purpose and need of the sanctuary (see EIS Section 3.9.6). Note that NOAA has included a regulatory exception for any disturbance of the submerged lands that might occur due to repair and maintenance of any existing pier or dock in the sanctuary (see 15 C.F.R. 922.232(a)(3)(iv)), so any repair and maintenance of the Pismo Pier would not require a permit review by the sanctuary. Many national marine sanctuaries include the waters and submerged lands offshore of coastal cities and have developed numerous successful collaborative programs with those local governments. For example, the Water Quality Action Plan for CHNMS includes strategies, modeled off similar successful programs in MBNMS, that showcase collaboration with cities and other municipalities to help ensure healthy and safe marine water quality for public enjoyment and for marine species such as those caught by recreational fishermen. See also response to comment BO-27.

Comment BO-19: NOAA should designate an exclusion zone in the final sanctuary boundary for the area off Oceano Dunes State Vehicular Recreation Area (SVRA), and should not extend sanctuary regulations to the SVRA. Concerns were expressed about the sanctuary resulting in restrictions on recreational vehicle use on the beach within the SVRA.

Response: No exclusion area for the Oceano Dunes SVRA is incorporated into the Initial Boundary Alternative, alternatives 1–4, or the Final Preferred Alternative. Operations at this area below the mean high tide line, and thus within the sanctuary, are authorized by a California Coastal Commission (CCC) coastal development permit, which NOAA can certify and, in effect, grandfather in (see 15 C.F.R. 922.234). Additional discussion of the Oceano Dunes SVRA has been incorporated into final EIS Section 4.6. See also responses to comments BO-27 and MP-80.

New, Smaller Boundary Alternatives

Comment BO-20: NOAA should designate a new "Alternative 6" limited to the shoreline boundary of Alternative 4 but only extending offshore to the 120-foot water depth, deep enough to include the likely location of paleoshorelines to concentrate the new sanctuary on coastal features important to local Indigenous Peoples.

Response: NOAA is not adopting this suggestion in the final sanctuary action because "Alternative 6" would not meet the purpose and need of designating a new sanctuary. The purpose and need includes not just protection and conservation of cultural heritage features, but also protection of ecological and ecosystem resources of the area. Note however that the Final Preferred Alternative adopts a portion of the request from this comment—the shoreline boundary is Alternative 4 (with a minor modification described in Section 3.5.1 of the final EIS), with the addition of the shoreline of Sub-Alternative 5b.

Comment BO-21: If NOAA does not designate Alternative 6 (requested in comment BO-20), it needs to designate Alternative 4, without either sub-alternative.

Response: See response to comment BO-1. The Final Preferred Alternative is relatively similar to Alternative 4, but it does include the Gaviota Coast extension (Sub-Alternative 5b) due to the significant resources that would be protected in that additional area, as well as a small area to more fully protect the Santa Lucia Bank that had been part of the Initial Boundary Alternative.

Comment BO-22: The proposed sanctuary boundary is too large. Just because cultural artifacts may exist somewhere within its broad borders does not seem to be a good use of taxpayer money. Significant cultural sites should first be identified and studied to determine if special protections are warranted, then a small sanctuary could be proposed to protect those unique and culturally historic sites.

Response: NOAA disagrees with the premise of the comment. The purposes of the sanctuary include much more than conservation of individual, submerged cultural sites. The EIS identifies other purposes, including conservation of nationally-significant ecological resources, protecting important physical oceanographic processes, promoting multiple uses of the sanctuary, conserving and studying historical shipwrecks, and creating a framework for ecosystem-based and community-based conservation. Nonetheless the Final Preferred Alternative does adopt largely the Combined Smallest Boundary, with several small additions included.

Comment BO-23: NOAA should adopt a boundary that excludes a much narrower corridor than the one proposed in boundary alternatives 2, 3, or 4 to allow for subsea electrical transmission lines from the Morro Bay Wind Energy Area to an appropriate onshore landing location. Additionally, provide further clarification in the EIS regarding how the 10-mile-wide corridor for the Agency-Preferred Alternative was chosen by NOAA or by the Bureau of Ocean Energy Management (BOEM).

Response: NOAA explains the reasons for the design of Alternative 2 in EIS Section 3.4 and the rationale for the "gap" area created by the Agency-Preferred Alternative in the draft EIS at Section 5.4.9. However, the response to comment BO-1 and the final EIS further explain that NOAA identified a Final Preferred Alternative that would allow for cables to be permitted and

built between offshore Morro Bay lease areas and shore without passing through the sanctuary. See response to comment BO-1 for a full explanation of NOAA's reasons for identifying the Final Preferred Alternative. This required a wider, not a narrow, gap as suggested by the comment. NOAA addresses the need to accommodate subsea electrical transmission lines in responses to comments OW-1, OW-7, and BO-1.

Miscellaneous Boundary Comments

Comment BO-24: NOAA should include all of the waters between Gaviota and the Channel Islands in the final sanctuary boundary.

Response: In Section 3.9.1 of the final EIS, NOAA explains that it considered but eliminated this alternative from further study because it would expand the sanctuary beyond its initial intent—to protect the coastal and marine resources of Central California—and into a different ecological unit located in and adjacent to the Channel Islands.

Comment BO-25: NOAA has not provided adequate justification as to why the new sanctuary needs to be contiguous with the western end of Channel Islands National Marine Sanctuary (CINMS).

Response: The originally-proposed boundary and the purpose of the sanctuary itself is to designate an area that can be managed as an ecosystem unit. The west end of San Miguel Island, the westernmost of the northern Channel Islands, has ecological features that more closely reflect those species located in Central California. Having a contiguous boundary between the proposed sanctuary and CINMS (and MBNMS and the proposed sanctuary) was a principle goal of the proposed sanctuary in order to ensure ecosystem connectivity and consistent conservation of the resources of the marine ecosystem. Nonetheless, while designation of the Final Preferred Alternative in this important coastal area would not achieve this interconnected vision, NOAA anticipates evaluating the benefits of full interconnected ecosystem units as part of Phase 2 review and consideration of future options for sanctuary protection of this area. See Section 5.4.9 of the final EIS for further discussion of this issue and the new Boundary Adjustment Action Plan in the final management plan.

Comment BO-26: NOAA's analysis has not adequately considered how the gap left by the Agency-Preferred Alternative will induce growth within the gap, beyond both CHNMS and MBNMS boundaries, and lead to the concentration of related and diverse offshore activities that could harm resources, such as pipelines for ammonia and hydrogen or oil and gas exploration and development.

Response: NOAA believes that the draft and final EIS provide sufficient explanation of what was known and what could be reasonably foreseen, rather than what might have been speculated, about future growth in the area that would have been excluded from the sanctuary's boundary. Nonetheless, the future Phase 2 process could consider the threats posed to any nationally-significant resources in the area beyond the sanctuary boundary and to recommend steps to protect those resources.

Comment BO-27: Special boundary exclusions should be minimized, as they will distract from NOAA's ability to manage the whole of the ecosystem and result in adjacent development that can harm sanctuary resources.

Response: Largely, NOAA agrees with the comment. Numerous small, special exclusions within a sanctuary for different purposes and needs could create significant challenges managing the ecosystem as a whole and could complicate enforcement. This practice generally is avoided in national marine sanctuaries. To aid overall management, the Final Preferred Alternative does not have small inclusion or exclusion areas that were recommended in other comments, other than the existing coastal harbors, as has been the practice for many other national marine sanctuaries. These areas are excluded in recognition that there can be numerous activities and structures necessary within a harbor that may otherwise be inconsistent with a national marine sanctuary and are best managed by local authorities.

Comment BO-28: As suggested in scoping comments, NOAA should consider a more narrowly defined boundary alternative and geographically-restricted sites tied to specific natural and cultural resources, such as with Monitor National Marine Sanctuary.

Response: The boundary of Monitor National Marine Sanctuary concentrates sanctuary management on a single shipwreck, the USS *Monitor*. In contrast, CHNMS is intended to conserve a vast, diverse, interconnected ecological system and protect numerous important cultural and maritime resource sites, as described in detail in Chapter 3 and 4 of the final EIS. Because of the wide array of resources throughout the sanctuary, creating boundaries around individual resources is not feasible and would not achieve the purpose and need or objectives of the sanctuary. Moreover, it would lead to patchwork conservation of pieces, but not total, ecosystem components, making genuine conservation difficult if not impossible to achieve.

Purpose and Need for Proposed Sanctuary

Comment PN-1: NOAA should analyze the impacts from current and future uses on sanctuary resources (e.g., offshore wind development; vessel impacts on whales, sea otters).

Response: As described in EIS Section 1.4, the purpose of the EIS is to assess the potential impacts of designating the sanctuary on the human environment, not assessing impacts of other uses, threats, and activities. The EIS specifically evaluates how implementing the proposed sanctuary boundaries, regulations, and management plan could affect the environment. NOAA has considered the potential for the effects of the proposed action to combine with past, present, or reasonably foreseeable future actions, and has analyzed the potential for these cumulative effects (see Section 4.10). A detailed assessment of the impacts of other actions and activities (e.g., offshore wind, vessel traffic, climate change, oil and gas operations, commercial fishing) on the environment is outside the scope of this EIS analysis. Where appropriate and reasonably foreseeable, NOAA considered indirect impacts of other ocean uses and activities on the environment within the context of designating the sanctuary; see Chapter 4 of the EIS.

Justification for Sanctuary Designation

Comment PN-2: NOAA should provide more justification for the sanctuary designation, including: specific requests and documentation of the benefits of the sanctuary to the federal

government; documentation of consistency with designation criteria; and justification for the national significance of resources throughout the geographic extent of the sanctuary.

Response: NOAA documented the anticipated beneficial impacts of the proposed sanctuary on the appropriate resources and sectors in Chapter 4 of the EIS. Regarding documentation of the designation criteria, NOAA has determined that the sanctuary would effectively manage and conserve nationally-significant biological, ecological, physical, cultural, etc. resources consistent with NOAA's mandate under the NMSA. In particular, Chapter 2 of the EIS describes the national significance of the resources in the sanctuary area, with reference to the national significance criteria that NOAA applied in considering the nomination of CHNMS. Further discussion of the nationally significant resources in the Initial Boundary Alternative (in other words, the full geographic extent of the area considered for sanctuary designation) is contained throughout Chapter 4. NOAA's documentation of the affected environment demonstrates the presence and importance of nationally-significant resources throughout the Initial Boundary Alternative. As explained in the EIS, an assessment and basis for why the proposed sanctuary meets the designation standards and factors is discussed throughout the EIS; in particular, see chapters 2 and 3 and Appendix E.1.

While current technical/scientific/cultural surveys do not permit the level of mapping detail requested by one commenter at this time, it is also not necessary to generate this information and not required by the NMSA or NEPA. NOAA has extensively demonstrated the national significance of resources throughout the area. The entirety of the area supports ecosystem connectivity necessary for the health of the biological resources, and NOAA has learned from Tribes and Indigenous groups about the cultural significance throughout the area.

Comment PN-3: NOAA has not clearly demonstrated the need for the proposed sanctuary; under the Agency-Preferred Alternative, NOAA identifies less than significant beneficial impacts for many resource areas (e.g., biological, cultural heritage, socioeconomics).

Response: NOAA believes that the Agency-Preferred Alternative in the draft EIS, and the Final Preferred Alternative in the final EIS, have met the purpose and need for the proposed sanctuary. While some of the beneficial impacts would be less than significant under the Final Preferred Alternative, this boundary alternative remains consistent with the purpose and need for the sanctuary by providing resource protection and coordinated management of nationally-significant resources while managing for compatible uses. There is no requirement in NEPA or the NMSA that NOAA may only identify a preferred alternative if that alternative would have significant beneficial impacts. Additional reasoning for the Final Preferred Alternative is provided in EIS Section 5.4.9. Also, see response to comment BO-1.

Comment PN-4: The sanctuary should be a minimal size to meet its intended purpose and need. NOAA should provide clarification regarding the smallest size for a proposed sanctuary.

Response: In accordance with the NMSA and NEPA, NOAA identified a reasonable range of boundary alternatives for the proposed sanctuary in the EIS (see EIS Chapter 3), where Alternative 4, Combined Smallest Boundary, was the smallest area considered for the proposed sanctuary. NOAA believes Alternative 4 (with the minor modification described in Section 3.5 of the final EIS) would be the minimal size to meet the purpose and need of this sanctuary.

designation; however, not all national marine sanctuaries have the same purposes and/or goals and objectives, so the smallest size would vary among national marine sanctuaries. See also responses to comments BO-1 and BO-20 through BO-22.

Comment PN-5: NOAA has not sufficiently explained why it identified the combination of Alternative 2 and Sub-Alternative 5b as its Agency-Preferred Alternative. In its Notice of Proposed Rulemaking, NOAA explained it “considered which boundary alternatives NOAA could effectively manage while allowing for compatible uses and providing increased protection and conservation for sanctuary resources.” However, NOAA did not explain how this goal could NOT have been accomplished under other alternatives.

Response: In the response to comment BO-1, NOAA explained why it identified the Final Preferred Alternative as the best option to balance effective management, compatible uses, and increased protection of sanctuary resources. In the EIS, other alternatives were each described and compared, with beneficial and adverse impacts estimated. See, in particular, Chapter 5 of the EIS, which contains a summary table depicting the levels of beneficial and/or adverse impacts for each alternative. NOAA’s identification of the Agency-Preferred Alternative in the draft EIS, and identification of the Final Preferred Alternative in the final EIS, was not driven by eliminating all other alternatives from consideration based on a complete failure to contribute toward sanctuary goals. Each alternative analyzed has some benefits to offer but as the final EIS explains, the Final Preferred Alternative was assessed to optimize the factors considered, including the extent of benefits expected, the manageability of the spatial area, range of human uses to be managed, and needs for increased protection of resources. In the final EIS, NOAA describes justification for identification of the Final Preferred Alternative in Section 5.4.9. The response to comment BO-1 also provides NOAA’s explanation for its identification.

Comment PN-6: NOAA does not “manage” ecological resources. It does try to manage and control the human use of natural resources. From an Indigenous perspective, human beings are irrevocably connected to ecosystems.

Response: NOAA agrees and shares the perspective that human beings are connected to and part of the ecosystem. Although the NMSA provides authority for “comprehensive and coordinated management of these marine areas,” 16 U.S.C. 1431(b)(2), and although NOAA’s sanctuary designation materials refer to management of sanctuaries and their resources, NOAA’s interpretation of this language is not that NOAA intends to directly manage the marine ecosystem, but rather, as raised by the comment, NOAA intends to contribute to management of human activities that interact with the sanctuary. NOAA looks forward to working with Indigenous Peoples and learning from their understanding of reciprocal relationships between humans and nature.

Comment PN-7: It is disappointing that the sanctuary will not be included in the state’s 30x30 goals at this time. This needs to be fixed by designation.

Response: NOAA coordinated with the state of California on the proposed sanctuary designation, and would continue to do so once the sanctuary is designated. NOAA has communicated to the state the many benefits of the proposed sanctuary and its alignment with the Biden-Harris Administration’s national goal to conserve 30% of the nation’s lands and

waters by 2030. Ultimately, however, it is up to the state of California whether or not to include the sanctuary as helping achieve their goals under the Biden-Harris Administration’s [Conserving and Restoring America the Beautiful](#) initiative (known as “30x30”).

Comment PN-8: The proposed sanctuary would not provide unique conservation as MBNMS borders the proposed area to the north and CINMS is to the south of the proposed area.

Response: NOAA disagrees with this comment. A sanctuary located along and offshore of California’s central coast would provide coordinated conservation and management for nationally-significant resources and habitats that do not occur in the other California national marine sanctuaries, such as Rodriguez Seamount, or on the scale and scope of the Santa Lucia Bank. The boundary for the Final Preferred Alternative encompasses a unique and biodiverse ecological transition zone (see EIS sections 4.2 and 4.3 for more information on the environmental characteristics of the area). The CHNMS designation also protects nationally-significant shipwrecks located in this area, such as the *Yankee Blade*. It also would focus attention on Chumash and Salinan cultures and their reliance on the coastal and marine resources of this particular area.

Need for Spatial Planning Process

Comment PN-9: NOAA should have conducted a transparent spatial planning process to analyze the current and anticipated uses in the area; a coastal and marine spatial plan for these marine resources should be developed.

Response: NOAA used the best available existing data and resources to evaluate the spatial boundary alternatives.

Sanctuary Designation Process

Community Involvement in the Designation Process

Comment DP-1: The Chumash People should be more heavily involved in the sanctuary designation process.

Response: NOAA has engaged, consulted, and worked directly with Tribes and Indigenous communities throughout the designation process. Concurrent with release of the November 2021 Notice of Intent, NOAA commenced government-to-government consultation, in accordance with Executive Order (E.O.) 13175, with the Santa Ynez Band of Chumash Indians. Through this ongoing consultation process, NOAA has engaged the Santa Ynez Band of Chumash Indians directly in the designation process.

Moreover, following the 2021 Notice of Intent, NOAA began engagement with all local Chumash and Salinan Tribes and Indigenous communities. Their input was considered in the draft designation documents, in particular, for development of the Indigenous Collaborative Co-Stewardship Framework. With publication of the draft designation documents, NOAA re-engaged with all interested Tribal and Indigenous communities through National Historic Preservation Act (NHPA) Section 106 consultations. NHPA Section 106 consultation details are provided in final EIS Appendix E. Also see the response to comment TI-35.

Comment DP-2: NOAA should have involved fishermen in the designation process in addition to a committee of locals advising on this project.

Response: NOAA considered input from all individuals, local organizations, industries, etc. who provided public scoping comments on the 2021 Notice of Intent and public comments on the draft designation documents. Comments from fishermen and the local community were considered equally along with all other comments to inform the designation process. Moreover, NOAA conducted NMSA Section 304(a)(5) consultation with the Pacific Fisheries Management Council (PFMC), and gave presentations on the designation to interested fishing groups, including the PFMC and its advisory bodies. Please refer to Appendix E.1 of the draft EIS for more information on NOAA’s consultations with entities including the PFMC. For other fishing-related comments/responses, see the fishing and aquaculture section of this Appendix.

Comment DP-3: NOAA should use a voter-approved democratic review process rather than an exclusionary approach.

Response: NOAA followed the designation processes and procedures as required pursuant to the NMSA and NEPA, both of which require an inclusive, participatory approach. For more detail regarding the public engagement process, see final EIS Section 1.3.1 and Section 1.3.2.

Comment DP-4: NOAA should notify the Secretary of Commerce, the California governor, the White House, and the public that the proposed marine sanctuary was not “Indigenous proposed,” as has publicly been stated.

Response: The NOAA-accepted 2015 sanctuary nomination was developed by a community coalition, which included the Northern Chumash Tribal Council and other non-governmental organizations, based on the established sanctuary nomination criteria. The offices of the officials mentioned in this comment were made aware of the origins of the sanctuary nomination. As explained in the response to comment TI-1, NOAA does not have the authority to settle claims or disputes concerning Tribal ancestry or representation. For more information on the sanctuary nomination process, see nominate.noaa.gov and Chapter 1 of the final EIS.

Comment DP-5: The public process required to change a sanctuary designation document should be strengthened and should include concurrence from local agencies and the member(s) of Congress from district(s) adjoining the sanctuary.

Response: NOAA conducts the public process for sanctuary designations pursuant to the NMSA and other statutes. Any changes to statute would require an act of Congress.

Pause Designation Process

Comment DP-6: The draft designation documents must be paused to work with the Indigenous community and public officials and stakeholders, to assure that the sanctuary is well grounded. It is clear from public testimony that there is dissension centering around who is authentically positioned to represent Tribal interests and goals, which NOAA must resolve. The draft management plan and EIS suffer, therefore, from substantial uncertainty, and must be re-written and submitted for public comment.

Response: NOAA disagrees that the designation process needs to be paused. NOAA believes that it has fairly considered community, Tribal government, Indigenous community, and stakeholder input through extensive consultations, meetings, and discussions about sanctuary designation, and that draft designation documents and process steps have complied with applicable laws and policies including the NMSA, NEPA, Administrative Procedure Act, E.O. 13175, and Section 106 of the NHPA. NOAA does not have the authority to settle claims or disputes concerning Tribal ancestry authenticity. The specific issue of dissention concerning Indigenous community representation is addressed in the response to comment TI-1.

NEPA Compliance

Comment DP-7: NOAA has violated the processes required by NEPA because scoping comments were not addressed, including those related to fiber optic cables.

Response: NOAA believes it has fully complied with NEPA requirements and regulations promulgated by the Council on Environmental Quality (Section 1506.6(c)). It considered all relevant scoping comments submitted pursuant to the 2021 Notice of Intent. See Section 3.11 for a summary of submitted alternatives, information, and analysis received during the scoping process and the draft EIS public comment process.

Regarding information pertaining to fiber optic cables, NOAA has included in the final EIS (Section 4.6), a summary of information and analyses that reflects all of the substantive information provided by commenters. NOAA has also incorporated information provided by commenters on submarine telecommunication cable impacts and has provided impacts conclusions for submarine telecommunication cables in final EIS Section 4.6. NOAA does not anticipate any significant impacts on telecommunication and fiber optic cables and does not consider the overall impact on socioeconomics, human uses, and environmental justice to be significantly different in manner or extent from those already considered in the draft EIS. Any adverse impacts on telecommunication companies would be negligible to minor. See Section 4.6 of the final EIS for more information.

NOAA has also added to final EIS Section 3.9.4, to provide a more detailed explanation of why an alternative boundary that excluded all submarine telecommunication cables was not carried forward for detailed analysis.

See also responses to comments FC-1, FC-3, and FC-4, FC-5, FC-7, and FC-8.

Comment DP-8: The effects analysis is not NEPA sufficient (40 C.F.R. 1500) to adequately compare between alternatives. The description of the effects is vague, only qualitative, and is inadequate for an informed decision.

Response: NOAA disagrees. EIS Section 5.4 provides a comparison of alternatives that satisfies NEPA and its implementing regulations (40 C.F.R. Parts 1500-1508). NEPA does not require a quantitative analysis to compare alternatives. NOAA believes that the analysis is sufficient and will present its decision, as required under NEPA implementing regulations, when issuing any Record of Decision (40 C.F.R. § 1505.2).

Comment DP-9: The draft EIS fails to distinguish and document regulatory benefits by way of additional protection or management that the proposed designation will bring that is not

already provided by numerous, strong, enforced, local, state, and federal laws. National marine sanctuary designation brings very little benefits to the region as enhanced, protective management.

Response: NOAA disagrees. In Chapter 4 of the EIS, NOAA documents significant and moderate beneficial impacts on many resource areas as a result of this proposed action; also see EIS Table 5-1. Regarding overlapping authorities and justification for the sanctuary designation, see responses to comments RP-4, RP-5, and responses to comments in the purpose and need section. See also Section 2.2.1 of the final EIS, which describes how NOAA's management of CHNMS would complement and supplement existing federal and state authorities.

Comment DP-10: The EIS should include evaluation of regulations and/or management activities that address the following list of threats: climate change, offshore renewable energy, desalination, recreation and tourism, commercial shipping, military activities, introduced species, whale entanglement, platform decommissioning, aquaculture, harmful algal blooms, and additional pertinent threats.

Response: Many of the activities specifically listed in the comment—such as offshore renewable energy, introduction of an introduced species, oil and gas facility decommissioning and removal, and discharges from a desalination plant—would be subjected to regulatory prohibitions. The regulations also explain how many of these activities could be approved with a sanctuary permit and how existing activities (at the time of sanctuary designation) otherwise prohibited could be approved with a certification of an underlying permit, lease, or license. The impact of implementing these regulations on different elements of the natural and human environment are fully assessed in the EIS in Chapter 4. Some of the threats listed in the comment are more difficult to directly prohibit or manage, such as climate change and harmful algal blooms, but some regulations and more importantly many of the non-regulatory activities in the final management plan indicate how the sanctuary can begin to address these more diffuse yet critical threats. In EIS Chapter 2, NOAA identifies the purpose and need for the proposed action, which includes a brief summary of the threats that were evaluated.

Comment DP-11: The draft EIS statement in Section 5.4 is inaccurate: “Since all the impact analysis in this draft EIS is necessarily qualitative, specifying precise differences among the Initial Boundary Alternative and other action alternatives is even more difficult.” The EIS is a virtual litany of the losses that will be incurred, with resulting impacts readily inferred, if NOAA does not adopt the Initial Boundary Alternative. That inventory is precise.

Response: EIS Section 5.4 provides a qualitative comparison across alternatives because there is not enough quantitative information to estimate the differences among alternatives quantitatively. NOAA agrees that there are considerable differences in impacts among alternatives. For information on NOAA's identification of a Final Boundary Alternative, see response to comment BO-1.

Comment DP-12: The EIS should include an analysis of the cumulative spatial impact of national marine sanctuaries off the coast of California for other valuable purposes such as offshore wind and kinetic marine energy.

Response: The subsection on offshore energy in EIS Section 4.10.3: Description of Cumulative Impacts acknowledges that designation of CHNMS would contribute to a cumulative adverse but not significant impact on offshore renewable energy development because of limitations national marine sanctuaries impose in federal waters on new offshore wind farm development.

Comment DP-13: In draft EIS Section 5.4.8 (No Project Alternative), why is it assumed that BOEM would not recognize and implement actions to limit or mitigate adverse impacts on upwelling and only the proposed sanctuary can?

Response: The assumptions inherent in the study NOAA references assume BOEM approves wind development at both the Morro Bay Wind Energy Area and Diablo Canyon Call Area. However, NOAA has not speculated on actions that BOEM may or may not pursue in the future to mitigate possible negative environmental impacts from offshore wind energy development. In Section 5.4.8, NOAA explains that the No Action Alternative would result in the project area not being subjected to the sanctuary regulations that would apply under the action alternatives.

Comment DP-14: In Appendix F: Relevant Federal and State Statutes, add California Assembly Bill 525 and the federal Fish and Wildlife Conservation Act.

Response: NOAA has added California Assembly Bill 525 and the federal Fish and Wildlife Conservation Act to Appendix F.

Comment DP-15: Section 3.9.7 of the draft EIS should be rewritten in a professional style that is consistent with the other sections of the EIS.

Response: NOAA has updated the format and style of this section to be consistent with other sections of the document.

Regulations and Permitting

General Requests to Strengthen Regulations

Comment RP-1: Stronger regulations should be adopted including restrictions on fishing, speed limits for ships, designating areas to be avoided (ATBAs), regulation of recreational activities, imposing a requirement to decommission and dismantle all offshore energy platforms and turbines, and removing exceptions for existing oil and gas production. Providing exceptions or exemptions would increase the risk of damage to the marine environment. The proposed regulations are not strong enough to meet the purposes of the NMSA or the need for the proposed sanctuary, and activities which could be harmful to the sanctuary should not be granted permits.

Response: Under the NMSA, a purpose and policy of sanctuaries is to “facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities” (16 U.S.C. 1431(b)(6)). NOAA believes that the regulations effectively balance resource protection goals while allowing for compatible uses in the sanctuary, and therefore, the regulations meet the purpose and need of the sanctuary. Once designated, NOAA will monitor and evaluate threats to sanctuary resources and consider, where appropriate, the need to propose additional regulatory actions. The management plan identifies many non-regulatory, programmatic measures (e.g.,

voluntary vessel speed reduction) whereby NOAA would address threats to sanctuary resources. See topic-specific comments and responses (e.g., fishing, oil, and gas) for additional details regarding specific regulations.

Regarding decommissioning of oil and gas platforms, NOAA's regulations would accommodate the processes and requirements of the state and of the Bureau of Safety and Environmental Enforcement (BSEE) (see response to comment OG-15). Although the regulations prohibit abandoning structures on the submerged lands of the sanctuary, as well as other activities that could occur during and after decommissioning, NOAA could issue permits, authorizations, or certifications (as appropriate) to enable the removal and/or disposal, in a manner compatible with the sanctuary's purposes, of structures related to oil and gas development. Regarding offshore wind turbines, BOEM, BSEE, or California state requirements may govern decommissioning and removal, and NOAA would also, in reviewing any permit proposals for such structures, consider terms and conditions reasonably necessary to protect sanctuary resources (see responses to comments RP-2 and RP-11).

See Section 3.9.7 of the final EIS for NOAA's explanation on why the regulations do not address issues regarding fishing restrictions, vessel speed limits, designating ATBAs, and regulation of recreational activities.

Comment RP-2: The NMSA requires ONMS staff to use the best available science, peer reviewed information, and risk-based analysis when determining permit conditions.

Response: NOAA's consideration of permit issuance is guided by the NMSA and detailed regulatory requirements and criteria (see 15 C.F.R. 922 Subpart D). Permit conditions for specific projects will be based on NOAA's consideration of relevant available science, peer reviewed information, and a risk-based analysis.

Comment RP-3: NOAA should not allow any development in the proposed sanctuary, and it and other relevant federal agencies must fully protect natural and cultural resources in the proposed sanctuary.

Response: The area of the proposed sanctuary encompasses many existing ocean-based uses, such as offshore oil and gas production and shipping. As called for in the NMSA, NOAA protects nationally-significant marine resources while allowing for compatible uses. In addition, under the NMSA, the designation of a sanctuary may not terminate any valid lease, permit, license, or right of subsistence use or access that is in existence on the date of sanctuary designation, although NOAA may regulate such activities consistent with the purposes of the sanctuary designation (16 U.S.C. 1434(c)). With a long-term view on resource protection needs, the CHNMS regulations (see 15 C.F.R. 922.232) would provide strong protections for natural and cultural resources in the sanctuary, while considering practicalities associated with pre-existing structures and uses (e.g., submarine fiber optic cables), and with anticipation of potential future uses that would require permitting in alignment with sanctuary goals. In addition, the proposed regulations are largely modeled off of and consistent with regulations for other California national marine sanctuaries. NOAA therefore finds the Final Preferred Alternative consistent with the NMSA.

General Opposition to Proposed Regulations

Comment RP-4: The proposed regulations would unduly restrict access, exceed the appropriate degree of governmental control, and present burdensome requirements as they relate to working harbors and coastal uses.

Response: NOAA understands these concerns and has taken them into consideration. In development of the proposed sanctuary regulations, NOAA carefully considered the importance of continued public access, the use of non-regulatory approaches to achieve sanctuary goals, the feasibility of regulatory compliance for users, and the need to accommodate the operational needs of working harbors. The proposed final regulations (C.F.R. 922.232) do not include restrictions on public access in the sanctuary. To ensure that coastal uses and harbor activities adjacent to the sanctuary can continue to operate, NOAA is keeping sanctuary boundaries outside of harbors (see response to comment BO-14), and is enacting various regulatory exceptions for several harbor activities and coastal uses as well as permitting, authorization, and certification mechanisms for activities that would otherwise be prohibited (see Section 3.2.2 of the final EIS and 15 C.F.R. 922 Subpart D). See also response to comment RP-5.

Comment RP-5: The proposed regulations would duplicate other federal and state laws (e.g., Clean Water Act (CWA), California Environmental Quality Act), and duplicate authorities of other councils and government agencies (e.g., CCC, California State Lands Commission (CSLC), U.S. Army Corps of Engineers (USACE)). These overlapping authorities are burdensome, difficult for members of the public to understand, and a waste of governmental resources. Rather than adding layers of regulation, NOAA needs to coordinate and collaborate within the existing regulatory system. In addition, existing regulations are already enforced by the California Department of Fish and Wildlife (CDFW) and PFMC.

Response: In developing sanctuary regulations, NOAA carefully considers the role that existing state and federal laws and authorities play with relation to the sanctuary's purpose, including those listed in Appendix F of the EIS. NOAA is guided by the NMSA, which in Section 301(b)(2) states that one purpose of national marine sanctuaries is "to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities" (16 U.S.C. § 1433(a)(2)). Through successful coordinated management of CINMS, MBNMS, and Greater Farallones National Marine Sanctuary (GFNMS), NOAA has decades of experience implementing and refining sanctuary regulations that harmonize with and augment California state laws and jurisdictions, as well as federal laws and authorities. Further, the proposed regulations are largely modeled off of and consistent with regulations for other national marine sanctuaries in California.

NOAA looks forward to continued partnership with state and federal agencies to leverage resources and achieve greater resource management effectiveness and efficiencies. NOAA does not consider sanctuary regulations to be overly burdensome, and has provided several logical exceptions and permitting options to allow the continuation of activities that are compatible with the sanctuary's goals. Non-regulatory programs at CHNMS would be a central focus of how NOAA manages the new sanctuary, for instance various education and outreach initiatives to help the public understand and support the protections put in place for the new sanctuary (see

the Education and Outreach Action Plan in the final management plan). Also, see responses to comments GN-2 (opposition to sanctuary), GN-11, and WQ-9 (duplicative regulations), and final EIS Section 2.2.1. The final EIS Section 2.2.1 provides a detailed discussion of why a comprehensive management approach offered by national marine sanctuary designation is needed to protect the resources of this area, including specific examples of the sanctuary regulatory and non-regulatory programs that could help fill existing gaps in protection and management.

Comment RP-6: Shipwrecks do not need additional protections.

Response: NOAA believes that providing supplemental, coordinated management (consistent with the NMSA) of historical resources, including shipwrecks, will provide more comprehensive protection for these nationally-significant maritime heritage resources. Protection of shipwrecks under complementary statutes (e.g., NMSA and Sunken Military Craft Act) and programs are not mutually exclusive. Also, the state of California’s protection of shipwrecks only extends to 3 nautical miles from shore, while the federal protection provided by sanctuary regulations (see 15 C.F.R. 922.232(a)(4)) extends much further offshore, up to 60 miles (depending on the boundary alternative). See also Section 4.5.3 of the final EIS, which provides a detailed discussion of the beneficial impacts that sanctuary designation would provide for maritime heritage resources, stemming from additional regulatory protection to prevent harm to these resources, as well as improved coordination, research and monitoring, and enhancing community collaboration.

Comment RP-7: The proposed prohibition on drilling into or altering submerged lands should be removed.

Response: The seabed protection regulation (15 C.F.R. 922.232(a)(3)) would provide core protection to the sanctuary’s submerged lands. It is central to addressing known and future threats to sanctuary resources and thus to meeting the resource protection and management needs of the sanctuary. NOAA provides important exceptions to this prohibition, such as for conducting lawful fishing activities or kelp harvesting, anchoring a vessel, dredging entrance channels for existing harbors, and maintaining an existing dock, pier, breakwater, or jetty. For other activities, with some exceptions, that might disturb the seabed, NOAA may issue a permit to allow the activity to occur. For more information about sanctuary permits, see Section 3.2.2 of the final EIS and regulations at 15 C.F.R. 922 Subpart D. See also responses to comments OG-13 and OG-14.

Definitions

Comment RP-8: NOAA should define minerals consistent with the definition under the Outer Continental Shelf Lands Act (OCSLA).

Response: NOAA declines to change the definition of minerals through this action. The NMSA general regulations at 15 C.F.R. 922.11, which would apply to new sanctuary-specific regulations in Part 922 unless the new regulation indicates otherwise, define “mineral” as: “clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.” The OCSLA definition of “mineral” is different, so if NOAA were to use the OCSLA definition, it would change the scope of the sanctuary’s regulations. The

preamble of the proposed rule gave examples of “minerals” that matched the default Part 922 definition (88 Fed. Reg. 58129), and stated that the prohibition on development of seafloor minerals in Section 922.232(a)(1) “would ensure that the disturbance to benthic habitat and species likely to result from seafloor mining would not occur in the sanctuary” (88 Fed. Reg. 58131). NOAA declines to deviate from this approach in the final rule.

Additionally, the other national marine sanctuaries in the West Coast Region have regulations prohibiting exploration for minerals. For those other West Coast sites, “minerals” isn’t defined with reference to OCSLA, and instead the NMSA regulations’ general definition of “minerals” applies. Consistency of approach is another reason to maintain the NMSA regulations’ definition of “minerals” for this sanctuary.

Permitting

Comment RP-9: NOAA should provide additional clarity on the permitting process for fiber optic telecommunication cables (see fiber optic cables section), desalination, and other new and existing uses. Clear permitting pathways would allow for construction and maintenance, which is essential health and safety infrastructure.

Response: NOAA has responded to this general concept for more permitting clarity in numerous responses to comments (for example, see response to comments FC-10 and OW-16). Two new activities have been added to the Offshore Energy Action Plan regarding developing and communicating more information about permitting processes for some of the larger, more high-profile development activities anticipated in the future (see Strategy OE-3, Activity OE-3.1 and Activity OE-3.2). The ONMS program-wide regulations provide detailed information about the sanctuary general permit process and the ONMS authorization process (see Subpart D to 15 C.F.R. 922). All of these responses and existing regulations provide ample information about how permits can be considered, reviewed, and issued in the sanctuary.

Comment RP-10: NOAA should develop a collaborative approach to permitting in the proposed sanctuary for new technologies that may arise over time, in particular to address climate change adaptation (e.g., sand replenishment, green infrastructure) and a focus on low or no carbon energy sources.

Response: NOAA will collaborate with other relevant agencies with related permitting authorities (e.g., USACE for cabling, coastal resilience). NOAA’s permitting approach is adaptive to new technologies and to climate change. Further, NOAA will continue to collaborate with BOEM and BSEE on offshore energy production and development. See Section 3.2.2 of the final EIS for more information about permitting and the final management plan’s Offshore Energy Action Plan for more information. See also response to comment WQ-15 regarding coastal resiliency projects including beach nourishment.

Certifications and Authorizations

Comment RP-11: NOAA should identify criteria that would guide certifications, ONMS authorizations, or mitigations to evaluate the potential impact on existing industries, recreational activities, and coastal communities. Addressing these concerns and providing a clearer roadmap for the certification process will be essential to ensure conservation goals are

balanced with the needs and interests of all affected parties. Relatedly, NOAA should specify terms and conditions for certifications and authorizations.

Response: NOAA will identify terms and conditions specific to each certification and authorization. Under 16 U.S.C. 1434(c) and the proposed final CHNMS regulation 15 C.F.R. 922.234(a)(2), NOAA may impose terms and conditions on a certification to achieve the purposes for which the sanctuary was designated. Pursuant to 15 C.F.R. 922.36(c)(3)(ii), NOAA “may issue an ONMS authorization containing terms and conditions deemed reasonably necessary to protect sanctuary resources and qualities.” Additionally, as part of NOAA’s authorization review procedures, which are described at 15 C.F.R. 922.36(c), NOAA will consider review criteria in 15 C.F.R. § 922.33(a)(1) through (9) to inform decision-making. In the final management plan, NOAA has added Strategy OE-3, which calls for NOAA to develop and make available additional permitting guidance about the processes to be used by ONMS to consider permit requests for a variety of activities (e.g., oil and gas platform abandonment and decommissioning, coastal or offshore industrial facilities, fiber optic cables, and other coastal facilities). NOAA has also addressed a variety of questions pertaining to certifications in responses to other comments, including BO-19 and MP-80 (Oceano Dunes SVRA), DC-2 and DC-4 (DCPP), OG-11 (existing offshore oil and gas activities), FC-10 through FC-13 and FC-21 (fiber optic cables), MP-45 (offshore wind). Authorizations are addressed in responses to comments DE-2 and WQ-8 (desalination), FC-3, FC-8, FC-10, RP-9, FC-14, FC-16, and FC-19 (fiber optic cables), MP-45, OW-20 and OW-26 (offshore wind).

Other Regulatory Comments

Comment RP-12: NOAA should allow shell gathering in the sanctuary.

Response: NOAA’s sanctuary regulations would allow for shell collection to continue, provided the collector is not disturbing the seabed, and that the shells are not located more than 1,500 feet below the sea surface within the Rodriguez Seamount Management Zone. Note that along the shoreline, the sanctuary’s boundary begins at the mean high water line and extends seaward. Also, other existing jurisdictions and laws may apply to shell gathering, such as at California state parks or within state marine protected areas (MPAs), eight of which are within the boundaries of the sanctuary study area. See Table 3-1 in the final EIS for more detail on sanctuary regulations.

Comment RP-13: The sanctuary will not bring any new resource management resources to the area, and instead it will just impede scientists already working there.

Response: NOAA disagrees. Designating a national marine sanctuary would promote coordinated resource management in collaboration with the local, state, and federal entities working in the area. Through the ONMS permitting processes and implementation of activities in the management plan’s Research and Monitoring Action Plan, NOAA would ensure that research can be conducted safely and efficiently in the sanctuary. NOAA also has a proven track record of bringing in substantial federal grants and other investments that support the science communities surrounding national marine sanctuaries, and a history of providing valuable research vessel platforms to local researchers.

Offshore Oil and Gas Development

Support for Prohibiting All or Most Oil and Gas Development

Comment OG-1: The final regulations and management plan must permanently prohibit any and all oil and gas development or mining, current or in the future. The sanctuary should require cancellation of existing leases, and hasten decommissioning of existing platforms, pipelines, and other infrastructure. Continued oil and gas activities risk harmful oil spills and harm endangered species. No permits or authorizations for any oil and gas or mining should ever be allowed in the new sanctuary.

Response: NOAA lacks authority to terminate valid leases, permits, licenses, or rights of subsistence use or access that exist at the time of sanctuary designation, although NOAA may regulate the exercise of those leases, permits, licenses, and rights consistent with the purposes for which the sanctuary is designated. See 16 U.S.C. § 1434(c). Proposed final sanctuary regulations would not prohibit oil and gas development pursuant to leases in effect at the time of sanctuary designation. Oil and gas operators have rights to that development, as set forth in lease agreements pursuant to OCSLA.

Sanctuary regulations would, however, otherwise prohibit new oil and gas exploration, production, or development after sanctuary designation. Likewise, the regulations would prohibit exploring for, producing, or developing minerals in the sanctuary, and thus no mining in the sanctuary would be allowed. Furthermore, the regulations would provide that NOAA cannot issue permits or authorizations that would allow for any further exceptions to the prohibition on exploring for, producing, or developing oil, gas, or minerals in the sanctuary (see 15 C.F.R. 922.232(f)).

Comment OG-2: Any platforms that are no longer producing at the time the sanctuary is designated, regardless of the reason, should be decommissioned, not restarted. For instance, Exxon is working to restart offshore oil platforms that are outside all alternative boundaries, but the infrastructure (i.e., pipelines) is located within the boundaries of Sub-Alternative 5b (Gaviota Coast Extension). The sanctuary should evaluate the safety of restarting this shut down pipeline within its boundaries, in particular because operators of those platforms have had spills in the past and there is risk of spills in the future.

Response: NOAA will coordinate with operators and BSEE and any state agencies as appropriate to ensure development from an existing oil and gas platform that may recommence after sanctuary designation does so in a manner that minimizes the risk of oil spills or any other potential impact on sanctuary resources. See also response to comment OG-1.

Comment OG-3: NOAA's final rule needs to make clear that exploration for oil and gas reserves includes any high energy seismic testing and is thus prohibited.

Response: NOAA has always considered exploration for oil and gas reserves to include high energy seismic survey testing from equipment towed behind a vessel or operated autonomously from a vessel or from shore for the purpose of locating oil and gas reserves in the submerged lands. That activity would be prohibited in the sanctuary. However, other seismic survey work would not be prohibited if its purpose was for identifying other geological features such as a

fault. Thus, the purpose for the survey work matters. Note however that any high energy survey work for purposes other than exploration for oil and gas reserves might be a violation of the sanctuary's regulations if that activity might take, harm, or otherwise disturb a marine mammal, sea turtle, or bird (15 C.F.R. 922.232(a)(5)).

Comment OG-4: The final sanctuary regulations should ban any and all oil-related pipelines that could be proposed to cross the sanctuary borders.

Response: Any new oil or gas pipeline, except within the limited exception described in the response to comment OG-1, would be prohibited within sanctuary boundaries and could not be permitted. The prohibition on oil and gas development (15 C.F.R. 922.232(a)(1)) extends to ancillary facilities related to exploration or development of hydrocarbons within the sanctuary. NOAA does not consider this prohibition to apply per se to abandonment, decommissioning, or removal of existing pipelines, which can be permitted. Nor does this prohibition extend to disturbance of the seabed due to repair and maintenance of existing pipelines, for which the proposed sanctuary regulations would allow NOAA to issue a permit.

Comment OG-5: The proposed rule explained that the discharge regulation would allow for “drill cuttings and mud to maintain well pressure and control during drillings as well as other materials necessary to force oil and gas products from one part of the reservoir into producing wells.” This allowance could lead to harmful or polluting chemicals being released into the sanctuary; thus, no discharges derived from well stimulation should be allowed.

Response: Because the sanctuary regulations would allow a leaseholder to continue to pursue oil and gas reserves within an existing lease, NOAA is allowing leaseholders the opportunity to conduct in-reservoir activities, which might include drilling wells or workover of existing wells. “Drill cuttings” and “drill mud” are generally allowed for discharge during drilling operations via permits issued by the EPA. Drill mud in particular is important to keep control of pressure in wells during drilling activities and has a safety benefit. The only place where drill cuttings and muds could be discharged into the sanctuary would be from Platform Irene. The three platforms of the Santa Ynez Unit are beyond the sanctuary boundary; the three platforms that were part of the Point Arguello project have been terminated and shut in, so no new drilling would occur there.

Concerns Regarding Prohibition on New Oil and Gas Development

Comment OG-6: Oil and gas production is necessary and the energy it produces is needed, just like offshore wind energy is needed. Safe extraction of fossil fuels should not be outright banned, and instead NOAA should regulate it in a manner that protects all other resources. Banning new offshore oil and gas development would result in economic losses and higher prices for oil-related goods.

Response: Consistent with NOAA's lack of authority to terminate existing leases, NOAA is not creating an outright ban on all oil and gas development within the sanctuary. Oil and gas production pursuant to a valid lease in effect at the time of sanctuary designation would be allowed to continue. Only new oil and gas development is prohibited to reduce risks to sanctuary resources from oil spills, from disturbance to the submerged lands during construction, and from other discharges that occur during normal operation, such as discharge of produced water.

Comment OG-7: NOAA needs to provide a rationale about why existing offshore oil projects will not be exempted if they are not producing at the time the sanctuary is designated.

Response: The NMSA does not allow NOAA to terminate development from an existing lease or lease unit at the time of sanctuary designation that is or could be legally developed pursuant to an existing lease right. As the effective date for sanctuary designation approaches, NOAA will work with BSEE to understand the status of leases or lease units for each project in or adjacent to the sanctuary to confirm the applicability of the oil and gas prohibition, and its exception for continued or existing development (see 15 C.F.R. 922.232(a)(1)). NOAA anticipates that only production from Platform Heritage within the Santa Ynez Unit or Platform Irene within the Point Pedernales Unit could be allowed to operate consistent with existing lease units at the time of sanctuary designation. Development from the platforms of the former Point Arguello Project could not recommence since they have been permanently shut in and the lease units relinquished. See also responses to comments OG-1 and OG-8.

Comment OG-8: NOAA's proposed regulations impermissibly terminate the development potential of the Santa Ynez Unit leases by limiting existing oil and gas development to reservoirs under development at the time of designation. The leaseholder has a right to develop any reservoir within that lease area and the regulations need to be changed to reflect this. If NOAA is concerned about seafloor penetrations, it could limit development to only those seafloor penetrations at the time of designation.

Response: Leases (and lease units) issued to Exxon to develop the Santa Ynez Unit (and Freeport-McMoRan to operate the Point Pedernales project) allow development of any reservoir or geological formation within the boundary of the lease (or lease unit). Therefore, NOAA has amended the proposed language for the exception to the general prohibition on oil and gas development to remove the term "existing reservoirs under production prior to the effective date of sanctuary designation" and replaced it with "existing leases or lease units in effect on the effective date of sanctuary designation" (see 15 C.F.R. 922.232(a)(1)). Accordingly, production can continue pursuant to any lease or lease unit in effect at the time of designation through this exception to the prohibition on oil and gas development.

Comment OG-9: It is hypocritical for NOAA to restrict offshore oil and gas development when in turn oil will need to be imported to California, creating a risk to the coast from a tanker spill.

Response: It would be speculative to draw any definitive conclusion that sanctuary regulations might cause an increase in the importation of crude oil to California via marine tanker. New oil could come into the state via pipeline. It is possible no new oil would be imported to the state, because other energy sources could make up the deficit or because if the oil was refined out of state, then gasoline (or other product) would be imported to the state by pipeline or tanker truck.

Comment OG-10: There is no need to restrict offshore oil and gas activity when the county of Santa Barbara already does that, so federal limits are unnecessary and will one day be expanded to limit other activities, like recreational fishing.

Response: The authority of the county of Santa Barbara related to oil and gas development extends, principally, to the permitting of onshore facilities that support offshore development.

Largely, NOAA's authority in this proposed sanctuary begins at the high water line and extends over offshore state and federal waters within the sanctuary's boundary. Thus, NOAA's authority complements the county jurisdiction over offshore oil and gas development. Of note, pursuant to Section 328 of the Clean Air Act and EPA's implementing regulations, the Santa Barbara County Air Pollution Control District also has authority over certain offshore activities in federal waters above the Outer Continental Shelf within 25 miles of the California seaward boundary. NOAA authority over oil and gas development has no connection to current or future authority over recreational fishing, an activity for which NOAA is not promulgating any sanctuary-specific regulations.

Comment OG-11: NOAA should provide certainty that the permitting process will not lead to substantial reductions or delays in offshore oil and gas production.

Response: The sanctuary regulations provide assurance in several ways. First, there are exceptions from sanctuary regulations for existing oil and gas production, discharges into reservoirs as part of regular oil and gas development, and disturbance of the submerged lands due to drilling or other activities within subsurface formations necessary for oil and gas production. Second, the sanctuary regulations provide for a process whereby NOAA can certify existing leases, permits, or other authorizations by which federal, state, or local agencies have already permitted facilities or structures on the submerged lands, or discharges within or into the sanctuary. That process can be completed within a matter of weeks; moreover, the developer may continue with its activity without being in violation of sanctuary regulations while its application for NOAA's certification is pending.

Lessee Rights

Comment OG-12: NOAA must adequately address existing rights, operations, and obligations within existing federal and state leases for oil and gas development. The revised regulations should exclude existing lease rights from NOAA review, expressly including repair, maintenance, and removal of facilities that fall within the sanctuary. Also, the certification process for such facilities should be eliminated.

Response: As noted in response to comment OG-8, NOAA has refined the language of the new Section 922.232 to make clear, consistent with Section 304(c) of the NMSA, that NOAA is not terminating existing lease rights. Specifically, NOAA has revised the regulatory language such that oil and gas development and production pursuant to existing leases—rather than only in reservoirs under production at the time of sanctuary designation—is excepted from the sanctuary prohibition on oil and gas exploration, development, and production.

NOAA also acknowledges lessees' obligations to conduct certain activities such as decommissioning and/or removal of facilities. The sanctuary regulations provide pathways for lessees to obtain permits or authorizations to conduct repair, maintenance, and removal activities that otherwise would violate the sanctuary's regulation on prohibited activities. In order to ensure that these activities do not result in undue impact to sanctuary resources, and pursuant to NOAA's authority to regulate the exercise of leases, permits, licenses, and rights consistent with the sanctuary's purposes (including the primary purpose of resource protection), NOAA declines to eliminate the procedures and requirements for obtaining permits, certifications, or authorizations.

Comment OG-13: NOAA should not overreach on its limitation of future use of oil and gas reservoirs for injection or storage of any material. Remove this limitation.

Response: While the sanctuary regulations provide exceptions to specific regulatory prohibitions for oil and gas production pursuant to existing leases, for discharges into reservoirs as part of existing oil and gas development, and for disturbance of the submerged lands due to drilling or other in-reservoir activities, NOAA's position is that existing leases do not confer rights to use of the subsea reservoirs for injection or storage of materials other than as incidental to or necessary for oil and gas production from Platform Irene or Platform Heritage. Because the submerged lands of the sanctuary extend below the immediate seafloor, drilling new wells or operating existing wells to discharge and dispose carbon dioxide or other material into the submerged lands of the sanctuary for a purpose other than existing oil and gas production would likely be subject to the sanctuary regulations on disturbance of the submerged lands (15 C.F.R. 922.232(a)(3)) and on the discharge of material within or into the sanctuary (15 C.F.R. 922.232(a)(2)(i) or (iii)). However, the sanctuary regulations would not foreclose the issuance of a permit or authorization for underground storage (see 15 C.F.R. 922.232(d)–(e)), since that activity would not constitute “exploration for, development, or production of oil, gas, or minerals” (see 15 C.F.R. 922.232(f)(i)). NOAA would be open to evaluating the potential impacts on sanctuary resources from alternative uses of depleted oil and gas reservoirs in the sanctuary, or extending the life of structures within the sanctuary, and assessing whether a permit or authorization for such a new activity could be approved. NOAA believes this is a reasonable exercise of regulatory authority, not an overreach, because it would serve the conservation purposes of the sanctuary and because NOAA is not aware of any entities that have been approved to drill wells or utilize existing wells for the sole purpose of discharge or disposal of carbon dioxide or other materials into subsurface formations in the sanctuary.

Oil and Gas Facility Decommissioning

Comment OG-14: The regulatory exceptions for certain oil and gas activities should be expanded to include platform abandonment and decommissioning. Discharges during decommissioning and removal would be analogous to those that occur during regular oil and gas operations, which have an exception. No rationale is provided why this should require permits when other activities are excepted. Both BSEE and CCC leases assert a lessee has a right to abandonment and decommissioning.

Response: As stated in responses to other comments, NOAA is granting an exception to allow existing oil and gas activities including discharges or drilling into reservoirs far below the seabed. Discharges or drilling within or into such reservoirs are not expected to cause any direct impact on living marine resources. Conversely, discharges within or into the sanctuary waters, or disturbance directly onto or in the upper layers of the submerged lands could harm such sanctuary resources, and thus are activities that NOAA believes are important to regulate in order to further the purposes of the sanctuary. Therefore, NOAA is not providing an exception for those discharges or disturbances to the submerged lands. Abandonment, decommissioning, and removal activities for oil and gas platforms and pipelines could have discharges within or into sanctuary waters and disturbance directly onto or in the upper layers of the submerged lands, activities for which NOAA is consistently exercising regulatory control and not allowing via regulatory exception. New discharges that have not been permitted at the time of sanctuary

designation, including those which may be necessary during abandonment, decommissioning, and removal activities or from routine oil and gas production activities, would require a sanctuary general permit or ONMS authorization. Like other federal and state agencies, NOAA is interested in seeing these facilities ultimately removed and their past development sites restored. It is important that NOAA has the ability to review those activities within the sanctuary to ensure potential impacts on sanctuary resources are avoided or feasibly mitigated. See also response to comment OG-12.

Comment OG-15: The EIS should provide more clarity about how NOAA will make the decommissioning process, including review of any necessary permits, clearer and streamlined. The final management plan must facilitate timely and efficient decommissioning, whether that includes full or partial removal.

Response: The EIS (see Section 4.7.3), as well as the Offshore Energy Action Plan (in particular Strategy OE-4 and OE-5), describe how NOAA intends to collaborate with BSEE, which will serve as the lead in federal waters regarding abandonment, decommissioning, and removal of offshore oil and gas facilities. As appropriate, this would likely also require close coordination with state agencies like the CCC and CSLC for portions of these facilities in state waters. This collaboration would streamline environmental review (only one joint NEPA-California Environmental Quality Act document is needed), allow for collaboration and early agreement among agencies regarding mitigation measures, and provide one venue for permittees to get insights from agencies. NOAA has also added a new activity in the Offshore Energy Action Plan to work with these core agencies and the industry to develop further clarifications about permit processes in the coming years, well in advance of likely abandonment, decommissioning, and removal activities (see Activity OE-3.2).

Comment OG-16: If NOAA maintains the proposed requirement to obtain a permit for decommissioning, it should not impose burdens or requirements above those of BOEM/BSEE, nor should it impose conditions that alter or preclude actions by these other agencies.

Response: NOAA and BOEM/BSEE have similar but not identical goals in decommissioning and removal of offshore oil and gas facilities. NOAA will be focused on potential harm to sanctuary resources. NOAA has separate cooperative agreements with BOEM and BSEE anticipating close coordination and cooperation on shared activities, which would extend to decommissioning and removal of offshore facilities, and the environmental review of and permitting for those activities.

Comment OG-17: Reassess the impacts on decommissioning, as permit delays may not have been properly analyzed. The potential for new costs or delays in the draft EIS is not consistent with the analysis for the Greater Farallones and Cordell Bank National Marine Sanctuaries expansion EIS.

Response: For CHNMS, the EIS has made clear that it is not possible to determine impact significance regarding future abandonment, decommissioning, and removal of offshore oil and gas facilities because those activities are not yet defined for specific projects in the sanctuary and because it is not reasonably foreseeable at this time what specific mitigation measures, if any, may be necessary to protect sanctuary resources from individual platform decommissioning, or

removal activities beyond what other agencies would require. Any impact assessment at this time would be too speculative. See the response to comment OG-15 regarding how joint agency review would streamline permit processes and timelines, and overall create interagency coordination and cooperation, benefitting permittees.

Comment OG-18: NOAA should not characterize offshore oil and gas decommissioning and removal as a threat to the sanctuary. Abandonment, decommissioning, and removal not only can coexist with the sanctuary, they also promote sanctuary objectives. They will ultimately reduce threats and provide permanent benefits to the region.

Response: NOAA concurs with the premise of the comment that decommissioning and removal of facilities used for oil and gas development have the potential to benefit sanctuary resources. However, as outlined in Section 4.7.3 of the final EIS, offshore decommissioning and removal of oil and gas facilities could harm sanctuary resources and is thus an activity NOAA believes should be regulated through final regulations. Also, ONMS intends to collaborate with other agencies on their review of offshore oil and gas decommissioning and removal (for instance, see Activity OE-4.4 in the final management plan).

Comment OG-19: The EIS and other materials need to be revised to properly note that Platform Irene is no longer operational.

Response: NOAA has revised the final EIS to reflect that Platform Irene has been temporarily shut in due to loss of refinery access onshore (see Section 4.7.1). The operator of that platform Freeport-McMoRan has approval from BSEE for certain in-reservoir activities and its lease for the Point Pedernales Unit remains viable for production until mid-November, 2024.

Comment OG-20: NOAA should require full removal of all oil and gas development platforms, other infrastructure such as pipelines and cables, and any remaining residue, like shell mounds and debris, as required by lease agreements and federal law.

Response: As stated in revised Section 4.7.1 of the final EIS, NOAA understands that the baseline position of federal and state agencies responsible for decommissioning and removal of facilities for oil and gas development is to require full removal. NOAA has no objections to this as the baseline assumption. NOAA also anticipates that alternatives to full removal for all facilities will be analyzed once specific plans for facilities are completed. See also response to OG-21.

Comment OG-21: The EIS, management plan, or both need to provide more detail on decommissioning options within the sanctuary. As offshore oil and gas activities end within the study area, will the ONMS support the use of decommissioned offshore oil structures (such as a platform) to be removed and deposited in federal waters of a future CHNMS?

Response: Section 4.7.1 of the EIS provides updated information regarding the different forms platform decommissioning and removal could take, as evaluated by BSEE in a programmatic EIS (BSEE and BOEM, 2023). As noted in management plan Strategy OE-3, NOAA would participate in the environmental review processes for specific project plans, and would have the ability to make a decision on permits that would govern full or partial abandonment, decommissioning, and removal of all facilities, including residual debris such as shell mounds,

in the sanctuary. Any decision by NOAA to allow an operator to leave parts of offshore oil and gas facilities behind in the sanctuary, or to remove and deposit parts of a rig in sanctuary waters, would be based on all necessary and appropriate environmental reviews, with due consideration of alternatives. If NOAA were to issue a permit to leave some or all of a facility behind in the sanctuary, it would need to make legally required permit findings to allow structures in or on the submerged lands of the sanctuary.

Miscellaneous

Comment OG-22: NOAA must more clearly describe how it will coordinate with state and federal agencies involved with offshore oil and gas development. For instance, the proposed designation does not properly explain and characterize how other state and federal agencies will regulate oil and gas activities should those fall within the new sanctuary. More clarity is needed to ensure NOAA will not be duplicating the role of other agencies.

Response: Most oil and gas development within the sanctuary is managed by BSEE, a cooperating agency on the environmental review for the designation of CHNMS. NOAA has a cooperative agreement with BSEE to enhance close collaboration between agencies and intends to use it to collaborate on permitting review of abandonment, decommissioning, and removal proposals in the sanctuary, as well as any issues related to ongoing oil and gas production allowed under sanctuary regulations. State agencies, primarily the CCC and CSLC, have oversight over pipelines and cables between platforms in federal waters and onshore support facilities. They too will have a decision role in removal of facilities. ONMS has a close working relationship with these agencies that will be maintained after sanctuary designation for activities related to oil and gas development in or near the sanctuary. In particular, the Offshore Energy Action Plan contains numerous activities that highlight the close relationship NOAA has and hopes to expand with these federal and state partner agencies.

Comment OG-23: The EIS should evaluate the air quality impacts from operations at Las Flores Canyon facility along the Gaviota Coast which would send air pollution into the sanctuary.

Response: The purpose of an EIS is to evaluate the environmental impacts of a proposed action. The proposed action in this particular case is the designation of CHNMS. The impact of air quality on the sanctuary from an onshore process facility is not connected to the proposed action and is therefore beyond the scope of this EIS, which is specifically assessing the potential impacts of designating the sanctuary on the natural and human environment.

Comment OG-24: NOAA must adequately engage with oil and gas (and offshore wind) industry members who operate or have interests to operate facilities in the sanctuary in order to properly balance the conservation goals with the interests of industry. Per NMSA Section 303, NOAA is obligated to consult with “other interested persons” (i.e., oil and gas operators and leaseholders) prior to completing a designation.

Response: NOAA has engaged with numerous stakeholders throughout the sanctuary designation process. While NMSA Section 303(b)(2)(E) does not specify the “other interested persons” who must be consulted or the manner in which they must be consulted, NOAA has solicited and considered comments from stakeholders, including the oil and gas industry,

through the notice-and-comment rulemaking process. NOAA staff have also held public information workshops and public comment meetings related to the proposed designation of CHNMS, providing opportunities for affected stakeholders, including representatives from the oil and gas industry, to meet with NOAA representatives and offer their perspectives. Accordingly, NOAA believes it has satisfied the requirement to consult with “other interested persons” under any plausible interpretation of that phrase.

Comment OG-25: NOAA’s final action needs to properly recognize that the gap created with the Agency-Preferred Alternative creates the real risk that, one day, oil and gas development could occur in the area excluded from the sanctuary. The draft EIS recognizes that BOEM estimates considerable reserves within the sanctuary boundary and that future development without a sanctuary cannot be ruled out.

Response: NOAA’s summary of the impacts of the alternatives acknowledges that one outcome of identifying Alternative 3 or Alternative 4 could be an expanded risk that oil and gas development in federal waters from the southern end of MBNMS at Cambria to the northern end of CHNMS just south of DCPD could occur. No plans are presently being developed by the federal government for new oil and gas leasing or exploration, but that could occur in the future and the reduction in the significant beneficial impacts of the Initial Boundary Alternative compared to the Final Preferred Alternative is described in the final EIS. Note that in state waters, the California Coastal Sanctuary Act of 1994 and the California Public Resources Code Section 6245 prohibit new extraction and new leases authorizing new construction of oil and gas related infrastructure.

Comment OG-26: Consistent and comprehensive language should be used throughout the EIS when referring to prohibited and permitted activities related to oil and gas production in Section 4.7.

Response: NOAA has made changes throughout Section 4.7 of the EIS and the Offshore Energy Action Plan to improve consistency in phrases and language related to oil and gas production, and abandonment, decommissioning, and removal of oil and gas facilities. NOAA has similarly endeavored for clarity and consistency throughout its responses to each comment.

Offshore Wind Energy Development

Opposed to Offshore Wind Energy Development

Comment OW-1: All aspects of offshore wind development are incompatible with a national marine sanctuary and the regulations and management plan need to clearly explain that such development is inherently incompatible with a national marine sanctuary. These are industrial facilities, like oil and gas platforms and pipelines, that can harm myriad sanctuary resources in diverse ways during construction, operation, and removal. There has been no research on adverse impacts and no proof of safe installation and operation methods.

Response: NOAA’s final designation materials (final EIS, including this Appendix A: Response to Comments, and final management plan) for the sanctuary do not make any policy statements that offshore wind development is inherently incompatible with the sanctuary. Any decision about whether a particular offshore wind development project is compatible with the sanctuary

will be made on a case-by-case basis, as needed, for a particular proposed project or permit reviews. For instance, in anticipation of sanctuary designation, NOAA is participating in the review with other state and federal agencies of the CADEMO offshore floating wind project, in state waters off VSFB. Based on that review and consultation with agency partners, if the sanctuary is designated, NOAA will make a final decision on the compatibility of that project's offshore wind platforms and subsea electrical transmission cables to shore. Depending on the final boundary for the sanctuary and the design of cable routes to shore, NOAA may also request to serve as a cooperating agency with BOEM when it initiates environmental review of the construction and operation plan(s) for the Morro Bay lease areas. Participating and coordinating in these review processes will allow NOAA to ensure that any potential impacts on sanctuary resources are well understood and effectively mitigated.

There is precedent for NOAA approval of submarine cables (mostly fiber optic cables) that are within a national marine sanctuary or that pass through a sanctuary. The final designation materials make clear that NOAA believes subsea electrical transmission cables, like submarine fiber optic cables in this and other sanctuaries, can be compatible with a sanctuary and can be approved subject to sufficient environmental review, mitigation, and consultation with partner agencies and provided an applicant satisfies permit review criteria.

Comment OW-2: NOAA should not allow development of offshore wind, rather keep DCPD operational as it has already implemented facility design and mitigation strategies that harm ocean resources far less than the new offshore wind facilities.

Response: The ongoing operation of DCPD, onshore of and thus outside of the sanctuary, is being handled by various federal, state, and local agencies. The final sanctuary regulations do not include any express, specific limitation on its operation, and NOAA lacks authority to ensure that DCPD continues operating. Similarly, NOAA does not have authority to directly control development of leases issued for offshore wind farms west of and thus beyond the proposed sanctuary. As noted in responses to comments OW-1 and OW-3, NOAA intends to review any proposed offshore wind development that could violate sanctuary regulatory prohibitions and, based on that case-by-case review, make a determination if activities could be permitted within the sanctuary.

Comment OW-3: Offshore floating wind platforms within the sanctuary are incompatible with a sanctuary and can not be permitted. However, the subsea electrical transmission cables that bring power to shore from wind farms beyond the sanctuary boundary are possibly compatible and could be approved provided NOAA exercises control over the siting, environmental review, and permitting of those cables for portions within the sanctuary.

Response: The final EIS indicates that future development of a large wind farm within federal waters of the area proposed for sanctuary designation is not reasonably foreseeable, and is in fact highly unlikely. Upon sanctuary designation, such development in federal waters would likely be excluded. The OCSLA prohibits BOEM from leasing areas within sanctuary waters (see EIS Section 4.7.3). NOAA does not have authority under the NMSA to provide a leasing mechanism to allow offshore wind platforms within a national marine sanctuary.

The state of California retains authority to issue leases for wind platforms in state waters of the sanctuary. As noted in responses to comments OW-1 and OW-33, NOAA is participating in the environmental review for the CADEMO project in state waters where four offshore floating wind platforms are proposed. That review process will provide NOAA appropriate, project-specific information and the opportunity to coordinate with state agency partners on the appropriate action for that proposal.

NOAA concurs with the comment that subsea electrical transmission cables transporting power to shore from wind farms beyond the sanctuary, where such cables pass through the sanctuary, can be permitted and can be considered compatible with the sanctuary, subject to proper siting, environmental review, and collaboration with partner agencies, and provided an applicant satisfies permit review criteria.

Comment OW-4: NOAA proposed the wind energy areas that are under development along the California central coast. Offshore wind is a money-making scheme under the guise of green energy, and NOAA's preoccupation with profiting from wind energy is clouding its judgment regarding conservation decisions and the agency is prioritizing profit over marine conservation.

Response: NOAA is not the lead agency to propose development of offshore wind energy. For the federal government, that is BOEM; for California, the California Energy Commission has been the state agency leading planning for offshore wind development in federal waters. NOAA is responding to the development plans, consistent with NOAA's statutory authorities and E.O. 14008 that directs all federal agencies to cooperate and assist in addressing climate change, including planning for and executing offshore wind development while ensuring robust protection for the nation's waters and biodiversity. E.O. 14008 also calls for cooperation among federal agencies in establishing new protected areas offshore and onshore. Both the Morro Bay lease areas and CHNMS are priorities of the federal government to achieve the purposes of E.O. 14008 and other executive directives.

Offshore Wind Development Concerns

Comment OW-5: The ports and harbors where the floating windmills will be built and their servicing locations should occur where there is already significant industrial development and infrastructure to support such activities. Existing rail lines and ports and harbors should be favored rather than expanding the rail, harbor, and port facilities in this region.

Response: Although concepts have been raised, NOAA is not aware of any specific, defined proposals to build, expand or modify onshore or coastal support facilities necessary for offshore wind development that could affect the sanctuary. The evaluation of the need for expansion or modification of such support facilities is the purview of other federal agencies, several state agencies, and local governments. If, in the future, specific development projects that could violate sanctuary prohibitions are proposed, NOAA would participate with partner agencies to evaluate the potential impacts on sanctuary resources including the consideration of appropriate alternatives.

Comment OW-6: Members of the offshore wind industry do not believe the Diablo Canyon Call Area, which would be included within several alternatives for the proposed sanctuary, will ever be developed and consider it defunct.

Response: If the Final Preferred Alternative is selected, it would include about 20% of the area proposed by BOEM for the Diablo Canyon Call Area within the sanctuary boundary. Final sanctuary regulations coupled with limitations in OCSLA would limit BOEM's ability to issue offshore wind energy leases in that area, but it could lease and develop the rest of the previously-proposed Diablo Canyon Call Area north of, and outside of, the sanctuary. Officially developing or withdrawing the remaining Diablo Canyon Call Area would ultimately be the decision of BOEM. For more discussion on the potential wind energy development of the Diablo Canyon Call Area, see final EIS Section 4.7.

Offshore Wind and Sanctuary Coexistence

Comment OW-7: Offshore wind development and the national marine sanctuary can co-exist. Addressing climate change will require new strategies and allowing offshore wind platforms and subsea electrical transmission cables within the sanctuary provides a balance between environmentally-responsible development and conservation of resources, so long as NOAA exercises control over that development within the sanctuary and provides clarity about how such activities could be permitted in the sanctuary in the future.

Response: Regarding offshore wind energy platforms in the sanctuary, see responses to comments OW-3 and OW-33. NOAA has experience and precedent reviewing and permitting submarine cables within national marine sanctuaries. With proper design work, environmental review, consultation among lead permitting agencies, and satisfaction of permit review criteria, subsea electrical transmission cables, like submarine fiber optic cables in other situations, can be compatible with and permitted in a sanctuary. Various responses throughout this appendix and discussion in the EIS outline how subsea electrical transmission cables can be permitted (see response to comment OW-16). NOAA agrees with the sentiment in this comment that addressing climate change will require new strategies and cooperation between public and private sectors.

Comment OW-8: The final boundaries should close the gap between Montaña de Oro and Cambria, and NOAA should exercise its authority over siting, permitting, construction, and operation for any subsea electrical transmission cables within any part of the sanctuary. NOAA should work with the local community, other federal, state and local agencies, Tribes, and the industry to ensure proper facility design. Needing to ensure resources are protected within the sanctuary will help motivate offshore wind companies to develop environmentally sound projects, which they all say they want.

Response: The boundary for the Final Preferred Alternative excludes the coastline and offshore waters from Cambria to two miles south of DCP. As outlined in Section 5.4.9 of the final EIS and explained in response to BO-1, this alternative avoids the potential risk perceived by the offshore wind energy industry that NOAA may not approve a permit request to allow subsea electrical transmission cables from offshore leases to landing sites and grid connections at Morro Bay and DCP. If any other cable routing is proposed that would pass through CHNMS or any other sanctuary, NOAA could consider such a request consistent with its existing permitting authority for subsea cable projects.

Offshore Wind Infrastructure (Cables)

Comment OW-9: BOEM’s finding that the Morro Bay wind project, including both the wind farm and the subsea cable corridors, would cause no significant impact runs contrary to NOAA’s explanation for altering the proposed sanctuary’s original boundaries—the seabed disturbance from constructing 30 subsea electrical transmission cables would cause more damage than that which can be allowed in a national marine sanctuary. BOEM’s finding that the subsea cabling would cause no significant impact would indicate that it could run through the marine sanctuary with the appropriate permitting. This contradiction between each agencies’ findings needs to be resolved.

Response: The action evaluated in [BOEM’s 2022 Morro Bay Final Environmental Assessment](#) was issuance of wind energy leases and the activities that are authorized by granting a lease (i.e., site assessment and site characterization) (BOEM, 2022). BOEM did not assess or anticipate impacts on the seafloor or marine environment from cable installation. On the other hand, as one factor in identifying its Agency-Preferred Alternative in the draft EIS, NOAA expressed concern about the amount of seabed disturbance and potential ongoing impact on biological resources that could result from the construction, maintenance, and continued operation of up to 30 cables in the discrete cable corridor over a relatively short period of time. Now that three leases for the Morro Bay Wind Energy Area have been granted, lessees can submit plans for developing the lease areas to BOEM, including at some point more defined numbers of and routes for cables. Subsequently, BOEM will conduct an environmental review on those plans; if routes pass through the sanctuary, NOAA will request to serve as a cooperating agency.

Comment OW-10: If NOAA is concerned about the number of cables within the Initial Boundary Alternative, rather than move the sanctuary boundary to avoid impacts on sanctuary habitats, NOAA should instead require through its permit process that companies reduce the number of cables or develop other mitigation measures to lessen impacts on sanctuary habitats and resources.

Response: NOAA concurs with the value of the agency retaining control, with partner agencies, over the routing of cables in this area. In the event that the Initial Boundary Alternative is selected, NOAA would rely on its regulatory authorities to reduce impacts on sanctuary resources. Conversely, the Final Preferred Alternative has been identified in part to avoid introducing any potential risk as perceived by the offshore leaseholders that NOAA might not approve a future potential permit request to install and operate subsea electrical transmission cables from the Morro Bay Wind Energy Area to shore through the sanctuary. See also responses to comment BO-1 and comment OW-8.

Comment OW-11: NOAA should continue to explore options with BOEM, developers of the Morro Bay lease areas, and sanctuary proponents to facilitate access of subsea electrical transmission cables to both Morro Bay and DCPD grid connection points and to provide geographic flexibility for cable routing.

Response: NOAA is aware the industry seeks to route cables to landing sites and grid connections at DCPD and Morro Bay, and that industry members have substantial concerns that NOAA may be unable to issue permits in the future for subsea electrical transmission cables connecting the Morro Bay lease areas to both landing sites. As explained in responses to BO-1

and OW-8, the Final Preferred Alternative would provide the most certainty to these wind energy lease area developers by excluding this area from the sanctuary.

Comment OW-12: There are three companies that have been issued federal leases to develop offshore wind northwest of the sanctuary. These leases grant leaseholders the right to one or more project easement(s) for the purposes of installing subsea electrical transmission cables and appurtenances on the outer continental shelf as necessary. Having to now also get a permit(s) from NOAA for these same cables that pass through the sanctuary creates significant new risk to developers since the permit pathway is unclear and untested.

Response: NOAA states in the EIS that it has a fair and robust permit process that has been used to authorize construction of trans-oceanic fiber optic cables within other national marine sanctuaries. However, several of the offshore Morro Bay Wind Energy Area leaseholders have expressed concern that the sanctuary's permit requirements for subsea electrical transmission cables could make their projects infeasible. The Final Preferred Alternative would ameliorate these industry concerns. See also responses to comments BO-1, OW-8, OW-10, OW-11 and OW-14.

Comment OW-13: The draft EIS improperly assumes there will be up to 30 subsea electrical transmission cables to shore, and that they will all connect to the grid at Morro Bay. The three leaseholders and other industry representatives believe access to DCPD will also be needed and that the total number of subsea electrical transmission cables is within the range of five to eight per lease area (or 15–24 total).

Response: BOEM provided NOAA its best estimate regarding the number of subsea electrical transmission cables to shore and the most likely landing site at the time the draft EIS was drafted. With the issuance of the three leases, the companies holding those leases are better able to provide updates on potential cable configurations. NOAA revised Section 4.7 of the final EIS with this update estimate of the number of cables. NOAA also revised the final EIS to reflect the offshore wind industry's interests to land roughly half of those cables at DCPD to connect to the grid, and about half would be planned to land at, and connect to, the grid at Morro Bay. NOAA factored this clarifying information in its final EIS analysis, and the clarifications do not result in changes to NOAA's impact level conclusions with respect to offshore energy.

Comment OW-14: The Agency-Preferred Alternative does not provide an adequate space to allow for subsea electrical transmission cable construction that avoids the need for a sanctuary permit. Moreover, the industry standard for the distance between cables is three times water depth. So, with the new industry projection of up to 24 subsea electrical transmission cables, the exclusion area must be vastly larger than allowed in the Agency-Preferred Alternative.

Response: NOAA understands that the offshore wind industry has a goal to plan and route cables from the three Morro Bay lease areas to shore and not pass through a national marine sanctuary, to avoid seeking a permit from NOAA. NOAA concurs that the draft Agency-Preferred Alternative would not exclude enough space to achieve industry's objective to avoid passing any cables through the sanctuary, given clarifying comments received in this rulemaking about the number of cables, distance needed between cables, need to plan for broad curves in subsea cables rather than sharp turns, space to plan crossing other cables at right angles, and shoreline

landing sites. Other comments suggest that the boundary alternative proposed by American Clean Power would exclude enough space to achieve the objective of avoiding sanctuary waters. The three leaseholders have since acknowledged that the American Clean Power alternative would not exclude enough space, and they instead believe NOAA should adopt Alternative 4 to achieve the goal of maximizing flexibility in cable routing to avoid this or other national marine sanctuaries.

NOAA has identified the Final Preferred Alternative for reasons explained in more detail in Section 5.4.9 of the final EIS, in part to allow the offshore wind industry to achieve its goals with respect to the Morro Bay lease areas. If in the future, offshore wind developers propose subsea electrical transmission cables to pass through this or another sanctuary, NOAA is confident that it has an adequate permit process to review, consider, and ultimately approve, as appropriate, subsea electrical transmission cables. See also the response to comments OW-1, BO-1, and BO-11.

Comment OW-15: The ultimate siting, construction, operation and removal of offshore wind development needs to minimize impacts on cultural and sacred sites (e.g., Morro Rock). This should be a priority for the new sanctuary including thoughtful and respectful placement of cable routes, their landing stations, bored shore crossings that avoid Morro Rock and other mitigation measures to avoid harm to sacred sites in the area.

Response: NOAA is committed to working with BOEM, three key state agencies, the offshore wind industry and affected Tribes and stakeholders to protect cultural and sacred sites within the sanctuary. If the Final Preferred Alternative is chosen, NOAA will not be involved in permitting or other development decisions affecting the coast and offshore waters off Morro Rock. However, see response to comment BO-1 regarding future steps NOAA would take to consider additional sanctuary conservation in this area in the future. NOAA would concentrate its efforts on ensuring offshore wind development and other offshore industrial activities within the final sanctuary boundary minimize harm to cultural and sacred sites within the sanctuary. Note however, that the purpose of this EIS is to evaluate impacts from designating a new sanctuary, whereas the potential impacts from offshore wind development will be handled by BOEM and other agencies in their review of development proposals yet to be submitted.

Offshore Wind Permit Process

Comment OW-16: The regulatory approach for offshore wind-related cable installation, repair, maintenance, operations and removal articulated in the draft EIS is not clear, well-defined, or timely. The lack of clarity in the permitting option(s) presents complications for subsea electrical transmission cables, and would add an additional layer of uncertainty for offshore wind projects. Since subsea cables can be built and operated consistent with the protection of sanctuary resources, it is important to maintain regulatory flexibility and ensure a reasonable regulatory pathway exists for studying, installing, and operating subsea cables within the sanctuary. NOAA needs to better explain the permitting process and requirements for offshore energy transmission cables in the sanctuary, including the terms and conditions, standards for evaluating permits, and mitigation measures. Reliance on the special use permit, which can only be issued for five years, creates uncertainty for offshore wind development.

Response: Responses to numerous comments in this rulemaking provide additional detail that indicate NOAA’s willingness to permit submarine cables—both subsea electrical transmission cables and submarine fiber optic cables—upon satisfaction of permit review criteria and environmental review, and that it has a fair and robust process for considering and approving such permits. In 2011, NOAA published a document providing policy and permitting guidance for submarine cables within national marine sanctuaries (hereafter “cable permitting guidelines;” NOAA, 2011). That document provides considerable detail about how a developer can apply for a permit, what permit is required for different types of cables based on their purpose, and what can be expected regarding potential standard conditions, monitoring expectations, and other requirements. While the original impetus for that document centered around submarine fiber optic cables, the cable permitting guidelines are written to generally apply to any submarine cable project proposed within a national marine sanctuary. As described in sections 4.7.1 and 4.7.3 of the final EIS, at this time NOAA’s cable permitting guidelines indicate that an ONMS authorization of a USACE permit to install a subsea electrical transmission cable would be the most likely and appropriate permitting approach. NOAA’s current cable permitting guidelines contemplate that NOAA has the discretion to issue a special use permit to authorize the continued presence of the cable on or in the seabed within the sanctuary, however, NOAA has modified the special use permit category for such cables so that it does not apply to sanctuaries designated after August 16, 2024, as described below.

In 2024, NOAA plans to update the cable permitting guidelines in an action, subject to public review and comment, separate from this sanctuary designation. NOAA announced this commitment in a Federal Register notice on August 16, 2024 (89 Fed. Reg. 66689). With this notice, NOAA also announced that the special use permit category for the continued presence of commercial submarine cables is modified such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS. During this timeframe, the continued presence of submarine cables in CHNMS will not be subject to special use permit requirements. The temporary suspension affords NOAA time to re-evaluate the need for updating the special use permit category, publish any proposed updates to the category and/or implement guidance for the category, consider and respond to public comment, and finalize any updates to the category. NOAA will publish Federal Register notices for any subsequent updates (see final EIS Chapter 3, Section 3.2.2). During this temporary suspension, NOAA will not have discretion to require or issue special use permits for submarine cables in newly designated sanctuaries.

The CHNMS regulations on disturbance of the submerged lands are modeled off, and largely consistent with, the comparable regulations for other sanctuaries offshore California. NOAA considers it preferable to provide consistent, system-wide cable permitting clarifications and guidance through the separate action described above, rather than alter the CHNMS regulations through this CHNMS-specific designation.

As addressed in responses to comments BO-1, OW-8, OW-10, OW-14 and others, NOAA is nonetheless identifying a Final Preferred Alternative that would adjust the CHNMS boundary to largely eliminate the need for any of the developers of the offshore Morro Bay lease areas to route a cable through and seek a permit from NOAA.

Comment OW-17: NOAA should explicitly include site assessment and characterization for offshore wind projects as a research activity allowable under a general permit.

Response: Section 4.7.3 of the draft EIS already contained a subsection titled “Site Characterization for Subsea Electrical Transmission Cables to Shore” in which NOAA explained that the site characterization and assessment process is a standard activity permitted within national marine sanctuaries with a sanctuary general permit. No additional information is needed and this section is retained in the final EIS. The provision for a sanctuary general permit is a part of the final CHNMS regulations.

Comment OW-18: NOAA should expand the list of general permits in 15 C.F.R. § 922.300 to add activities that would “otherwise further the purpose” of CHNMS.

Response: NOAA believes the commenter is referring to 15 C.F.R. § 922.30, which explains the kinds of activities for which NOAA may issue a sanctuary general permit. At this time, NOAA does not see a need to add such a broad permit category for this sanctuary. As discussed in NOAA’s response to comment OW-16, NOAA believes that the proposed regulations already provide for superior means to allow permitting of subsea electrical transmission cables.

Comment OW-19: To address the risks associated with the five-year term of a special use permit, NOAA should model a renewal of the special use permit on the approach taken by BLM for renewal of grants and leases under the Federal Land Planning and Management Act, whereby BLM, as delegated by the Secretary of the Interior, may renew a grant or lease if the leaseholder is in compliance with the renewal terms and conditions or other stipulations of the grant/lease. Thus, NOAA could articulate in regulations or the management plan those terms of renewal so it is clear to a leaseholder and stakeholder what requirements would need to be met for special use permit renewal.

Response: NOAA has the authority and discretion to adopt the strategies outlined in the comment upon issuance of a special use permit, and will further study this and other ideas for improving the special use permit process and its predictability. NOAA announced its commitment to update the cable permitting guidelines and revisit the special use permit process in a Federal Register notice on August 16, 2024 (89 Fed. Reg. 66689). This notice modified the special use permit category for continued presence of commercial submarine cables such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, during which the continued presence of submarine cables in CHNMS will not be subject to special use permit requirements. See also response to comment OW-16 and Activity OE-3.1 in the management plan.

Comment OW-20: Similar to regulations specific to other sanctuaries, NOAA should include a section of the regulations that describe offshore wind cable installation and repair as an “allowed activity” that would not be prohibited or restricted in the new sanctuary by NOAA. Alternatively, NOAA should except the maintenance of submarine cables from the prohibition on disturbance of submerged lands.

Response: NOAA is treating the potential disturbance of the submerged lands consistently for subsea electrical transmission cables, submarine fiber optic cables, oil and gas pipelines, and other activities. If repair and maintenance activity is necessary, disturbs the submerged lands of

the sanctuary, and is not already permitted by the sanctuary (including via a certification), it would require a sanctuary general permit or an ONMS authorization. This allows NOAA to understand potential impacts and have the authority to minimize the level of seabed disturbance caused by repair and maintenance activities in the sanctuary.

Comment OW-21: The regulatory prohibition on developing oil, gas, or minerals needs to be clear that it would not restrict development of “green hydrogen.” Specifically, the regulations should exempt development of green hydrogen and its transport to shore via pipelines through the sanctuary.

Response: The final CHNMS regulations prohibit the exploration and development of oil and gas specifically, as well as “minerals.” NOAA does not consider “green hydrogen” to be oil, gas, or minerals. The sanctuary regulations are not intended to create an absolute prohibition on offshore development of hydrogen. At present, NOAA is not aware of any proposal to produce hydrogen offshore and transport it through the sanctuary, and thus any potential impact from the sanctuary designation on this activity would be purely speculative. If, in the future, a specific hydrogen project were proposed, NOAA would need to study the potential impacts on sanctuary resources from development and transport of hydrogen within the sanctuary. To the extent that construction and placement of structures used in hydrogen development would involve disturbance to or placing a structure on the submerged lands of the sanctuary, the sanctuary regulations would prohibit such activities except in accordance with valid permits. If the production of hydrogen occurs beyond the boundary of the sanctuary, NOAA may need to conduct a separate consultation with the federal approving agency under Section 304(d) of the NMSA.

Comment OW-22: The summary of regulations in the proposed rule uses the terms “exploratory activities” and “seafloor mining,” which need to be defined in the regulations. Specifically, commenters wanted assurances that seafloor mapping related to planning for subsea electrical transmission cables and other seabed disturbance would not be considered exploration for the purposes of mining.

Response: In the proposed rule, NOAA explained the purpose and intent of the prohibition on exploring for, developing, or producing oil, gas, and minerals, and this explanatory language is retained in the preamble of the final rule. The preamble’s summary of the regulations does not itself create regulatory terms or prohibit activities. Any seafloor mapping designed and carried out in a manner to assess the characteristics of the seafloor, rather than to characterize the presence of hydrocarbons or minerals under the seafloor, would not be considered exploration for oil, gas, or minerals.

Comment OW-23: The summary of regulations in the proposed rule uses the terms “offshore platform” to refer to offshore oil and gas development platforms, and thus, NOAA should clarify this would not apply to an offshore floating wind platform.

Response: In the section of the proposed rule that summarized the purpose and intent of proposed regulations, and specifically in the section explaining regulations prohibiting offshore oil, gas, and minerals development, NOAA used the terms “offshore platform” and “platform.” The use of those terms to describe and explain the regulations prohibiting exploration and

development of oil, gas, and minerals does not refer to, or impose limitations on, offshore floating wind platforms. Thus, no changes are necessary in the final rule.

Comment OW-24: NOAA should create a specific exemption for discharges outside of the sanctuary related to the construction, operation, and maintenance of offshore wind facilities and subsea electrical transmission cables that may ultimately cross into the sanctuary and that will already be regulated by another agency and subject to extensive monitoring efforts.

Response: At present, NOAA does not have adequate information to determine if there will be any discharges from offshore wind facilities beyond the sanctuary boundaries that might enter and injure sanctuary resources. Nor is there any information about the frequency, magnitude, or toxicity of those discharges. Thus, to grant an exception at this time for such a discharge would be premature because it is not possible to determine the potential consequences of that exception.

Comment OW-25: The potential expansion of Port San Luis to support the operation and maintenance of offshore wind projects could result in a significant amount of dredged material, which could be used for habitat restoration or habitat protection. NOAA should account for this development with the regulations.

Response: While the proposed final regulations for CHNMS would prohibit the discharge of dredged material at a disposal site within the sanctuary not authorized by the USEPA prior to the effective date of the designation, they would allow NOAA to issue a permit for the use of dredged material removed from Port San Luis that is suitable as a resource for habitat protection or restoration purposes. See both the definition of “beneficial use of dredged material” at 15 C.F.R. 922.231 and associated sanctuary regulation at 15 C.F.R. 922.232(f)(1)(iii). If a project is proposed in the future, NOAA would participate with other agencies in the environmental review of the potential impacts and benefits of such a project and could consider a sanctuary permit based on that review.

Comment OW-26: The exceptions for disturbance to the submerged lands should have specific, additional exceptions for anchoring an offshore wind platform, as is granted for anchoring a vessel.

Response: The exception for anchoring a vessel included in the prohibition on disturbing the submerged lands applies to a vessel, as defined by the national program regulations to include watercraft capable of being used as a means of transportation, which would not include an offshore wind platform (see 15 C.F.R. 922.11). The basic intent behind this exception recognizes most boat anchors are not large enough to cause damage to the submerged lands (except in sensitive habitats), are deployed temporarily and retrieved regularly, and are so frequently used in a sanctuary as to make the requirement to obtain a permit unmanageable. However, NOAA’s understanding is that the anchors necessary to stabilize a large offshore floating wind platform are massive, many thousands of times larger than an anchor for a standard vessel. Anchors for offshore floating wind platforms are expected to be deployed permanently and removed only at the end of the life of the platform. Agency approval of installation of anchors for wind platforms would require environmental review as part of a larger project. If platforms outside of the sanctuary require anchors placed within the sanctuary, NOAA could consider location,

placement and impact of anchors through the overall project's environmental review and agency consultation, and as appropriate, could approve placement of anchors on the submerged lands via an ONMS authorization of an underlying permit, likely a USACE permit.

Comment OW-27: The proposed regulations include an exemption for “maintenance dredging of the entrance channels for Port San Luis in existence at the time the sanctuary is designated.” NOAA should expand this exception to allow for the expansion of existing channels to accommodate port improvements needed for offshore wind.

Response: The intent behind the current exception is to allow maintenance dredging to ensure the existing port can remain open. The water depth at the COLREGS demarcation line for Port San Luis, the boundary for the sanctuary, is approximately 50 feet deep along about half of that line, and the seafloor descends deeper as it moves offshore. NOAA understands that little, if any, dredging has ever been needed to maintain the entrance channel. Nonetheless, NOAA believes the exception is warranted given its likely limited nature and importance to ensure public access to the existing harbor. To grant an exception at this time for disturbance to the submerged lands from dredging to deepen the channel during a harbor expansion would be premature because it is not possible to determine the potential consequences of that exception. Should an expansion of the port out into the sanctuary be proposed in the future, NOAA would work with the port, local, state, and federal agencies and others, to consider the impact of that activity.

Comment OW-28: NOAA should create a permit exception for research and monitoring activities that may disturb the seafloor through anchoring of passive acoustic monitoring or receivers for fish tagging. Creating an exemption for seafloor disturbance associated with research activities will help further the sanctuary's research and monitoring goals.

Response: NOAA has a well-established process to issue sanctuary general permits for research activities that could disturb the submerged lands. This permit process does not place undue burden on researchers or otherwise inhibit a sanctuary's research and monitoring goals (see 15 C.F.R. 922 subpart D, and 922.232(d)). As noted in Section 4.7.3 of the final EIS, NOAA considers research in support of a commercial activity to be permissible with a sanctuary general permit.

Comment OW-29: If the final sanctuary designation requires permits for offshore wind facilities, both BOEM and NOAA will be required to conduct consultation under Section 106 of NHPA as part of the regulatory review process for their offshore wind projects. To ensure that there are not contradictory requirements for treatment of historic properties related to offshore wind development, NOAA should add an exception for impacts on historic properties resulting from offshore wind facilities for which a Section 106 consultation is complete. This approach would reduce the risk of contradictory requirements and protocols governing treatment of historic properties potentially affected by the offshore wind facilities both within and outside of the sanctuary.

Response: NOAA is willing to coordinate Section 106 consultations reviews with BOEM and will look for other opportunities to streamline review work. The two agencies already have cooperative agreements to facilitate collaboration. Review will not be redundant as BOEM will be responsible for Section 106 consultations for portions of the project outside of a national

marine sanctuary, and NOAA will be responsible for portions of the project within a national marine sanctuary, including for sanctuary permit reviews, as applicable. The sanctuary permit process has a separate statutory and regulatory basis, purpose, and trigger than do Section 106 consultations. As such, NOAA declines to add the requested permitting exception.

Comment OW-30: The permit process will require close coordination between BOEM and NOAA as both agencies may have to approve different parts of offshore wind development projects and each agency has a different purpose in managing the outer continental shelf. Without close coordination, developers could face conflicts and delay. NOAA should develop and use a programmatic environmental review process, since a project-specific permit process may be cumbersome when compared to goals of both the Biden-Harris Administration and the state of California.

Response: NOAA agrees on the importance of close cooperation with BOEM in conducting environmental review and permitting for development of the three offshore Morro Bay lease areas. BOEM, rather than NOAA, is the federal lead agency for environmental review of potential impacts from offshore wind development. In December 2023, it initiated a programmatic environmental review process for the federal waters' portions of the Humboldt and Morro Bay Wind Energy Area development (BOEM, 2023). NOAA has requested cooperating agency status for that environmental review. Once companies submit construction and operations plans, BOEM will initiate additional environmental review and again NOAA intends to be a cooperating agency on those environmental review processes.

Comment OW-31: NOAA should only accept an application for subsea electrical transmission cables if the developer proposes a full and credible plan for full abandonment and removal of cables at the end of the project life.

Response: NOAA believes there is merit in the suggestion and will coordinate closely with BOEM and state agencies on their permit requirements for subsea electrical transmission cables. However, the Final Preferred Alternative has been designed to, in part, allow cable routing that does not transit CHNMS. NOAA defers a decision on this suggestion, as it is unnecessary in this rulemaking and EIS for designation of CHNMS to establish final permit application requirements for such cables. It will also consider this sort of suggestion when it completes its review of the 2011 policy and permitting guidance for submarine cable projects later this year. See also response to comment OW-16 above, and Activity OE-3.1 in the management plan.

Offshore Wind Energy Development in State Waters

Comment OW-32: The maps and text of the draft EIS need to be updated to reflect that the BW Ideol project in state waters off Vandenberg has been withdrawn. Make other technical changes to reflect the current status of the corporation (CADEMO) proposing the remaining wind project and the environmental process envisioned.

Response: The suggested changes have been made to the final EIS.

Comment OW-33: The CADEMO project proposed in state waters of the sanctuary is compatible with the goals of the sanctuary. Given the number of state and federal agencies

already working on the environmental review and permitting, NOAA needs to amend the regulations to exempt that project and allow those agencies to make the final choice about approving that project, or not.

Response: As noted in the response to OW-1, NOAA is not making any policy statements about offshore wind with this sanctuary designation. With proper engineering, design, environmental review, and interagency collaboration on permitting, an offshore wind energy development project could be potentially compatible with a sanctuary's goals and purposes. NOAA has indicated its interest to participate with state and other federal agencies in a joint review panel to evaluate the potential environmental impacts posed by construction and operation of the proposed CADEMO project. After that, a decision can be made on that specific project's appropriateness within the sanctuary. If NOAA were to approve that project in state waters of the sanctuary, it could issue an ONMS authorization of either a CSLC lease or a CCC coastal development permit.

Comment OW-34: NOAA should treat all offshore wind projects the same, whether they be in state waters or federal waters. Since the Agency-Preferred Alternative cuts out a large area to allow cables to be built outside of the sanctuary, and the original boundary at the time the 2021 Notice of Intent was adjusted to avoid overlap with the Morro Bay Wind Energy Area, NOAA needs to carve out the CADEMO project or exempt it from regulatory oversight to ensure it is treating all projects consistently.

Response: The 2021 Notice of Intent removed a portion of the marine waters included in the CHNMS nomination because BOEM had already initiated the leasing process to develop the Morro Bay Wind Energy Area prior to NOAA's initiation of the designation process for CHNMS. BOEM lacks authority to issue offshore wind development leases within a sanctuary and the federal government determined it would offer greater certainty for potential lease bidders if the overlapping area was excluded from the proposed sanctuary boundary. NOAA is not aware of any analogous restriction on the CSLC's authority to grant a lease within a national marine sanctuary. Thus, a similar exclusion for CADEMO is unnecessary.

An additional consideration is that the offshore wind development projects in federal waters off Morro Bay are far ahead of CADEMO, which still is in the conceptual phase, lacking leases from the state for development. Also, in Section 4.7.3 of the final EIS, NOAA explained four potential development scenarios for CADEMO involving state leasing and permitting, three of which lead to no adverse impact from the sanctuary designation on development of this project in state waters. Given these facts and given the state itself has not requested that NOAA provide any special boundary or regulatory exception for this singular development project, NOAA is not adopting the particular requests made by CADEMO that it be given special regulatory exceptions or boundary exclusions for developing its project. NOAA will participate in the environmental review for the CADEMO project. That review process will provide NOAA appropriate, project-specific information and the opportunity to coordinate with state agency partners on the appropriate action for that proposal. See responses to comments OW-33 and OW-35 for more information about NOAA's decision-making process related to the CADEMO project.

Comment OW-35: The CADEMO project off Vandenberg should not be allowed within the sanctuary based on serious environmental and cultural reasons. It is too close to the shore in a

unique biodiversity location with highly significant fisheries and wildlife populations that could be harmed. It is too close to or would directly impact important cultural sites. The visual impacts would be significant should the project be built that close to shore.

Response: As noted in the response to comment OW-33, NOAA has expressed an interest in participating in a joint review panel with state and other federal agencies to analyze the potential impacts from development of the proposed CADEMO project. The environmental impact analysis will assess potential impacts on natural and cultural resources. After completing that analysis and consultations with partner agencies, NOAA will be able to make a decision as to whether or not to provide an ONMS authorization for a state lease for the proposed CADEMO project within the sanctuary.

Offshore Wind Impacts on Sanctuary Resources

Comment OW-36: The EIS should provide additional details regarding the impacts of offshore wind development on sanctuary resources (e.g., biology, oceanography). It should provide a brief characterization of floating offshore wind technology and feasibility for the public's benefit.

Response: A detailed analysis of the impacts of offshore wind development on sanctuary resources is beyond the scope of the EIS. The purpose of the EIS is to disclose potential impacts caused by the designation of the new national marine sanctuary on the natural and human environment (see also response to comment PN-1). NOAA is not proposing to undertake or to issue a permit for energy development with this proposed action. Similarly, the final EIS is not the proper place to evaluate the technology or feasibility of offshore floating wind technology. Any future offshore wind energy project would be subject to applicable state and federal environmental review processes. That environmental review would be the appropriate place for the impact analysis and assessment of technology and feasibility requested by the comment.

Comment OW-37: NOAA should consider allowing the subsea electrical transmission cables to be built, but rather than burying them in the submerged lands, require that they be covered with a natural material that also functions as habitat.

Response: As noted in the response to comment OW-36, the final EIS for the sanctuary designation is not the proper place to assess construction or operation impacts, or mitigation measures, for subsea electrical transmission cables. Should any subsea electrical transmission cables be proposed to be built within the sanctuary in the future, the environmental review for that development would include an evaluation of construction and operational impacts. If significant adverse impacts are identified, the environmental review must consider mitigation measures, which could include alternative cable laying methods such as the concept proposed by this comment.

Comment OW-38: Well managed offshore wind development could occur, provided NOAA and the other federal and state agencies, and industry, carefully study its impacts and be prepared to make adjustments should unforeseen problems arise. Baseline monitoring of conditions before offshore wind facilities are constructed should be a priority of NOAA in the new sanctuary and BOEM and relevant state agencies.

Response: Both the research and monitoring and the offshore energy action plans contain strategies whereby NOAA could coordinate with partner agencies to conduct baseline and ongoing monitoring of offshore wind development activities. However, the level of CHNMS staff involvement in monitoring offshore wind development could be affected by the final sanctuary boundary and the degree to which there is direct offshore wind energy development within the sanctuary or affecting sanctuary resources. NOAA already collaborates with BOEM and various other partners on baseline monitoring of the soundscape in the area proposed for the new sanctuary, which can assess sound impacts from offshore activities.

Comment OW-39: Offshore wind development would pose visual impacts on heritage viewsheds, a sanctuary resource that is to be protected under the NMSA.

Response: As noted in response to comment OW-36, the EIS for sanctuary designation is not intended to provide a detailed assessment of potential impacts of offshore wind energy development. The purpose of the EIS is to disclose potential impacts caused by the designation of the new national marine sanctuary on the natural and human environment (see also response to comment PN-1). Analysis of offshore wind energy impacts will occur when a specific wind energy project is proposed. It is through these project-specific analyses that NOAA, other federal and state agencies, and the public can make judgements in the future about viewshed impacts from offshore wind development.

Support for Offshore Wind

Comment OW-40: Any current or future renewable offshore energy projects should not be negatively impacted by this new sanctuary designation, as there is significantly reduced value in protecting certain regions of the United States, especially the ocean and forests, if the country is not able to achieve zero emissions as soon as possible to combat the onslaught of impacts from climate change. The uncertainty of the permitting process in the sanctuary for offshore wind projects could lead to greater climate change impacts if projects are substantially delayed or derailed.

Response: The designation of CHNMS is fully consistent with the goals outlined in E.O. 14008, which seeks to expand development of energy production from offshore wind and also expand conservation of critical ecosystems and habitats. The three offshore Morro Bay lease areas would not be directly impacted by the sanctuary designation. If the Final Preferred Alternative is designated, few if any subsea electrical transmission cables or other structures or activities would be expected within the sanctuary boundary. Permit processes can allow for siting and development of subsea electrical transmission cables that must pass through the sanctuary. See Section 4.2.3 of the final EIS for a discussion of the impacts of sanctuary designation on climate change.

Comment OW-41: The sanctuary management plan and regulations should allow for future development of support facilities for offshore wind such as ports and harbors and associated offshore wind operations and maintenance, including expansion of those support facilities.

Response: Both the offshore energy and the resource protection action plans include commitments to participate in joint agency reviews of coastal or offshore development that could affect the sanctuary. As port or harbor expansions, or support facilities for offshore wind,

become more refined, NOAA can work with partner agencies to review those proposals. See also responses to comments OW-5, OW-25, and OW-27.

Submarine Fiber Optic Cables

Properly Characterize the Importance of Fiber Optic Cables

Comment FC-1: Both the EIS and the management plan fail to properly recognize and describe the importance of submarine fiber optic cables in the sanctuary, including the vital role this industry plays in the telecommunications system, wider economy, and security. These telecommunication systems represent essential, critical infrastructure that are the backbone of the global digital ecosystem and global economy.

Response: NOAA considered submarine fiber optic cables in the draft EIS, but to aid review and understanding of these cables, NOAA has added a new subsection on submarine fiber optic cables to the EIS land use discussion in Section 4.6.1: Socioeconomics, Human Uses and Environmental Justice. Some of the descriptive information noted in the comment is included in that new subsection, as well as details about the number of fiber optic cables, their landing sites in the sanctuary, and points of origin. Future planned fiber optic cables are also described.

No specific stand-alone section regarding submarine fiber optic cables has been added to the final management plan. However, a new strategy has been added to the Offshore Energy Action Plan regarding improving information about various permitting processes, and the telecommunications industry and reference to submarine fiber optic cables are included there (see Strategy OE-3). The final management plan also includes a new activity to improve coordination among agencies and users of the seabed. NOAA acknowledges that the telecommunications industry needs to be a part of that process (see Activity OE-4.4). The telecommunications industry is also noted as a critical participant in a [New Blue Economy](#) activity, Activity BE-3.1.

Comment FC-2: NOAA failed to recognize that submarine fiber optic cables are fully compatible with the NMSA's resource preservation goals in establishing sanctuaries. Submarine cable routing within the sanctuary should remain an available option.

Response: NOAA's final action does not include any policy statements that submarine fiber optic cables are inherently incompatible with the sanctuary. NOAA believes submarine fiber optic cables can be compatible with a sanctuary and can be approved after environmental review, consultation with partner agencies, and satisfaction of permit review criteria. The approval process is outlined in response to comment FC-10.

Impacts on Fiber Optic Cables

Comment FC-3: The draft documents do not adequately satisfy NEPA, NMSA, or E.O. 12866 requirements in their assessment of fiber optic cables because they do not clearly explain how the sanctuary may impact cables. The proposed regulations would have significant adverse impacts on multiple existing and proposed commercial submarine fiber optic cables. For example, there are submarine fiber optic cables planned for development at Grover Beach, which is inside the Agency-Preferred Alternative and should be acknowledged. The Agency-Preferred Alternative and proposed regulations do not adequately consider the impacts on fiber optic cable installation, permitting, operation, and maintenance. NOAA did not consider a

reasonable range of alternatives in the draft EIS and should have considered other boundary or regulatory alternatives, including more fully considering the alternative of excluding or exempting fiber optic cables. The final EIS must assess direct, indirect, and cumulative impacts on fiber optic cables.

Response: Per response to comment FC-1, while NOAA considered submarine fiber optic cables throughout its analysis, it has added a new discussion in EIS Section 4.6.1 to consolidate information about fiber optic cables in the study area. The potential impacts on fiber optic cables are more clearly described in final EIS sections 4.6.3 through 4.6.9. In summary, NOAA has clarified that neither the Initial Boundary Alternative nor any other alternative would have a significant adverse impact on fiber optic cables within the sanctuary because there are permit mechanisms that can allow submarine fiber optic cable installation, maintenance, and operation. The sanctuary regulations prohibit disturbance of the submerged lands; however, new fiber optic cable construction could be allowed if permitted through the ONMS authorization process. This process ensures seafloor disturbances and other impacts on sanctuary resources are minimized. ONMS has experience with successfully permitting fiber optic cables via these approval mechanisms through several existing national marine sanctuaries. For example, ONMS has approved construction of fiber optic cables within other national marine sanctuaries by authorizing a USACE permit.

The EIS meets or exceeds NEPA requirements to consider a reasonable range of alternatives. During scoping of the EIS, NOAA considered the telecommunication industry's request that cables either be excluded via boundaries or via exceptions in regulations, but did not accept the requests. That consideration was outlined in the draft EIS (Section 3.9.4), and NOAA has added additional clarifications to that analysis in the final EIS. Some of the alternative boundary configurations would achieve some of the exclusion sought by the telecommunications companies (see Alternative 3 and Alternative 4 in particular) but NOAA did not include in its alternative analysis a boundary option that would exclude all fiber optic cables, as any such boundary would have been too small to meet the purpose and need for the sanctuary. NEPA does not require NOAA to consider an infinite range of all possible alternatives, but rather, only those alternatives that are feasible and meet the purpose and need of the proposed action. In final EIS Section 3.9.4, NOAA also explained that it rejected the alternative of providing a regulatory exception for fiber optic cables to ensure NOAA could review proposed seabed disturbance and provide appropriate mitigation measures to minimize impact on sanctuary resources. While NOAA has identified several regulatory exceptions to the prohibition on disturbance of the submerged lands, most of these regulatory exceptions are directly related to maritime safety and have an anticipated low or de minimis level of disturbance to the submerged lands.

Comment FC-4: The EIS is deficient because NOAA did not properly consider previous comments provided by the telecommunications industry regarding the minor impact cables have on the marine environment, including in some cases NOAA's own studies. Many agencies are already involved in the permitting process for fiber optic cables, eliminating the need for NOAA to regulate them within the sanctuary. NOAA failed to consider the potential impact of the new sanctuary on fiber optic cables in various issue areas such as water quality, military, cultural heritage, and socioeconomics.

Response: Based on experience with submarine cables in national marine sanctuaries, NOAA concurs that cables can have relatively minor impacts on benthic habitats, for the most part. Nonetheless, problems can occur when cables become unburied or are mislaid. Some habitat types recover more quickly than others. Benthic habitat recovery within five years does not mean that there was no adverse harm to the habitat while recovery ensued. Acute impacts from single cable systems are better understood than cumulative impacts of multiple cables constructed in a single area. This EIS evaluates the potential impacts of sanctuary designation on various issue areas. The potential impact of sanctuary designation on submarine fiber optic cables is evaluated in the socioeconomic section. While the socioeconomic section also contains a summary of the background and importance of fiber optic cables in this region, the scope of this EIS does not extend to a detailed impacts analysis of fiber optic cables in those other issue areas (water quality, military, cultural heritage) since the impact analysis focuses on impacts of sanctuary designation on those issue areas.

Comment FC-5: In order to properly allow for fiber optic cables and avoid impacts from the new sanctuary, NOAA should revise the sanctuary boundary to consider very small, discrete sanctuary boundaries that only protect the most special sanctuary resources and avoid cables, similar to the boundary for Monitor National Marine Sanctuary, or entirely exempt fiber optic cables from sanctuary regulatory consideration similar to Hawaiian Islands Humpback Whale National Marine Sanctuary.

Response: As noted in the boundaries' comments section of this appendix, NOAA does not favor protecting a large ecosystem by designating a network of small areas around the most exclusive and sensitive sanctuary resources, whether they be living marine, historical, or cultural resources. Such a framework would hamper conservation of ecosystem connectivity, not be consistent with the purpose and goals of this sanctuary, and would complicate public awareness of and compliance with sanctuary regulations and non-regulatory programs. See responses to comments BO-27 and BO-28. Because the boundary and regulations for each individual sanctuary are driven by the purpose, need, goals, and objectives of that sanctuary, it is reasonable for different sanctuaries to take different approaches to these issues.

Comment FC-6: The likely wind energy development in the corridor created at Morro Bay by the Agency-Preferred Alternative would "foreclose" that area for future fiber optic cables.

Response: NOAA acknowledges the seafloor across the area offshore Morro Bay and including the entire Santa Lucia Bank is a complicated space with diverse uses competing for space, including commercial fishing, Department of Defense (DoD) activities, existing and potentially new submarine fiber optic cables, and new subsea electrical transmission cables to bring electricity from offshore Morro Bay lease areas to shore. Different users see competition for space differently. The Final Preferred Alternative, if designated, would allow for a large area "outside" of CHNMS where offshore wind developers and telecommunications companies can coordinate their development plans with each other and with other federal agencies (such as BOEM) and state agencies (such as the California Energy Commission and CCC).

Comment FC-7: The discussion of the permitting process and impacts regarding fiber optic cables does not align with NOAA's reasons for identifying the Agency-Preferred Alternative and

the assessment that under the Initial Boundary Alternative there would be moderate adverse impacts on wind energy transmission.

Response: The final EIS has consolidated information about the potential impact that sanctuary designation would have on telecommunications cables (see final EIS Section 4.6). For the Initial Boundary Alternative, NOAA concludes that adverse impacts of sanctuary designation on telecommunication companies would be short-term, localized, and minor. If the Final Preferred Alternative (built off Alternative 4) is designated, those potential impacts would be considerably lessened since many submarine fiber optic cables would fall outside of the sanctuary. See response to comment BO-1 about why this alternative was chosen relative to permit concerns from offshore wind developers.

Comment FC-8: The EIS states that NOAA does not consider the administrative process of obtaining a permit to be a significant impact, yet telecommunications companies have avoided sanctuaries because they perceive the permit process as a barrier. NOAA needs to acknowledge that existing sanctuary regulations have created *de facto* exclusion zones for submarine fiber optic cables for the past 20 years. The final EIS must assess the potential impacts of cable operators routing around the sanctuary to avoid permit costs and delays including impacts on sensitive resources those re-routed cables may pass through.

Response: NOAA does not consider the administrative process of applying for a permit, *per se*, to have an adverse impact on a permit applicant or developer. NOAA disagrees that the regulations for CHNMS or for any other sanctuary create an explicit ban on future submarine fiber optic cables. At least 55 cables, including many telecommunications fiber optic cables, are presently on the submerged lands of national marine sanctuaries. Submarine cables are not “precluded” in national marine sanctuaries and NOAA does not have evidence that the existence of a sanctuary permitting process would constitute the dispositive factor in a cable siting decision. NOAA’s policy and permitting guidelines for submarine cables rely on use of an ONMS authorization to consider and, if appropriate, approve submarine fiber optic cables in sanctuaries. The [2002 fair market value assessment for cables](#), the [2011 policy and permitting guidelines](#), and this final EIS all convey NOAA’s recognition of the importance of the telecommunication industry and our nation’s reliance on submarine fiber optic cables (NOAA, 2002 and 2011). Those and other documents also convey the importance of finding a balance between maintaining or expanding cable systems with conservation of important sanctuary resources, such as living, historical, and cultural resources located on the submerged lands of a sanctuary. NOAA has issued a Federal Register notice on August 16, 2024 that commits NOAA to update the permitting and policy guidance in 2024, and the fair market value for use of a sanctuary’s submerged lands for submarine cables. With this Federal Register notice, NOAA has modified the special use permit category for continued presence of commercial submarine cables such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, while the permit category is assessed (see response to comment OW-16 for more information).

NOAA is not involved in the telecommunication industry’s decisions about routing and landing cables outside of national marine sanctuaries so it cannot speculate on or affirm the assertion of the comment about sanctuary regulations creating *de facto* exclusion zones for submarine fiber

optic cables. As noted in various responses to comments in this section, NOAA has adopted policy and permitting guidelines to aid the siting and permitting of cables within national marine sanctuaries. It has issued permits for cables to be built and operated in sanctuaries, and has never denied a permit for cables within a sanctuary. In final EIS Section 4.6.3, NOAA has acknowledged the short-term, minor adverse effect of sanctuary designation on telecommunications companies. It is not within the scope of this EIS to speculate about impacts on marine resources beyond the sanctuary should, hypothetically in the future, a company choose to locate a cable outside of CHNMS despite the various provisions NOAA has made to allow permitting of cables within the sanctuary.

Inconsistent Treatment of Cables

Comment FC-9: NOAA has not justified in the EIS why certain activities, which have a significantly higher impact than submarine fiber optic cables, appear to receive less scrutiny than fiber optic cables. NOAA proposes to impose an additional level of subjective and discretionary federal review for existing and future submarine fiber optic cables within the sanctuary when it has not done so for other types of activities such as: 1) continued oil and gas production at existing reservoirs from Platform Irene and Platform Heritage; 2) dredge material disposal sites authorized by the USEPA in consultation with USACE; 3) ongoing maintenance and repair of oil and gas pipelines to shore from Platform Irene or Platform Heritage; 4) construction, maintenance and repair of navigational aids, docks, piers, and jetties; 5) maintenance dredging for harbors; and 6) drilling and maintenance of well related to oil and gas production within existing reservoirs under production.

Response: The sanctuary regulations largely provide for equal treatment of existing activities that may violate sanctuary regulations, pursuant to NMSA Section 304(c). First, they “grandfather in” all existing activities that would otherwise be prohibited by allowing operators with leases, licenses, permits, or other approvals issued by a state or federal agency to seek a certification after sanctuary designation. This would apply to telecommunication companies with structures—submarine fiber optic cables—on the submerged lands of the sanctuary, or oil and gas companies with platforms or pipelines on the submerged lands. It would also apply to existing discharges from oil and gas facilities, or coastal nuclear power plants. Second, the sanctuary regulations do not prohibit continued operation of fiber optic cables nor continued production of oil and gas from a federally issued lease. NOAA does include an exception from its regulation of prohibited activities to allow oil and gas production under leases in effect on the date of sanctuary designation, and certain discharges into subsea formations and seabed disturbances necessary and incidental to such continued oil and gas production. These activities are already extensively regulated by partner federal agencies—in particular, BSEE and BOEM—who have, and apply, technical expertise highly specialized to those activities. Also, excepted activities necessary and incidental to existing oil and gas production, such as discharges or injections into a reservoir necessary for existing oil and gas production, while technically within the sanctuary, generally happen far below the biologically active portions of the submerged lands. Thus, with respect to both submarine fiber optic cables and existing oil and gas production, the sanctuary regulations would not prohibit ongoing operations but ensure that there would be regulations appropriate to address potential impacts of specific activities, with regulations tailored to the activity based in part on the need for sanctuary regulations to

complement and supplement existing regulatory oversight to protect sanctuary resources. Third, repair of existing submarine cables is treated the same as repair of existing oil and gas pipelines—both require approval by NOAA to the extent that they would disturb submerged lands, and/or cause a discharge of material. Fourth, final sanctuary regulations allow developers for most types of activities to seek permits for new development that would otherwise be prohibited. This would apply, for instance, to a telecommunication company proposing a new submarine fiber optic cable or a local utility proposing a new desalination plant. However, the regulations do not allow NOAA to approve any permit or otherwise authorize certain incompatible activities, such as new oil, gas, or mineral development, or new discharges of untreated or primary-treated sewage within the sanctuary.

NOAA does provide exceptions to the prohibition on disturbing the submerged lands for maintenance dredging of harbor mouths or for repair of a harbor jetty or breakwater, because these are typically public facilities or activities necessary to promote or allow public navigation or public access to the ocean.

Certification and Permitting Processes

Comment FC-10: Because of the importance of fiber optic cables, NOAA should ensure that the proposed sanctuary regulations enable the continued existence and proper functioning of this critical infrastructure. NOAA should ensure regulations do not prevent the operation of a predictable and consistent installation permitting framework for new submarine fiber optic cables.

Response: The final sanctuary regulations contain permit processes that can allow for continued operation of all fiber optic cables in the sanctuary. Permits for existing cables can be certified by NOAA at the time of sanctuary designation (see 15 C.F.R. 922.10, 15 C.F.R. 922.232(g), and 15 C.F.R. 922.234). Should any disturbance of the submerged lands be necessary in the future to repair a cable, if such repair activity is not already allowed via a certification, NOAA would be able to authorize any permit issued by the USACE for such activity (see ONMS authorization process at 15 C.F.R. 922.36 and 922.232(e)), subject to environmental review and satisfaction of permit review criteria. NOAA does not believe the ONMS authorization process for a repair project approved by the USACE is burdensome; NOAA currently collaborates closely with USACE and will continue to do so in the future to ensure timely action.

Regarding permitting for new cables, in 2011 NOAA published [policy and permitting guidelines for submarine cables](#) (see also NOAA 2011). In summary, the guidelines explain how the current practice for commercial cables relies on the ONMS authorization process to review and approve cable construction and a special use permit for on-going presence of a structure (a cable) in or on the sanctuary submerged lands. The guidelines provide extensive details about how to apply, what NOAA will consider in reviewing applications, examples of likely standard mitigation measures and more. The special use permit allows NOAA to assess a fair market value for use of sanctuary resources (the seabed). Accordingly, the cable permitting guidelines include a link to [an assessment of fair market value](#) from 2002 for use of the sanctuary seabed for fiber optic cables (see also NOAA, 2002). As announced in the Federal Register notice issued on August 16, 2024 (89 Fed. Reg. 66689), NOAA will revise both the guidelines for permitting submarine

cables and the fair market value assessment in 2024, to provide updated information and certainty for telecommunications companies and offshore wind developers. During the two-year period specified in the Federal Register notice, the special use permit category does not apply to CHNMS and the continued presence of submarine cables in the proposed sanctuary is not subject to Section 310 of the NMSA (see response to comment OW-16 for more information).

Comment FC-11: NOAA proposes a certification process for pre-existing rights in 15 C.F.R. 922.234 that goes above and beyond the scope of NOAA's general certification review process set out in Part 922, subpart A (15 C.F.R. 922.10) without justifying the need for the increased level of scrutiny and discretion. As drafted, NOAA has considerable discretionary authority and could condition an existing cable so that it effectively prohibits ongoing operations. Furthermore, there is no basis for NOAA to require public comment and a hearing for certification of a use that has already gone through public review and comment.

Response: NOAA believes that the proposed sanctuary certification process does not reflect an increased level of scrutiny and discretion relative to the general certification regulations (15 C.F.R. 922.10), but merely provides more details. The certification process outlined for CHNMS (15 C.F.R. 922.234) necessarily provides process details because the regulations for certifications applicable to all national marine sanctuaries (15 C.F.R. 922.10) are general in nature and contain virtually no detail about how the process will be conducted. Conversely, the sanctuary regulations provide relatively fewer details about the sanctuary general permit process or the ONMS authorization process because the national program regulations contain considerable details about how those review processes will be conducted (see 15 C.F.R. part 922 subpart D).

NOAA has amended the timeline for certifications to clarify confusion in different parts of the proposed regulations and draft management plan. Section 15 C.F.R. 922.234(a)(1) has been revised to allow a party to seek a certification within 120 days (rather than 90 days) of the effective date of sanctuary designation. The final sanctuary regulations also include other modifications to the certification process to provide some of the adjustments sought by industry. For example, Section 922.234(e) has been modified to remove the authority to hold a hearing; Section 922.234(g) has been revised to narrow the conditions for amending or revoking a certification after issuance; and, Section 922.234(h) has been removed because it was open-ended and unnecessary given the revisions to (g). These amendments are consistent with the issues, policies, and purposes discussed in the proposed rule, and constitute procedural updates and technical corrections and clarifications. The purpose of the amendments is to respond to concerns received in public comment and ensure the CHNMS certification process is consistent with NMSA Section 304(c). The NMSA does allow NOAA to impose reasonable conditions on the exercise of a preexisting lease, permit, license, or right consistent with the purpose of the sanctuary. See final EIS Section 3.2.2 for revised regulations.

NOAA further clarifies that denial, revocation, amendment, or suspension of a certification does not mean that NOAA is terminating the underlying permit or right. Rather, it means that a person exercising a pre-existing permit or right within the sanctuary in a manner that does not comply with the certification regulations or the terms and conditions of an issued certification,

where the activity is otherwise prohibited by the sanctuary regulations, could be subject to an enforcement action pursuant to Section 307 of the NMSA.

Comment FC-12: Clarify if, for purposes of certification, “existing” means a cable that has been approved, whether or not it has physically been installed by the effective date of sanctuary designation.

Response: A submarine cable (or other structure, development, or activity) that has been approved by the effective date of sanctuary designation, for which the developer can provide NOAA a copy of the lease, permit, license, or other authorization, can be certified (per 15 C.F.R. 922.234(e)) before it has been installed.

Comment FC-13: NOAA should have one opportunity to review the impact of a cable over its lifetime, including repair and maintenance, through a revised certification process that is expedited (and not a separate permit for repair and maintenance). That review should not impose greater burdens on existing cables that have already been permitted by others.

Response: NOAA may well be able to provide a single review depending on the extent of the existing underlying cable lease, permit, license, or other authorization. For instance, if the underlying permit authorizes repair and maintenance that may be necessary to address a break that has not yet occurred, NOAA could certify that permitted activity under 15 C.F.R. 922.234. NOAA may need to impose additional conditions on an activity to further the purposes of the sanctuary, such as if the underlying lease, permit, license or other authorization fails to properly protect sanctuary resources. However, NOAA works closely with state and federal partner agencies to harmonize mitigation and conditions and streamline the permit review process.

Comment FC-14: NOAA should exempt all permits for submarine fiber optic cables. The rigorous review requirements for the maintenance and repair of submarine fiber optic cables are unnecessary considering the benign environmental impacts of such repairs. Further, the installation of new cables and repair and replacement of existing cables are already reviewed and managed through USACE, Coastal Zone Management Act consistency review by the CCC, and by the CSLC in state waters.

Response: NOAA is declining to exempt submarine fiber optic cables from permit requirements for reasons stated in Section 3.9.4 of the EIS and in response to comments FC-9 and FC-10. However, as explained in response to comment OW-16, NOAA issued a Federal Register notice on August 16, 2024 announcing that the special use permit category for continued presence of commercial submarine cables is modified such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, while NOAA evaluates the need to update the special use permit category. NOAA is treating all cable projects consistently—submarine fiber optic cables, subsea electrical transmission cables, and research cables. All cables, to the extent that they would violate sanctuary prohibitions and other regulations, would need to undergo NOAA review in order to obtain certifications for existing cables, ONMS authorizations for repairs to existing or installation of new commercial submarine cables, or sanctuary general permits for a cable necessary for research purposes (other criteria also could apply for non-commercial cables subject to a sanctuary general permit (see 15 C.F.R. 922.30). NOAA would work closely with

state and federal agency partners to ensure timely and efficient review for submarine cable projects, while also ensuring sanctuary resources receive proper consideration and protection.

Comment FC-15: NOAA should rely on its review authority under Section 304(d) of the NMSA which requires federal agencies to consult with NOAA when they propose to approve an activity that could harm sanctuary resources. By relying on this authority, NOAA could exempt all fiber optic cables from any permit requirements for repair or new installations, and instead consult with USACE when it is considering a permit request for a fiber optic cable in the sanctuary.

Response: NOAA has explored relying solely on Section 304(d) consultation under NMSA rather than specific permit processes. If NOAA were to rely solely on the 304(d) process to approve a USACE permit for a new submarine fiber optic cable, it would be shifting the responsibility for compliance with any NOAA requirements from the developer, typically a private party, to a federal agency, which complicates enforcement and non-compliance. Lastly, the 304(d) process would not apply to state agency actions in state waters, which could hamper NOAA's review of development if it relied solely on 304(d) consultation and did not have a permit process for the sanctuary.

Comment FC-16: Proposed regulations require NOAA review of fiber optic cable repairs (likely a special use permit), which would prevent responsive action. Federal Communications Commission licensees have an obligation to respond quickly when there is a break in a fiber optic telecommunications cable. Furthermore, previous permits for fiber optic cables from other agencies (that NOAA would review for certification) may already include provisions for repair and maintenance.

Response: NOAA understands the pressure for rapid repair of existing cables and would work closely with federal lead agencies, most likely USACE, or state agencies such as the CCC or CSLC, to provide rapid review and response. If involved from the beginning and with close agency and applicant cooperation, NOAA can typically issue an ONMS authorization within days of any underlying approval from a partner agency. NOAA typically does not issue special use permits for repair and maintenance activity because the disturbance of the submerged lands from retrieval of the cable precludes NOAA's making the necessary determination for a special use permit that the activity shall be "conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources." See response to comment FC-13 regarding NOAA's potential ability to rely on a certification that includes repair and maintenance in the underlying state or federal permit. NOAA may also be able to rely on its own ONMS authorization for a submarine cable if repair and maintenance were included in the underlying permit or as a condition of the ONMS authorization.

Comment FC-17: The proposed regulations subject cable operators to undefined and potentially astronomical special use permit fees. The lack of certainty keeps operators from investing in new cable systems and planned deployments.

Response: NOAA relies on special use permits when permitting the construction of new cables to allow the cable to "use" a sanctuary resource—the submerged lands—to protect the cable. A special use permit allows NOAA to recover administrative costs for staff time to review and take action on the permit, and for a fair market value for use of the sanctuary resource. The most

recent [fair market value assessment](#) for submarine fiber optic cables was completed in 2002 and identified a range of values NOAA could use that is based on comparable systems on other federal lands (see also NOAA, 2002). NOAA issued a Federal Register notice on August 16, 2024 announcing that the special use permit category for continued presence of commercial submarine cables is modified such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, affording NOAA time to evaluate the need to update the special use permit category and complete the process. In 2024, NOAA will begin a process to update its fair market value assessment for cables in a national marine sanctuary, which would help provide certainty for developers planning new cable systems in a national marine sanctuary.

Comment FC-18: Some fiber optic cable operators are opposed to NOAA’s use of the ONMS authorization process and permitting regime for fiber optic cables, citing concerns about uncertainty, delay, and disproportionate financial cost. Several alternative models—“innovative management approaches”—were suggested, including choosing very small, discrete boundaries for the sanctuary or only requiring sanctuary permit review in highly sensitive, special areas.

Response: One of the suggested “innovative management approaches”—shrinking the sanctuary to have small, discrete boundaries surrounding only the most highly special areas—was considered during the 2021 Notice of Intent phase and was not accepted. This is outlined in EIS Section 3.9.4 and addressed in response to comment FC-5. NOAA does not favor protecting a large ecosystem by designating a network of small areas around the most exclusive and sensitive sanctuary resources, whether they be living marine, historical, or cultural resources. Such a framework would hamper conservation of ecosystem connectivity, not be consistent with the purpose and goals of this sanctuary, and would complicate public awareness of and compliance with sanctuary regulations and non-regulatory programs. The second suggestion, to only require a sanctuary permit when a cable is proposed to pass through certain highly sensitive areas, would require detailed study to identify the precise location of those areas at the time of designation. NOAA lacks certainty it could identify all of those areas at this time. Nonetheless, it has created a special management zone around Rodriguez Seamount with special regulations that would offer additional limitations on any development activity, including laying a submarine fiber optic cable in that area. Having a formal role for the sanctuary, along with partners, when new cable permits are being considered, ensures any other special areas containing important living, historical, or cultural sanctuary resources are identified and impacts on them are mitigated. See also response to comment FC-15 regarding NOAA’s consistent treatment of submarine cables with respect to the regulatory prohibition on seabed disturbance.

Comment FC-19: NOAA should rely on its authorization process for new submarine fiber optic cables, rather than issuance of a special use permit. NOAA should use the CHNMS rulemaking to clarify it has the flexibility to rely solely on the ONMS authorization process rather than the special use permit process. It is appropriate to consider the treatment of submarine fiber optic cables on a sanctuary-specific basis, relying on the record and the evidence before it, instead of simply relying on outdated, past programmatic precedent.

Response: NOAA’s current process, as outlined in its [2011 policy and permitting guidelines for submarine cables](#), relies on ONMS authorizations for construction of new cables and special use permits to allow the continued presence of a new structure (a cable) on or in the submerged lands of the sanctuary (see also NOAA, 2011). The response to comment FC-10 and the policy and permitting guidelines explain the purpose for the special use permit. NOAA will be revising this document and the fair market value assessment for cables in a sanctuary in 2024, and issued a Federal Register notice on August 16, 2024 announcing that the special use permit category for continued presence of commercial submarine cables is modified such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, affording NOAA time to evaluate the need to updating the special use permit and complete the process. Changes could be made at that time as suggested by the comment.

Comment FC-20: The sanctuary should model its regulatory regimes after other national marine sanctuaries; for example, Hawaiian Islands Humpback Whale National Marine Sanctuary does not prohibit cable installation or repair. Also, sanctuaries such as Monterey Bay (15 C.F.R. 922.132) and Florida Keys (15 C.F.R. 922.163 exceptions) have issue-specific exceptions for a broad range of commercial activities.

Response: The regulations at a national marine sanctuary are designed and implemented to address the specific resources within and threats a particular sanctuary faces. NOAA only develops regulations that are necessary to achieve the purpose and need for the sanctuary. Hawaiian Islands Humpback Whale National Marine Sanctuary does not prohibit cable installation or repair because it does not have a regulation prohibiting disturbance of or placing a structure on the submerged lands. Humpback whales are pelagic (open ocean) migratory animals, and as such, conserving the humpback whale populations around the Hawaiian Islands has not required that sanctuary to include a prohibition on disturbance of the submerged lands. By contrast, protecting the submerged lands of CHNMS is necessary to achieve the purpose and need for the sanctuary, which include protection and management of both benthic (seafloor) and pelagic sanctuary resources. Further, the subsections cited in the comment for MBNMS and FKNMS are consistent with how NOAA has developed the regulations and exceptions for CHNMS—customized regulations and exceptions to address the threats facing a sanctuary and necessary to achieve the purpose and need for the sanctuary. While NOAA has identified several regulatory exceptions to the prohibition on disturbance of the submerged lands, most of these regulatory exceptions are directly related to maritime safety and have an anticipated low or *de minimis* level of disturbance to the submerged lands. Thus, NOAA is modeling the regulatory regime for CHNMS consistent with the prior designations of other national marine sanctuaries.

Comment FC-21: NOAA should adopt a Chumash Submarine Fiber Optic Cable Overlay Zone throughout the final boundaries of the sanctuary to provide special regulations for fiber optic cable installation, construction, operation, maintenance and repair. Specific language applicable within the zone was provided for special certification procedures for existing fiber optic cables, and special procedures for ONMS authorization of permits issued by other agencies for new cables in the sanctuary. The proposed special regulations would limit NOAA review processes compared to those proposed in 15 C.F.R. 922.234 for CHNMS certifications and ONMS and CHNMS regulations for authorizations (15 C.F.R. 922.36 and 15 C.F.R. 922.232(e), respectively).

Response: It would be atypical for NOAA to adopt a special zone that applies throughout an entire sanctuary. More commonly, NOAA adopts zones that are geographical subsets within an overall sanctuary boundary. For examples of this, see special MPAs within CINMS, the Davidson Seamount Management Zone within MBNMS, the Rodriguez Seamount Management Zone within CHNMS, or zones and areas for operation of motorized personal watercraft at GFNMS and MBNMS. A sanctuary-wide special zone, as suggested, is unnecessary since the special permit procedures proposed in the comment would apply throughout the entire sanctuary.

NOAA has carefully reviewed the suggested regulatory changes and is not adopting suggestions regarding ONMS authorizations for CHNMS. The suggested language significantly changes the permit process NOAA relies upon for ONMS authorizations. For example, the suggested changes would: remove any review criteria for making a decision on the permit request; require that the ONMS authorization be issued thus reducing the ONMS director's authority to deny a request; limit the ONMS director's discretion to amend authorizations; and limit the scope of any permit conditions or mitigation measure to those "reasonably consistent" with conditions imposed in the underlying state or federal action. Adopting these suggestions would, in aggregate, severely diminish ONMS' ability to protect sanctuary resources and qualities.

As described in the response to comment FC-11, NOAA is incorporating some of the changes sought for the certification process. However, NOAA is not accepting the suggestions to apply timelines for its actions on the certification largely because an applicant may continue to conduct the underlying activity while NOAA considers the certification request. Although NOAA virtually always approves certification requests, it is not accepting the change that requires the certification to be approved, as this improperly eliminates the director's authority, pursuant to Section 304(c) of the NMSA, 16 U.S.C. 1434(c), to impose reasonable conditions on the exercise of a preexisting lease, permit, license, or right, consistent with the purpose of the sanctuary.

Comment FC-22: If NOAA will not exercise its authority to adjust the certification and ONMS authorization process with sanctuary-specific regulations for CHNMS, a separate national program-level rulemaking is necessary to remove the requirement for, uncertainty, and cost due to special use permits for submarine fiber optic cables in national marine sanctuaries.

Response: The comment is suggesting an action beyond the scope of this sanctuary designation process. See responses to comments FC-10 and FC-19 regarding upcoming processes whereby NOAA could consider different permits for submarine fiber optic cables in sanctuaries.

Miscellaneous Submarine Cable Comments

Comment FC-23: Submarine cable-related restrictions and permitting processes are not necessary for, and indeed inconsistent with, the statutory criteria for a new sanctuary designation, because: a) submarine telecommunications cables are neutral-to-benign in the marine environment and are a sustainable use of the marine environment compatible with the goals of the NMSA; b) existing federal and state laws are in place that appropriately mitigate any concerns with respect to submarine cable infrastructure; c) the proposed regulations would have a negative impact on an existing industry and the economic, societal, and national security interest they support; and, d) innovative management approaches were not considered.

Response: NOAA has already provided a response to point “a” (see comment FC-4). In summary, NOAA believes potential impacts on sanctuary resources exist that warrant sanctuary oversight. Regarding point “b,” NOAA works closely with these other agencies and has a permit process that relies on those other agencies serving as the lead, and authorizing their underlying permits (see response to comments FC-10 and FC-16). In addition, Section 2.2.1 of the EIS provides a detailed discussion of the need for the proposed sanctuary designation, and in particular, the need to provide coordinated and comprehensive management of the marine area in a way that complements existing regulatory authorities. This discussion acknowledges existing federal and state regulatory and management authorities, but explains the need to supplement these authorities to achieve coordinated and comprehensive management and protection of the area. This analysis fully satisfies Section 303(a)(3) of the NMSA (providing that a necessary factor for sanctuary designation is that “existing state and federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education” (16 U.S.C. 1433). With regard to point “c,” NOAA finds that the sanctuary regulations do not have a significant adverse impact on the telecommunications industry because permit processes allow consideration and approval through certification of existing cables, and ONMS authorizations of repair and maintenance or construction of new cables. Lastly, regarding point “d” of this comment, NOAA has considered innovative management approaches demonstrated by its adoption of Activity OE-4.4 in the management plan to find solutions to multi-user conflicts on the submerged lands within the sanctuary. It has also considered innovations raised in various comments provided during this rulemaking (see response to comments FC-18 and FC-21), and is committing to revising its submarine cable permitting procedures in 2024 to allow for other innovations. NOAA issued a Federal Register notice on August 16, 2024 (89 Fed. Reg. 66689) announcing that the special use permit category for continued presence of commercial submarine cables is modified such that, for a two-year period, it does not apply to sanctuaries designated after August 16, 2024, including the proposed CHNMS, affording NOAA time to evaluate the need to update the special use permit category and complete the process.

Comment FC-24: The draft EIS, management plan, and proposed regulations do not explain how the proposed designation is consistent with international law. Appendix A of the draft EIS recognized but ignored concerns expressed during the 2021 Notice of Intent scoping process that NOAA’s treatment of submarine fiber optic cables would be contrary to, and inconsistent with, international law because the freedom to install and maintain submarine cables is well established by treaty and customary international law. NOAA has an erroneous view that the U.S. has general jurisdiction to regulate the U.S. Exclusive Economic Zone. United Nations Convention on the Law of the Sea (UNCLOS), as observed by the United States and customary international law, establish no such general jurisdiction, and also establish particular rights and freedoms for submarine cable installation and repair.

Response: Since 1995, NOAA has permitted the installation, continued presence, maintenance, and repair of submarine cables in national marine sanctuaries through sanctuary general permits, authorizations, certifications, and special use permits. ONMS has issued a total of 47 sanctuary permits (including amendments) for various aspects of submarine cable installation, maintenance, continued use, and removal. Various permitting tools have been used, including authorizations, special use permits, certifications, research permits, and other general permit

types. In considering and issuing permits for submarine cables in sanctuaries, NOAA applies the NMSA and implementing regulations in a manner that both protects sanctuary resources and respects the rights of other nations under international law, as required by the NMSA.

The NMSA, 16 U.S.C. 1435(a), provides that the NMSA and its implementing regulations “shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.”

Article 192 of UNCLOS establishes a general obligation of all states to protect and preserve the marine environment. UNCLOS Article 56 provides that a coastal state has, within its exclusive economic zone, “sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil . . .”

Additionally, UNCLOS Article 79(2) provides that “[s]ubject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources . . . the coastal State may not impede the laying or maintenance of such cables . . . [on the continental shelf].” Further, a coastal state may “establish conditions for cables . . . entering its territory or territorial sea” (UNCLOS Article 79(4)).

The sanctuary regulatory and permitting framework as applied to submarine cables, including the CHNMS final rule, are reasonable measures that are consistent with these provisions of UNCLOS. The regulations, which would require a sanctuary permit or other authorization to allow altering or disturbing the submerged lands within the sanctuary, are intended to conserve and protect the natural resources of the area. In considering the issuance of a sanctuary permit or authorization, NOAA considers, among other factors, whether the expected end value of the activity to the furtherance of sanctuary goals and purposes outweighs potential adverse impacts on sanctuary resources and qualities from the conduct of the activity. A permit may include terms and conditions reasonably necessary to protect sanctuary resources. In addition, the NMSA contemplates multiple-use management of sanctuaries, and NMSA implementing regulations advance this multiple use approach by balancing the conservation of sanctuary resources with their use for recreational, educational, or commercial purposes. In addition, most or all of the cables that enter the sanctuary enter the territorial sea; one cable that traverses south from Cayucos is entirely within the territorial sea.

Comment FC-25: The U.S. and California Constitutions prohibit any law, including agency actions, that impairs upon the “Obligation of Contracts.” Through its infrastructure, telecommunication companies serve multiple public and private entities under binding contracts. Under the Contracts Clause, NOAA’s actions in disrupting existing contractual relationships must be reasonable and advance a significant and legitimate public purpose. NOAA has not justified its intrusion into those contractual relationships.

Response: NOAA disagrees with the assertion that designating the sanctuary would impair contractual obligations. Even if that were the case, NOAA believes—for the reasons explained throughout this document—that the sanctuary regulations are reasonable and would advance significant and legitimate public purposes that the NMSA is designed to serve (see 16 U.S.C. §

1431). More fundamentally, it is settled that the Contracts Clause of the U.S. Constitution does not apply to actions of the federal government (see *Pension Ben. Guar. Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 732 n.9 (1984)). Nor does the California Constitution's Contracts Clause apply, because federal laws—including “both federal statutes themselves and federal regulations that are properly adopted in accordance with statutory authorization,” (*City of New York v. F.C.C.*, 486 U.S. 57, 63 (1988))—have supremacy over state laws, including state constitutions (U.S. Const. Art. VI, cl. 2).

Comment FC-26: Independent of the public review process, NOAA needs to consult with various federal agencies involved in or otherwise having a regulatory role over the telecommunications industry, such as the Federal Communications Commission, Department of Homeland Security, Department of Justice, National Telecommunications and Information Administration.

Response: All the identified agencies had the opportunity to comment on the draft designation documents during interagency review. In addition, NOAA has met directly with the National Telecommunications and Information Administration.

Desalination

Comment DE-1: NOAA should address effects of the proposed sanctuary on coastal development such as desalination projects, including possible offshore subsea freshwater production systems. Such an assessment is particularly relevant for Sub-Alternative 5b—Gaviota Coast extension—and should address infrastructure needed, cables, and water pipelines.

Response: NOAA recognizes that the County of San Luis Obispo is in the early stages of planning for desalination to address water supply issues, and that there are concepts for floating desalination facilities offshore of VSFB, both (potentially) located within the sanctuary boundary. The timeline for a county desalination plant is far into the future, and it could be as much as another decade before developers are ready to seek permits. As such, potential impacts on a possible desalination project are not reasonably foreseeable for the purposes of NEPA review; NOAA could not reasonably assess impacts of sanctuary designation on desalination projects that do not exist or do not have set design plans. However, ONMS recognizes the interest and likelihood of developing desalination facilities in the future, and understands there is some interest in the Gaviota Coast area with regard to possible offshore subsurface technologies. In response, Activity WQ-2.7 was added to the Water Quality Action Plan to address future desalination projects. See response to comment MP-73.

Comment DE-2: NOAA should include desalination as a potential activity in the proposed sanctuary, and it should be included as an allowable use upon obtaining the required development permits. NOAA should provide regulatory allowances for appropriate desalination projects and adopt a cooperative approach similar to MBNMS. These approaches should be conveyed through modifications to the proposed sanctuary's terms of designation, regulations, and permit process.

Response: The only activities not allowed without a permit in the sanctuary are listed as prohibited in the regulations. While desalination is not listed specifically as a prohibited activity, it can typically have design features that are otherwise prohibited, such as disturbance to the

submerged lands and discharges of brine effluent. A developer of a desalination project in the sanctuary can pursue a permit; in other sanctuaries like the adjacent MBNMS, approval has been sought through an ONMS authorization (see 15 C.F.R. 922.36), a permit process that is also included in the CHNMS regulations (see 15 C.F.R. 922.232(e)). A new activity (Activity WQ-2.7) has been added to the Water Quality Action Plan to involve the sanctuary in state desalination planning processes and to consider, through the Sanctuary Advisory Council (SAC), adopting the MBNMS desalination guidelines, with modifications as appropriate, for siting, designing, and operating desalination plants in the sanctuary.

Air Quality and Climate Change

Potential Impacts on Air Quality and Climate Change in Sanctuary

Comment AC-1: There is concern about air quality impacts on the sanctuary if the planned battery facility at Morro Bay was to catch fire.

Response: Analyzing the potential impacts of the planned battery facility at Morro Bay on air quality in the sanctuary is outside of the scope of this EIS (see response to comment PN-1).

Comment AC-2: Have there been any studies on the air quality impact of the missiles launched from VSFB?

Response: Analyzing the impacts of missiles launched from VSFB on air quality in the sanctuary is outside of the scope of this EIS (see response to comment PN-1). VSFB analyzes such impacts in its own environmental analysis documents.

Comment AC-3: Section 4.2 of the EIS should include additional impacts from climate change on physical resources in the proposed sanctuary area, such as the effects of sea level rise, coastal erosion, and changes in hydrodynamic processes. For example, changes in upwelling will impact available habitat for species within the area, as well as the potential for the area to contribute to climate resiliency.

Response: Analyzing the impacts of climate change on physical resources in the sanctuary is generally outside of the scope of this EIS (see response to comment PN-1). Section 4.2.1 of the EIS does include discussion on existing and potential future impacts of climate change on the study area as part of the regional overview of the affected environment. Section 4.10.3 of the EIS addresses the potential for adverse climate effects of reasonably foreseeable projects with the potential to contribute to cumulative effects, but concludes that the proposed action and alternatives would not make a substantial contribution to adverse cumulative effects. Some language has been added to sections 4.2.3–4.2.8 of the final EIS to expand the discussion of the sanctuary’s beneficial impacts on climate change. In addition, Strategy CC-1 in the management plan’s Climate Change Action Plan focuses on assessing and planning for climate impacts on sanctuary resources and communities. For more discussion on climate resiliency, see response to comment AC-5.

Reducing Greenhouse Gas Emissions

Comment AC-4: The best thing we can do for the sanctuary is to cut greenhouse gas emissions quickly. It is essential to permit unhampered access to the Diablo Canyon Call Area for offshore wind development.

Response: NOAA agrees it is important to reduce greenhouse gas emissions; the Climate Change Action Plan highlights that addressing the effects of climate change on national marine sanctuaries is a top priority for ONMS. The ONMS website also has a page titled “[Climate Change and Your National Marine Sanctuaries](#)” with information about ONMS efforts to monitor, mitigate, and adapt to climate change. For more discussion on offshore wind development concerns, including Diablo Canyon Call Area, see responses to comments OW-5 and OW-6. For more details on support for offshore wind and sanctuary coexistence, see responses to comments OW-7 and OW-40.

Sanctuary Impact on Climate Change

Comment AC-5: Establishing the biggest possible boundary will bolster climate resilience. The habitat diversity, including kelp forests, seagrass beds, and wetlands in and adjacent to the proposed area is a powerful contributor to climate resilience and helps to buffer vulnerable coastal communities from coastal erosion and harmful climate impacts. A disturbed ocean and nearshore environment will leave a non-natural barren ecosystem causing local heating and die-off of ocean species. Leaving the California coast and nearshore environment in a natural state will decrease the effect of climate change by allowing the ocean to absorb much of the excess heat and some of the carbon dioxide emissions caused by climate change.

Response: NOAA analyzes the beneficial impacts of the sanctuary on biological resources (see sections 4.3.3–4.3.8) and climate change (see sections 4.2.3–4.2.8) in the final EIS, including positive direct and indirect impacts. Section 4.2.3 specifically notes that beneficial impacts on climate change would result from any increase in the uptake of atmospheric contaminants, such as carbon dioxide, due to increased biological productivity resulting from protections under the sanctuary. Text has been added to Section 4.2.3 of the final EIS to note potential climate benefits related to protection of habitats and marine sediments in the sanctuary. For more discussion on NOAA’s Final Preferred Alternative boundary, see response to comment BO-1.

Comment AC-6: This sanctuary is needed as a natural laboratory to help us gain a better understanding of the range and dynamics of climate impacts at this transition zone that serves as a thermal gradient overlapping the Oregonian and Californian Faunal Provinces.

Response: The management plan’s Climate Change Action Plan acknowledges that the special setting of the sanctuary provides one of the best opportunities in the world for the study of ecosystem transition zones and climate change. This action plan focuses on four strategies that would support climate-informed management of the sanctuary through increased understanding and prediction of climate impacts. In Section 4.3.3 of the final EIS, NOAA notes that conducting a climate vulnerability assessment as part of the Climate Change Action Plan would provide sanctuary managers with tools to identify those living resources at greatest risk from a changing climate and better data to inform direct resource protection interventions.

Comment AC-7: The sanctuary will support the newly passed Ocean Climate Action Plan. Newly formed MPAs that follow principles laid out in the Ocean Climate Action Plan will allow for expanded research into the development of monitoring and predictive capabilities of climate-responsive adaptive management.

Response: NOAA understands and supports the Biden-Harris Administration’s Ocean Climate Action Plan, including the finding that establishing, implementing, monitoring, and enforcing climate-adaptive national marine sanctuaries, and other types of MPAs and conserved areas, is an effective way to achieve long-term conservation of nature with associated ecosystem services and cultural values (Ocean Policy Committee, 2023, p. 51). This is reflected in the final management plan’s Climate Change Action Plan.

Comment AC-8: NOAA claims that sanctuary designation and management will somehow mitigate the effects of climate change. There is no scientific evidence that this is so.

Response: There is an increasingly robust body of evidence that suggests MPAs do confer both climate mitigation and adaptation benefits. For example, Jacquemont et al. (2022) conducted a meta-analysis of 22,403 publications spanning 241 MPAs which demonstrated that “marine conservation can significantly enhance carbon sequestration, coastal protection, biodiversity, and the reproductive capacity of marine organisms as well as fishers’ catch and income,” suggesting that MPAs are a useful tool for climate mitigation and adaptation. Specific to sanctuaries, which have particularly strong seafloor protections, Hutto et al. (2023) demonstrates the significant climate mitigation service provided by marine sediments and the critical role sanctuary protections provide for continued carbon accumulation on the seafloor (Epstein and Roberts, 2022; Black et al., 2021; Atwood et al., 2020; Smeaton et al., 2020). Additional language has been added to Section 4.2.3 of the final EIS to specifically analyze the beneficial impacts on climate change due to seafloor protections of sedimentary carbon stocks in the sanctuary. For more discussion of how the sanctuary would help bolster climate resilience, see response to comment AC-5. The ONMS website also has a page titled “[Climate Change and Your National Marine Sanctuaries](#)” with information about how marine protected areas offer important nature-based solutions to human-caused climate change, as well as information on ONMS efforts to monitor, mitigate, and adapt to climate change.

Biological Resources

Expand Baseline Information

Comment BR-1: The EIS should include additional baseline information about biological resources to better inform the final action and strengthen the assessment of beneficial impacts in the study area. Comments requested inclusion of specific information, including the following: habitat types and use; habitat suitability for indicator species and macroinvertebrates; protected species and habitats (using aggregated data from existing research networks); seabird hotspots; diversity, abundance, distribution, density, and migratory patterns of fish and shark species; migratory corridors; biologically important areas for whales; aggregation spots for fish; the unique biology of Rodriguez Seamount; data from recent research; wildlife disturbance; recent explorations of the benthic environment and seafloor stratum in the study area; and existing stressors and species vulnerability.

Response: NOAA acknowledges that the full richness, diversity, and complexity of natural resources in the study area exceeds what was presented in the draft EIS, in particular, Section 4.3: Biological Resources. The EIS is not meant to be a full, complete, and exhaustive study of these resources. Rather, an EIS “shall succinctly describe the environment of the area(s) to be affected . . . [I]t shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses . . . shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced” (40 C.F.R. 1502.15). Under the applicable NEPA regulations, there is sufficient baseline information in Section 4.3 for the purposes of this EIS.

Comment BR-2: The EIS should include additional information on foundational habitats for many species in the California Current Ecosystem, such as intertidal areas and kelp forests which can also provide multiple ecological services and are vulnerable to changing oceanographic conditions and exposure to human activities. The rocky intertidal communities and kelp forests differ in composition north and south of Point Conception, reflecting the biodiversity present in the ecological transition zone. Including more comprehensive information about the differences in intertidal and kelp forest communities between the two oceanic systems in the transition zone is important to understand the different ecological services provided. Including wildlife corridors for important species and areas with kelp forests and coral will hopefully preserve these crucial ecosystems in the long term, and help adapt to changes in climate without unsustainable human disturbance.

Response: NOAA agrees that foundational habitats in the sanctuary provide important ecological services, and understands that there are differences in such habitats across the transition zone range. As explained in the response to comment BR-1, the EIS is not meant to be a full and exhaustive characterization of foundational habitats and biodiversity across the sanctuary area. NOAA believes Section 4.3 of the EIS contains sufficient information. The designation documents acknowledge the national, if not global, significance of the biodiversity of this region, and implementation of the Research and Monitoring Action Plan’s Strategy RM-3 and the Climate Change Action Plan’s Strategy CC-1 would help advance further understanding of and management needs for these important habitats.

Comment BR-3: The EIS should include additional information on biological resources within the gap that would be created between Cambria and Montaña de Oro under the Agency-Preferred Alternative. The excluded northern region (“the gap”) in the Agency-Preferred Alternative is a biodiversity hotspot that would not receive much needed long-term protection.

Response: As explained in responses to comments BR-1 and BR-2, the EIS (specifically Section 4.3) contains sufficient information on biological resources between Cambria and Montaña de Oro, and NOAA agrees and acknowledges the biodiversity in this area is important ecologically. For more discussion about the gap and NOAA’s identification of the Final Preferred Alternative, see response to comment BO-1. The coastal and nearshore waters from Cambria down to the Final Preferred Alternative’s northern coastal boundary is one of the primary areas that would be considered in the final management plan’s Boundary Adjustment Action Plan. Activity BA-1.3 would assess and update NOAA’s understanding of the living marine and cultural resources of this area, and would assess this area as part of the sanctuary’s first [condition report process](#).

Comment BR-4: The EIS should include in its assessment the fact that the upwelling feature off of Morro Bay is of worldwide ecological significance. The nutrients and food sources present are essential to marine life sustenance and the health of California national marine sanctuaries, a UNESCO International Biosphere Reserve, and the network of state MPAs. A 2015 biogeographic assessment by NOAA ONMS describes the northern area's importance (the gap).

Response: NOAA understands that upwelling is an important feature of the California Current and provides significant support for important ecological features. NOAA is not aware of evidence that upwelling off Morro Bay or in "the gap" area is any more significant than at other locations off the central coast. Scientific evidence shows that upwelling originating at Point Conception advects down to the Channel Islands and thus has relevance beyond its local area. Therefore, NOAA believes the baseline information on upwelling included in Section 4.2 and Section 4.3 of the EIS is sufficient.

Comment BR-5: The final EIS should better explain the ecological significance of the deep offshore area west of the Santa Lucia Bank that would be excluded under the Agency-Preferred Alternative. This area contains significant populations of marine mammals and seabirds. Further, NOAA should acknowledge this area needs further exploration and likely contains important geological and biological deep-sea features. If this area is left unprotected, harmful extractive practices and operations may occur, leading to negative impacts on marine life.

Response: NOAA considered this ecological significance and has provided additional information on biological resources for the area west of Santa Lucia Bank in Section 4.3 of the final EIS. Seabird data provided by NOAA Dr. Nancy Foster Scholar Tammy Russell shows high biodiversity west of Santa Lucia Bank, and there are two Endangered Species Act (ESA)-listed seabirds (Hawaiian petrel and short-tailed albatross) known to use the area. Numerous offshore foraging marine mammals also frequent this area. However, because benthic subsurface research and exploration has primarily focused on the Santa Lucia Bank itself, with limited data existing for the deeper waters west of it, further exploration is needed to ultimately support some of the characterizations made in the comment. Consistent with the applicable NEPA regulations, the EIS applied "reliable existing data and resources;" NOAA was not required to, and did not, undertake new scientific or technical research to further inform resource and threat evaluations (40 C.F.R. 1502.23). The draft (and final) EIS recognized significant beneficial conservation impacts expected from the Initial Boundary Alternative, with Alternative 4 providing less benefits due to its smaller spatial domain. NOAA's decision to exclude waters west of Santa Lucia Bank in the Final Preferred Alternative is based in part on considerations of manageability (large size, far distance from shore), the absence of any planned extractive activities in this area, uncertainties about resource threat levels (for seabirds, marine mammals, and benthic habitats), and questions about the need for protective regulations at this time. Given these uncertainties, NOAA has added a new Boundary Adjustment Action Plan in the final management plan that calls for further evaluation of these waters for possible future inclusion within the sanctuary. These provisions call for a biogeographic study of living, cultural, and maritime heritage resources in this area to inform future decision-making regarding possible inclusion of additional areas into the sanctuary. See also response to comment BO-9.

Impacts on Biological Resources

Comment BR-6: Protecting the ocean environment adjacent to the Morro Bay Estuary would offer direct ecological benefits to the Morro Bay Estuary and would further the Morro Bay National Estuary Program’s Comprehensive Conservation and Management Plan.

Response: While NOAA agrees that the connection between the local open ocean environments and estuaries is vital to maintaining a healthy ecosystem, the Final Preferred Alternative does not include marine waters offshore of Morro Bay Estuary. However, these waters, in addition to Morro Bay Estuary itself, would be considered for potential future sanctuary expansion as part of the final management plan’s Boundary Adjustment Action Plan (see strategies BA-1 and BA-3 specifically). See also responses to comments BO-1, BO-7, and BR-3.

Comment BR-7: The final EIS should include more information on threatened southern sea otters in the proposed sanctuary, including impacts of the boundary alternatives on sea otter habitats like kelp forests that are important for species recovery. Sea otters are a keystone species, are critical to maintaining the balance of coastal environments, and are an economic draw for surrounding communities. Areas around Point Conception and off Morro Bay, including the northern area excluded in the Agency-Preferred Alternative, are regularly used by sea otters. Sea otters in the northern part of the study area are known to be at high risk from numerous factors. Of any marine mammal, sea otters are particularly vulnerable to oil spills.

Response: Sea otter recovery is spatially variable and the species is indeed a keystone for kelp forests. Overall, population growth appears to be slow or flat but many regions are experiencing declines, including areas in the sanctuary. The area around Morro Bay supports a healthy population, however this sub-population has not expanded southward to colonize other areas, potentially due to white shark attacks limiting their migration. While the Final Preferred Alternative does not include the area from Cambria south to Montaña de Oro, the area off Morro Bay, as well as Morro Bay Estuary, would be considered for potential future sanctuary expansion under the Boundary Adjustment Action Plan. Also see responses to comments BR-1, BR-2, and BR-3.

Comment BR-8: Under the Agency-Preferred Alternative, a 10–15 mile wide unprotected gap would create a huge barrier to the migration of many species up and down the coast. The population impact of this corridor must be assessed for all these species in order for this to be fully evaluated. The gap may become an area of concentrated offshore development, as a result of development activities desiring to avoid sanctuary permitting and mitigation. Offshore wind platforms and transmission cables pose a threat to the migration of multiple species of whales and other marine mammals along the central coast.

Response: NOAA acknowledges that numerous species use this area to move along the coast, and between coastal and offshore waters, and have been using this area as a migration corridor without sanctuary protection. The full extent of how future offshore wind development might affect animals that move through this area will need further study (see response to comment BR-9). While the Final Preferred Alternative does not “close the gap” at this time, Strategy BA-1 in the Boundary Adjustment Action Plan would evaluate and consider the need for a future boundary expansion to include waters north of the sanctuary. Activity BA-1.2 in particular

would track ongoing research and new studies that advance understanding of offshore wind energy development impacts, including effects on migrating species such as whales and other marine mammals. Also see response to comment BO-1.

Comment BR-9: The final EIS needs to include more information about how ocean noise and electromagnetic fields from construction and operation of offshore wind platforms and cables will increase, could change existing habitats, may affect life cycles of fish, could change species survival rates, and might release contaminants that could be absorbed by marine life. Offshore wind platforms and subsea electrical transmission cables pose a threat to marine life migration, both in the Morro Bay Wind Energy Area and offshore VSFB.

Response: The purpose of this EIS is to evaluate impacts of designating a new sanctuary. A detailed analysis of the potential impacts of offshore wind on marine life is outside the scope of this EIS (see response to comment PN-1). Those impacts will be analyzed by BOEM in future environmental analyses and BOEM will be responsible for developing research programs around these issues. In the final management plan, the Offshore Energy Action Plan describes several strategies to guide NOAA's efforts to address offshore wind energy development activities to assure long-term protection and management of sanctuary resources, including but not limited to reviewing environmental analyses by BOEM and other agencies, supporting the development of necessary research and monitoring, consulting with agencies, appropriate Tribal consultation, and addressing required sanctuary permitting actions.

Comment BR-10: Sea otters living within Morro Bay Harbor could be threatened by expanded use and development of the harbor area to support the offshore wind energy expansion. Sea otters are a staple feature driving tourism to this town.

Response: Morro Bay Harbor is not within the final sanctuary boundary, and any impacts within the harbor caused by offshore wind development or any other activity is beyond the scope of the EIS (see response to comment PN-1). Regarding potential related impacts in adjacent sanctuary waters, see planned consultations and inter-agency coordination activities in the final management plan's Offshore Energy Action Plan and Resource Protection Action Plan. Also see response to comment BR-7.

Comment BR-11: There is a desire to see fish populations healthy and protected from seafloor disturbance, mineral mining, discharges, and oil. Look at global data as proof that protected areas help fish populations. Discuss evidence on the [success of California's Marine Protected Area \(MPA\) network for fish stocks](#) (see also Monterey Bay Fisheries Trust, 2019)—particularly CINMS and MBNMS fish stock increases, as well as commercial and recreational fished species. Research shows that these protected areas have a positive influence on biodiversity far beyond their boundaries.

Response: Seafloor disturbance, mineral mining, discharges, and oil impacts are all strongly addressed through the sanctuary's regulatory prohibitions provided by NOAA's Final Preferred Alternative. The EIS finds that many ecosystem benefits to fish populations are expected from designation of the sanctuary (see EIS sections 4.3.3–4.3.8 and sections 4.4.3–4.4.8), but it is beyond the scope of this EIS to analyze the performance of California's MPA network (see response to comment PN-1). Regarding special MPAs that limit or prohibit fishing, NOAA

concurs that ecological benefits have been shown to result, both within and beyond their boundaries. However, as explained in the responses to comments FA-8 and FA-9, NOAA is not implementing fishing regulations under the NMSA within the sanctuary. The terms of designation⁴ and the regulations for the sanctuary do not allow NOAA to directly regulate lawful fishing activities under the NMSA in the sanctuary (note that some CHNMS regulations would apply to a vessel operator during the conduct of a fishing activity, for example discharges from a vessel). As explained in the response to comment FA-20, NOAA has identified a final sanctuary boundary that overlaps with four state MPAs, thus providing additional sanctuary protections (e.g., seafloor, water quality) and programmatic support to those existing protected areas.

Comment BR-12: NOAA's abbreviated consultation on the biological impacts of its actions should be reconsidered, and it should consult on the impacts on listed species and their critical habitat of the exceptions in the proposed rule that allow take of ESA-listed species despite the general prohibition.

Response: ONMS has consulted with the appropriate regulatory authorities and determined that sanctuary protections would afford additional protections for ESA-listed species. Section 9 of the ESA, 16 U.S.C. 1538, generally renders unlawful the take of endangered species. ESA-listed species are strongly protected by their respective agencies (NOAA Fisheries and U.S. Fish and Wildlife Service (USFWS)) and any potential incidental take of these species would require review by these agencies prior to any authorization. ONMS regulations and policy defer to agencies that have the responsibility of ESA enforcement and their respective decision-making. In particular, the CHNMS regulations prohibit "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) . . . , Endangered Species Act (ESA) . . . , Migratory Bird Treaty Act (MBTA) . . . , or any regulation promulgated under the MMPA, ESA, or MBTA" (15 C.F.R. 922.232(a)(5)). Analyzing potential impacts of any ESA-related take due to oil and gas activities is outside the scope of this EIS (see response to comment PN-1). See Appendix E.4 for the results of NOAA's ESA Section 7 consultation.

Comment BR-13: Regarding draft EIS Section 4.10.3: Description of Cumulative Impacts, how would the proposed sanctuary complement the state's no-take areas? If, through some adaptive management process in the future, the state wanted to change or eliminate no-take areas, would it be able to make this change within the sanctuary?

Response: The final sanctuary designation complements the state's network of MPAs by providing broad-scale ecosystem-level conservation, as well as a framework for community-based collaboration in the management of threats within or beyond the boundary of a state protected area. This sanctuary would extend throughout state waters, including those not within state MPAs, and into federal waters in a manner that, through regulations and non-regulatory programs, helps enhance habitat connectivity for marine organisms throughout the area. Other sanctuary programs such as coordinated research and monitoring, education and outreach, volunteer programs, and others help enhance the success of state MPAs. Overlapping authorities between the state of California and ONMS have proven to be beneficial for biological resources, as overlapping protections create increased conservation outcomes. ONMS and the state of

⁴ The final terms of designation will be included in the final rule.

California have partnered on ecosystem monitoring of state marine reserves and have worked together during the state's MPA Decadal Management Review process to have a coordinated response. In state waters, the state would have ultimate authority to change marine reserve boundaries as the protections fall under their authority. Also see responses to comments FA-9, FA-10, and FA-19.

Comment BR-14: Regarding draft EIS Section 4.10.3: Description of Cumulative Impacts, it is difficult to ascertain what benefits the proposed sanctuary would provide to projects within state waters due to state agencies such as the CCC, Water Board, and CSLC, and laws such as California Environmental Quality Act and California ESA. State waters are already protected, so it is very possible there are no benefits of applying sanctuary regulations on projects in state waters.

Response: The state of California provides numerous critical protections and resource management functions in state waters that safeguard coastal resources. Additional sanctuary protections in state waters would complement, reinforce, and augment the state's regulations and management where there is overlap or commonality, and sanctuary outreach efforts supporting state regulations would help enhance compliance. Additionally, there are some regulations and protections the state does not enact that the sanctuary would enact, including prohibitions of seabed disturbance, discharge and deposit standards, and other regulations that would benefit local ecosystems and stakeholders. As in other areas of the state, these overlapping jurisdictions would lead to enhanced management, research, and enforcement efforts built on effective state-federal partnerships and would support ecosystem connectivity through the full geographic scope of the sanctuary. Also see response to comment RP-5.

Comment BR-15: The final EIS should develop a cumulative impacts assessment of existing stressors in the proposed sanctuary area. Understanding how species use the area, the oceanographic conditions that support habitat suitability, and how climate change may alter suitability are important to more thoroughly assess the differences between the alternatives.

Response: The EIS is focused on assessing the impacts of sanctuary designation, which includes a cumulative effects analysis in EIS Section 4.10. NOAA finds that the Final Preferred Alternative and other alternatives considered would not make a substantial contribution to the adverse effects of climate change or other existing and reasonably foreseeable stressors, and that the EIS analysis contains sufficient information to make a reasoned decision among alternatives. In fact, various alternatives analyzed in EIS Section 4.2 conclude the sanctuary would have beneficial impacts on climate change through protection of habitats that help remove and sequester carbon, like soft bottom benthic habitat and kelp forest habitat. NOAA expects that climate change will alter the ecosystem regionally, and further research on habitat suitability in the sanctuary is called for in the Climate Change Action Plan and Research and Monitoring Action Plan (see strategies CC-1, CC-4, RM-3, and RM-5 in the final management plan).

Comment BR-16: There is concern about increased human impact upon opening up this area for visitors. There should be as few people allowed in this area as possible. Human foot traffic, boats of any kind, powered by people or motors, and sunscreens in the water due to swimming (to name a few), greatly and negatively impact the natural order and balance of ecosystems.

Response: The National Marine Sanctuary System protects the extraordinary scenic beauty, biodiversity, historical connections, and economic productivity of sanctuaries so they may support responsible and sustainable recreation, tourism, and commercial activities that drive coastal economies and inspire public stewardship. Importantly, such human use must be carefully managed to facilitate public and private uses of sanctuary resources to the extent compatible with the long-term conservation and protection of sanctuary resources, as called for in the NMSA (Section 301(b)(6), 16 U.S.C. 1431(b)(6)). Sanctuary education and outreach programs described in the final management plan would encourage sustainable use and enjoyment of sanctuary resources (see activities EO-1.1 and EO-1.2). The Research and Monitoring Action Plan includes planned efforts to understand human impacts (see Strategy RM-2) and strategies in the wildlife disturbance and resource protection action plans, among others, would guide NOAA's priority focus on ecosystem-based protection of the sanctuary.

Marine Mammals

Comment BR-17: Consider the specific recommendations from the Marine Mammal Commission submitted on the 2021 Notice of Intent regarding various regulatory suggestions to protect marine mammals in the sanctuary.

Response: NOAA considered the suggestions from the Marine Mammal Commission, and all commenters, in preparing the draft EIS, draft management plan, and proposed rule. NOAA has adopted a broad suite of regulations that would offer benefits for marine mammals and, at this time, is not adopting the specific requests, such as requiring ropeless fishing gear for all fixed-gear fisheries, speed limits for large commercial vessels, and prohibiting the transport of liquid petroleum products through the sanctuary. However, other requested actions would be adopted. As noted in responses to comments OW-1 and OW-3, development of offshore wind farms in the federal waters of the sanctuary would not likely occur. As noted in the response to comment FA-8, ONMS would be open to collaborating with state and federal fishery management agencies if they wanted to test ropeless fishing gear in the sanctuary. As noted in the response to comment SS-1, Activity RP-6.3 in the Resource Protection Action Plan outlines a process through which NOAA could consider pursuing mandatory vessel speed limits in the future. Also, the Final Preferred Alternative includes the coastal waters from Gaviota Creek to Dos Pueblos, a coastal area important to sea otters; thus, sanctuary regulations and programs in this area would benefit otters. While the Final Preferred Alternative does not include the coastal waters from Cambria to just south of DCP at this time, Strategy BA-1 in the Boundary Adjustment Action Plan would evaluate and consider the need for a future boundary expansion to include waters north of the sanctuary.

Comment BR-18: It is likely that impacts, both adverse and beneficial, may be altered based on future Pacific Coast Port Access Route Study (PAC-PARS) voluntary routing measures; these must also be formally assessed in the interest of biological resources, namely, marine mammals. It is reasonable that there may be beneficial impacts on marine mammals due to the recommendations by the U.S. Coast Guard (USCG) regarding shipping lanes. As no such analysis currently exists, the EIS presents the appropriate opportunity to undertake the task, as well as ensure the environmental document is complete, as required.

Response: Analyzing the potential impacts of future shipping lane movements on marine mammals is outside the scope of this EIS (see response to comment PN-1). However, monitoring shipping traffic is addressed in the management plan. See Strategy RP-6 in the Resource Protection Action Plan, and Activity WD-3.2 in the Wildlife Disturbance Action Plan.

Noise Impacts on Wildlife

Comment BR-19: There is concern around acoustic disturbances from various potential activities that could occur in the proposed sanctuary (i.e., undersea noise, seismic testing). NOAA should ban seismic surveys and take measures to reduce ocean noise. No seismic acoustic testing or other forms of sound pollution should be allowed, as it does great harm to underwater resident communication.

Response: NOAA has been actively working to monitor and understand the natural soundscape and potential sources of noise pollution in the proposed sanctuary through passive acoustic monitoring (see Activity RM-3.4 in the management plan's Research and Monitoring Action Plan). By setting a baseline for ocean noise in the area, the new sanctuary would be able to identify any potential new disturbances and work with partners to consider conservation needs and management action options. However, some projects including research, offshore wind energy characterization work, and other development efforts require the use of seismic testing and surveys to limit impacts on geologic, biologic, and historical resources. NOAA disagrees with a blanket ban on this work and instead will rely on protections already in place for sensitive biological resources, as well as the sanctuary regulation prohibiting take of marine mammals, sea turtles, or birds, except as authorized under applicable federal statute or regulation. NOAA and the state of California have numerous protections for marine mammals and other sensitive resources and require seismic surveys to use observers for sensitive species, and for work to temporarily halt when sensitive species are in the area. Regulation of noise pollution is difficult, as noise pollution sources may occur a great distance beyond the sanctuary boundary or not be an activity that is subject to ONMS regulatory authority. Strategy WD-3 in the Wildlife Disturbance Action Plan is focused on evaluating potential disturbance from offshore activities and minimizing threats to wildlife in the sanctuary. Sanctuary staff would continue to monitor the soundscape in the area and address concerns that come from monitoring data either through future regulatory action, education and outreach efforts, or working with partners to address the issue.

Rodriguez Seamount

Comment BR-20: NOAA should establish the special management zone for the Rodriguez Seamount in the final regulations and include strong and permanent regulations to protect the Rodriguez Seamount because it provides a critical habitat for an extremely diverse and abundant array of marine life. The Rodriguez Seamount is an important underwater feature with diverse, nationally significant biological communities, yet it also requires a more thorough characterization and exploration. NOAA should adopt the proposed regulations for Rodriguez Seamount, as they will protect this area from the threat of deep-sea mining due to the recently discovered manganese oxide ores.

Response: NOAA agrees with this comment and is including Rodriguez Seamount in the boundary for the Final Preferred Alternative, including the special management zone around the

seamount and the special regulations within it. Specific, further characterization and monitoring are also included in the Research and Monitoring Action Plan (see Activity RM-3.5).

Comment BR-21: NOAA should establish stronger protections for the Rodriguez Seamount special management zone, including prohibition of fishing activities there. This should include a permanent prohibition of all fishing that contacts the bottom, as well as a new ban on fishing activities in the water column above the seamount.

Response: NOAA is not implementing any fishing regulations; if an issue involving fishing at the Rodriguez Seamount arises in the future that might require additional regulatory action, NOAA will work with the affected stakeholders and the appropriate fishery management entity to find solutions. The suggested prohibition in the comment could be established by NOAA Fisheries, in coordination with the PFMF. Note that much of the Rodriguez Seamount Management Zone is already protected from bottom trawl gear as essential fish habitat (EFH) by the PFMF. Also see responses to comments FA-7, FA-9, and FA-10.

Comment BR-22: The draft EIS overlooks the level of scientific understanding of Rodriguez Seamount's unique biology. It's been the site of multiple scientific surveys. Rodriguez Seamount has physical conditions that are different from nearby seamounts; it has a flat, sediment covered top, providing unique conditions for marine life (see Rodriguez Seamount Scoping Document).

Response: As explained in responses to comments BR-1 and BR-2, and consistent with the NEPA regulations, the EIS is not meant to provide an exhaustive overview of the biological resources in a given area, but rather highlight key resources and issues. The importance of Rodriguez Seamount is outlined in EIS Section 4.3.3. NOAA is adopting a special management zone and special regulations for the seamount in recognition of its national significance. As indicated in the final management plan, NOAA also plans to characterize and monitor the biology, ecology, geology, and ecosystem functions of the Rodriguez Seamount (see Activity RM-3.5).

Introduced Species

Comment BR-23: NOAA should keep the proposed prohibition on introducing or otherwise releasing an introduced species into the sanctuary, and there should be no exception for striped bass. With the exception, striped sea bass will be released into the environment. This will most likely damage the habitat and the wildlife. Fishers and fish markets will be affected by this and prices will rise.

Response: NOAA is keeping the prohibition related to introduced species, including the exception for striped bass released during catch and release fishing activity. Striped bass exceptions for catch and release fishing exist in other California national marine sanctuaries with limited ecological impact on local communities because striped bass are already an established introduced species. This exception refers to fishing for the striped bass that are already established in the area; not releasing new striped bass. It is protected as a lawful fishing activity in California; however, catch and release of striped bass in the sanctuary is assumed to be low.

Comment BR-24: The introduction of new species should be strictly prohibited. If certain species become overpopulated, NOAA should consider introducing fishing/hunting permits for a limited season to control population growth while generating additional funding for the proposed sanctuary. NOAA should provide communications materials to ensure that no species are unintentionally introduced or spread by activities such as research or recreation in the sanctuary. NOAA should identify control measures when using equipment that has been used elsewhere and may harbor introduced species.

Response: The sanctuary regulations include a prohibition on the introduction of an introduced species (see 15 C.F.R. 922.232(a)(10)). NOAA does not have the authority to create or issue fishing or hunting permits under CHNMS regulations; that is under the authorities of NOAA Fisheries, PFMC, and the state of California. NOAA has worked with partners to conduct removals of introduced species to control population growth in other West Coast Region sanctuaries, mostly notably for different algae in MBNMS and CINMS, and for lionfish in several sanctuaries on the U.S. East Coast. Similar programs could be enacted in the sanctuary if deemed necessary (see Activity RP-1.1 in the Resource Protection Action Plan). Developing public outreach and communication materials on key needs, which could include introduced species, is outlined in the final management plan under Activity EO-3.2 in the Education and Outreach Action Plan.

Research/Scientific Collection

Comment BR-25: The proposed sanctuary will protect some very unique marine ecosystems, including the southernmost mainland northern elephant seal colony and a recently discovered adult white shark hotspot. However, the marine research community will be negatively impacted. The extra level of permitting and restrictions that come with a sanctuary permit are heavy handed and do nothing more than hinder important research. Many of the restrictions have no scientific data to justify them, and they sometimes make the research more dangerous to both researchers and the species under study. Sanctuary staff should work closely with researchers when considering research restrictions. Research activities are already subject to review and permits by the state of California, and the work has proceeded smoothly with a track record of excellent results.

Response: ONMS has a responsibility to protect and manage resources within each given sanctuary. Staff at each sanctuary work with regulatory partners (like the state of California), concerned stakeholders, and scientists to develop permit conditions that allow researchers to conduct work that limit cumulative impacts on resources and impacts on other ocean users. NOAA understands that this is an additional administrative burden for researchers, but NOAA does not consider the administrative process to seek and obtain a permit from the sanctuary to be an adverse impact. In addition, the permit process has no financial burden to researchers. The permit process ensures sanctuary managers are aware of work being done in the sanctuary, and ensures that resources in the sanctuary are being adequately protected.

Comment BR-26: The proposed sanctuary regulations prohibit the attraction of white sharks via chumming. Without the ability to chum for white sharks, research becomes too difficult to continue. Regulators may want to prohibit the development of a cage diving industry, but that should not hinder research. In fact, the few studies that have been published regarding

provisioning (chumming) and its impact on white sharks have shown that it does not have a negative impact on the sharks.

Response: Discharge and white shark attraction regulations are meant to protect sanctuary resources from activities of the general public; both for the safety of the resource and for people. A proposed research activity that would violate these regulations would need to receive a sanctuary permit in order to proceed. White shark researchers have been able to conduct their work safely in other West Coast Region sanctuaries for years, and ONMS staff have been collaborating with shark researchers to support and permit work within reasonable limits. NOAA respectfully disagrees with the comment that these regulations would inhibit research, as white shark research has been permitted and is currently active in three of the five national marine sanctuaries in the West Coast Region.

Best Management Practices

Comment BR-27: EIS Appendix C: Best Management Practices should be updated with appropriate species and measures for the proposed sanctuary area. The existing Appendix C appears to be intended for more northern waters (i.e., Steller sea lions, northern sea otters, and critical habitat for North Pacific right whales).

Response: All of these species, while at times rare, occur within the proposed sanctuary. While there are some species specifically identified for particular best management practices, the best practices cover a range of sensitive species including marine mammals, seabirds, sea turtles, and fishes. NOAA believes these best management practices are sufficient for the protection of numerous sensitive species from each of the aforementioned groups in the region.

EIS Appendix G Addition

Comment BR-28: The following information should be added to EIS Appendix G: the distinct population segments for humpback whales, harbor porpoises, orcas (killer whales, specifically, transient and offshore), and bottlenose dolphins to the list of the species; and the International Union for Conservation of Nature (IUCN) status, where available.

Response: Because individuals from separate population segments of the same species would respond similarly to the proposed actions, and given that ONMS manages resources locally inside national marine sanctuaries instead of at a population level, NOAA finds it warranted and logical to keep species groups together within the final EIS. NOAA has a responsibility to support compliance with the MMPA, ESA, and MBTA, which is the reason for the species listings in Appendix G of the EIS. The IUCN status is internationally-based and at times can mask local ecological trends in certain U.S. waters, and, unlike the ESA and MMPA, it has no actionable legal trigger for U.S. management actions. For these reasons, NOAA is listing the MMPA and ESA statuses for species in EIS Appendix G. See also Appendices E4–E6 for the results of NOAA’s ESA, MMPA, and MBTA consultation processes.

Cultural and Maritime Resources

Cultural Resources Baseline Information

Comment CR-1: The sections on Chumash history and heritage in the draft EIS must be rewritten by a qualified professional using the extensive available scholarship and sources with a valid connection to the actual Chumash communities.

Response: NOAA has revised Section 4.5 of the EIS to provide updated information and references about Chumash and Salinan histories and heritages.

Comment CR-2: It should be noted that there have been 41 documented Chumash ancestral villages on the coast and 25 villages in the interior, with evidence of our lifeways being found daily.

Response: NOAA appreciates the comment, and understands that there are a high number of ancestral Chumash village sites along the coast, and many village sites further inland. NOAA has updated related background information within Section 4.5 of the EIS.

Comment CR-3: The draft EIS should emphasize the importance of protecting Chumash cultural heritage.

Response: NOAA agrees. Section 4.5 of the EIS describes the ways that sanctuary regulations and programs would protect Indigenous cultural heritage resources of the marine environment through regulations and collaborative co-stewardship plan programs. The management plan also emphasizes the importance of Indigenous cultural heritage resource protection through strategies within the Indigenous Cultural Heritage Action Plan.

Comment CR-4: How many submerged cultural sites or villages have been discovered in the study area?

Response: NOAA is not aware of definitive discoveries of submerged cultural sites or villages, but expects that such sites exist given the rise of sea level over time. Specifically, with lower global sea levels during the Late Pleistocene, areas extending west from the present Central California coastline may have the potential to contain now submerged landform features. NOAA looks forward to respectfully and appropriately exploring this further, in cooperation with partners and appropriate involvement of consulting Tribes, as described in the management plan's Strategy ICH-2 (Identify Indigenous cultural resources and integrate Indigenous Knowledge).

Comment CR-5: There are well known Chumash archaeological sites in Morro Bay, Cayucos, and Cambria that need to be protected.

Response: NOAA is aware that the coastal areas along Morro Bay, Cayucos, and Cambria contain archaeological sites of significance to Chumash People, as well as Salinan People. NOAA would further evaluate the coastal cultural resources between Diablo Canyon and Cambria as part of implementing the Boundary Adjustment Action Plan. See response to comment BO-1 for NOAA's explanation of the boundary for the Final Preferred Alternative.

Comment CR-6: Does NOAA have the technical capability to study sensitive areas of concern (i.e., ancestor remains and cultural resources in shoreline areas due to runoff from Morro Bay Estuary tributaries and other locations), or does that fall to BOEM?

Response: Shoreline bluff erosion from creek runoff or other inland sources of disturbance could potentially cross into sanctuary jurisdiction if there are materials entering the intertidal or marine environment, or if intertidal resources (cultural or other) are being affected. NOAA would expect to assess such issues on a case-by-case basis, determine if an appropriate and helpful role could be played by the sanctuary, seek guidance through appropriate Tribal consultation, receive input from sanctuary advisory bodies, and look to partner with relevant authorities and entities.

Comment CR-7: Point Conception is very sacred, as it is the jumping off place for spirits of the dead. It also represents one of the earliest settlements on the California coast and should be acknowledged as such.

Response: NOAA understands the sacred nature of Point Conception to Chumash People, and mentioned this in Section 4.5 of the EIS. NOAA has added additional information to Section 4.5 of the final EIS to highlight that the Point Conception area represents some of the oldest dated Chumash settlements found on the California mainland coast (Rick et al. 2022).

Comment CR-8: Any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant.

Response: NOAA understands that California Public Resources Code Section 6313 provides that any submerged archaeological site or submerged historic resource remaining in state waters for more than 50 years shall be presumed to be archaeologically or historically significant, and NOAA has added this applicable reference to final EIS Appendix F within the section on administration and control of state lands, California Pub. Res. Code § 6301 *et seq.*

Comment CR-9: The draft EIS should state that the title to all abandoned shipwrecks, archaeological sites, and historic or other maritime cultural resources (not specific to Tribal and Indigenous cultural resources) on or in the tide and submerged lands of California is vested in the state and under the jurisdiction of the CSLC.

Response: NOAA has added this reference and some additional context to the final EIS in Section 4.5, and in Appendix F within the section on administration and control of state lands, California Pub. Res. Code § 6301 *et seq.* NOAA has also added a reference to this in Strategy MH-1 of the management plan.

Comment CR-10: Many sacred sites such as Humqaaq (Point Conception, the Western Gate) and the Cave of Eleywen (Swordfish) are near the ocean and they all must be protected and preserved. It is important to protect and to define this area as a Tribal Cultural Landscape.

Response: NOAA understands and respects that there are many sacred Indigenous sites near the coast. The shoreline extent of NOAA's sanctuary boundary and legal jurisdiction is the mean high water line; as such, the sanctuary regulations (with some limited exceptions) apply to submerged or intertidal zone sites within the sanctuary boundary. If coastal sites outside the sanctuary boundary need management attention, NOAA may be able to assist with non-

regulatory approaches (e.g., appropriate signage, education, outreach) in partnership with the appropriate management entities. NOAA would expect to assess such issues on a case-by-case basis, conduct appropriate Tribal consultations, determine if an appropriate and helpful role could be played by the sanctuary, seek input and guidance from sanctuary advisory bodies, and look to partner with relevant authorities and entities. Additionally, Strategy ICH-2 in the management plan calls for NOAA to provide interested Tribes and Indigenous communities with support and guidance for conducting Tribal Cultural Landscape characterizations (See Activity ICH-2.5).

Comment CR-11: It should be noted that the Santa Ynez Band of Chumash Indians has proposed the listing of Lisamu as a historic property under the National Register of Historic Places.

Response: NOAA appreciates being notified that the Santa Ynez Band of Chumash Indians is proposing Lisamu (Morro Rock) as a historically significant property. NOAA has incorporated this information into Section 4.10 of the final EIS.

Comment CR-12: NOAA's management plan should acknowledge the injustice of past federal relations with the Chumash People, including the iniquity of a single reservation for the Chumash and should provide a stronger role for the non-reservation Chumash in managerial roles, not just advisory participation. The plan should acknowledge that the Chumash were once the largest cultural group in the state and that federal help is needed to establish reservations for regional groups such as the Stishni, Barbareño, Lulapin, Humaliwu, and others. Although it is not the sanctuary's responsibility to establish new reservations, acknowledgment of the iniquity of designating merely a single Chumash reservation would go a long way towards building the trust needed for future cooperation.

Response: While NOAA is not the lead agency for federal-recognition of Native American Tribes, NOAA understands that the Chumash People were once the largest cultural group in California. NOAA also understands the difficult history faced by Native Peoples of California. In 2023, President Biden acknowledged in a [White House National Native American Heritage Month Proclamation](#) that, during the course of our nation's history, "Native people were pressured to assimilate, banned from practicing their traditions and sacred ceremonies, and forced from their homes and ancestral homelands. This violence and devastation cost countless lives, tore families apart, and caused lasting damage to Tribal communities and institutions. Despite centuries of violence and oppression, Native Peoples remain resilient and proud." In addition, in 2009 Congress recognized that "there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes," and apologized "on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States" (Pub. L. No. 111-118, § 8113, 123 Stat. 3409, 3453 (2009)). NOAA recognizes the strength and resilience of Tribal Nations and Indigenous communities of the sanctuary area, and is committed to working collaboratively with Indigenous Peoples to collectively achieve a shared interest to care for the marine ecosystem. NOAA has updated the introduction section of the management plan to acknowledge these important points.

Comment CR-13: If references to neo-Chumash organizations or individuals must be retained in the documents and in statements to the public and press, they should not be referred to without accurate qualifiers such as “neo-“ or “self-identifying” before “Chumash.”

Response: See response to comment TI-2.

Comment CR-14: Supplemental information on cultural heritage resources within the Gaviota Coast Extension was provided, such as: the area has a history of Chumash habitation dating back 8,000 years, and the traditional villages of Mikiw and Kuyamu and sacred burial sites of the Barracuda Clan of the Gaviota Coast are located there.

Response: NOAA appreciates the additional cultural heritage resource information about the Gaviota Coast area, and has updated Section 4.5 of the EIS to include these highlights.

Shipwrecks

Comment CR-15: The CSLC maintains a shipwrecks database that can assist with the inventory of maritime heritage resources within the sanctuary (Activity MH-1.1 of the management plan) and includes known and potential vessels located on the state's tide and submerged lands.

Response: NOAA appreciates the CSLC shipwreck database and looks forward to coordinating and partnering on inventorying, exploring for, and documenting maritime heritage resources within the sanctuary.

Cultural Resources Impacts

Comment CR-16: The draft EIS states that “The preferred boundary allows NOAA to focus its management on key areas historically important to the Chumash Tribes and natural resources important to their heritage,” implying that the area proposed for exclusion is not historically important and does not contain natural resources important to Chumash heritage.

Response: The commenter refers to a paragraph in Section 5.4.9 of the draft EIS describing why NOAA excluded the offshore, deeper waters portions of the proposed sanctuary west of the Santa Lucia Bank in the Agency-Preferred Alternative. NOAA did not mean to imply that the nearshore area between Cambria and Montaña de Oro, excluded from the draft Agency-Preferred Alternative, is not historically important for Chumash as well as Salinan heritage. Those nearshore, coastal areas are clearly important culturally. See also the response to comment BO-1 and the Boundary Adjustment Action Plan in the final management plan.

Comment CR-17: NOAA should reconsider the identification of a sanctuary boundary in favor of the initial proposed boundary. Reasons provided related to cultural/Chumash heritage, artistic, literary, and spiritual values included:

- Protect and restore the marine resources and habitats that are vital for the subsistence, health, and well-being of the Chumash People and other living beings.
- Preserve and celebrate the cultural resources and heritage that are sacred and significant for the history, identity, and spirituality of the Chumash People and other groups.
- Enable the Chumash People to participate and collaborate in the management and stewardship of the sanctuary as a co-equal partner with NOAA.

- Provide more recognition and appreciation for the artistic and literary heritage of this region.
- Provide more opportunities for spiritual growth and wellness in this region.

Response: NOAA appreciates the thoughtful consideration of cultural heritage and other values associated with the northern coastal area of the sanctuary study area. See response to comment BO-1 for details concerning NOAA’s final preferred sanctuary boundary, and the Boundary Adjustment Action Plan in the final management plan.

Question Beneficial Impacts

Comment CR-18: How can the draft EIS in Section 4.5.8 identify ‘significant’ beneficial impacts for underwater resources that have not been identified, and about which there is no discussion about the role of state agencies in protecting the same unidentified resources?

Response: As the EIS notes, there are not definitive locations identified for submerged cultural resources within the sanctuary area. However, based on research, the historical understanding of local Indigenous Peoples, and the large change in sea level rise over thousands of years, NOAA and other agencies and scholars logically expect and reasonably foresee that cultural resources exist within the submerged lands of the sanctuary.

NOAA further holds that given the strong protection that sanctuary regulations provide to the sanctuary’s seafloor and maritime heritage resources, both within and beyond the limit of the state of California’s jurisdiction, that it is accurate for the EIS to state that significant beneficial impacts are expected and reasonably foreseeable. NOAA describes the role of the California CSLC in protecting cultural resources in Appendix F of the EIS, and NOAA intends to coordinate and partner with the CSLC, as indicated in the management plan’s Indigenous Cultural Heritage Action Plan and the Maritime Heritage Resources Action Plan.

Cultural Resource Protection

Comment CR-19: The wording of the proposed regulation for protecting cultural heritage resources is too broad.

Response: NOAA has experience in using this regulatory language within several national marine sanctuaries. Experience shows the regulatory language to be inclusive and reflective of the intention. The intent is to provide comprehensive protection to sanctuary historic resources, as defined at 15 C.F.R. 922.11 (Historical Resource).

Comment CR-20: The draft EIS reflects no protection for the cultural heritage of fishermen in the proposed sanctuary area because priority is given to the cultural heritage of neo-Indigenous Peoples. The undue prioritization and disproportionate recognition of neo-Indigenous cultural heritage above the fishermen’s cultural heritage is inherently discriminatory and poses a significant threat to the future of fishermen’s culture.

Response: NOAA respectfully disagrees that the sanctuary’s emphasis on Indigenous cultural heritage reflects an undue prioritization or disproportionate recognition. The long histories of Indigenous Peoples of the area’s coast and ocean offers a unique and valuable setting and focal point for providing education and highlighting Indigenous cultures, and the community-based

nomination for CHNMS focused on these cultural, historic, and education values. Under the NMSA, the purposes and policies of sanctuary designation include enhancing “public awareness, understanding, and wise and sustainable use of . . . the natural, historical, cultural, and archaeological resources of the National Marine Sanctuary System,” and “develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas” (16 U.S.C. 1431(b)(4), (7)). Indigenous cultural heritage has been an underrepresented value and knowledge base within local marine conservation efforts. It is important to note, as well, that NOAA has a government-to-government relationship with the federally recognized Santa Ynez Band of Chumash Indians. At the same time, NOAA’s recognition and protection of Indigenous cultural heritage does not exclude or minimize other cultural and historic heritage of communities in the area. NOAA welcomes the involvement of local fishing communities, many from multi-generational fishing families. NOAA looks forward to highlighting the unique and valuable local fishing culture within sanctuary programs, and emphasizing the importance of the area’s prime fishing grounds. See also Chapter 4.4 of the EIS, which focuses on commercial fishing and aquaculture in the sanctuary area, including expected beneficial impacts from sanctuary designation.

Comment CR-21: Cultural permit applicants should be required to document their lineal descendancy in order to protect Indigenous subsistence rights.

Response: A cultural permit application and issuance would only be necessary if a planned activity would violate one of the sanctuary’s regulations (see 15 C.F.R. § 922.232). The cultural permit application can be submitted by any individual or entity; the request would be evaluated on its merits, purpose, extent of potential sanctuary resource impacts, and other criteria, including a permit applicant’s professional qualifications to conduct and complete the proposed activity (see review criteria at [15 C.F.R. 922.33\(a\)](#)). NOAA is not the appropriate agency to validate the lineal descendancy of a permit applicant and declines to do so. See also response to comment TI-1.

Consultation

Comment CR-22: CSLC staff requests that NOAA ONMS consult with commission staff should any maritime or historic resources on state lands be discovered within the area of the proposed sanctuary.

Response: NOAA agrees and will consult with the CSLC, as appropriate.

Diablo Canyon Power Plant

Update EIS

Comment DC-1: The EIS should include updated information concerning the operational status and planned or potential decommissioning of DCP. Also, the EIS should describe DCP’s impacts on the proposed sanctuary.

Response: Updated information on DCP’s operational status has been added to Section 4.7.1 of the final EIS, including its potential for continued operation and likely shutdown and

decommissioning. The purpose of the EIS is to analyze the impacts of designating a new national marine sanctuary on the human and natural environment. Thus, analyzing the potential impacts of DCPD operations on the proposed sanctuary is outside of the scope of the EIS (see response to comment PN-1 for additional information on the EIS purpose and scope). For information on impacts from abandonment and decommissioning of DCPD, see the [draft environmental impact report](#) released by the County of San Luis Obispo in July 2023 (see also County of San Luis Obispo, 2023).

Oppose Continued Operations

Comment DC-2: NOAA should oppose continued operation of DCPD.

Response: NOAA's approach with the designation of CHNMS is to allow activities existing at the time of designation via the certification process (15 C.F.R. 922.234; see also 15 C.F.R. 922.10). Thus, NOAA could approve, through the certification process, the discharge of cooling water from DCPD, an activity that has permits and is presently being conducted. NOAA interprets the certification provisions to allow it to certify an activity that has been authorized by a valid federal, state, or local permit, lease or other approval, even if that project or activity has not been initiated. Numerous state and federal agencies are already involved in the decision of whether to extend operations at DCPD or not. If, after designation of the sanctuary, there are proposals to extend the life of DCPD requiring new permits from other agencies for activities affecting the sanctuary (such as cooling water discharge), CHNMS regulations would allow NOAA to review and consider permitting such activities. See 15 C.F.R. § 922.232(e).

Support Continued Operations

Comment DC-3: There has been relatively little discussion about any ramifications of sanctuary designation upon the use and reuse of the DCPD. Sanctuary boundaries may increase the regulatory burden on, limit, or restrict economic opportunities related to reuse of the DCPD facilities and to develop offshore wind energy shoreside support facilities. These are critical to the economic health of the central coast, and the economic impacts far outweigh the hypothetical tourism gains from a sanctuary designation. The urgency of designating a new sanctuary in the face of continued uncertainty around these two critical efforts is questioned.

Response: See response to comment DC-2 regarding continued operations at DCPD. The impacts of the new sanctuary's designation on continued use of DCPD are addressed in the final EIS. Specifically, EIS Section 4.7.1 describes potential scenarios associated with continued operation and decommissioning of DCPD, and EIS Section 4.7.3 analyzes the impacts of sanctuary designation on these scenarios.

Regarding future reuse, NOAA is not aware of any specific, non-speculative DCPD reuse proposals, and thus NOAA is not able to assess the degree to which the new national marine sanctuary might have any impacts on such reuse. NOAA has added additional information to the final EIS, specifically in sections 4.7.1 and 4.7.3, to clearly state that no reuse plan has been developed, and might not be expected until decommissioning and abandonment of the facility are complete (which could take 15-20 years). Accordingly, at this time, NOAA cannot estimate how the sanctuary might impact future reuse. NOAA's Final Preferred Alternative excludes from the sanctuary the marina at DCPD, so any activities within that port can occur outside of the

sanctuary. Although no detailed project description exists, NOAA staff have heard suggestions that the DCPD marina could be expanded to provide a deep water port to support offshore wind development. Other ports or rural coves on the central coast, and elsewhere in California, have also been mentioned as conceptual future port nodes for the industry. However, Section 4.7.3 of the final EIS concludes that it is not possible to determine impacts of the sanctuary on future development of deep-water ports in support of offshore wind development because, in the absence of any specific plans for such a port facility, an analysis would be too speculative.

Comment DC-4: Since the impacts of DCPD activities are largely within California state-managed waters, the sanctuary designation will be well-served to allow existing state and federal processes to proceed without adding uncertainty about potentially duplicative and complex involvement of a newly-formed sanctuary.

Response: As noted in EIS Section 4.7.3, at the time of designation NOAA would have the ability to review and certify pre-existing, permitted discharges. In this certification process, NOAA could consider and possibly mirror mitigation measures via terms and conditions on a NOAA-issued permit, which could include the state requirement to phase out once-through cooling water. The EIS concluded this certification process would have negligible adverse impacts on continued operations at DCPD. In the future, any decommissioning activities would be subject to the prohibition on disturbance of the sanctuary's submerged lands, among other prohibitions, and would be subject to the environmental review requirements of NEPA and other applicable laws. This environmental review could be handled jointly with other federal and state agencies. NOAA's role would be to consider potential adverse effects of new activities, including decommissioning, on natural, cultural, and submerged heritage sanctuary resources and to consider what terms or conditions could help mitigate these effects.

Fishing and Aquaculture

Economic Importance

Comment FA-1: The coastal communities of Morro Bay and Port San Luis/Avila derive significant economic and societal benefits from the fishing industry that has operated in the study area for many years. Ex-vessel revenues do not reflect the true economic impact of our fishermen's actions. Some economists conservatively estimate a multiplier of at least 4x measures the true economic impact on the local economy.

Response: NOAA understands and appreciates the important economic and societal benefits derived from the fishing industry, beyond ex-vessel revenues, and the industry's dependence upon a healthy marine ecosystem and productive fishing grounds. NOAA has determined that the sanctuary designation would not cause significant adverse impacts on the fishing industry, as assessed in the final EIS (see Section 4.4 and Section 4.6) and the Regulatory Flexibility Act certification in the final rule preamble, and NOAA has not included any direct sanctuary regulation of lawful fishing activities through this action.

Impacts on Fishing

Comment FA-2: Support was expressed for sanctuary management (and PFMC fisheries management within the sanctuary) that supports and improves the ecosystem benefits of

fisheries habitats and therefore supports increased stock abundances for fisheries within the sanctuary and spilling over into fisheries outside the sanctuary. Support of the sanctuary hinges on how it will be managed.

Response: NOAA appreciates these comments and expects ecosystem benefits related to fisheries habitats to accrue over time. EIS Section 4.3 and Section 4.4 provide details on the beneficial impacts the sanctuary would have on fisheries habitats and associated ecosystems. See responses to comments FA-7 and FA-9 for more details on the sanctuary’s role and coordination with PFMC and other fisheries management entities.

Comment FA-3: The draft EIS fails to explore and quantify worst case scenario regulatory restriction impacts on commercial fishermen. NOAA should revisit the draft EIS and add case-based analysis for varying degrees of fishing restrictions.

Response: EIS Section 4.4 assesses direct and indirect impacts of sanctuary regulations on commercial fishing. Please note that the sanctuary regulations do not include any direct regulation of lawful fishing, and the terms of designation do not authorize the sanctuary to directly regulate fishing, thus there is no need to analyze “varying degrees of fishing restrictions.” See also response to comment FA-4.

Comment FA-4: Adding Sub-Alternative 5b, the Gaviota Coast Extension, creates further barriers to existing users—both commercial and recreational fishers—as these are important fishing grounds to all sectors and access to fishing in this strip of coastline is vital for safety at sea.

Response: NOAA understands and supports the importance of the Gaviota Coast for commercial and recreational fishing activities, among other activities, and is not adopting any fishing regulations within the Gaviota Coast Extension area or any other part of the sanctuary.

Comment FA-5: The proposed sanctuary poses a significant threat to the future of fishermen culture and it will disrupt the current delicate balance between man and the ocean in the area identified for sanctuary designation. Despite claims, existing marine protected sanctuaries show no scientifically proven benefits to the ocean.

Response: NOAA respects and values the rich fishing community culture and productive commercial fishing grounds located along the sanctuary’s coast, and intends to support community-based resource protection and conservation actions to help support productive fisheries. Regarding the expectation that the sanctuary would not benefit the ocean, the final EIS for this designation reaches different findings, identifying significant beneficial impacts on the sanctuary ecosystem and marine habitats, upon which commercial fishing depends. This includes prohibitions on oil/gas exploration and harmful discharges resulting in better water quality with fewer toxins, and a prohibition against introduced species limiting the potential for adverse competition between introduced and native species. Furthermore, condition reports from existing West Coast Region national marine sanctuaries regularly identify healthy marine resources managed within a sanctuary due to actions (regulatory and non-regulatory) by sanctuary staff and partners.

Comment FA-6: The EIS should note that the Commercial Passenger Fishing Vessel fleet is not the only type of recreational fishing that will encounter socioeconomic impacts by the nomination.

Response: NOAA acknowledges and understands that recreational fishing occurs in more forms (angling, hoop-netting, spearfishing, etc.) and from more platforms/locations (private vessels, charter vessels, shorelines, fishing piers, etc.) than just Commercial Passenger Fishing Vessels. The impacts from the designation on recreational fishing and other recreational activities are described in Section 4.6 of the final EIS. This section has also been updated to more clearly highlight various forms of recreational fishing. Additional information about recreational fishing is in the [Proposed Chumash Heritage National Marine Sanctuary Community Profile](#) prepared for the sanctuary designation process (Samonte et al., 2023).

Requests for Fishery Regulations in the Sanctuary

Comment FA-7: NOAA should provide authority in the proposed sanctuary's terms of designation to address all of the threats to the ecosystem, especially with respect to fishing. With that authority, NOAA should ban or limit all fishing and taking of wildlife, especially of threatened or endangered species. Examples of management actions NOAA could take within the sanctuary include implementing a permit system for fishing during specific seasons in the area to ensure sustainable practices and minimize ecological impact, or establishing maximum sustainable yield as an absolute ceiling for any areas where fishing continues to make sure that agreements never exceed the maximum sustainable yield.

Response: NOAA is not implementing any fishing regulations as part of the sanctuary designation rulemaking. Instead, consistent with NMSA procedures (see 16 U.S.C. § 1434(a)(5)), NOAA has accepted the PFMC's recommendation that fishing regulations under the NMSA are not warranted in CHNMS at this time. Fishery management programs under other authorities would continue to apply within CHNMS, including those implemented by the state of California (CDFW and the California Fish and Game Commission), NOAA Fisheries, and PFMC for federally-managed fisheries. ONMS works closely with NOAA Fisheries and CDFW to ensure that fishing activities within the national marine sanctuaries do not pose a threat to any threatened or endangered species. The suggested management tactics in the comment could be established by CDFW and/or NOAA Fisheries, in coordination with their respective fishery management councils.

Comment FA-8: Sanctuary regulations should be revised to prohibit commercial fisheries—especially any Category I and II fisheries that cause death and serious injury of marine mammals—unless they are using pop-up gear that prevents entanglements. For NOAA Fisheries to meet their ESA mandates, the agency must act to reduce the continuing threat of death, serious injury, and other harms from entanglement in fishing gear by requiring the use of pop-up fishing gear in the sanctuary. While commercial fishing should not occur in national marine sanctuaries, at a minimum, NOAA should consider an alternative that incentivizes the rapid adoption of pop-up gear within sanctuary boundaries, and allow the testing and trials of ropeless gear in fixed-gear fishing areas. Furthermore, the SAC should work with NOAA Fisheries to prohibit harmful fishing techniques/gear such as bottom trawling and set gillnets to

reduce negative impacts on marine ecosystems (e.g., bycatch, damaging benthic habitat, harming non-target wildlife populations).

Response: As part of the sanctuary designation rulemaking, NOAA is not implementing regulations to prohibit commercial fishing. However, reducing entanglement risk is a high priority of ONMS, and several national marine sanctuaries coordinate and collaborate with state and federal fishery managers to reduce entanglement risk from fishing gear. For example, ONMS is represented on the CDFW Risk Assessment and Mitigation Program to enhance [Whale Safe Fisheries](#) and is coordinating through the National Marine Sanctuary Foundation to identify and adopt pop-up gear or other technologies to reduce whale entanglement in fishing gear. If new fishing gear were tested for research purposes, it could be reviewed and approved via a sanctuary general permit. ONMS would be open to collaborating with state and federal fishery management agencies if they wanted to test ropeless fishing gear in the sanctuary. ONMS would consult and partner with NOAA Fisheries on matters concerning federally-managed fisheries, and with CDFW regarding state-managed fisheries. As described in the management plan's Resource Protection Action Plan at Activity RP-1.1, NOAA intends to collaborate with stakeholders and build partnerships with agencies and Tribes to address resource threats. See also response to comment FA-7.

Opposition to Fishery Regulations in the Sanctuary

Comment FA-9: NOAA should clarify that it will not create fishing regulations, including closures, for this sanctuary. This applies to commercial and recreational fishing. Federal and state professional fisheries management agencies, not sanctuary managers, have both the expertise as well as legal mandates to make such fisheries management and regulation decisions. The continued coordination with, and deference to, the PFMC and California Fish and Game Commission regarding the management of fisheries within the sanctuary is important. NOAA should not exclude, restrict, or preempt local fishermen. The public has the right to fish in California waters under the navigable easement and Section 25 Article I of the California Constitution.

Response: As stated in response to comments FA-7 and F-8, NOAA is not implementing any fishing regulations as part of the CHNMS designation. In general, NOAA considers both the NMSA and Magnuson-Stevens Fishery Conservation and Management Act as authority for regulating fishing activities in national marine sanctuaries. NOAA examines the need for fishing regulations in each sanctuary on a case-by-case basis, and relies on either or both of those acts to determine the most appropriate regulatory approach to meet the stated goals and objectives of a sanctuary. The process for developing fishing regulations in national marine sanctuaries is codified in the NMSA at Section 304(a)(5) (16 U.S.C. § 1434(a)(5)). The terms of designation and the regulations for CHNMS do not allow NOAA to directly regulate lawful fishing activities under the NMSA in the sanctuary (note that some CHNMS regulations would apply to a vessel operator during the conduct of a fishing activity, for example discharges from a vessel). If an issue involving fishing arises in the future in CHNMS, NOAA will work with the affected stakeholders and the appropriate state or federal fishery management entity to find solutions. If an issue still persists after those consultations and considerations, and NOAA believes a sanctuary regulation is needed that could directly regulate fishing activity, it would need to amend the terms of designation through a rulemaking process, including an analysis of potential

impacts via an environmental impact statement and otherwise comply with Section 304 of the NMSA. See also, response to comment FA-10.

Comment FA-10: NOAA should not use its agency stature and authority to promote the creation of regulations or closures by other agencies.

Response: By not imposing any sanctuary regulations on commercial or recreational fishing in the sanctuary, NOAA would need to maintain the ability to raise concerns with affected fishermen, other stakeholders, Tribes, Indigenous groups, and state and federal fishery managers should a fishing issue arise in the future that threatens sanctuary resources. NOAA must also maintain its ability to participate in management programs developed by the state and federal fishery managers that could affect sanctuary resources. This is consistent with NOAA's practice in managing most other national marine sanctuaries, including all of those offshore California, and is noted in more detail in the response to comment FA-9. This also follows NMSA requirements for coordination with regional fishery management council(s) and other fishery management authorities (16 U.S.C. § 1434(a)(5)).

Comment FA-11: The sanctuary regulations should explicitly protect traditional Indigenous hunting and fishing rights. NOAA should honor Tribal Nations and respect their rights for enjoying an ocean economy.

Response: NOAA respects Indigenous Peoples' food practices, including sustainable gathering, fishing, and hunting practices. NOAA is not enacting any sanctuary fishing regulations, including any regulations on subsistence fishing. See also the response to comment TI-28.

Comment FA-12: The current fisheries management is little short of an abject failure, and incorporating Indigenous voices could improve fisheries management.

Response: As stated in response to comments FA-7 and F-8, NOAA will not promulgate new fishing regulations as part of the sanctuary designation. If a fishing-related issue in the sanctuary arises in the future, NOAA will work with the affected stakeholders and appropriate fishery management entities to find solutions. See also responses to comments TI-32 and TI-38.

Comment FA-13: How can ONMS be part of the 30x30 initiative and state in your FAQs how the sanctuary won't regulate fishing; those two things contradict each other and no one has been able to provide a clear answer on this yet. Please clarify here for the sake of fishermen whose livelihood relies on open access to our ocean.

Response: The conservation goals of the 30x30 initiative, as set forth in Part II of E.O. 14008, are more broad and diverse than regulating fishing. The goals are to conserve at least 30% of U.S. lands, freshwater, and ocean by 2030 to combat impacts from climate change and biodiversity loss, and thereby strengthen the economy and human health, and improve access to nature. Designating a new sanctuary, such as CHNMS, supports the goals of the 30x30 initiative by adding new protections for sanctuary resources, even though this particular action does not include new fishing regulations.

Comment FA-14: Local fisheries should be paid off for not being able to fish the area. This will take care of people's immediate needs while healing an overfished segment of the Central California coast.

Response: As explained in response to comments FA-7 and F-8, through the sanctuary designation NOAA is not imposing any regulations that prohibit commercial or recreational fishing. Therefore, it is unnecessary to consider the concept of payments to offset the impact of fishing regulations.

Comment FA-15: Native Americans should not be given special fishing privileges that they can exploit or assign as has happened in Oregon, Alaska, and elsewhere with other Tribes.

Response: NOAA's action to designate the sanctuary, including establishing its regulations, does not create any special fishing privileges for Native American Tribes or any other group. See also response to comment TI-28.

Comment FA-16: Opposition to the sanctuary was expressed because it is a top-down organization, NOAA will inevitably engage in fisheries management, and NOAA will make decisions coming from Washington D.C. that impact fishermen dramatically. NOAA should be working bottom-up with the state and local stakeholders.

Response: NOAA has a proven track record of working bottom-up with state and local stakeholders through various management processes including [sanctuary advisory councils](#), which have broad representation of federal, state, and local governments, Indigenous communities, community groups, and stakeholders, including fishermen, as set forth in Section 315(b) of the NMSA. Overall, local interests are represented on advisory councils and have a significant role in influencing management of the sanctuary. NOAA would welcome interested parties to apply for advisory council seats following sanctuary designation. For more information on SAC operations see response to comment SA-7. While the terms of designation and the regulations for the sanctuary do not provide for direct regulation of lawful fishing activities under the NMSA in the sanctuary (see response to comment FA-9), NOAA must maintain its ability to participate and engage in management programs developed by the state and federal fishery managers that could affect sanctuary resources (see response to comment FA-10).

Comment FA-17: NOAA should not restrict fishing; no additional fees or penalties should be imposed. Fishing is a cultural practice and should be treated as such.

Response: As stated in response to comments FA-7 and F-8, NOAA is not imposing any sanctuary-specific restrictions on commercial, recreational, or Indigenous fishing, including requiring any fee to access fishing areas. See also the response to comment FA-5 regarding support for fishing culture.

Recreational Fishing

Comment FA-18: Recreational fishing should be specifically recognized in the draft designation documents (including the management plan and EIS) as an allowed activity that will not be regulated (as is done with commercial fishing).

Response: The sanctuary would not directly regulate lawful fishing activities; recreational fishing is included in that category. Recreational fishing is addressed in EIS Section 4.6, which addresses all recreational uses, rather than Section 4.4, which addresses commercial fishing. The final EIS and rule have been updated with language clarifying that recreational fishing is

treated the same as commercial fishing, and pointing readers to the relevant sections for recreational fishing. For example, additional discussion was added to the impacts analysis in EIS Section 4.6 to address potential impacts of the proposed discharge regulation on individual recreational vessel operators (including private and charter recreational fishing vessels). As with potential impacts on commercial fishing vessels, NOAA expects that the proposed discharge regulation has the potential to cause some direct, short-term, minor to moderate adverse impacts on individual recreational vessel operators.

No-Take Areas

Comment FA-19: There is fear that this proposed sanctuary could become a “no-take zone,” restricting access to the water and beaches, and/or become an enlarged MPA. No additional MPAs should ever be implemented within sanctuary boundaries. Fisheries management is best done on a large scale without important fishing areas blocked out, because MPAs cause a compaction problem by forcing fishing effort into fewer and thereby insufficient productive fishing areas. There are enough MPAs in California, we do not need more.

Response: As explained in responses to comments FA-7 and F-8, for this sanctuary designation, NOAA is not implementing any fishing regulations, including the establishment of any no-take zones within sanctuary boundaries. This sanctuary designation would not create any NOAA-implemented restrictions on public access to marine waters and beaches of the sanctuary. Also see responses to comments BR-11, FA-9, and SE-8.

Comment FA-20: Large no-take reserves must be included in the final sanctuary. Evidence exists throughout the nation that such reserves work to protect against climate change and to enhance fish stocks and ecosystems broadly. Fishing is destructive and disruptive to the fragile ecosystem. Marine mammal entanglements are nearly always a result of fishing gear. Depletion of fish stocks have a negative impact on all species that rely on them for survival. Studies demonstrate that large no-take reserves provide enhanced economic opportunity for people who live near them, provide greater biomass and diversity of marine life, and have “spill over” of larvae, juveniles, and adults into adjacent areas.

Response: NOAA concurs that there can be benefits from large special MPAs and has identified a final boundary for the sanctuary that overlaps with four state MPAs. Sanctuary designation would provide additional protection to those state MPAs. However, NOAA is not implementing any no-take reserves as part of this sanctuary designation action. State and federal fishery managers may operate under other authorities to make choices on the need for or location and purpose of no-take reserves or other special MPAs. Also see response to comment BR-11.

Comment FA-21: There is a place for activities like spearfishing and shell gathering in the proposed sanctuary. NOAA needs to be careful not to require no contact with marine life; it’s not always harmful or intentional.

Response: With the sanctuary designation, NOAA is not generally prohibiting activities such as spearfishing and shell gathering. However, sanctuary regulations would prohibit taking any marine mammals, sea turtles, or birds within or above the sanctuary, except as authorized by the MMPA, ESA, MBTA, or regulations promulgated under those acts (see 15 C.F.R.

922.232(a)(5)). CHNMS regulations would also prohibit moving, removing, taking, collecting, any sanctuary resource located more than 1,500 feet below the sea surface within the Rodriguez Seamount Management Zone (see 15 C.F.R. 922.232(a)(9)). In NOAA's judgment, and consistent with the NMSA's primary objective of resource protection, it is important that the sanctuary regulations include these provisions to ensure conservation of the Rodriguez Seamount Management Zone and of important populations of marine mammals, sea turtles, and birds that are in or above the sanctuary. Also see responses to comments RP-12 and FA-18.

Tribal-Proposed MPA

Comment FA-22: ONMS must clarify it will not support the authority for a Tribe and/or Indigenous group to create new MPAs that would exclude fishing, and to do so would be contrary to other sections of the designation proposal that state "no fishing regulations are proposed."

Response: NOAA is not delegating its authority within the sanctuary in a way that would allow creation of fishing regulations or other regulatory actions under the NMSA by other groups, organizations, or agencies.

New Fishing Technologies

Comment FA-23: The management plan should encourage new sustainable fishing technology. New technologies like pop-up fishing gear should be incentivized for commercial fishing companies that operate within the sanctuary.

Response: NOAA is not prepared at this time to take on this new program to incentivize new commercial fishing gear. See response to comment MP-1. Nonetheless, as the management plan's Strategy RP-1 indicates, NOAA would work to cultivate partnerships and collaborations to identify issues in need of attention and take steps to build an effective resource protection program over time. That could include working with state and federal agencies leading fisheries management, with local commercial fishermen, and engaging the SAC as appropriate. See also response to comment FA-8 for more details on NOAA's engagement to reduce entanglement risk.

Aquaculture

Comment FA-24: Aquaculture is extremely detrimental to the local environment; do not support development of aquaculture locally.

Response: In the terms of designation, aquaculture is an activity subject to sanctuary regulation. While the final sanctuary regulations do not contain a direct prohibition on aquaculture, some of the sanctuary regulations may apply to an aquaculture project, such as in situations that involve introducing or releasing an introduced species, discharging within or into the sanctuary, and disturbing the submerged lands of the sanctuary (see 15 C.F.R. 922.132(a)).

Fishing Grounds Impacts from Offshore Wind

Comment FA-25: NOAA should clarify how currently productive fishing grounds may be impacted by offshore wind development.

Response: A detailed assessment of the potential impacts of offshore wind development on fishing grounds is outside the scope of this EIS. Those impacts will be analyzed by BOEM in future environmental analyses. More information is available on [BOEM's webpage](#). See also response to comment PN-1 regarding the purpose and scope of the sanctuary designation EIS.

Geologic Resources

Morro Rock and Surrounding Geological Features

Comment GE-1: The significant features of Morro Rock, Estero Bay closed littoral cell, and sand spit-estuary complex should be acknowledged.

Response: NOAA has added discussion of these features to Section 4.2.1 of the final EIS.

Estero Bay Shelf Break

Comment GE-2: The shelf break in the Estero Bay area is a unique feature that is found in only 7.6% of the surface area of the world's ocean and yet generates about 15–30% of oceanic primary production. It will become essential to the propagation of species with species range shifts due to climate change.

Response: While NOAA agrees the Estero Bay area contains important geologic and natural features, the Final Preferred Alternative does not include Estero Bay, its coastline, and the shelf break beyond Estero Bay in the sanctuary. However, this area could be considered for potential future sanctuary expansion as part of the final management plan's Boundary Adjustment Action Plan (see strategies BA-1 and BA-2 specifically). Also, see response to comment BO-1 for more discussion on NOAA's identification of the Final Preferred Alternative.

Deep-Water Geologic Features

Comment GE-3: In addition to Rodriguez Seamount, the sanctuary should ensure protection of other deep-sea features such as Santa Lucia Bank and Arguello Canyon.

Response: The Final Preferred Alternative includes Rodriguez Seamount, part of Santa Lucia Bank, and Arguello Canyon, and includes regulations that would help conserve the benthic environment and species that depend on these important deep-water features. While the western deeper-water portions and northern portions of Santa Lucia Bank are not included in the Final Preferred Alternative, the Boundary Adjustment Action Plan would evaluate and consider the need for a future boundary expansion to include waters north of the sanctuary, as well as offshore waters west of the sanctuary, including the rest of Santa Lucia Bank. See also the response to comment BR-5 for more information about the consideration of Santa Lucia Bank.

Comment GE-4: The initial proposed boundary should be reinstated to include the deep-water portions west of the Santa Lucia Bank. This area needs further exploration and likely contains important geological and biological deep-sea features, such as hydrothermal springs around the Rodriguez Seamount and along the base of the continental slope.

Response: NOAA carefully weighed whether or not to include the portion of the original sanctuary proposal west of the Santa Lucia Bank. As explained in more detail in responses to comments BO-9 and BR-5, NOAA is declining to include that portion of the original nomination

in the sanctuary boundaries at this time, but will study the resources within that area, the threats to those resources, and the need for the sanctuary boundary to be expanded to encompass that area (see new Strategy BA-2 in the Boundary Adjustment Action Plan within the final management plan).

Comment GE-5: Pockmarks, or seabed pits, mapped in the area should also be included in the EIS physical resources assessment as important geological features. North America’s largest pockmark field lies southwest of Big Sur and extends into the proposed sanctuary. Research is ongoing to better understand these pockmarks, their properties, and their effects on species composition. New information is available for the Santa Lucia Bank from recent explorations of deep-sea coral, including large and abundant colonies of coral at depths greater than 3,000 meters and an aggregation of spawning petrale sole over the bank, potentially indicating important habitat for this species. Findings from these research efforts should be included in the final EIS to enhance the characterization of deep-sea geological resources in the proposed sanctuary area.

Response: NOAA has added discussion of these features to Section 4.2.1 of the final EIS.

Marine Transportation

Update Baseline Information

Comment MT-1: The marine transportation portions of the EIS should be updated to reflect the PAC-PARS recommendations and to accurately represent the future vessel navigation scenario. Additional technical edits should be made to reflect USCG involvement and the status of changes, for instance noting these are “recommended” at this time.

Response: NOAA has updated Section 4.8 of the final EIS to reflect the finalized PAC-PARS recommendations and has incorporated suggested technical changes from commenters where appropriate.

Comment MT-2: Draft EIS Figure 4.8-4 includes an ONMS Alternative Fairway, which PMSA is not familiar with, is inconsistent with USCG PAC-PARS, and not otherwise described in the existing traffic separation scheme standards applicable to these waters. Please explain the use of the term “alternative fairway” in Figure 4.8-4.

Response: The ONMS Alternative Fairway depicted in Figure 4.8-4 of the draft EIS represents ONMS-recommended changes to the draft PAC-PARS. Ultimately, this “alternative fairway” was not adopted in the final PAC-PARS. Therefore, NOAA removed mention of the ONMS-recommended alternative fairway from Figure 4.8-4 in the final EIS.

Comment MT-3: NOAA should clarify terminology used in EIS Section 4.8; specifically, “exchange” and “discharge” (in reference to ballast water) are used interchangeably, possibly leading to confusion. Also, the abandoned vessels discussion in EIS Section 4.8 should highlight that these vessels will likely have extensive biofouling and, therefore, should be managed appropriately to avoid the inadvertent translocation of species prior to moving them to a new location.

Response: NOAA clarified its use of “exchange” and “discharge” terminology (in reference to ballast water) in a footnote added to associated text in Section 4.8.3 of the final EIS. NOAA also made the suggested changes with regard to biofouling on abandoned vessels to EIS Section 4.8.3.

Comment MT-4: NOAA should make various technical changes to the EIS regarding vessel discharges; be more consistent with use of terms.

Response: Edits were made in EIS Section 4.8.3 as follows: reference to the state “ballast water management program” has been changed to the California Marine Invasive Species Program, and now also mentions biofouling management; the text now highlights that very few vessels would still need to exchange ballast water; and, for vessels with ballast water sourced within the Pacific Coast Region that still rely on ballast exchange, the requirement described has been revised to be 50 nautical miles “from land” rather than “from shore.”

Comment MT-5: NOAA should alter the proposed terms of designation, Scope of Regulations Article IV, Section 1 (f), to exempt from regulation various vessel transits within designated shipping lanes and future lawful transits. This language is based on that of the 2023 terms of designation for CINMS contained in its [management plan](#) regarding vessel transits. For CHNMS, the recommended change would be: “f. Operating a vessel (i.e., water craft of any description) within the Sanctuary; *except vessels traveling within Port Access Routes designated by the Coast Guard, and other lawful transits.*”

Response: NOAA is not adopting this suggested altered language for the final terms of designation for the sanctuary because it believes that it is important to have authority in the future to regulate vessel operation within the sanctuary, whether inside or outside of port access routes.

Vessel Navigation and Operation

Comment MT-6: From the discussion in the draft EIS, normal operation of heavy lift vessels is not precluded from the discharge prohibition; without the use of heavy lift vessels that can intake and discharge local sea water as ballast, oil and gas platform removal and decommissioning will not be possible. NOAA should add an exception for discharges incidental and necessary to decommissioning operations, analogous to the exception for discharges incidental and necessary to ongoing oil and gas production.

Response: Discharges of ballast water, as part of future decommissioning activities, would require a sanctuary general permit or ONMS authorization. NOAA is not adding an exception for discharges incidental and necessary to decommissioning operations, because it is important that NOAA has the ability to ensure potential impacts on sanctuary resources are avoided or feasibly mitigated. For more discussion on oil and gas facility decommissioning discharges, see response to comment OG-14.

Comment MT-7: Any large vessel navigating the sanctuary should be required to have licensed ship pilots. Licensed ship pilots bring a wealth of expertise and experience that is invaluable in ensuring the safety of marine navigation while minimizing environmental risks.

Response: NOAA is not implementing this suggestion as a sanctuary regulation and does not believe it is the appropriate agency to do so. USCG is the principal federal agency responsible for maritime safety.

Impacts on Marine Transportation

Comment MT-8: Impacts on marine transportation related to prohibition of discharges within the proposed sanctuary boundaries should be revised. Current vessel traffic, as well as future PAC-PARS navigational amendments, transects the proposed sanctuary, with the furthest western boundary located approximately 52–68 nautical miles offshore, depending on the proposed boundary alternative ultimately chosen. Current California regulations require vessels transiting within the Pacific Coast Region to conduct any ballast water exchange more than 50 nautical miles from land and in water at least 200 meters deep. The western-most portions of the Initial Boundary Alternative will impact vessel operators by requiring additional, otherwise unnecessary vessel transiting and vessel emissions to points further west outside of recommended fairways to enable otherwise lawful discharges. In the least, a provision should be made for the safe operation of vessels, as well as current and proposed state and federal regulations.

Response: NOAA believes its impact determinations in Section 4.8 of the EIS are accurate. Based on comments from CSLC, Section 4.8 has been edited to note that most vessels that need to manage their ballast water would rely on onboard ballast water treatment systems and would not need to exchange their water at all. Further, NOAA’s Final Preferred Alternative (See final EIS Section 5.4.9) excludes the furthest offshore western-most portions of the Initial Boundary Alternative, also excluding a large portion of the PAC-PARS recommended fairway. Therefore, the minor adverse impacts described for the Initial Boundary Alternative in Section 4.8.3 related to prohibiting discharges and introduced species would be reduced to negligible levels under the final sanctuary boundary, since most of the current ballast water discharge management takes place beyond 50 nautical miles from land, and the farthest distance from land for the final sanctuary boundary is 52 nautical miles. Given these negligible adverse impacts, NOAA does not deem it necessary to implement additional provisions at this time for the safe operation of vessels, or current and proposed state and federal regulations based on this comment. Also see response to comment WQ-27.

Comment MT-9: While Section 4.8.1 of the draft EIS appropriately includes the regional overview of current and reasonably foreseeable future vessel navigation measures, both of these scenarios must be analyzed for adverse impacts. Any impacts on established vessel traffic routes must be considered, as they will significantly impact ocean-going vessel operations. In the designation of continuous national marine sanctuary areas, NOAA and USCG have collaborated with the maritime industry to address these potential impacts. Such collaborative mitigation measures and planning should occur in the course of this designation process as well, or at least be directed as a future condition of approval. It is likely that these impacts may be altered, perhaps even lessened, based on future PAC-PARS voluntary routing measures pushing vessel transits to the west. Present the full and appropriate impacts with this reasonably foreseeable scenario, as required in an environmental document.

Response: EIS Section 4.8 considered future PAC-PARS routing measures in its analysis of potential adverse impacts on marine transportation. Since the time of draft EIS writing, the final PAC-PARS report has been published; NOAA has made necessary revisions to Section 4.8 as a result.

Comment MT-10: The sanctuary should not prohibit people living on their vessels in harbors.

Response: The sanctuary boundaries would not include existing harbors, so would have no impact on people living on vessels in harbors.

Comment MT-11: NOAA should address any potential restrictions to current and future marine transportation activities that provide economic opportunities to harbors within the sanctuary, such as commercial and recreational fishing, industrial marine-related uses, and coastal-dependent activities.

Response: The sanctuary boundaries would not include existing harbors, so would have no direct impacts on the ability of marine transportation activities to provide economic opportunities to harbors within the sanctuary. As discussed in EIS Section 4.6.3, sanctuary regulations would not restrict access for fishing or marine recreation activities, both common in the two local, public harbors. Rather, regulations would conserve and potentially improve sanctuary resources and thus are expected to provide beneficial impacts on marine uses and industries that support those uses. Activities that could potentially injure sanctuary resources if not conducted responsibly (e.g., dumping waste, wildlife harassment) could be subject to certain sanctuary regulations.

Vessel Desertion

Comment MT-12: NOAA should clarify the vessel desertion regulation to ensure human safety; if a vessel runs aground, it may be unsafe for the operator to remain aboard.

Response: The sanctuary regulations contain an exemption for an activity necessary to respond to an emergency threatening life, property, or the environment, which could be applied to an incident otherwise prohibited by the vessel desertion prohibition (see 15 C.F.R. 922.232(b)).

Comment MT-13: It is quite unusual and extraordinary for large commercial ocean-going vessels to be abandoned. Deserted or abandoned vessels in California waters are typically small pleasure vessels and private watercraft.

Response: While by and large NOAA agrees with this comment, EIS Section 4.8 analyzes potential impacts of the deserted vessels regulation on marine transportation, including all vessel sizes, and concludes adverse impacts would be minor. NOAA added language to Section 4.8.2 clarifying that the vessel desertion prohibition impact analysis includes all vessel sizes.

Cleaner Fuels

Comment MT-14: NOAA should impose regulations to require the use of cleaner burning fuels within the sanctuary, similar to what is required within 24 nautical miles of the California coast, in order to reduce air and water pollution.

Response: NOAA is aware of the environmental benefits of cleaner burning vessel fuels, but is not pursuing its own regulatory requirements, at this time. As NOAA implements the management plan's Resource Protection Action Plan, it would be able to assess threats and emerging issues, developing collaborative partnership with industry and other agencies to determine appropriate solutions. Local air pollution control districts, the California Air Resources Board and possibly other federal agencies have primary responsibility over air pollution control issues and have been active in the field of cleaner burning fuels. If any international decision were needed to require cleaner burning fuel in international waters of the sanctuary, NOAA has experience working through partner federal agencies at the International Maritime Organization. Also see response to comment WQ-19 regarding exhaust gas control systems for large vessels.

Department of Defense and Military Uses

Department of Defense Exemptions

Comment MU-1: Will there be any limitations on military or aerospace activities in the sanctuary framework, or is there greater freedom or outright exemptions for military and aerospace?

Response: The sanctuary regulations exempt from most of the regulatory prohibitions certain existing activities carried out or approved by DoD that were conducted prior to the effective date of designation (see final EIS Section 4.9 and Appendix I), consistent with practices in other national marine sanctuaries and as described in CHNMS regulations at 15 C.F.R. 922.232(c)(1). NOAA is also retaining the authority for the ONMS director to review future new or modified DoD activities to determine if they warrant an exemption. In 15 C.F.R. 922.232(c)(2), the regulations explain how DoD would respond to, mitigate, and if practicable, restore damage to sanctuary resources from DoD activities.

Comment MU-2: NOAA should include pathways for DoD to ensure that exempted activities can be quickly adjusted without requiring a fully separate sanctuary general permit or ONMS authorization. Further, NOAA should take an inclusive view of what constitutes a "new activity" when that activity is related to existing exempted DoD activities, such as the increase in the number of launches.

Response: As stated in the summary of regulations and exemptions in the final rule, NOAA is committed to working with the DoD to consider exempting new activities from the CHNMS regulatory prohibitions through a process whereby the director can consider new activities and determine if they may be exempted from most of the sanctuary prohibitions. An alternative but more lengthy process to grant exemption for a suite of new activities could occur in subsequent management plans and regulatory review processes for CHNMS. NOAA could update the list of exempted DoD activities after compliance with all applicable laws, such as the Administrative Procedure Act and NEPA, as necessary, and after public notice and comment, as applicable. Appendix I, which lists existing DoD activities, notes that "The existing activities provided here include all activities associated with the listed activities, but existing activities do not include new activities as described in the preamble to the CHNMS final rule."

Comment MU-3: NOAA should not grant DoD an exemption for their activities in the proposed sanctuary because DoD contributes to pollution and destruction more broadly. Specifically, there is a concern about rockets launched over the sanctuary from VSFB.

Response: NOAA has coordinated closely with DoD, a cooperating agency on this EIS, to develop regulations for the sanctuary that provide adequate resource protection while allowing for training exercises and other activities that support military readiness and national security. VSFB has been in operation, and other military training activities have been conducted, well before designation of the area as a national marine sanctuary. NOAA has carefully considered an exemption to allow existing military activities, and has included provisions that require mitigation, and, if practicable, restoration of damage to sanctuary resources or qualities (see 15 C.F.R. 922.232(c)(1), (c)(2)). These exemptions and restrictions mirror other national marine sanctuaries, including all sanctuaries on the U.S. West Coast, and NOAA is confident that it has a strong working relationship with DoD to ensure its operations can co-exist with the sanctuary. Further analysis of DoD's impact on the environment is outside the scope of this proposed action. For information on the purpose of this EIS, see response to comment PN-1.

Motorized Personal Watercraft Use

Support for Continued Use

Comment MW-1: Motorized personal watercraft (MPWC) use is necessary within the proposed sanctuary boundaries for surfer safety and responding to emergencies in big wave areas; these watercraft are also used for other recreational purposes like diving and fishing. Although the draft regulations do not prohibit MPWC use, wording in the management plan (under the wildlife disturbance section) describes a potential future process that might lead to prohibition of MPWCs. If MPWCs are banned now or in the future, much more of the coast would become inaccessible and many recreational activities impossible (e.g., surfing, diving, fishing, hiking).

Response: At this time, NOAA is not proposing any regulations prohibiting use of motorized personal watercraft. As stated in the Wildlife Disturbance Action Plan of the management plan, in the coming years NOAA would gather information on wildlife distribution, presence of MPWC use, and the risk of disturbance from MPWC operation, and seek guidance and recommendations from the SAC to evaluate the need for an MPWC regulation in the future. This evaluation would include consideration of existing uses, such as those suggested in the comment: safety, emergency response, and access to the sanctuary waters afforded by MPWCs. Any future regulatory amendment would constitute a separate action subject to public notice and comment requirements.

Oceanographic Issues

Offshore Wind Energy Development Effects

Comment OI-1: Modeling done for the draft EIS at the proposed wind energy site predicts a very small inshore impact on upwelling in a scenario with 870 turbines off the Central California coast. This evidence suggests concerns about slowing upwelling may be outsized compared to the ultimate impact.

Response: EIS Section 4.2.3 acknowledges that if only the Morro Bay Wind Energy Area is developed (and not also the Diablo Canyon Call Area), impacts on upwelling would be potentially lessened. Also see responses to comments PN-1 and OI-3.

Comment OI-2: In areas excluded by NOAA's Agency-Preferred Alternative and other alternatives, there would be a potential for adverse impacts on ocean upwelling from offshore and wind energy projects.

Response: A detailed analysis of the impacts of offshore wind projects on upwelling is outside of the scope of this EIS (see response to comment PN-1). Those impacts will be analyzed by BOEM in future environmental analyses. Current modeling efforts on the U.S. East Coast suggest limited impact on oceanographic conditions, but more work will be necessary to understand impacts in a boundary upwelling ecosystem. Bottom-up impacts resulting from loss of upwelling strength due to wind energy development are still poorly understood and understanding the spatial scale of those impacts will require extensive monitoring. Nonetheless, NOAA acknowledges in EIS Section 4.2.6 and Section 4.2.7 that the beneficial impacts related to sanctuary boundaries potentially reducing a future decline in upwelling due to wind energy production would not occur under those alternatives (Alternative 3 and Alternative 4). Also see responses to comments BO-1, BO-9, BO-26, and BR-5.

Comment OI-3: Other studies not cited by NOAA in the draft EIS suggest offshore wind energy development in this area will not have an impact on upwelling. Upwelling needs to be carefully monitored given its importance to healthy, natural ecosystems to determine if natural or human-induced changes are occurring.

Response: NOAA believes that while the potential impact of offshore wind development on upwelling in the sanctuary may be uncertain, it is standing by the analysis in the EIS that developing both the Morro Bay Wind Energy Area and also the Diablo Canyon Call Area would have a risk of adversely altering local upwelling. If only the Morro Bay lease areas are developed, the potential to impact upwelling in the sanctuary diminishes. The management plan's Research and Monitoring Action Plan describes how the sanctuary can be involved in and support long-term ecosystem studies, including upwelling assessments, that could help provide further information on changes, or not, in local upwelling in the coming decades (see strategies RM-3 and RM-5 in the Research and Monitoring Action Plan).

Comment OI-4: A recent National Academies study and a new American Clean Power-commissioned report on offshore wind oceanographic effects both show offshore wind impacts on oceanographic effects, like upwelling, will be negligible compared to natural and seasonal variation and climate change. Draft EIS Section 4.3.7 should be modified to add findings from the recent National Academies study on offshore wind oceanographic effects and remove language that implies lasting, negative environmental effects of offshore wind. It is important to correct the record on upwelling effects.

Response: The National Academies study referenced in the comment is specific to Nantucket Shoals, an ecosystem that differs in many ways from the California Current. NOAA believes there needs to be more research conducted on wind energy impacts in the Northeast Pacific as it is a boundary upwelling ecosystem and may respond differently to wind energy implementation

than the ecosystem along the U.S. East Coast. Also see responses to comments OI-1, OI-2, and OI-3.

Socioeconomic Issues

Socioeconomic impacts analysis and Cost-Benefit Analysis

Comment SE-1: NOAA should better address the socioeconomic impacts of the proposed regulations on submarine fiber optic cable operators, coastal development projects, desalination projects, harbor expansion, agriculture, local economies, recreation, etc.

Response: NOAA used the best available data and information to evaluate the potential impacts on these ocean uses and local communities; see Section 4.6 of the final EIS. Specifically, NOAA has updated the information in the final EIS regarding fiber optic cables; see EIS Section 4.6.1, and Appendix A, response to comments FC-1 and FC-3. Regarding beneficial impacts, NOAA believes that the Final Preferred Alternative would supplement and complement existing authorities. Also see responses to comment DP-9 (regulatory benefits), comment PN-2 (designation justification), comment DE-1 (desalination), comment MP-3, comment OW-41 (harbors), comment SE-4, and comment MP-66 (agriculture).

Comment SE-2: The cost-benefit analysis should include the impacts on offshore energy, agriculture, and their associated local communities.

Response: NOAA used the best available data and information in EIS Appendix D: Cost-Benefit Analysis. In Appendix D, NOAA provides an economic cost-benefit analysis that is primarily focused on impacts on uses prohibited by sanctuary regulations. Offshore oil and gas is analyzed, and offshore wind development is mentioned with regard to the sanctuary's seabed protection regulation. NOAA considered agricultural impacts in EIS Section 4.6 and did not identify any impacts that would require analysis in the cost-benefit analysis.

Comment SE-3: The socioeconomic analysis is qualitative and unsupported by scientific data. NOAA should either include adequate peer reviewed and high-quality supporting references, or remove the discussion of beneficial socioeconomic impacts. NOAA should remove a reference from the Sierra Club regarding socioeconomic impacts.

Response: NOAA used the best available existing information and resources to conduct the socioeconomic analysis, relying on both quantitative data and qualitative information. Many types of quantitative data were compiled by NOAA economists and used to inform the analyses throughout the EIS. As provided in the 2021-2022 [Proposed Chumash Heritage National Marine Sanctuary Community Profile](#) (Samonte et al., 2023), quantitative socioeconomic information that was gathered, analyzed, and used included data on fisheries, recreational activities (including fishing), private boat use, tourism, shipping traffic, population trends and demographics, labor and income statistics, and employment. In addition, the sanctuary designation is not an "economically significant" regulatory action under Executive Order 12866 Section 3(f)(1), as modified by E.O. 14094, so the particular requirements of cost-benefit analyses for economically significant regulatory actions (including quantification, if feasible, of costs and benefits) was not required here. NOAA's cost-benefit analysis for the sanctuary designation is provided in EIS Appendix D.

The referenced report was supported by the Sierra Club, and the research was done by the Monterey Bay Aquarium Research Institute, which is a reputable scientific institution; therefore, NOAA declined to remove this reference.

Comment SE-4: Commenters are concerned about impacts on agriculture, agricultural employees, and their families, local businesses, and consumers both within and beyond Santa Barbara and San Luis Obispo Counties. NOAA should address the socioeconomic, human use, and environmental justice impacts. Specifically, NOAA should consider the conversion of agricultural lands to urban uses as farming moves from the Central Coast of California to other states and countries with fewer regulatory compliance costs and requirements.

Response: NOAA’s designation of the sanctuary would not impose direct restrictions on agricultural activities, which take place outside the sanctuary boundaries (shoreward of the mean high water line). NOAA evaluated potential impacts of the sanctuary on agriculture in Section 4.6 of the EIS; under the Initial Boundary Alternative there would be negligible adverse impacts on land use development (including agriculture). Through implementation of the management plan, NOAA is committed to using a collaborative non-regulatory approach to engage with the agricultural community, as indicated in the management plan at Activity WQ-4.3 and inspired by success at MBNMS, and partnerships they’ve developed such as the [Agriculture Water Quality Alliance](#) (also see responses to comments MP-65 and WQ-10). Therefore, NOAA does not expect that designation of the sanctuary would lead to any additional regulatory compliance costs or requirements that would in turn lead to changes in land use practices, and NOAA considers that conversion of agricultural lands to urban uses is not a reasonably foreseeable effect of the sanctuary designation. NOAA is supportive of the agricultural community as neighbors of multiple national marine sanctuaries.

Comment SE-5: There are substantial economic benefits of the Oceano Dunes SVRA, which were not included in the draft EIS. NOAA should include this information.

Response: NOAA appreciates the popularity of the Oceano Dunes SVRA and the associated important contributions made to the local economy. Note that because SVRA activities are based beyond the shoreward extent of the sanctuary’s coastal boundary (mean high water line), NOAA does not expect the sanctuary’s designation to create adverse impacts on the recreation area. To more comprehensively characterize recreation and tourism in the area of the sanctuary, NOAA has added information about the Oceano Dunes SVRA to Section 4.6 of the final EIS. See also responses to comment MP-80 and comment BO-19.

Comment SE-6: Due to the remote location of the proposed sanctuary, the taxpayer burden for the administration and enforcement of the sanctuary is unnecessary.

Response: NOAA disagrees. Despite the relatively rural nature of the central coast of California, there are many threats including increased industrial activity (e.g., offshore energy development, shipping), which the proposed sanctuary would help to ameliorate through coordinated marine resource management. See EIS Chapter 2 and responses in the “purpose and need” section in this appendix.

Environmental Justice

Comment SE-7: Excluding the northern portion of the proposed sanctuary violates E.O. 12898 because it disregards Tribal rights of self-government and Tribal sovereignty.

Response: Executive orders 12898 and 14096 require federal agencies to identify and address disproportionately high and adverse effects of their actions on human health and the environment. NOAA provided this environmental justice analysis in Appendix E.9 of the EIS and concluded that all alternatives would have a beneficial impact on human health and the environment. Neither E.O. 12898 nor E.O. 14096 mandate that NOAA select the largest boundary or the most beneficial/protective alternative. In addition, NOAA is conducting government-to-government consultation with the federally recognized Santa Ynez Band of Chumash Indians, which is an important process that recognizes Tribal sovereignty. NOAA has also had discussions with non-federally recognized Indigenous groups during the designation process.

Public Access and Recreational Access

Comment SE-8: NOAA should ensure that there will be no loss of public access to the sanctuary area. Commenters expressed concerns about losing recreational and fishing access and/or rights, or that access would only be granted to certain user groups. NOAA should provide clear protections for public recreational uses; any restrictions on recreation would be confusing and may lead to decreased interest in recreation. NOAA should not protect resources from recreational uses; it would lead to higher densities of people in certain areas.

Response: NOAA's Final Preferred Alternative does not contain any regulatory restrictions on public access to the shorelines adjacent to or waters within the sanctuary. Responsible recreational use and enjoyment of the sanctuary is an important priority for NOAA; see the management plan's Blue Economy Action Plan. Also see responses to other comments for more information: SE-13 and GN-6 (recreation); FA-4, FA-9 and FA-18 (recreational fishing); BO-19 and MP-80 (Oceano Dunes SVRA); and MW-1 (MPWC).

Comment SE-9: Do not allow any new income-producing activity, whether a for-profit business or non-governmental organization, within the sanctuary boundaries or along the coastline. The sanctuary should remain free to all without any favor to any group of people or organization.

Response: NOAA is not limiting recreational activities or charging an entrance fee for access to the sanctuary. NOAA is not favoring any group or business, and not limiting access for anyone. Certain activities may need to apply for a permit if they conduct prohibited activities (e.g., altering the seabed, discharging prohibited materials).

Comment SE-10: NOAA should ensure access opportunities for individuals with disabilities. NOAA's [Visitor Accessibility Resources Guide to National Marine Sanctuaries](#) should be updated and expanded to include additional accessibility opportunities. Further, any restrictions on motorized travel may discriminate against people with mobility impairments.

Response: NOAA wants to ensure that the new sanctuary, along with all national marine sanctuaries, provide access and opportunities for people with disabilities, and that their access is

not restricted. NOAA is not proposing any access restrictions for motorized vehicles in the proposed sanctuary, such as beach vehicle access. NOAA will work to update the Visitor Accessibility Resources Guide to National Marine Sanctuaries at the national level in ONMS, separately from this sanctuary designation process.

Recreation and Blue Economy

Comment SE-11: NOAA should address the opportunities to benefit the Blue Economy by promoting sustainable tourism, recreation, and all current and future marine-related activities, including aquaculture, among others.

Response: NOAA agrees. Section 4.6 of the EIS evaluates expected beneficial impacts from sanctuary designation on tourism, recreation, and other human uses. Additionally, NOAA intends to prioritize promoting sustainable tourism and recreation as described in the management plan's Blue Economy Action Plan.

Comment SE-12: Increased tourism and human use can lead to degradation and impact on beach-nesting shorebirds. Tourism would also lead to increased traffic and facility needs (e.g., restrooms, trash).

Response: NOAA understands and takes seriously these visitor impact concerns. The fragile resources and sensitive marine life of the sanctuary's coast is deserving of careful management that NOAA feels should be addressed through locally based attention to sustainable tourism and recreation. Protection of wildlife (e.g., seabirds, pinnipeds) and habitats is a core priority for the sanctuary, as evidenced by the sanctuary's regulations (15 C.F.R. 922.232(a)) as well as strategies and activities in the management plan's Resource Protection Action Plan and Wildlife Disturbance Action Plan. Additionally, the Blue Economy Action Plan includes a strategy (Strategy BE-2) specifically focused on educating visitors and those engaged in sanctuary recreational activities to make informed and responsible choices.

Comment SE-13: Commenters expressed support for recreation and the importance of it in their daily lives both in and adjacent to the proposed sanctuary. Further, the proposed sanctuary would improve safety for visitors and enhance the tourism experience, and it would provide the region with greater opportunities for economic development. This area of the coast supports a thriving tourist industry; San Luis Obispo County alone hosted 75 million visitors last year. In addition, many of the coastal areas in and around Morro Bay are tourist hot spots that need to be protected from industrial activity.

Response: NOAA agrees that California is a destination hotspot, with the greatest concentration of tourists along the coast. Tourism is a major contributor to the economies of San Luis Obispo and Santa Barbara counties. Just as national parks and national forests protect and conserve our natural resources on land, national marine sanctuaries do so in the ocean and Great Lakes, encouraging low-impact recreational activities, such as responsible fishing, kayaking, surfing, wildlife viewing, and more. Implementation of the management plan's Blue Economy Action Plan is intended to promote and celebrate responsible tourism and recreational uses, providing support for a viable local economy while protecting sanctuary resources. Strategies and activities in that action plan focus on evaluating local interest in development of a

tourism and recreation program for the sanctuary to promote sustainable and equitable tourism, activities, and events.

Comment SE-14: NOAA should close Pismo Dunes.

Response: NOAA's national marine sanctuaries do not have authority shoreward of the mean high water line; therefore, NOAA cannot impose any restrictions on Pismo Dunes. Further, through this proposed sanctuary designation, NOAA would not restrict any public access to the sanctuary; see response to comment SE-8.

Ship Strikes and Vessel Speed

Comment SS-1: NOAA should ensure the authority to regulate vessel speed is written into the terms of designation. NOAA should impose vessel speed restrictions including implementing time and area closures, speed reduction zones, and a 10-knot speed limit to reduce injuries to whales, sea turtles, and other marine species, to minimize ship air and noise pollution, and to reduce the risk of vessel collision. Voluntary incentives in the [Protecting Blue Whales and Blue Skies program](#) would be insufficient. Implementing a mandatory vessel speed restriction in CHNMS would also set an important precedent along the U.S. West Coast, leading the way for other sanctuaries and state-managed reserves to implement similar restrictions in the future.

Response: The terms of designation gives NOAA authority to manage vessel speed, if warranted in the future. At this time, NOAA is not adopting any of the regulatory suggestions in this comment. The four sanctuaries in California have been attempting to minimize or eliminate whale ship strikes via voluntary speed limits, avoidance areas, and other conservation measures. NOAA would expand those measures to CHNMS. ONMS has worked with USCG, NOAA Fisheries, and the shipping industry to identify and implement actions to date. If in the future NOAA determines that it is necessary to pursue a mandatory, regulatory solution (such as through the process outlined in Activity RP-6.3 in the Resource Protection Action Plan), NOAA will conduct a separate regulatory process and give consideration to a regional, multi-sanctuary approach.

Comment SS-2: Under the ESA Section 2(c) and Section 7(a)(I), NOAA should prohibit speeding vessels to conserve threatened and endangered species.

Response: NOAA's primary legal authority designating this national marine sanctuary is the NMSA, which does have complementary requirements and purposes to the ESA. As noted in response to comment SS-1, NOAA does not believe additional vessel speed regulations to conserve threatened and endangered species is warranted in CHNMS under ESA or NMSA at this time.

Comment SS-3: NOAA should expand its voluntary vessel speed reduction zones from other sanctuaries to CHNMS. This would allow it to implement strategies on a coastwide, system basis, from Point Arena through the Channel Islands. An additional strategy NOAA could take is to establish a California-wide national marine sanctuary advisory group to collaborate on vessel-focused efforts and recommendations, including protection of marine mammals and navigation. Research on ship strikes shows that this new sanctuary would provide opportunities to decrease mortality of migrating blue, humpback, and fin whales due to ship strikes.

Response: Activity WD-3.2 in the sanctuary management plan's Wildlife Disturbance Action Plan aims to take similar action through the SAC. The idea of a California-wide national marine sanctuary advisory group could be addressed by the SACs of all California national marine sanctuaries, including CHNMS. In addition, Activity RP-6.3 in the Resource Protection Action Plan has been edited in the final management plan to guide coordination at a regional level on reducing ship strikes in national marine sanctuaries in California, as outlined in Activity WD-3.2. If voluntary vessel speed reduction efforts are determined to be insufficient, Activity RP-6.3 directs evaluation of potential mandatory measures to reduce ship strikes. Also see response to comment SS-1.

Comment SS-4: NOAA should work with the International Maritime Organization to designate ATBAs similar to the one recently expanded near CINMS. This spatial planning tool would restrict vessel traffic in certain identified hotspots for marine life, thus avoiding many potential injuries and deaths. ATBAs, combined with vessel speed restrictions, would enhance existing protections for marine wildlife that flow from sanctuary designation.

Response: Strategy RP-6 in the Resource Protection Action Plan contains activities focused on tracking and monitoring vessel traffic compliance in the sanctuary. The creation of new ATBAs or expansion of the existing (and recently expanded) ATBA near CINMS (that also extends into CHNMS) could potentially be addressed under Activity RP-6.3, which has been edited in the final management plan to specifically evaluate the need for and scope of non-voluntary measures to reduce ship strikes if necessary. Also see responses to comments SS-1 and SS-3.

Water Quality, Discharges, and Dredging

Existing Water Quality Conditions

Comment WQ-1: NOAA should develop a Water Quality Needs Assessment to understand the water quality issues, sources, and impacts.

Response: NOAA agrees. The first strategy in the Water Quality Action Plan (Strategy WQ-1.1) addresses this very request—developing a water quality needs assessment.

Discharge Regulations

Comment WQ-2: The enter and injure discharge prohibitions are too strict. All existing legal uses should be allowed to continue. The existing regulatory process is sufficient; another layer of permitting is unnecessary.

Response: The CHNMS discharge regulation (15 C.F.R. 922.232(a)(2)), which includes a sub-element prohibition on any discharge from beyond the sanctuary boundary that subsequently enters and injures sanctuary resources⁵ or qualities⁶ (15 C.F.R. 922.232(a)(2)(iii)), is consistent with discharge prohibitions at many national marine sanctuaries, including others along the California coast. For a discharge to violate this sub-element of the regulation, a discharge that has already occurred must be found to have injured a sanctuary resource or quality. For example, this prohibition could be applied to an oil or hazardous substance spill that originates

⁵ See [15 C.F.R. 922.11](#) for "Sanctuary resource" definition

⁶ See [15 C.F.R. 922.11](#) for "Sanctuary quality" definition

from outside the sanctuary boundary and then subsequently enters the sanctuary and injures a sanctuary resource or quality. NOAA has a long history of implementing the discharge regulation, including the enter-and-injure element, finding it to provide appropriately high standards of sanctuary resource protection balanced with reasonable exceptions and permit options that allow for the continued responsible use and enjoyment of sanctuary waters. NOAA also finds that the sanctuary discharge regulation augments protections provided by other jurisdictions and laws; see also response to comment RP-5.

Comment WQ-3: NOAA should provide additional discharge exceptions for large ocean-going vessels, e.g., anti-fouling hull coating leachate, bilgewater, cathodic protection, controllable pitch propeller and thruster hydraulic fluid and other oil to sea interfaces including lubrication discharges; or NOAA should reference the USEPA vessel general permit and allow (as an exception to the general prohibition provisions of this proposed rule) any discharges that are compliant with the provisions of the vessel general permit, which cannot otherwise be minimized or eliminated during transit through the sanctuary.

Response: Based on experience at several national marine sanctuaries, NOAA considers the discharge regulation requirements and exceptions (15 C.F.R. § 922.232(a)(2)(i) and (ii)) to be reasonable for large ocean-going vessels transiting through the area. The proposed CHNMS requirements match those in place at adjacent national marine sanctuaries (MBNMS and CINMS), frequently transited by ocean-going vessels. Additionally, ocean-going vessels are expected to spend less time within the Final Preferred Alternative boundary, which is closer to the shore than the Initial Boundary Alternative (see response to comment BO-1 for details on NOAA's identification of the boundary for the Final Preferred Alternative). NOAA also expects that ocean-going vessels are likely to remain largely outside the Final Preferred Alternative in anticipation of the USCG implementing recommendations from its final PAC-PARS, which proposes a shift of coastal vessel traffic lanes and corridors further offshore to become fairways, mostly beyond sanctuary boundaries (USCG, 2023a; 2023b). Future vessel traffic patterns will be evaluated and considered as part of implementing the final management plan's Boundary Adjustment Action Plan.

Comment WQ-4: Proposed discharge regulations will impact water quality by concentrating ballast water discharges immediately to the north or south of the sanctuary boundary to enable otherwise lawful discharges.

Response: NOAA disagrees with the assertion that the sanctuary would create any ballast water discharge concentration areas of concern. The outer boundary of the Final Preferred Alternative, which excludes the furthest offshore portion of the Initial Boundary Alternative, extends seaward to a maximum distance of 52 nautical miles. Existing regulations already require most ballast water discharge to take place beyond 50 nautical miles from land, and NOAA understands that due to onboard ballast water treatment systems and routing considerations for this area (there is no major shipping port in or near the sanctuary), very little ballast water exchange is expected. For more information, see Section 4.8.4 of the final EIS, and the response to comment MT-8.

Comment WQ-5: NOAA needs to be willing to approve a permit for fireworks because of the proposed prohibition on discharging or depositing harmful matter in the sanctuary could limit fireworks shows.

Response: NOAA has the authority under the NMSA to issue special use permits at the proposed sanctuary. Discharges from fireworks displays were listed in the CHNMS proposed rule as known activities within the proposed sanctuary that fall within an existing special use permit category. NOAA has used this special use permit category for similar activities in the nearby MBNMS for decades; therefore, NOAA anticipates it would be appropriate for the proposed sanctuary as well. See also response to comment WQ-2 concerning the sanctuary discharge regulation.

Comment WQ-6: Water quality needs to be protected, especially from runoff, cruise ships, and commercial vessels, and regulations that reduce land and ocean-based water quality pollution (e.g., spills, pesticides, pathogens) from entering the sanctuary would be welcomed. Commenters support discharge and enter/injure prohibitions as necessary to protect sanctuary resources.

Response: NOAA agrees; the sanctuary regulations and the management plan's Water Quality Action Plan aim to protect water quality and sanctuary resources.

Comment WQ-7: NOAA should establish measures for ensuring water quality entering the sanctuary is up to standards. This could be accomplished through a Memorandum of Agreement (MOA) between agencies to reinforce existing regulations and aid the impaired waterways within the sanctuary's boundaries.

Response: NOAA agrees and the Water Quality Action Plan has a strong focus on working collaboratively in the watersheds to ensure water quality entering the sanctuary meets standards. In addition, MBNMS has had an MOA with the State Water Resources Control Board and other state and federal agencies for over 20 years that outlines roles and responsibilities related to permitting discharges within the sanctuary. It is likely similar agreements can be arranged for CHNMS as described in the management plan Activity WQ-2.5 regarding a Water Quality MOA.

Comment WQ-8: Potential additional regulatory layers of the sanctuary could impact the future disposal of brine into the ocean from [planned recycled water purification facilities](#), which are already regulated and permitted under the National Pollutant Discharge Elimination System (NPDES).

Response: Desalination or other water supply conservation projects that involve discharges into the sanctuary can be accommodated by NOAA through a sanctuary permitting process (see 15 C.F.R. 922.232(d)), or the authorization of an existing permit (see 15 C.F.R. 922.232(e), 15 C.F.R. 922.36). This approach has been successfully implemented at MBNMS, and NOAA expects the same would be true for the new sanctuary. A new activity was added to the Water Quality Action Plan (Activity WQ-2.7) to involve the sanctuary in state desalination planning processes and to consider, with input and recommendations from the SAC, adopting existing desalination guidelines in place at MBNMS, with modifications as appropriate. Other responses to comments provide additional details on desalination permitting (comment DE-2), non-

duplicative discharge regulations (comment RP-5), and MOAs for coordinating desalination permitting and other sanctuary discharges (comment WQ-24).

Comment WQ-9: There is concern that sanctuary regulations might result in duplicative regulation inconsistent with the CWA. NOAA should align language in the regulations with the non-regulatory, collaborative policy approach expressed in the proposed management plan. NOAA should amend Section 922.232(a)(2)(iii) of the proposed rule to clarify that this prohibition does not extend to discharges upstream or outside of the sanctuary that are done pursuant to a federal or state permit, including, but not limited to, a permit issued under NPDES. Without such clarity, this language creates a potential “double jeopardy” situation. NOAA should clarify language in Section 922.234 of the proposed rule such that the certification process directly applies to permits for discharges that occur outside the sanctuary.

Response: The “enter-and-injure” clause of the sanctuary’s discharge regulation (15 C.F.R. 922.232(a)(2)(iii)) is intended to address abnormal conditions such as the failure of a specific system or facility, hazardous material spills, or other emergency situations where a known material from a known source is discharged “upstream of” or beyond sanctuary boundaries and subsequently enters a sanctuary and injures a resource or quality. The injury and the source of the discharge would need to be documented for it to violate the sanctuary regulation. Such a discharge, for instance, that violates state law or regulation could at the same time also violate federal law or regulation. If NOAA were to become aware, in the future, of a proposed or existing discharge beyond the boundary of the sanctuary that is permitted or otherwise approved and that could enter and injure sanctuary resources or qualities, it would work with the agency responsible for the underlying permit and the permit applicant/holder to find ways to mitigate that impact. In the event a discharge permitted by another entity enters and injures sanctuary resources or qualities, NOAA would also retain the ability to respond to this as a violation of the enter-and-injure prohibition.

NOAA acknowledges that Section 922.232(a)(2)(iii) introduces an additional source of potential liability for dischargers, but this is not inconsistent with the CWA. The CWA is intended to broadly protect the nation’s waters (33 U.S.C. § 1251(a)), whereas the NMSA protects areas of special national significance where existing federal and state authorities are inadequate or should be supplemented to accomplish coordinated and comprehensive coordination and management (16 U.S.C. § 1433(a)(2)–(3)). The commenter points to the CWA’s “permit shield” provision at 33 U.S.C. § 1342(k), but that provision, by its own plain terms, provides only that compliance with a NPDES permit is deemed compliance with certain specific provisions of the CWA. It is not a blanket insulation from all forms of potential liability.

Thus, NOAA is not amending the proposed regulatory language for 15 C.F.R. 922.232(a)(2)(iii). See also response to comment WQ-2.

Comment WQ-10: The sanctuary will create regulatory uncertainty for agriculture and should not have any additional water quality regulations affecting agriculture. Farmers and ranchers across San Luis Obispo and northern Santa Barbara county, working along intermittent streams that may drain into the Pacific Ocean, could be subjected to new regulations. What constitutes an injury under 922.232(a)(2)(iii) seems subjective and opens the door to new federal restrictions on basic farming practices. NOAA has not contemplated any unique considerations

for farmers—unlike NOAA did for the DoD, cruise ships, and offshore wind industry. NOAA should work collaboratively with local farmers and ranchers to provide the same considerations and exemptions for agriculture as it has done for other entities in the proposed rule.

Response: The regulatory issues related to this comment are discussed in the responses to comments WQ-2 and WQ-9. From the non-regulatory standpoint, NOAA intends to work closely with the agriculture industry to develop a voluntary program to develop information and actions that can help improve water quality while maintaining productive farms. Activity WQ-4.3 in the management plan describes this very program, which would be modeled off the very successful program NOAA has developed and implemented at MBNMS with the agriculture industry adjacent to that sanctuary.

Comment WQ-11: The proposed discharge prohibition exempts USCG vessels, but not vessels engaged in lawful fishing activities. The same discharge exception that is provided to USCG vessels should be provided for lawful fishing activities. The proposed discharge regulations that apply to even the smallest of craft and minimal negative impacts will constructively limit the public's use of sanctuary waters. Enforcement of these regulations are commonly so impractical the expectation is that they will not be enforced. Establishing rules putting people on the wrong side of the law, that are not expected to be enforced, is simply bad public policy. It puts people at risk of being cited on the basis of their appearance or any other subjective quality.

Response: NOAA has sought to implement regulations and various non-regulatory programs for CHNMS that strive to protect water quality by limiting sewage and other waste and pollutants discharged into the ocean, potentially harming sanctuary resources. It has further sought to implement regulations that are consistent across other U.S. West Coast Region national marine sanctuaries, especially adjacent to CHNMS. NOAA seeks to collaborate with local and state agencies, harbor masters, and most importantly, boaters, who use the sanctuary to find the best ways to operate on the ocean without harming resources. Activity WQ-2.6 in the management plan calls for NOAA to work with local harbors to ensure adequate sewage pumpout facilities exist and are operable within harbors for boaters to use. Current federal law prohibits discharge of untreated sewage from a vessel within 3 miles of shore, thereby placing a requirement on boaters to comply with these discharge prohibitions. The sanctuary regulations extend that existing requirement throughout the sanctuary, and establish an exception from the discharge prohibitions for clean effluent generated incidental to vessel use by a Type I or II marine sanitation device (for vessels less than 300 gross registered tons and for vessels 300 gross registered tons or greater without sufficient holding tank capacity to hold sewage while within the sanctuary). Alternatively, vessels with holding tanks can store waste for discharge at onshore pumpout facilities, or when beyond the sanctuary boundary. NOAA hopes that compliance will be widespread, but disagrees with the comment that non-enforcement is to be expected in cases of noncompliance.

The exception for USCG vessels operating beyond 3 nautical miles from shore is consistent with a similar exception requested by USCG and granted by NOAA for GFNMS and CBNMS. NOAA has developed plans with USCG District 11 leadership through informal discussions to limit discharges into other West Coast Region national marine sanctuaries and anticipates similar approaches could be explored for USCG operations in the proposed sanctuary. If a USCG vessel

has a Type I or Type II marine sanitation device, it must use that within the sanctuary prior to discharging sewage. NOAA included the exception for USCG vessels without adequate treatment or storage because of the importance of having USCG vessels able to patrol and carry out critical safety and national security operations in the sanctuary. USCG patrol vessels provide a tremendous benefit to NOAA by assisting with enforcement of national marine sanctuary regulations. See EIS Section 4.4 and Section 4.6 for additional details related to expected impacts on vessels engaged in lawful activities (commercial and recreational, respectively).

Dredging and Coastal Resiliency Projects

Comment WQ-12: Additional language should be added prohibiting ONMS from any role in permitting or commenting on harbor dredging or preexisting material disposal practices. Additional dredging and disposal restrictions may interfere with existing harbor uses and safety. Harbor dredging and dredge material disposal are already regulated by USACE, USEPA, CCC, and other agencies. The proposed sanctuary's boundaries should be set at a minimum of a 2–5 mile radius around harbor structures. The NMSA did not envision providing ONMS with regulatory authority over dredging or dredge disposal.

Response: Consistent with its practice in other sanctuaries, NOAA intends to work closely with harbors to coordinate activities that could adversely affect sanctuary resources while allowing for harbor operations. The sanctuary regulations include an exception for the discharge of dredged material within the sanctuary at disposal sites approved by USEPA prior to designation (consistent with historical practices). The sanctuary regulations also include an exception for maintenance dredging of entrance channels for existing harbors. Maintenance of breakwaters, or piers in the case of Pismo Pier, would also be excepted. NOAA is excluding all waters and the submerged lands that fall within the two existing harbors along this stretch of coast (Port San Luis and VSFB). Note the waters off DCPM marina and Morro Bay Harbor are not part of the Final Preferred Alternative. Also, see response to comment BO-16.

Comment WQ-13: The ONMS director should have discretionary approval to place dredged material within the proposed sanctuary. In addition, NOAA should add more specific language providing exceptions for future offshore sediment placement. Using dredge material for beneficial use is likely to be critical for combating the impacts of climate change on coastal areas. Resources should be used efficiently and effectively to address dredging projects.

Response: The sanctuary regulations do allow NOAA to issue a permit for disposal of dredged material for beneficial use (see 15 C.F.R. § 922.232(f)(1)(iii)). Also see response to comment OW-25.

Comment WQ-14: NOAA should clarify that dredging necessary for new port development to expand Port San Luis could be exempted if that dredged material is used for habitat restoration.

Response: If new port development occurs in the future, Port San Luis could apply for a sanctuary permit from NOAA to allow for beneficial use of dredged material that is suitable for habitat protection or restoration purposes. Also see responses to comments OW-25, WQ-12, and WQ-13.

Comment WQ-15: NOAA should add provisions to the regulations or management plan to allow coastal resiliency projects to occur, such as multi-benefit coastal restoration/enhancement projects incorporating integrated regional sediment management and coastal climate adaptation focused on nature-based solutions. NOAA should expand the definition of and allowance for beach and nearshore sediment deposition for coastal restoration and acknowledge other eligible sources of sediment/sand beyond harbor dredging.

Response: Coastal resiliency projects have obvious merits, and sanctuary regulations may allow such projects, but the details of specific proposed projects are important and would likely require environmental review and a sanctuary permit(s). See ONMS permitting procedures (15 C.F.R. 922 Part D) and the final CHNMS prohibitions, exceptions, and permit processes (15 C.F.R. 922.232–234). The regulations for CHNMS include a permitting process for, and a definition of, beneficial use of dredge material removed from a public harbor to include material determined by NOAA to be suitable as a resource for habitat protection or restoration purposes. Dredged material eligible for this definition can come from public harbors adjacent to the sanctuary. Beneficial use of dredged material is not disposal of dredged material. Note that use of a new site within the sanctuary for discharge of dredged material that does not meet the beneficial re-use definition could not be permitted.

Should a public agency or private entity seek to pursue a project that would excavate sand from within the sanctuary for reasons other than maintenance dredging of a public harbor entrance channel, and seek to discharge that material on or near a beach within the sanctuary for habitat protection or restoration purposes, that activity may constitute a disturbance of the submerged lands and/or a discharge of material within or into the sanctuary (see 15 C.F.R. 922.232). However, the sanctuary regulations could enable NOAA to issue a permit or authorization to allow the activity, depending on the findings of environmental review by NOAA and other federal, state, and local agencies, in order to allow the beneficial use of the material and/or to understand the project's impacts on sanctuary resources or other resources that may be important to other agencies.

NOAA believes these various allowances and processes create possible pathways to consider beach nourishment as habitat protection or restoration. Thus, NOAA believes that other pathways are not necessary at this time. If it is necessary to consider additional or modified regulatory pathways in the future, NOAA could consider such changes in a management plan and regulatory review process.

Comment WQ-16: Interested individuals and groups should have the opportunity to participate in discussions related to management plan actions regarding coastal enhancement/restoration. A Regional Coastal Adaptation Monitoring Pilot Project is being developed that could be useful.

Response: There would be ample opportunity for the new sanctuary to have discussions regarding management plan actions such as coastal enhancement/restoration, both with staff or at SAC meetings. NOAA welcomes input and information on regional coastal adaptation efforts.

Cruise Ship Discharges

Comment WQ-17: NOAA should impose regulations to control harmful discharges from cruise ships and require clean water release.

Response: NOAA included a prohibition on discharges from cruise ships in the sanctuary regulations (see 15 C.F.R. § 922.232(a)(2)(ii)). Across most national marine sanctuaries, NOAA has applied consistent regulations that allow for fewer exceptions for cruise ship discharges than for other vessel discharges within or into sanctuaries because cruise ships can generate very large volumes of waste or other discharges and it is feasible for cruise ships to pass through the proposed sanctuary without discharging. The only exceptions for cruise ships discharging within the proposed sanctuary would be for clean vessel engine cooling water, clean vessel generator cooling water, vessel engine or generator exhaust, clean bilge water, or anchor wash; in essence, these discharges are directly linked to propelling and operating the vessel itself.

Comment WQ-18: NOAA should impose a requirement for cruise ships to monitor or report on any effluent when discharging to federal waters, to ensure only clean water is discharged from these ships and that water quality standards are met.

Response: The USCG and USEPA, pursuant to their authority to implement the Vessel Incidental Discharge Act, require overboard discharges to be logged with start and end times, as well as location. When NOAA conducts inspections, staff review these logs and check to ensure compliance with sanctuary discharge regulations. Also see response to comment WQ-17.

Comment WQ-19: With regard to the proposed regulations on cruise ship discharges, NOAA should add language to specifically ban scrubber use and discharge outside of the 24 nautical miles mark within sanctuary waters for large vessels. Scrubber wash water, which contains pollutants, is discharged to the ocean after little or no treatment. California state regulations prohibit scrubber use within the state's 24-nautical-mile jurisdiction, but outside of this boundary, scrubbers are permitted. Scrubber use should not be permitted anywhere within the sanctuary in order to protect sanctuary resources.

Response: NOAA agrees. In the sanctuary regulations, all overboard discharges from cruise ships are prohibited except for clean vessel engine cooling water, clean vessel generator cooling water, vessel engine or generator exhaust, clean bilge water, or anchor wash water. This regulation prohibits the discharge of effluent from exhaust gas control systems or scrubbers into the sanctuary (see 15 C.F.R. § 922.232(a)(2)(ii)). Closed-loop scrubbers would not violate this provision if there is no discharge. Most exhaust gas control systems are "open loop," in which the scrubbers continuously take in sea water and discharge the wash water back into the sea as effluent.

Land-Based Discharges

Comment WQ-20: NOAA should prohibit land-based discharges. For years, there has been a discussion of what to do with contaminated wastewater produced by San Joaquin Valley agriculture. Morro Bay has long been considered one of the choice locations for this dumping. Selenium is highly toxic to fish and wildlife and has been implicated in both fishery declines and the deaths of thousands of shorebirds and waterfowl.

Response: Sanctuary regulations include prohibition of discharges within sanctuary boundaries (15 C.F.R. § 922.232(a)(2)(i)), as well as discharges outside the sanctuary that subsequently enter the sanctuary and injure sanctuary resources or qualities (15 C.F.R. § 922.232(a)(2)(ii)). For more discussion on agricultural discharges, see response to comment MP-66.

Comment WQ-21: How would local agricultural practices and livestock grazing be affected by sanctuary water quality regulations and measures?

Response: EIS Section 4.6.3 determines that adverse impacts on agricultural practices and livestock grazing would be minor to negligible. Also see responses to comments WQ-10 and MP-66.

Limit Runoff Pollution

Comment WQ-22: NOAA should reduce water pollution in sanctuary waters by preventing excess runoff of sediments, oils, pesticides, nutrients, and pathogens, which can have detrimental effects on marine ecosystems.

Response: Although NOAA does not have the authority to regulate land use, the intent of the sanctuary management plan's Water Quality Action Plan is to address these pollutants. For more discussion on how NOAA plans to reduce water pollution in sanctuary waters, see responses to comments MP-65 and MP-66.

Limit Oil and Gas Discharges

Comment WQ-23: NOAA should limit discharges that are necessary and incidental to existing offshore oil facilities, and prohibit any discharges that are associated with well stimulation treatments (including hydraulic fracturing and acidizing), as these practices have not been subject to adequate environmental review. The proposed allowance for existing wells could lead to harmful or polluting chemicals being released into the sanctuary.

Response: Production pursuant to oil and gas leases in effect at the time of sanctuary designation would not be prohibited by the sanctuary regulations. NOAA would coordinate with existing offshore oil facility operators, BSEE, and any state agencies as appropriate to ensure potential impacts on sanctuary resources from discharges associated with well stimulation treatments are minimized. Also see response to comment OG-5.

NPDES Permits

Comment WQ-24: NOAA should ensure there is a process to allow consideration of NPDES permits for new discharges related to water supply projects (e.g., such projects as highly treated recycled water projects where waste residuals could be discharged to the ocean). Alternatively, NOAA could confirm that the interagency MOA could include provisions to consider and permit such discharges.

Response: NOAA agrees that water supply resiliency is important and has demonstrated this in MBNMS as a signatory to the California MOA for Interagency Coordination of Seawater Desalination Project Review. MBNMS also has an MOA with the water board and other state and federal agencies that outlines roles and responsibilities related to permitting discharges

within the sanctuary. It is likely that similar agreements can be arranged for CHNMS as described in the management plan Activity WQ-2.5 and the added Activity WQ-2.7 related to desalination and water supply projects.

Impacts on Water Quality

Comment WQ-25: The placement of dredged material does not adversely impact the marine environment by increasing water column turbidity. While there may be temporary and localized turbidity changes, there have been numerous studies on the impacts of placement of fine-grained materials in the aquatic ecosystem that disagree with the "adverse" impact statement in EIS Section 4.2.1.

Response: There are many studies that address both grain size and contaminants associated with grain size of dredge spoils. Typically, the finer the grain size, the more likely persistent contaminants are present. USEPA and USACE have guidance related to this topic in the [EPA Evaluation of Dredged Material Proposed for Ocean Disposal Testing Manual](#) which is what is used to determine suitability for different disposal options (USACE & USEPA, 1991). Language has been modified in Section 4.2.1 of the final EIS to remove the wording "adversely impacts," but still reflect potential environmental concerns associated with dredged material disposal.

Comment WQ-26: How did NOAA determine there would be "moderate" beneficial impacts for the reduction in discharges from vessels, new oil and gas facilities, or other activities in the EIS? The only existing area where that may happen would be from vessels, as there are no planned oil and gas facilities and it is difficult to determine what "other" activities are.

Response: EIS Section 4.2.2 describes the impact assessment methodology for water quality. Sections 4.2.3 through 4.2.8 address the environmental consequences or impacts of the sanctuary designation on water quality. The EIS analysis determined that the proposed discharge regulations would establish more comprehensive water quality protection across the geographic range proposed for the sanctuary and would bolster existing authorities, and therefore would achieve a moderate beneficial impact. The primary benefit would result from reducing the amount of discharges from vessels, but examples of other activities might include reducing risk of introduction of introduced species or possibly construction-related activities.

Comment WQ-27: Sewage treatment discharge has major impacts on ocean chemistry (ocean acidification and hypoxia) and devastating habitat impacts, even more than greenhouse gas emissions, nitrogen from rivers, storm drains, etc. In the proposed Gaviota Coast Extension, runoff from land is considerable. Major tributaries to coastal waters are within the proposed sanctuary, like the Santa Ynez River. With a pressing threat to the proposed sanctuary, NOAA should participate in state regulatory processes and ensure nutrient runoff impacts, combined sewer overflow, and tributary impacts are mitigated.

Response: NOAA agrees that participation in state regulatory processes would be an important part of protecting sanctuary resources from land-based sources of pollution and runoff impacts. NOAA's intent for the Water Quality Action Plan is to address these pollutants by taking a coordinated approach with other agencies and interested parties, as outlined in Strategy WQ-2. For more discussion, also see responses to comments MP-65 and MP-67.

Comment WQ-28: Many of the risks that the sanctuary designation intends to mitigate—oil spills, vessel discharge pollution, invasive species introduction—have diffusive impacts away from the point of discharge. Minimizing these risks can be partially achieved by minimizing the amount of unprotected waters adjacent to both sanctuaries.

Response: While NOAA agrees, the Final Preferred Alternative boundary does not provide an unbroken connection between MBNMS and CHNMS. However, the sanctuary regulations would prohibit discharges outside the sanctuary that subsequently enter the sanctuary and injure sanctuary resources or qualities (15 C.F.R. § 922.232(a)(2)(iii)); this is consistent with adjacent sanctuaries' regulations as well. In addition, Strategy BA-1 in the Boundary Adjustment Action Plan would evaluate and consider the need for a future boundary expansion to include waters north of the sanctuary and potentially lead to an unbroken sanctuary connection to MBNMS in the future. Also see response to comment BO-1.

Comment WQ-29: In areas excluded by NOAA's Agency-Preferred Alternative and other boundary alternatives, vessels would not be subject to the discharge prohibitions, and these areas would face serious potential impacts. Therefore, NOAA should designate the most environmentally beneficial alternative, the Initial Boundary Alternative and Sub-Alternative 5b.

Response: While NOAA's Final Preferred Alternative does not include the waters between Cambria and just south of DCP, or the western-most offshore waters included in the Initial Boundary Alternative, as discussed in the response to comment WQ-28, sanctuary regulations would prohibit discharges outside the sanctuary that subsequently enter the sanctuary and injure sanctuary resources. Also see response to comment BO-1 for more discussion on NOAA's identification of the Final Preferred Alternative and the final management plan's Boundary Adjustment Action Plan.

Sanctuary Name

Opposed to Proposed Name

Comment SN-1: The new sanctuary should have a name that is more inclusive of all Tribes and Indigenous communities in the region. Suggestions included: an English or Indigenous name based on local geographical features (such as "Estero-Gaviota," or "Lisamu-Lesamo"); Indigenous word or phrase of general support (such as "Kiyis'skamin," a Chumash phrase for "our ocean"); use both Chumash and Salinan in the sanctuary's name (such as "Chumash and Salinan Heritage"); or use a broadly descriptive name reflecting Tribal involvement (such as "Central Coast Indigenous Heritage," "Pacific Coast Tribal Heritage," "Indigenous Peoples Heritage" and "California First Peoples").

Response: For the reasons outlined in response to comment BO-1, with NOAA's Final Preferred Alternative covering the shoreline that has largely been considered an ancestral area to Chumash bands, NOAA is selecting the name "Chumash Heritage National Marine Sanctuary." As explained in responses to comments BO-1 through BO-4, NOAA will be initiating a process to consider expanding the sanctuary in the future to include the coast between the current boundary and Cambria, and thus potentially including an area of significance ancestrally to both the Salinan and Chumash. That potential future action could trigger a need to re-evaluate the name for the sanctuary. Other potential future actions that would require separate

processes under the NMSA and NEPA could include extending MBNMS south to avoid changing the CHNMS name, or designating an independent sanctuary with its own new name.

Comment SN-2: The proposed name is inaccurate and perpetuates the false narrative that only one Tribe (Chumash) existed in the central coast as a homogenous group. Salinan were present in the same area and have the same cultural affinity to the northern parts of the sanctuary as Chumash.

Response: NOAA acknowledges that different bands of both the Salinan People and Chumash People have occupied parts of the coast within the area proposed for the sanctuary. However, because the Final Preferred Alternative, which begins in the north along the coast two miles southeast of the breakwater for the DCPD marina, covers shoreline and waters largely occupied by Chumash bands, NOAA is designating the sanctuary as “Chumash Heritage National Marine Sanctuary.”

Comment SN-3: Text in the draft EIS regarding “name recognition benefits” represents inequitable treatment. By not having Salinan in the name, the Salinan do not receive the same benefits as the Chumash.

Response: As explained in the responses to comments SN-1 and SN-2, NOAA’s Final Preferred Alternative sanctuary boundary would be in an area recognized as Chumash territory. Future consideration of including areas north of DCPD marina within a national marine sanctuary would include careful consideration of appropriate naming given the presence of Salinan territory.

Support for the Name “Chumash Heritage”

Comment SN-4: The sanctuary should be named “Chumash Heritage National Marine Sanctuary.”

Response: NOAA has selected this name for the sanctuary based on the Final Preferred Alternative and as explained in responses to comments SN-1 and SN-2.

Other Comments Related to the Sanctuary Name

Comment SN-5: The original Indigenous Peoples who first occupied this land, who local Tribal members are descended from, did not identify themselves by the names given to Tribes today. They lived on this land, they belonged to this land and ocean. The sanctuary’s name should honor that.

Response: The names “Salinan” and “Chumash” were names given to both Tribes by Europeans, rather than the names the Tribes called themselves. Nonetheless, both groups identify with these English-language names today, and significant support has been expressed for the “Chumash Heritage” name, particularly for areas south of Morro Bay.

Comment SN-6: Designating the sanctuary across the entire area as originally proposed is more important than the name given to that new sanctuary.

Response: NOAA acknowledges that the sanctuary’s boundary and the conservation benefits that the sanctuary’s designation would provide are the most important outcomes. It also

acknowledges that the name is an important attribute of the sanctuary that is motivated by where the sanctuary is and what it protects. NOAA hopes that all corners of the community embrace the name “Chumash Heritage National Marine Sanctuary” for the Final Preferred Alternative. See also responses to comments SN-1 and SN-2.

Comment SN-7: NOAA's choice to exclude part of the coast because of Tribal conflicts with the name unintentionally removed any sanctuary protection from a coastline nonetheless culturally important to both Salinan and Chumash Tribal bands.

Response: NOAA acknowledges the Final Preferred Alternative excludes the stretch of coast that had also been excluded in the Agency-Preferred Alternative at the draft phase. It hopes to work with both Salinan and Chumash leaders to develop assessments and characterizations of this excluded area as part of a Phase 2 effort to consider a sanctuary boundary adjustment over the next seven years (see the Boundary Adjustment Action Plan in the final management plan). NOAA would also seek and carefully consider guidance from the SAC and Indigenous Cultures Advisory Panel regarding what areas to protect and what to name the area, if considered for national marine sanctuary designation or expansion of an adjacent sanctuary. See also response to comment BO-1.

Comment SN-8: Include the area from Montaña de Oro to Cambria in the sanctuary and designate the area as a special management zone with a separate name respectful of both Tribes.

Response: NOAA is not including this area in the final sanctuary boundary as explained in responses to comments BO-1, BO-3, and SN-1. However, soon after final designation, NOAA intends to initiate scientific studies and characterization of the resources offshore from two miles southeast of the breakwater for the DCPD marina to Cambria, among other areas, to determine if they warrant protection in the future. See the new Boundary Adjustment Action Plan in the final management plan.

Comment SN-9: Commenters objected to wording in the EIS about Tribes not being able to find consensus on the name of the sanctuary. Since the draft designation proposal was released, representatives from several Chumash bands have been working with Salinan bands on an alternative name that both Tribes could accept.

Response: NOAA acknowledges and thanks the five bands of Salinan and Chumash that came together on a single comment letter during the public comment phase regarding the name; other Indigenous groups as well came together to provide thoughtful and constructive suggestions for the name. The text in the final EIS Section 3.10 has been revised and the reference to disagreements among the two groups regarding the name has been removed.

Tribal and Indigenous

Tribal Legitimacy and Inclusion

Comment TI-1: NOAA has proposed an Indigenously focused project in a region characterized by rampant neo-Indianism, a movement resting on inaccurate claims of Indigenous ancestry and affiliation. As such, NOAA should ensure the Indigenous Peoples they work with for the sanctuary possess and can provide documented lineal descendancy as certified evidence of legitimate ancestral precontact ties to the California central coast. NOAA should also trust

evidence provided of fraudulent representation of some Tribal groups. NOAA should work with Tribes, and/or the California Native Heritage Commission, to co-develop vetting criteria and a Tribal review process. If NOAA does not get involved, they will perpetuate the erasure of true Native voices that has gone on since colonization and missionization, and contribute to ongoing colonial settler violence. The role of protecting Chumash land and water should be given to those who are authentically Chumash.

Response: Under the NMSA, national marine sanctuaries are designated and managed to protect nationally significant “conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities” (16 U.S.C. 1431(a)(2)), and NOAA has demonstrated the nationally significant cultural qualities of the CHNMS area throughout the rule, management plan, and EIS. As is customary for national marine sanctuaries, NOAA intends to use an inclusive approach to consult with the federally recognized Santa Ynez Band of Chumash Indians and engage with other Indigenous groups, and has clarified this approach in the introduction section of the management plan. NOAA’s inclusive approach is guided by Section 301(b)(7) of the NMSA, which states that one of the intended purposes of national marine sanctuaries is “to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas” (16 U.S.C. 1431(b)(7)).

NOAA has sought to meaningfully consult and engage with local Tribes and Indigenous communities⁷ of the central coast of California throughout the sanctuary designation process, informing the partnership approach described in the management plan’s Indigenous Collaborative Co-Stewardship Framework and future cultural programs. At the same time, NOAA understands there are continued disagreements concerning Tribal affiliation, legitimacy, and Indigenous identity, and about who should and should not speak for Chumash People, interests, or groups. Comments received on the proposed rule objected to Tribal “authenticity” and alternatively objected to anyone questioning Tribal authenticity (see comment TI-5). NOAA has not made, and does not intend to make, determinations regarding the “authenticity” of any individual or group’s asserted affiliation with the Chumash People; rather, NOAA recognizes the unique government-to-government relationship between the United States and the Santa Ynez Band of Chumash Indians, the only federally recognized Tribe in the region, and in addition broadly invites non-federally recognized local Tribes and Indigenous groups to participate in sanctuary stewardship and programs in a way that can appropriately elevate Indigenous voices. In this manner, NOAA seeks to provide opportunities for the Indigenous Peoples of the central coast to share their culture and wisdom publicly as they would like it to be shared.

⁷ This EIS uses “Tribes and Indigenous communities” and other related phrases to refer broadly to federally recognized Tribes, Native American Tribes that are not federally recognized that self-identify as Tribes, and other Indigenous groups and organizations. Where appropriate to reference the federally recognized Tribe in this area, the Santa Ynez Band of Chumash Indians, the rule specifically names that Tribe. Where appropriate to reference federally recognized Tribes more broadly, the EIS uses the terms “federally recognized Tribe(s)” or “federally recognized Tribal Nation(s).” As such, use of the term “Tribe” or “Tribal” is not intended to refer only to federally recognized Tribes unless otherwise specified.

NOAA expects that many groups throughout the diverse communities of the California central coast will continue to be interested in seeing and helping the sanctuary succeed. NOAA understands this diversity of local groups to include those involved with Chumash history, heritage, education, cultural practices, and more. NOAA further understands that some of these groups may self-identify as a Chumash Tribe and/or Chumash-related organization, some have told NOAA that they have documentation supporting lineage to their historic village areas, some may be otherwise externally recognized as a Chumash or Salinan Tribe, and at this time only one group is a federally recognized sovereign Tribal government.

NOAA has revised the introduction section of the final management plan to state it does not have the authority to adjudicate claims of authenticity or disputes between groups with claims of Tribal ancestry, and NOAA declines to do so. NOAA has focused on developing a management plan that takes into account the deep connection and history of Indigenous Peoples of the sanctuary's coastal areas.

NOAA also plans to conduct required Tribal consultations and work with interested Tribes and Indigenous groups through coordination and engagement processes, as well as forming an Indigenous Cultures Advisory Panel and other methods outlined in the proposed Indigenous Collaborative Co-Stewardship Framework presented in the management plan.

Comment TI-2: NOAA should modify documents, including the “potential partners” lists in the management plan, to not refer to neo-Chumash groups as “Chumash,” “Tribes,” “Tribal organizations,” or local Indigenous entities. When referencing these groups, qualifiers should be used such as “neo-” or “self-identifying” before “Chumash.” Those listed as “Tribes” should appear on the state of California’s list of Tribes, which is currently under revision.

Response: NOAA has modified text in the final EIS and management plan to make it clearer that there are a variety of distinctions between the Tribes and groups listed or mentioned, and different types of histories and backgrounds that underpin the formation of these Tribes and groups. However, it would be inappropriate for NOAA to rename, or modify with prefixes, the names that groups have given to themselves.

Comment TI-3: There is no strong evidence that the people who call themselves Chumash were the majority group on the central coast. In actuality, the Salinan People may well have held this position. NOAA should not designate the sanctuary unless Salinans are included in the proposal and process.

Response: During the sanctuary designation process, NOAA has extended engagement invitations to Salinan Tribes and has met with the Xolon Salinan Tribe several times and the Salinan Tribe of Monterey and San Luis Obispo counties once, and has had phone calls with Tribal council members. NOAA continues to extend invitations, not only for working with the proposed sanctuary but also for connecting with MBNMS. Salinan leadership has explained their territory to NOAA and have made clear their interests and concerns. See the response to comment BO-1 regarding the Final Preferred Alternative in relation to generally understood Chumash and Salinan territories.

Comment TI-4: This area is the traditional homelands of the yak tityu tityu yak tilhini (YTT) Northern Chumash Tribe. They have a long-documented history of having ancestral ties to these

lands, while the Northern Chumash Tribal Council does not. The YTT have not been consulted in the ways in which they should have been, and it is extremely harmful and disrespectful to not raise their voices up and prioritize their wishes and vast knowledge.

Response: NOAA understands and respects that members of the YTT Tribe have a documented lineage connected to local coastal areas, and extremely valuable knowledge. Through the designation process, NOAA has met with the YTT Tribe to listen to, learn from, and invite them to participate in the collaborative co-stewardship approach envisioned for the sanctuary. NOAA is grateful for the input provided by the YTT Tribe, and looks forward to continuing to work with them to ensure that engagement is meaningful.

Comment TI-5: NOAA should disregard unwarranted attacks on Indigenous Chumash People and recognize them as just another attempt by anthropologists to sow discord and division among Tribal groups. Consider the complicated history of European genocide on the Chumash and other Native Peoples in the Americas. It was not always safe to claim Native American ancestry, and it should be no wonder that many California Indians chose to hide their Native American ancestry and stress their Mexican or Californio heritage. NOAA should cast a broad and inclusive net in determining which Chumash Tribal groups NOAA and its state partners will consult with.

Response: NOAA is aware of the differences of opinion concerning how federal government agencies and other entities should or should not work with Indigenous Peoples, Tribes, and Indigenous organizations. NOAA has proposed an Indigenous Collaborative Co-Stewardship Framework (renamed from Indigenous Collaborative Management Framework⁸) that offers a variety of ways for a diverse range of Tribal and Indigenous community members to be seen and heard. See also response to comment TI-1.

Comment TI-6: Chumash and other Native groups were folded into Californio⁹ families and denied their Indianness for decades. This reality has been used over the last three decades to weaponize our discontinuities by non-Native academics. NOAA should focus on the work of those family members dedicated to the protection of Chumash culture and our imperiled coast. See past divisions and the people who would prefer we fight than focus on the good work at hand.

Response: NOAA looks forward to working with Indigenous Peoples interested in the protection and celebration of their cultures and the protection of sanctuary resources.

Comment TI-7: No Tribe should be given authority to make decisions for the other Tribes; each is a sovereign entity and speaks for itself.

Response: NOAA agrees that the sanctuary designation does not give authority to any Tribe to make decisions for other Tribes. NOAA understands that there is one federally recognized Tribe in the area, and that there are many non-federally recognized Tribes, bands, clans, and other organizations that may share “Chumash” or “Salinan” as part of their group’s name or purpose,

⁸ For an explanation of this renaming, see the management plan sub-section of Section 1.5 of this final EIS.

⁹ Californio refers to one of the original Spanish colonists of California or their descendants.

none of which speaks for others or all. Development of a collaborative approach for sanctuary management does not mean that Tribal or Indigenous group representatives would be expected to speak for other Tribes, unless appropriate arrangements have been made between those involved.

Comment TI-8: NOAA’s proposed collaborative management framework is not inclusive enough of a broad range of Tribal perspectives, and it should be amended. All Tribes, both federally recognized and non-federally recognized, should have equal representation in advisory and consultation roles, to be empowered and given the same advisory capacity and input opportunities as proposed for federally recognized Tribes. Responsible representatives of local Tribes should be invited to participate in all facets of the proposed sanctuary. Additionally, because the proposed sanctuary would include state waters, and because California’s Native American Heritage Council lists many non-federally recognized Chumash and Salinan Tribes that are also recognized by the state, those Tribes should be consulted and included as part of collaborative sanctuary management. It is unacceptable for sanctuary designation to cause any California Tribes to lose consultation and policy input rights currently recognized by the state of California.

Response: NOAA recognizes the unique government-to-government relationship between the United States and federally recognized Tribes, including the Santa Ynez Band of Chumash Indians. There are several types of advisory roles offered by NOAA in the proposed Indigenous Collaborative Co-Stewardship Framework presented in the management plan. While one element, the Intergovernmental Policy Council (IPC), is limited to governmental entities (federally recognized Tribes from the area and the state of California), all of the other management advisory opportunities, as well as joint project partnerships with nonprofit foundations, can be pursued by non-federally recognized Tribes and Indigenous community groups and representatives. NOAA does not determine whom the state of California will consult, and would not impede or eliminate any consultation or policy input rights currently offered to non-federally recognized Tribes by the state of California, a key sanctuary management partner. Additionally, NOAA envisions the creation of an Indigenous Cultures Advisory Panel to bring together individuals possessing knowledge or understanding of the local Indigenous culture, history, and environment to develop and provide essential advice supporting sanctuary management (see also response to comment TI-12). NOAA invites and encourages interested individuals to pursue these opportunities and join in evaluating it over the early years of the sanctuary’s implementation, with the understanding that modifications can be considered and adjustments made as those involved experience the process and provide feedback on the approach being used. See the final management plan for more information about formation of the Indigenous Cultures Advisory Panel.

Comment TI-9: NOAA should not shut out the Northern Chumash Tribal Council, who nominated the sanctuary, and other local Tribes from participating in collaborative sanctuary management and decision-making. If NOAA works only with the one federally recognized Tribe it will be insulting to the Northern Chumash Tribal Council and other Tribes. If non-federally recognized Tribes are marginalized, the one federally recognized Tribe will eventually gain an undue monopoly on real decision making.

Response: NOAA welcomes organizations that wish to engage in supporting the sanctuary and its management. NOAA is aware of the diverse variety of local groups related to or involved with Chumash and Salinan history, heritage, education, resource protection, and cultural practices. NOAA has been informed about important historical and cultural differences between each group or Tribe, understands that each has its own history of how it was formed and its purpose, and respects that no single group represents other Tribes. See responses to comment TI-1 and TI-8.

Comment TI-10: Add the Salinan Trowtraahl of the Salinan Nation Cultural Preservation Association to NOAA's list of culturally affiliated, non-federal Tribes.

Response: NOAA has added the Salinan Trotraahl to the project's contact list and list of local area Tribes and Indigenous groups interested in the sanctuary and its management.

Comment TI-11: Culturally affiliated Tribes of the area should be appropriately represented on the SAC.

Response: Following sanctuary designation, NOAA would establish a SAC and intends to work with the SAC on establishing an Indigenous Cultures Advisory Panel (see response to comment TI-12 for details). There would be Indigenous cultural knowledge seats on the SAC, and the Indigenous Cultures Advisory Panel would bring together individuals possessing knowledge or understanding of the local Indigenous culture, history, and environment to develop and provide essential advice supporting sanctuary management.

Indigenous Collaborative Co-Stewardship

Tribal Advisory Council

Comment TI-12: NOAA should establish a separate Tribal Advisory Council to enhance collaborative management with the Indigenous community. Other federal agencies have adopted similar Tribal advisory councils and NOAA could look to them for guidance. NOAA can use specific laws and precedence to justify its establishment.

Response: NOAA agrees about the importance of finding effective ways to collaborate in co-stewardship of the sanctuary. However, rather than forming a Tribal advisory council, NOAA believes that the Indigenous Cultures Advisory Panel proposed in the draft management plan would most effectively guide the sanctuary's handling of the various ways co-stewardship would be needed for CHNMS—such as uplifting Indigenous voices, integrating Indigenous Knowledge into sanctuary management, and drawing upon a wide range of Indigenous cultural perspectives. NOAA encourages interested individuals to inquire about Indigenous Cultures Advisory Panel participation following a future announcement of the group's formation through the SAC, and would seek input from participating Indigenous Cultures Advisory Panel members to help evaluate it over the early years of the sanctuary's implementation. As participants provide feedback, modifications can be considered and adjustments made.

Comment TI-13: A Tribal Advisory Council could help NOAA resolve or avoid problems in a manner that is more equitable and representative than the proposed Tribal and Indigenous Collaborative Management Framework. Problems may include: the SAC only providing a few seats for local Tribes, meaning these representatives must; represent all of the local Tribal

groups; challenges for the diverse local Tribes to agree upon who to nominate for the few SAC seats; and NOAA having to decide which Tribal community representatives to select as SAC members, because a Tribal Advisory Council should allow each Tribal community to designate their representative.

Response: NOAA acknowledges that the SAC, which per the NMSA would have a 15 voting seat limit, would not have enough available seats for representation of all local Tribes and Indigenous groups. However, the Indigenous Cultures Advisory Panel, as a working group of the SAC, would not be subject to the seat limitation restrictions of the full SAC and would not require NOAA's formal application, review, and appointment decision-making processes, which are requirements for the operation of sanctuary advisory councils (see the [National Marine Sanctuaries Advisory Council Implementation Handbook](#)). NOAA ultimately selects representatives on its advisory councils from those who apply to fill the seats (other than government seats, who are identified by their government or agency). For working groups there is significantly greater flexibility for the SAC and working group to recommend appropriate membership structure, roster, group size, and participant selection procedures.

Indigenous Representation on the Sanctuary Advisory Council

Comment TI-14: The SAC should not only have one government seat for a federally recognized Tribe, but also one government seat for a Tribe listed by the California Native American Heritage Commission (NAHC), and one government seat for a culturally affiliated Tribe that is not NAHC listed.

Response: NOAA appreciates the seat representation suggestions for the SAC. NOAA has not yet determined specific seats for the council, and will consider these suggestions.

Comment TI-15: NOAA should distinguish between Tribal seats on the SAC and "nonprofit" seats. Further, Tribes should have to indicate support for any nonprofit representatives that wish to engage in collaborative management of the sanctuary.

Response: NOAA respects the interests of local Tribes and Indigenous communities and would invite them and others to pursue membership on an Indigenous Cultures Advisory Panel that NOAA envisions will be established as a working group of the SAC, the purpose of which would be to bring together individuals possessing knowledge or understanding of the local Indigenous culture, history, and environment to develop and provide essential advice supporting sanctuary management. (see responses to comments TI-12 and TI-13 for details). Please see the response to comment TI-1 for NOAA's intent and limits regarding possible involvement and inclusion of various groups.

Comment TI-16: NOAA should not allow "Neo-Chumash" organizations to participate as Indigenous organizations on the SAC or Indigenous Cultures Advisory Panel.

Response: NOAA expects that the Indigenous Cultures Advisory Panel would bring together individuals possessing knowledge or understanding of the local Indigenous culture, history, environment, and lived experience to develop and provide essential advice supporting sanctuary management. See the response to comment TI-1 regarding the involvement of various groups, and responses to comments TI-12 and TI-13 for details about the envisioned Indigenous Cultures Advisory Panel.

Comment TI-17: The collaborative management structure only works if there are seats for non-federally recognized Tribal governments included on the SAC and the IPC. Otherwise, these Tribes will be separated from sanctuary decision-making and end up only participating on the Indigenous Cultures Advisory Panel, thus continuing their marginalization.

Response: NOAA expects that a few seats would be available on the SAC for individuals with knowledge or understanding of the local Indigenous culture, history, environment, and lived experience across various geographic regions and historic Indigenous territories within the sanctuary area, including but not limited to such knowledge specific to local Tribes and Indigenous groups. To the extent more representation is needed, the proposed Indigenous Cultures Advisory Panel would be a working group with much more space for Indigenous community members and others, and NOAA would respectfully expect this group to create unique and essential advice and guidance that is informed by knowledge of local Indigenous culture. A primary purpose of working groups, such as the proposed Indigenous Cultures Advisory Panel, is to provide focused attention on critical issues for which the expertise and perspectives of the working group members are necessary. While a working group presents its guidance to the SAC for public deliberation before such guidance is conveyed to NOAA, NOAA does not consider that this would marginalize the group or place them very far away from sanctuary decision-making. See responses to comments TI-12 and TI-13 for an explanation of why NOAA believes the Indigenous Cultures Advisory Panel structure can be effective and meet several needs expressed by Indigenous community members and local Tribal representatives, and see the response to comment TI-18 regarding the IPC.

Intergovernmental Policy Council

Comment TI-18: NOAA should not adopt or should seriously revise the IPC because: it limits Tribal membership to only federally recognized Tribes; causes non-federally recognized Tribes to lose consultation rights; and omits any state-recognized Tribes. Please involve the governor's Tribal adviser as California's representative and require adherence to the state's executive orders about Tribal involvement.

Response: NOAA understands the importance of inclusive Indigenous community participation in sanctuary management and commits to engaging and working with all Tribes and Indigenous groups in the sanctuary area on a regular basis. NOAA appreciates the suggestion about inclusion of the governor of California's Tribal adviser as a possible IPC representative, and can discuss this with the state. It would ultimately be a state decision with regard to the appointment of their IPC representation. NOAA also understands the responsibility state agencies have to California Native Americans pursuant to the state executive orders referenced in the comment, and although NOAA does not control state adherence to its executive orders, NOAA would expect any IPC representative from the state to be familiar with those policies and to provide sanctuary management support and advice accordingly. The IPC is inherently an "intergovernmental" mechanism to discuss and share ideas with NOAA on matters of coastal management, emergent governmental issues, and policy coordination, and hence is limited to the state of California and federally recognized Tribes. Rather than expanding the membership of the IPC, NOAA would instead be establishing an Indigenous Cultures Advisory Panel. The Indigenous Cultures Advisory Panel would bring together individuals possessing knowledge or understanding of the local Indigenous culture, history, environment, and lived

experience across various geographic regions and historic Indigenous territories within the sanctuary area, including but not limited to such knowledge specific to local Tribes and Indigenous groups. See responses to comments TI-1, TI-12 and TI-13 for additional details.

Comment TI-19: Mechanisms should be included to ensure opportunities for non-governmental interests to participate in the work of the proposed IPC, including through public notices and comment sessions for IPC meetings.

Response: NOAA appreciates the suggestion and will give consideration to this when creating a Charter for the IPC, and when meeting with IPC members.

Indigenous Cultures Advisory Panel

Comment TI-20: Members of the Indigenous Cultures Advisory Panel should receive meaningful compensation for their work, and support and resources should be provided to Indigenous and Tribal community members participating on the SAC or IPC.

Response: NOAA values and respects the knowledge that Indigenous community members would bring to important advisory group roles. NOAA would make available to the Indigenous Cultures Advisory Panel and the SAC such staff, information, administrative services, or assistance as the superintendent determines are reasonably required for the groups to carry out their function.

Comment TI-21: How will the Indigenous Cultures Advisory Panel interact with the SAC, and how will disputes be resolved?

Response: In general, sanctuary advisory councils, with concurrence of the sanctuary superintendent, can form and ask working groups for advice, recommendations, suggestions and other forms of input that relate to sanctuary management. Working group advice would flow to and through the SAC to help guide sanctuary management. Working groups would also develop their own recommendations on sanctuary issues in need of attention or guidance, passing their work to the SAC for deliberation before the SAC transmits the recommendations to the superintendent. Disagreements at the working group or SAC level can be managed through respectful dialogue, facilitated discussions as needed, and through consensus-building approaches. A formal dispute resolution mechanism has not been established, but could be considered in the future as needed.

Other Input on Collaborative Management Approach

Comment TI-22: NOAA's final action should adopt the proposed government-to-government co-management and collaborative framework for decision-making and planning for the sanctuary. NOAA should also adopt the term "collaborative co-management," or "collaborative co--stewardship" to reflect a sharing of authority between sovereign nations, and to better embody the government-to-government relationships envisioned in the draft EIS and the draft management plan.

Response: NOAA has incorporated the term "collaborative co-stewardship" into language within the final EIS, final management plan, and final rule. As derived from a [Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal](#)

[Lands and Waters](#), signed by the secretary of commerce in 2022,¹⁰ “co-stewardship,” as referenced in final designation documents, broadly refers to collaborative or cooperative arrangements between NOAA and Tribes related to shared interests in the sanctuary. See NOAA’s draft definition for co-stewardship [online](#), accessed October 2023.

Comment TI-23: Chumash People deserve acknowledgment and full rights to their territory both on land and offshore. The U.S. government should fund and follow their leadership in these waters. It is their territory from which they are informed by hundreds of generations of knowledge and relationships. Please return the greatest rights, privileges, and territory possible.

Response: NOAA agrees that Indigenous Peoples of the Central California coast possess knowledge that dates back time immemorial. Following meetings and listening sessions with local Tribes, Indigenous groups, and public comment on the draft designation materials, NOAA has revised and is including in the final management plan an Indigenous Collaborative Co-Stewardship Framework structure to facilitate engagement and partnership building with local Indigenous People, guided by federal laws and policies.

Comment TI-24: Support was expressed for NOAA’s Indigenous collaborative management principles (goals and intentions) outlined in the introduction section of the draft management plan.

Response: NOAA appreciates support for the important Indigenous collaborative management goals and objectives outlined in the draft management plan (now referred to as “collaborative co-stewardship” in the final management plan). Much of the content was derived from discussions and communications with the Santa Ynez Band of Chumash Indians and other local area Tribes and Indigenous groups.

Comment TI-25: How will NOAA maintain a meaningful connection with Indigenous groups so that they truly feel a part of the project? How will collaborative management work in practice?

Response: NOAA has developed a proposed framework for meaningfully involving local Tribes and Indigenous community members, to include Indigenous Knowledge seats on the SAC and formation of an Indigenous Cultures Advisory Panel (see the Framework for Indigenous Collaborative Co-Stewardship section within the management plan’s introduction). It is NOAA’s hope that implementation of the framework over the first year or so following the sanctuary’s designation would inform all participants about how collaboration can occur. Adjustments and refinements can and should be made in response to feedback provided, experience gained, and lessons learned.

Comment TI-26: Section 1.3.3 of the draft EIS should contain a more thorough discussion of the institutional goals and objectives with respect to collaborative co-management envisioned for the proposed sanctuary.

Response: As part of the summary introductory information for the EIS, the purpose of Section 1.3.3: Relationship to Other Applicable Laws, Regulations, and Executive Orders, is only

¹⁰ See [NOAA draft definition for co-stewardship](#), October 2023

to make readers aware of a list of statutes, regulations, and executive orders that NOAA must comply with for the proposed federal action. NOAA provides details on the proposed Indigenous Collaborative Co-Stewardship Framework, including stated purposes, in the introductory section of the management plan.

Comment TI-27: NOAA should develop an independent “Indigenous Sanctuary” and a “Chumash Maritime Fishing Commission,” including the Salinan People, rather than what has been proposed. This separate approach would allow Tribes to maintain their sovereign rights, fish, and monitor for themselves, and develop their own Chumash capacity to oversee and monitor their waters, as opposed to environmentalist groups or government agencies. This commission would also work with fishing families to maintain a system of better relationships with the elements concerning the livelihood of ocean relatives in the waters and beyond.

Response: Fishing activities inside the sanctuary are managed by state and federal fishery managers. Thus, the suggested alternative management structure would likely need to be pursued by those fishery managers in cooperation with involved Tribes. Nonetheless, should those management agencies request to apply or practice Indigenous fishing rights in the sanctuary, NOAA would look for the opportunity to consult and if appropriate, offer support and assistance.

Tribal Involvement in Sanctuary Management

Comment TI-28: NOAA should not grant, give, cede, or return area (or ocean) to Chumash or other Indigenous Tribes by giving them primary management authority for making regulations and equal decision-making authority over the sanctuary area and its resources. Reasons cited included: Chumash involvement is not vital; Chumash should not have greater management influence or authority than other community members or groups; Chumash are not qualified to make management decisions; lack of a fair basis for giving a very small hereditarily-defined group preferential influence in decision making over public land and waters.

Response: NOAA ONMS does not have jurisdiction over lands in this area, nor does it have the legal ability to give away, delegate, or cede its congressionally-granted authority to manage marine and ocean resources inside national marine sanctuaries to any other entity. As described in the Indigenous collaborative co-stewardship section of the management plan’s introduction, NOAA would retain and use its regulatory and management authority pursuant to the NMSA to protect resources within the sanctuary, while conducting required Tribal consultations and collaborating closely with Tribes and Indigenous communities through the SAC and Indigenous Cultures Advisory Panel. Several other local interests and stakeholder groups would also hold seats on the SAC. NOAA provides these engagement opportunities for all parties within the purposes and policies of the NMSA. Under its trust responsibilities to federally recognized Tribes, NOAA would also consult with, and work collaboratively and in co-stewardship with the Santa Ynez Band of Chumash Indians. NOAA disagrees that Tribal and Indigenous community involvement is not vital for helping the sanctuary to succeed, or that the different types of experiences and centuries of knowledge that Tribes and Indigenous groups hold is not relevant

to inform and guide NOAA's management decisions.¹¹ To the contrary, NOAA firmly believes that the unique Indigenous Knowledge that Tribes and Indigenous community members have of this coastal area is essential for the long-term stewardship of the sanctuary.

Tribal Consultation

Comment TI-29: While federal agency consultation is required with federally recognized Tribes, Section 106 of NHPA is also designed to ensure inclusiveness of people with an interest in the area. Thus, NOAA can and should invite affiliated California native Tribes to the consultation process.

Response: Under E.O. 13175, NOAA must consult with federally recognized Tribes in the development of policies that have Tribal implications. NOAA also agrees that under Section 106 of the NHPA, NOAA may include, as additional consulting parties, non-federally recognized Tribes with a demonstrated interest in a proposed NOAA undertaking with the potential to affect historic properties. As needed and appropriate, NOAA would continue to invite non-federally recognized Tribes to consult pursuant to Section 106 of the NHPA for future undertakings, as was done during the designation process. NOAA has updated the Indigenous Collaborative Co-Stewardship Framework section of the management plan's Introduction to reflect the responsibility and opportunity for consultation under NHPA Section 106.

Comment TI-30: It would be discriminatory for NOAA to exclude non-federally recognized Tribes from ongoing consultation and collaborative management of the proposed sanctuary. This is supported by the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#), to which the United States is supportive, and which states in Article 9 that "Indigenous peoples and individuals have the right to belong to an Indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right." NOAA's diagram of the proposed Tribal collaborative management structure shown in the draft management plan does not depict consultation commitments as they should be.

Response: NOAA will not be taking any action that infringes upon an individual's ability to belong to an Indigenous community. Additionally, see the response to comment TI-29 above for an explanation of how NOAA can consult with non-federally recognized Tribes under Section 106 of the NHPA. Under E.O. 13175, NOAA must consult with federally recognized Tribes on the development of policies with Tribal implications. The diagram in the management plan reflects this requirement. However, under Section 106 of the NHPA, NOAA may also invite non-federally recognized Tribes to participate as additional consulting parties, where appropriate (see response to comment TI-29 for more details). In the introductory section of the final management plan, NOAA updated the diagram and associated text to reflect this additional consultation option.

Comment TI-31: NOAA should have meaningful consultation with Indigenous Peoples. Indigenous Peoples should be involved in: sanctuary planning, decision-making processes regarding sacred site protection, developing and implementing educational programs,

¹¹ See 2021 Executive Office of the President [Memorandum on Indigenous Traditional Ecological Knowledge and Federal Decision Making](#)

environmental restoration, habitat protection, and NOAA regulatory actions (e.g., possible permitting related to offshore wind energy).

Response: NOAA agrees that Indigenous Peoples with relevant knowledge of the sanctuary area should be respectfully and appropriately invited to meaningfully contribute to the types of activities commenters mentioned—and has done so throughout the sanctuary designation process. NOAA’s proposed Indigenous Collaborative Co-Stewardship Framework, as described in the management plan’s Introduction section, provides several types of opportunities to support this engagement, including legally-required consultation and a variety of collaborative forums to foster working in partnership.

Comment TI-32: In Section 1.3.3 of the draft EIS, NOAA should provide an expanded characterization of the government-to-government Tribal consultation effort that went into the sanctuary designation process.

Response: As part of the summary introductory information for the EIS, the purpose of Section 1.3.3: Relationship to Other Applicable Laws, Regulations, and Executive Orders, is only to make readers aware of a list of statutes, regulations, and executive orders that NOAA must comply with for the proposed federal action. NOAA provides additional details on the Tribal consultation process in Section E.8 of Appendix E: Compliance with Additional Regulatory Requirements. NOAA has added a reference to this appendix in the final EIS in Section 1.3.3.

Tribal Liaison

Comment TI-33: NOAA’s management plan should commit to hiring a qualified Tribal liaison for the sanctuary. Such an action would facilitate Tribal collaboration, uplift Tribal voices, and ensure that Traditional Ecological Knowledge is integrated into the protection, management, and education of the sanctuary.

Response: NOAA agrees that a knowledgeable and qualified Tribal liaison, or similar position, would be important and helpful for the new sanctuary. ONMS has plans to hire a West Coast Region Tribal Liaison that can assist the proposed sanctuary. NOAA has added the priority of hiring this Tribal liaison to Activity OA-3.1 in the final management plan.

Comment TI-34: A Tribal liaison should have been involved throughout the process to coordinate with Tribes and to help NOAA understand the complexity of the landscape.

Response: NOAA has received assistance throughout the designation process from several individuals knowledgeable of the Tribal landscape of the sanctuary area, and with Tribal group coordination. This support came from Tribal liaisons within NOAA and the Udall Foundation’s National Center for Environmental Conflict Resolution. Going forward, NOAA will seek to add this capacity to the staffing structure for the sanctuary, and has added a reference to this intent in the management plan’s Activity OA-3.1.

International Indigenous Rights

Comment TI-35: NOAA should adopt policies of the UNDRIP, of which the [United States of America is a signatory](#), and which establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world (see also: U.S. Department of State, 2011).

Response: NOAA understands the [UNDRIP](#) principles and respects that the United States is supportive of (but not currently a signatory to) this declaration. As noted in the “Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples,” the United States recognizes the significance of UNDRIP’s provisions on free, prior, and informed consent, which the United States “understands to call for a process of meaningful consultation with Tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken” (U.S. Department of State, 2011). NOAA believes the proposed sanctuary aligns well with UNDRIP principles, particularly given the planned collaborative co-stewardship approach to elevate Indigenous voices, and the sanctuary’s programmatic emphasis honoring Indigenous Peoples connected to the local coasts and ocean. NOAA has added references to UNDRIP in the introductory section of the management plan.

Comment TI-36: By imposing further regulations, the proposed sanctuary does not reflect our rights as Indigenous Peoples to self-determination pursuant to Article 3 of UNDRIP. Self-determination is essential. It is suspected that colonial philosophical and legal conceptualizations of regulation and conservation will be the true guiding factors in the scientific and environmental endeavors of CHNMS.

Response: NOAA understands and respects UNDRIP Article 3, and does not believe that any of the specific sanctuary regulations would interfere with Indigenous Peoples or groups exercising their self-determination. NOAA agrees that the philosophical and legal approaches used by NOAA will factor into guiding the national marine sanctuary’s scientific and conservation activities, but also believes that Indigenous Knowledge and active involvement by Indigenous Peoples can also help guide sanctuary management in a more enlightened and integrated fashion.

Traditional Ecological Knowledge/Indigenous Knowledge

Comment TI-37: NOAA should acknowledge, respect, and support the appropriate use of Indigenous Traditional Ecological Knowledge¹² to help with management of the sanctuary. To responsibly and effectively work with Traditional Ecological Knowledge, NOAA should: show respect for and heed Indigenous methods, wisdom, and deep knowledge; be warned against

¹² In this Appendix, the term “Traditional Ecological Knowledge” is used in many comments to respect the term that commenters originally used. However, NOAA’s responses will utilize a different term that is similar in meaning— “Indigenous Knowledge.” While NOAA formerly used the term “Traditional Ecological Knowledge” (see [2019 Guidance](#)), NOAA now utilizes the term “Indigenous Knowledge” (see [2023 Guidance](#)) because it is broadly inclusive and aligns with the [Council on Environmental Quality’s 2022 interagency guidance](#) on the use of Indigenous Knowledge in federal decision-making. Indigenous Knowledge is defined as: “a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes and Indigenous Peoples through interaction and experience with the environment” (see also: Office of Science and Technology Policy & CEQ, 2022)

ignoring Traditional Ecological Knowledge; incorporate Traditional Ecological Knowledge into management practices and programs; uplift Indigenous groups' perspectives, acknowledging the value of their deep collective wisdom; make Traditional Ecological Knowledge a cornerstone to guide resource protection, conservation actions, programs, and informed management; acknowledge historical and cultural ties that Indigenous communities have with their lands and waters; and help preserve knowledge and traditions for future generations. NOAA should ensure that the holders of privileged Traditional Ecological Knowledge receive compensation and that information shared receives confidentiality and protection. Other comments suggested that NOAA follow its own "Guidance and Best Practices for Engaging and Incorporation Indigenous Knowledge in Decision-Making" (NOAA, 2023), and also use other suggested Traditional Ecological Knowledge-related literature references.

Response: NOAA agrees with the thoughtful suggestions offered for responsibly and effectively working with Indigenous Knowledge. Many of the suggestions are now reflected in the management plan's Indigenous Cultural Heritage Action Plan. NOAA understands the importance of confidentiality and respecting Indigenous perspectives on data sovereignty involving the use of Indigenous Knowledge, and will be guided by the [Indigenous Knowledge Guidance for Federal Agencies](#) released in 2022 by the White House Office of Science and Technology Policy and the White House Council on Environmental Quality and by the NOAA Fisheries and National Ocean Service Guidance and [Best Practices for Engaging and Incorporating Traditional Ecological Knowledge in Decision-Making](#) (see also: NOAA Fisheries, 2019). NOAA would also pursue means to provide appropriate stipends or other support, when authorized to do so and subject to availability of appropriated funds, when working with individuals or Tribes that are willing to share Indigenous Knowledge.

Comment TI-38: NOAA should update text and references in the description of the envisioned Indigenous Cultures Advisory Panel within the management plan's introduction section to include some of the best practices outlined in a 2018 NOAA Sea Grant report "[Traditional and Local Knowledge: A Vision for the Sea Grant Network](#)."

Response: NOAA agrees that the 2018 report, "Traditional and Local Knowledge: A vision for the Sea Grant Network," shares meaningful best practices for recognizing, understanding, valuing, supporting, and the equitable involvement and inclusion of traditional and local knowledge, and the holders of that knowledge. NOAA also agrees that this guidance can be applicable to the formation, purpose and engagement of the Indigenous Cultures Advisory Panel, and has added this as a reference supporting Strategy ICH-2 (Identify Indigenous cultural resources and integrate Indigenous Knowledge) in the management plan's Indigenous Cultural Heritage Action Plan.

Importance of and Support for Federally Recognized Tribe

Comment TI-39: NOAA is encouraged to work in intergovernmental partnership with the federally recognized Santa Ynez Band of Chumash Indians as co-manager of the proposed sanctuary, noting several justifications. As sovereign Indian Nations, federally recognized Tribes have a unique government-to-government relationship with the United States. NOAA should prioritize this relationship and the input and expertise of federally recognized Tribes for future sanctuary planning and decision-making. Numerous presidential executive orders and

memorandums have committed the federal government to strengthening the government-to-government relationship with federally recognized Tribes. Co-management of the sanctuary is an opportunity to advance this commitment by respecting the sovereign role of federally recognized Tribes.

Response: NOAA recognizes the unique government-to-government relationship between the United States and federally recognized Tribes, including the Santa Ynez Band of Chumash Indians. NOAA acknowledges and respects the trust responsibilities NOAA has to the federally recognized Santa Ynez Band of Chumash Indians, and takes seriously the government-to-government consultation process conducted with the Santa Ynez Chumash Tribe. NOAA designed the proposed Indigenous Collaborative Co-Stewardship Framework based on detailed input from the federally recognized Tribe. The framework supports working closely with the Santa Ynez Band of Chumash Indians and the state of California as members of the IPC, with a focus on collaborative co-stewardship.

Comment TI-40: The planning and decision-making process proposed by NOAA should be a shared responsibility of the Santa Ynez Band of Chumash Indians, the only federally recognized Chumash Tribe, the federal government, and other partners, including the state of California.

Response: NOAA has consulted closely with the federally recognized Santa Ynez Band of Chumash Indians and expects its role on the IPC, along with NOAA and the state of California, to be one of shared responsibility for collaborative co-stewardship of the sanctuary.

Other Indigenous Community Concerns

Comment TI-41: For guidance on and justification for including Indigenous Peoples in the management of our ocean, NOAA should adhere to suggestions outlined in the [2019 Global Assessment Report on Biodiversity and Ecosystem Services](#), released by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. This includes a recommendation that co-management regimes involving Indigenous Peoples can be effective.

Response: NOAA appreciates the suggested reference and agrees with the finding that working closely with Indigenous Peoples can be an effective way to appropriately apply local and Indigenous Knowledge, protect marine resources within the sanctuary and the ecosystem services provided, and collaborate on fair and equitable sharing of benefits arising from sanctuary management.

Comment TI-42: Indigenous Peoples should be centered in leadership roles, becoming the stewards we need. Chumash People should be given permanent and equal power in decision-making and co-management of the ancestral ecosystems, with which they have a long relationship. Proposed regulations should not be imposed without a clearly defined Indigenous co-management framework whereby Chumash People have primary authority.

Response: NOAA agrees that local Indigenous Peoples are needed stewards for sanctuary waters and looks forward to partnering with local Tribal and Indigenous community leaders that are interested in supporting management of the sanctuary. NOAA expects that the proposed Indigenous Collaborative Co-Stewardship Framework, which was designed and revised based upon consultation with the Santa Ynez Band of Chumash Indians and substantive comments

from and interactions with other local Tribes and Indigenous groups, would provide meaningful and respectful access to influencing sanctuary management and related decision-making. As NOAA's description of the Indigenous Collaborative Co-Stewardship Framework indicates in the management plan, NOAA does not have authority to delegate the access and use of federal regulatory authority to establish sanctuary regulations. At the same time, the collaborative framework would assure that participants can collaborate with NOAA on resource protection strategies, including any future regulatory decision-making being considered.

Comment TI-43: NOAA should make the commitment to truly listen to Indigenous voices, to stand behind their requests, and to give them the ownership they should have always had. For one commenter, this should include NOAA supporting regulations and restrictions proposed by Chumash People, which is critical for upholding Tribal sovereignty.

Response: Through designation of the sanctuary and implementation of the proposed Indigenous Collaborative Co-Stewardship Framework, NOAA would be making a strong commitment to seriously listening to and using advice and recommendations from local Tribes and Indigenous communities, including any input regarding sanctuary regulations.

Comment TI-44: NOAA should give back this sacred land to Indigenous Peoples. It always belonged to them, and they are the land's original stewards.

Response: Consistent with the response to comment TI-29, NOAA's jurisdiction is limited to ocean areas, and as such NOAA is unable to give back any land areas to Tribes or Indigenous Peoples. NOAA also lacks authority to transfer title, or otherwise convey, submerged lands.

Comment TI-45: NOAA has not made it clear how the sanctuary would facilitate Chumash People in their cultural and spiritual responsibilities, which have far too often been hindered by non-Chumash governance.

Response: NOAA seeks to support, not hinder, Indigenous Peoples seeking to exercise their cultural and spiritual responsibilities linked to waters within the sanctuary. With regard to the specific ways that NOAA can facilitate these activities, NOAA has respectfully not yet defined those types of details in the management plan because it is expected that NOAA first needs to be appropriately guided by Indigenous Peoples and those knowledgeable in Indigenous culture, history, and experience participating in sanctuary collaborative groups. NOAA looks forward to providing appropriate support to Indigenous Peoples.

Comment TI-46: NOAA's proposed approach to Tribal collaborative management will not work. True and honest Tribal collaborative management with Chumash People today requires non-Chumash entities to understand the complexities of Indigenous Peoples, and to realize that the history of the Chumash needs to be expressed. By doing so, it can lead to supporting an ongoing relationship with Chumash People, and become truly collaborative.

Response: NOAA humbly acknowledges that there is much that agency staff do not understand about the complexities and histories of the Indigenous Peoples connected to sanctuary waters, including the Chumash People. NOAA seeks to learn more, support and facilitate Indigenous Peoples as appropriate, and over time hopes to earn trust and develop relationships that can strengthen the collaborations sought.

Comment TI-47: NOAA needs to be clear about its intention for sanctuary management. Because of generations of abuse by federal and state agencies making empty promises, there is concern that the proposed sanctuary will bear the name of the Chumash as a sympathy logo while the real decision making will remain in the hands of the federal bureaucracy, serving industry and the military alone.

Response: NOAA appreciates the concern and understands that Indigenous communities have been harmed in the past when governments do not uphold responsibilities. NOAA takes seriously its intent to meaningfully involve Indigenous Peoples in collaborative co-stewardship, to listen to advisory groups, to conduct required Tribal consultation, and to engage with local Tribes and Indigenous groups, as appropriate, before exercising NOAA's regulatory authority. NOAA will exercise its management role in service to the sanctuary's mission, and in doing so will not tokenize Indigenous Peoples.

Sanctuary Administration

Sanctuary Advisory Council and Working Groups

Advisory Council Representation

Comment SA-1: A variety of specific seats on the SAC were suggested in different comments. One or more seats were requested for: Indigenous communities; offshore wind industry; oil and gas industry; harbors and marinas; Port San Luis Harbor District; recreational boaters and fishermen; conservation; science (including ocean and marine biology); education (including colleges and universities); marine transportation; agriculture; commercial and recreational interests; youth community members; DoD; BOEM; USGS; and multiple NOAA offices.

Response: NOAA will consider these suggestions upon any future development of the charter for the SAC. Under Section 315(c) of the NMSA, 16 U.S.C. 1445a(c), and ONMS policy, there is a limit of 15 voting seats on advisory councils for sanctuaries designated after November 4, 1992. Additionally, NOAA also intends to establish non-voting seats on the advisory council to allow additional government agencies to participate. SACs, with the concurrence of the sanctuary superintendent, may also establish working groups that can bring additional constituents and stakeholders into the process of developing sanctuary management recommendations. Development, establishment, and start-up of the new advisory council is expected to take place shortly after sanctuary designation. See also response to comment TI-12 regarding NOAA's plan to also establish an Indigenous Cultures Advisory Panel.

Comment SA-2: Coastal cities located just outside the boundaries of the Agency-Preferred Alternative will be affected by the sanctuary but it is assumed they would not be represented directly on the SAC.

Response: Whether through the SAC or other means, NOAA welcomes the chance to engage with coastal cities potentially affected by or interested in the sanctuary.

Comment SA-3: The selection of future advisory council members for the new sanctuary is not expected to be fair or appropriate. Members of sanctuary advisory councils, specifically at MBNMS, have been inappropriately "cherry-picked" by sanctuary superintendents based upon perceived personal values rather than authentic representation of an industry.

Response: Advisory council membership begins with individuals applying to represent various seats on an advisory council. NOAA carefully and fairly reviews applications. Over time, a variety of individuals are expected to serve on the advisory council, because terms are usually between two to three years, and there are term limits as well. In subsequent years, advisory council members, typically council-elected officers (chair, vice chair, and secretary) play an important role in reviewing applications for council membership and providing individual appointment advice to the sanctuary superintendent.

Comment SA-4: Tribes need a deciding vote and voice to be true collaborators, or else advisory council seats will be superficial only with no deep substance.

Response: NOAA disagrees that a “deciding vote” is necessary for meaningful engagement in collaborative co-stewardship of the sanctuary. NOAA expects that representatives from local Tribes and Indigenous communities can play a very meaningful and impactful role in supporting collaborative co-stewardship of the sanctuary through government-to-government consultation, participation on the Indigenous Cultures Advisory Panel, or a seat on the SAC. The same is true for collaborative opportunities through the IPC and joint project partnerships with participating nonprofit foundations.

Advisory Council Purpose and Function

Comment SA-5: NOAA should convene a California-wide advisory group, to include members from all of the sanctuary advisory councils, in order to cooperate on vessel-related issues and recommendations, including marine mammals and shipping navigation.

Response: NOAA appreciates the suggestion and will consider various methods of coordinating advisory council input from multiple California sanctuaries on cross-cutting issues relevant to all sites. NOAA will consult with leadership from each of the advisory councils prior to instituting any new approaches to multi-council coordination.

Comment SA-6: The final management plan should reflect NOAA’s intent to support coordination and collaboration between the established advisory council for the proposed CINMS and the new SAC.

Response: NOAA agrees and has incorporated this idea into the final management plan’s Operations and Administration Action Plan, as part of Strategy OA-1 to establish and support a SAC.

Comment SA-7: Sanctuary advisory councils are not locally controlled, but should be. Members are selected by NOAA through the sanctuary superintendent, and there is no local accountability. A new advisory council should be organized under local jurisdictions, objectively and independently from sanctuary management. The advisory council’s charter and protocols should be written locally, not by NOAA’s ONMS.

Response: Section 315 of the NMSA (16 U.S.C. 1445(a)) describes the authority of NOAA, as delegated, to establish sanctuary advisory councils, and the responsibilities of sanctuary advisory councils. Similar suggestions to this comment have been received before and NOAA has studied them and decided to leave the organizational arrangement for advisory councils as constructed. Across the National Marine Sanctuary System, it is common for members of

advisory councils to represent a variety of local user groups and the general public, as well as local, state, and federal governmental jurisdictions. Overall, local interests play a significant role in representation on sanctuary advisory councils and influencing management of the sanctuary.

Comment SA-8: Sanctuary advisory councils should not be asked by NOAA to focus on resource protection and preservation priorities more so than how to facilitate use of the sanctuary, nor should advisory councils be asked to support expansions and new designations. Additionally, advisory councils should be able to review and advise on sanctuary budgets and priorities.

Response: NOAA's experience with sanctuary advisory councils indicates that these groups spend a substantial amount of time providing advice related to facilitating use and enjoyment of national marine sanctuaries. Resource protection of sanctuary resources is noted as a "primary objective" within the NMSA (Section 301(b)(6), 16 U.S.C. 1431(b)(6)), and as such advisory councils also typically spend considerable time advising on how best to implement that type of management, balanced with public access and responsible use. With the new sanctuary, NOAA expects its advisory council to help guide all aspects of resource protection, public access, and multiple uses. NOAA also expects the new advisory council to provide input on sanctuary priorities. Any advisory council may occasionally choose to weigh in on national issues such as expansion of the National Marine Sanctuary System or designation of new sanctuaries, but such involvement is not a NOAA requirement or expectation. As for budgetary issues, NOAA expects the new advisory council and sanctuary superintendent to work out the level of detail appropriate and helpful for council review and advice.

Comment SA-9: SAC agendas, meetings, and policy decisions should be transparent and open for public comment and review. Materials should be available for public review five days in advance of meetings.

Response: NOAA agrees. All full SAC meetings for the sanctuary would be held in public sessions, broadly announced in advance. The meeting time, place, and agenda would be shared by the advisory council coordinator at least 15 days in advance of an advisory council meeting, as per the [ONMS Advisory Council Handbook](#) section about public notice of SAC meetings. Meeting minutes, actions, and other documents would be posted for public review online. Please note that this public notice requirement does not apply to advisory council workshops or retreats that address administrative matters of the advisory committee such as strategic planning, administration, training, or team building.

Comment SA-10: NOAA should implement a Research Activity Panel as a working group of the SAC (as seen in MBNMS) to ensure science happening in the sanctuary is communicated and incorporated into CHNMS management. A Research Activity Panel can help facilitate the exchange of research information, create opportunities for project coordination, and could maximize inclusion and accessibility.

Response: NOAA agrees that a research-focused working group of the new advisory council could support all of the benefits mentioned by the commenter. NOAA has recommended that the new SAC adopt a research activities panel in Activity RM-1.1 in the management plan.

Adaptive Management and Interagency Coordination

Comment SA-11: NOAA should provide for an adaptive, flexible approach to sanctuary management (including review and processing of permit, certification, and authorization requests) that includes opportunities for management plan reviews and timely processing of permitting and other requests pertaining to sanctuary access.

Response: NOAA agrees. As required by the NMSA, national marine sanctuaries conduct periodic [management plan reviews](#), informed by condition reports, monitoring data, community and advisory council input, and many other sources of information. Management plan review processes would invite public, advisory council, and Tribal community input and participation. NOAA also intends to handle sanctuary permitting responsibilities in a thoughtful and timely manner. Responses to comments in the permitting section provide additional information about NOAA's management flexibility.

Comment SA-12: NOAA should sufficiently coordinate with other agencies such as BOEM and BSEE to ensure policy alignment and efficient and effective decision-making.

Response: NOAA agrees and intends to coordinate with all relevant federal, state, and local agencies in a manner that is efficient and effective.

Funding and Budgeting

Comment SA-13: Where will sanctuary funding come from? Has a budget been established? Will funds be specifically earmarked for the sanctuary before designation?

Response: Funding for the sanctuary would originate from an annual Congressionally-appropriated budget for NOAA ONMS, a portion of which would be allocated to the new sanctuary. Funding for a specific sanctuary is not typically earmarked by Congress. An ONMS budget development and allocation process would be used to establish the sanctuary's first year budget just prior to designation, and annually thereafter.

Comment SA-14: NOAA's draft EIS does not explain the fiscal implications of differing boundary alternatives, nor do NOAA's documents share the cost of establishing the sanctuary.

Response: Appendix B of the management plan provides an estimated annual sanctuary budget, ranging from \$400,000 to \$2,000,000, depending on the availability of funding. Appendix B also describes the key activities that NOAA would focus on after designation. Within this budget range, NOAA's boundary alternatives would be financially feasible. Operational costs are expected to increase slightly, as sanctuary size increases.

Comment SA-15: A fee should be imposed for all individuals entering the sanctuary, such as through a one-time visit fee, a daily charge, or yearly subscription. Funds collected should help financially support the Tribes and marine life conservation in the area.

Response: NOAA encourages and promotes responsible visitation to all national marine sanctuaries, and does not charge user entry fees.

Comment SA-16: If a private interest requests a permit/authorization to work within the proposed sanctuary boundary, it is important that the financial burden of denying a

request/appeal, or engaging in legal action if necessary, would be held by the corporation that is applying, and not the marine sanctuary.

Response: NOAA does not charge a fee to review or issue most permits for national marine sanctuaries including a certification, a sanctuary general permit, and an ONMS authorization. Section 310 of the NMSA, 16 U.S.C. 1441, allows NOAA to recover fees for the costs of issuing a special use permit, and also allows NOAA to recover a fair market value for use of sanctuary resources.

Sanctuary Management Plan

NOTE: For comments related to the framework for sanctuary management and the SAC, which are outlined in the management plan, see comments and responses under the sanctuary administration section (above). Other comments specific to the management plan are addressed in the following subsections.

Management Plan Level of Detail

Comment MP-1: Comments requested additional resource details throughout the management plan and specific additional action plans, strategies, and activities.

Response: The management plan is intended to be a concise document, focused on strategic sanctuary goals and priorities. Many of the activities identified in the management plan draw on the wealth of available sanctuary resource information. Detailed information is provided by resource area in Chapter 4 of the final EIS. Therefore, NOAA is not adding extensive resource information in the final management plan itself.

Typically, new national marine sanctuaries have more limited budgets, therefore, a sanctuary's first management plan tends to contain fewer specific activities compared to a management plan for a site that is more established and has updated its original management plan. As more funding and more staff come on line to support a newly designated sanctuary, its second management plan tends to offer additional specific programs that can be supported with a larger staff. In preparing subsequent management plans, sanctuary staff also have the benefit of lessons learned and at least several years of experience managing the particular site, which can inform more ambitious or specific action plans. Also, management activities at any sanctuary, including a new one, are not limited solely to those activities outlined in the site management plan.

Management Plan General

Comment MP-2: The CSLC requests that commission staff be included in sanctuary efforts as a relevant state partner that has aligned interests.

Response: References to partnering with CSLC have been added throughout the management plan, in particular the offshore energy and resource protection action plans.

Comment MP-3: The management plan should address what programs or mechanisms will mitigate future impacts that may or may not be identified at this time specific to ports and harbors and marine and coastal related uses.

Response: NOAA looks forward to the involvement of ports and harbors in the sanctuary and raising any new issues of concern as they emerge. The SAC would be a helpful forum for discussing emergent issues and developing thoughtful recommendations for sanctuary involvement.

Comment MP-4: The management plan should incorporate the Northern Chumash's Indigenous-led resilience efforts and provide equitable inclusion and representation of all Central California coast Tribes in a collaborative management of the sanctuary.

Response: Indigenous-led resilience efforts related to sanctuary management might be best addressed by the Indigenous Cultures Advisory Panel, to review and solicit input from all appropriate participants. See the updated Indigenous Collaborative Co-Stewardship Framework in the management plan's Introduction section. Indigenous Cultures Advisory Panel input could help support and guide implementation of the strategies outlined in management plan action plans. The goal of the Indigenous Collaborative Co-Stewardship Framework is to invite and support appropriate and respectful inclusion of all central coast Tribal and Indigenous groups.

Comment MP-5: The management plan should include provisions to partner with local communities to improve water conservation.

Response: NOAA has added Activity WQ-2.7 to the Water Quality Action Plan, which addresses activities related to water supply projects that might be proposed within the sanctuary. Through this activity, NOAA (guided by the SAC) would consider adapting the [Guidelines for Desalination Plants in MBNMS](#) for CHNMS, which would encourage a regional approach in which local jurisdictions and agencies work together collaboratively to develop a regionally appropriate planning approach that considers multiple factors, including establishing a clear need for a new water supply, after other economically and environmentally preferable alternatives such as increased conservation, brackish water desalination, and wastewater recycling have been thoroughly evaluated, and pursued, if feasible.

Comment MP-6: The management plan should acknowledge diverse Tribal perspectives with respect to the goals of education, training and outreach.

Response: NOAA agrees. Within the management plan's Indigenous Cultural Heritage Action Plan, Strategy ICH-6 calls for providing ongoing Indigenous cultural training to sanctuary staff, volunteers, and advisory council members. Additionally, Strategy EO-1 of the Education and Outreach Action Plan calls for inviting Tribal and Indigenous community representatives, among others, to advise NOAA on the development of program curriculum, educational materials, outreach activities, and events (see Activity EO-1.2).

Comment MP-7: The management plan should further describe the "compatible use" criterion mentioned in EIS Section 2.1. A compatible use criterion is vastly different from a management priority that supports the multiple use of a particular marine area.

Response: Section 2.1 of the EIS mentions how the sanctuary would fulfill NMSA purposes and policies. Specifically, one of those purposes and policies stated within the NMSA at Section 301(b)(6) is to "facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited

pursuant to other authorities” (16 U.S.C. 1431(b)(6)). This language thus makes clear that “resource protection” is a “primary objective” for sanctuaries. It also makes clear that public and private uses should be facilitated within national marine sanctuaries, provided such uses are compatible with sanctuary resource protection goals. While set criteria are not published for defining compatible or non-compatible use within national marine sanctuaries, the assessment of resource threats and human uses is an ongoing process that leads to enacting, implementing, and enforcing standards of protection as codified in the sanctuary regulations. The Resource Protection Action Plan reflects the process of ongoing threat assessment and response that is in alignment with expectations pursuant to NMSA purposes and policies.

Comment MP-8: It will be vitally important for NOAA to show that the federal government can be trusted to transparently carry out the sanctuary’s 11 action plans, and it’s up to local Indigenous leaders and the public to work effectively with NOAA to measure, manage, and report meaningful protections of the sanctuary. The federal government has a brutal and destructive history when it comes to the rights of Indigenous Peoples, and a successful, transparent sanctuary could create beneficial opportunities to protect other ecosystems and people beyond the sanctuary’s boundaries.

Response: NOAA is aware of the historical mistreatment of Indigenous Peoples, and is committed to transparency and trust-building in implementing the sanctuary management plan, including through meaningful engagement with and support from an Indigenous Cultures Advisory Panel, as well as a SAC. Tribal and Indigenous representatives and other community members would be invited to work collaboratively with NOAA, and public input and participation would be supported. See also response to comment TI-12.

Comment MP-9: How will these actions (prohibited activities) be monitored and enforced?

Response: As described in the Resource Protection Action Plan (Strategy RP-3), NOAA plans to develop effective surveillance and enforcement capabilities through a partnership-based approach supporting protection of sanctuary resources. This would include the visibility of enforcement presence through an officer in the field, deputized state enforcement partners to carry out activities through a joint enforcement agreement, and collaboration with additional law enforcement partners for incident reporting and other support. Permit compliance monitoring is also part of the sanctuary permit program implementation, as described in Strategy RP-2 (see Activity RP-2.3) of the Resource Protection Action Plan.

Management Plan Introduction – Climate Change Assumptions

Comment MP-10: The management plan background section overview of climate change threats states that sea level rise is expected in the range of 1–6 feet by 2100. This information is likely derived from [NOAA’s 2022 Sea Level Rise Technical Report](#) that uses emission scenarios from the [IPCC Sixth Assessment Report \(AR6\)](#). The lower emission assumptions projected that emissions would decline after 2020—that has not occurred, so these assumptions are inaccurate. The text should be modified as follows: the stated sea level rise range should correspond to the “low risk aversion”/“low emissions” scenario, to the “medium-high risk aversion”/“high emissions” scenario, from the Ocean Protection Council’s [2018 State Sea Level Guidance](#), which is the reference state agencies use in sea level rise planning. The tide gauge to reference should be Port San Luis and the range should be 2.1–6.7 feet.

Response: NOAA agrees, and sea level rise projections in the management plan's introductory section have been revised with the 2018 state report cited.

Comment MP-11: The management plan background section notes that offshore wind energy development is a pressure to ecosystems, but it should be noted that future development will help mitigate climate change impacts.

Response: NOAA agrees that future offshore wind energy development may help mitigate climate change impacts, and this has been noted in the background section of the management plan introduction.

Blue Economy Action Plan

Comment MP-12: The management plan should continue to advance a legacy of collaborative approaches to conservation in the region and promote science-based seascape-level planning and design to support both conservation and the Blue Economy.

Response: The management plan provides a roadmap for implementing collaborative planning approaches to regional science, education, and resource protection, the results of which would support both conservation and the Blue Economy. Taking a science-based seascape-level approach to planning is part of an overall ecosystem-based approach, which in this case includes the California Current.

Comment MP-13: The Blue Economy Action Plan should be revised to better recognize offshore wind development in the region and how the offshore wind industry will have a huge economic impact on the region. Leaseholders should be included as partners in implementation of the plan.

Response: NOAA recognizes the important economic contribution offshore wind could have in the region as it develops and matures in the coming decade. While the initial, principal focus of the Blue Economy Action Plan is on supporting sustainable recreation and tourism, which is also an expanding major economic driver in the region, Strategy BE-3 focuses on advancement in marine technology, and Activity BE-3.2 suggests wind energy industry outreach and consideration of technologies potentially useful to sanctuary management.

Comment MP-14: NOAA should support blue/green economy priorities important to future economic opportunity on the central coast such as aquaculture, desalination, and other maritime industries such as fishing.

Response: NOAA supports the blue/green economy in many ways, with a primary focus on the improved collection, analysis, and dissemination of ocean and coastal-derived data and information to support economic growth and protect the ocean's health. See the Blue Economy Action Plan. NOAA Fisheries focuses on supporting sustainable fishing, and NOAA ONMS focuses on supporting sustainable recreation and tourism. As projects for aquaculture and desalination in the sanctuary arise, sanctuary staff would work with project proponents to understand feasibility and regulatory issues.

Comment MP-15: The CSLC staff recommends incorporating environmental justice and equity considerations into the strategies and activities of the Blue Economy Action Plan (e.g.,

expanded opportunities for recreation and work training for Tribes and Indigenous communities and traditionally underserved communities in the region).

Response: NOAA agrees. The Blue Economy Action Plan introduction has been edited to include this very concept. See also Strategy ICH-5: Facilitate and support Tribal community cultural access, connection to, and activities within the sanctuary, and specifically Activity ICH-5.1.

Comment MP-16: Recreational fishing is not mentioned in the list of activities that should be promoted as part of the Blue Economy Action Plan. Sport fishing and spearfishing (sometimes called “underwater fishing”) should be included in the list of protected and encouraged activities in the Blue Economy Action Plan. The plan should not seek to impose any restrictions on these activities over and above any existing regulations.

Response: The focus of the Blue Economy Action Plan is on supporting sustainable recreation and tourism, which is an expanding major economic driver in the region. NOAA’s intent in supporting sustainable recreation and tourism includes recreational fishing. Strategy BE-2 has been revised to acknowledge recreational fishing as an important activity to promote in the sanctuary (see Activity BE-2.5).

Climate Change Action Plan

Comment MP-17: The Climate Adaptation Plan identified in Activity CC-1.4 should prioritize nature-based solutions and inclusive community and Tribal engagement.

Response: NOAA agrees, and these details have been added to Activity CC-1.4. See also Activity CC-1.5, which calls for targeted community and Tribal engagement around climate impacts and community vulnerability.

Comment MP-18: Strategy CC-1 should include information about currently available or upcoming studies that should be reviewed and synthesized to contribute to a vulnerability assessment to identify research gaps that need to be addressed. Substantial existing information is available.

Response: NOAA agrees; the planned climate change vulnerability assessment approach and intent to use existing information is reflected in Activity CC-1.2 of the Climate Change Action Plan.

Comment MP-19: The CSLC should be added as a partnering government agency for coordination on climate vulnerability assessments and adaptation plans.

Response: NOAA agrees, and CSLC has been added as a partnering government agency in the Climate Change Action Plan.

Comment MP-20: The Climate Change Action Plan should note that several hundred Chumash coastal village sites and identified Chumash archaeological sites in the study area are at risk from sea level rise. These threatened Chumash areas are part of the threatened Chumash heritage of the region.

Response: NOAA agrees that this is important to note; language has been added to the introduction of the Climate Change Action Plan.

Comment MP-21: The Climate Change Action Plan should include provisions to:

- 1) Support regional coordination with ongoing municipal coastal resilience efforts aimed at identifying the risk of climate change impacts, including on coastal Tribal resources and coastal ecosystems
- 2) Integrate Chumash Ecological Knowledge into vulnerability assessments and adaptation plans or strategies
- 3) Improve the organization of ethnographic, historical, environmental, and archaeological data used in Tribal consultation efforts and activities
- 4) Reduce risks to Chumash coastal heritage sites by describing a matrix of adaptive planning measures to respond to the risks associated with sea level rise that are responsive to the type of risk and the type of cultural resource
- 5) Establish protocols for Santa Ynez Band of Chumash Indians engagement in evaluating climate-related impacts and triggers for Tribal engagement
- 6) Financially support the Santa Ynez Band of Chumash Indians for increasing capacity to gather and process ethnographic, historical, environmental, and archaeology information within the Tribe's GIS system

Response: See responses to each of the above points:

- 1) NOAA agrees, and this is partly the intent of Activity CC-1.2. Language has been added to more clearly state that the sanctuary would support regional coordination of these activities and processes.
- 2) NOAA agrees. The incorporation of Indigenous Knowledge has been added to activities CC-1.3 and CC-1.4.
- 3) NOAA would work with appropriate Tribal partners to identify the best formats and organization schemes for relevant data sets and information during the required Tribal consultation processes. The Indigenous Cultures Advisory Panel (see comment TI-12) could provide guidance on a best practices framework for the sanctuary to follow when disseminating information (see activities RM-2.1 and RM-2.2).
- 4) The intent of Activity CC-1.4 is to develop a range of adaptation measures that link directly to the vulnerabilities and resources identified in Activity CC-1.3; this would include cultural resources that are at risk from sea level rise.
- 5) NOAA welcomes meaningful involvement of the Santa Ynez Band of Chumash Indians in climate impact evaluations for the sanctuary. The Santa Ynez Band of Chumash Indians is expected to serve as a key partner in collaborative co-stewardship of the sanctuary, including through membership on the IPC, the SAC, and the Indigenous Cultures Advisory Panel (see the Indigenous Collaborative Co-Stewardship Framework in the management plan's introduction section). NOAA anticipates that the Santa Ynez Band of Chumash Indians would have high awareness of efforts to implement the Climate Change Action Plan, and associated opportunities to provide assistance. The Santa Ynez Chumash could also elect to request separate NOAA/Santa Ynez Band of Chumash Indians consultation meetings pursuant to E.O. 13175.

- 6) Within the management plan's Indigenous Cultural Heritage Action Plan, Strategy ICH-2: Identify Indigenous cultural resources and integrate Indigenous Knowledge, calls for providing "interested Tribes and Indigenous communities with support and guidance to conduct Tribal cultural landscape characterizations" (see Activity ICH-2.5). NOAA expects that addressing needed financial resources and capacity building would be part of that process, and looks forward to working in partnership with the Santa Ynez Band of Chumash Indians and other interested Tribes and Indigenous groups.

Comment MP-22: The management plan should acknowledge diverse Indigenous perspectives and Tribal values related to responding to threats and impacts of sea level rise on identified Chumash archaeological sites. The Santa Ynez Band of Chumash Indians' existing policy supports the no action response to impacts from beach loss due to sea level rise if it is a consequence of "natural" processes.

Response: NOAA agrees that consideration of Tribal and Indigenous perspectives and values is important for effectively and respectfully assisting with archaeological site protection within the sanctuary. ONMS has not established a set policy or preferred response to responding to adverse effects on cultural sites from beach loss due to sea level rise and associated natural processes. NOAA will assess its involvement with these types of cases in consultation and engagement with appropriate Tribes and Indigenous groups and seek input from the IPC and/or Indigenous Cultures Advisory Panel when developing management responses to climate-related threats to Chumash or Salinan archaeological sites. Language has been added to Activity CC-1.4 to reflect NOAA's commitment to Tribal and Indigenous community engagement in this process. See also Activity CC-1.5.

Comment MP-23: Deoxygenation is a particularly alarming impact of climate change that affects habitat suitability and species distribution. The Climate Change Action Plan should include activities to monitor the extent and strength of the oxygen minimum zone off the California coast. The California Cooperative Oceanic Fisheries Investigations research program should be included in the list of potential partners.

Response: NOAA agrees; Activity CC-1.3 calls for the development of ocean climate indicators to prioritize for subsequent research and monitoring, and deoxygenation would be considered at that time. The California Cooperative Oceanic Fisheries Investigations has been added as a potential partner in the Climate Change Action Plan.

Comment MP-24: The Climate Change Action Plan should be revised to identify the many ways offshore wind leaseholders can be partners to support the various goals of the plan.

Response: Offshore wind leaseholders have been added as an industry partner to the Climate Change Action Plan.

Comment MP-25: The Sanctuary should prioritize carbon sequestration.

Response: NOAA agrees. This information is reflected in Strategy CC-2 and more specifically, in activities CC-2.2, CC-2.3, and CC-2.4.

Comment MP-26: The management plan should include provisions for grants and other funding opportunities for farmers aiding in the shift to regenerative agriculture practices, which

has been shown to reduce nitrogen and chemical run off, and help with carbon sequestration, water absorption, and increase nutrients in our food and forage.

Response: NOAA agrees with this comment. NOAA has been extremely successful implementing an Agricultural and Rural Lands Action Plan as part of the Water Quality Protection Program at MBNMS, and has received four California Department of Food and Agriculture Healthy Soils grants that address this topic. This program is already working in the Santa Maria watershed and it is anticipated that similar opportunities might be available there in the future. See management plan Strategy WQ-4 for additional details.

Cultural Resources

Comment MP-27: The following references, including NOAA's own documents, should be used to revise the management plan's introductory section on Chumash culture, the Indigenous Cultures Advisory Panel section, and possibly other sections to better reflect Chumash culture:

McGinnis, M. V., Cordero, R. R., & Stadler, M. (2004). Tribal Marine Protected Areas: Protecting Maritime Ways and Practice, A Special White Paper for the Wishtoyo Foundation. B. P. Associates. <https://mati-waiya.squarespace.com/s/TribalMPAsWhitePaper.pdf>

ONMS (Office of National Marine Sanctuaries). (2019). Channel Islands National Marine Sanctuary 2016 Condition Report. 187-207. <https://sanctuaries.noaa.gov/media/docs/2016-condition-report-channel-islands-nms.pdf>

NOAA Sea Grant Program. (2018). Traditional Local Knowledge - A vision for the Sea Grant Network. https://seagrant.noaa.gov/wp-content/uploads/2023/06/TraditionalLocal_110118.pdf

Response: NOAA appreciates the suggestions and has incorporated these references into the management plan within the introduction section (McGinnis et al., 2004) and the Indigenous Cultural Heritage Action Plan (ONMS, 2019; NOAA Sea Grant, 2018).

Comment MP-28: NOAA should improve the Indigenous Cultural Heritage Action Plan by engaging with Tribal and Indigenous communities.

Response: NOAA developed the Indigenous Cultural Heritage Action Plan through significant input from local Tribal and Indigenous communities, and can pursue a partnership-based approach to implementing the action plan's strategies and activities. Additionally, the revised Indigenous Collaborative Co-Stewardship Framework section within the management plan's introduction provides details on planned engagement approaches.

Comment MP-29: Regarding the Indigenous Cultural Heritage Action Plan, advisory panel, and IPC, and the need to resolve the Tribal representation disputes, please note the recommendations of Dr. Brian Haley.

Response: See responses to comments TI-1 and TI-2.

Comment MP-30: BOEM should be involved in developing the Indigenous Cultural Heritage Action Plan, as they have responsibilities under NHPA Section 106. CSLC should be included, as they will be the state lead agency for offshore wind. Also, information developed in consultation with Tribes should be shared to help the offshore wind industry in scoping and planning.

Response: NOAA agrees that BOEM and the CSLC can be helpful for implementation of parts of the management plan's Indigenous Cultural Heritage Action Plan, in particular Strategy ICH-2: Identify Indigenous cultural resources and integrate Indigenous knowledge. NOAA would work with these agencies at the appropriate stages of management plan implementation. Provided permissions and if appropriate, NOAA may be able to share with offshore wind representatives some information resulting from NOAA's Tribal consultations and engagement processes with local Indigenous groups. BOEM and CSLC are listed in the partners section of the Indigenous Cultural Heritage Action Plan.

Education and Outreach Action Plan

Comment MP-31: The management plan should include an education, outreach, monitoring, and enforcement plan focused specifically on supporting MPA implementation within the sanctuary.

Response: As noted in response to comment MP-1, NOAA is unable to commit to all suggested programs and initiatives in the management plan. Nonetheless, Activity EO-1.1 envisions establishing an inventory of existing agency partner education and outreach programs. CDFW manages eight MPAs that overlap with the Initial Boundary Alternative, Alternative 1 and Sub-Alternative 5b, and four MPAs within Alternative 4 and Sub-Alternative 5b. It has education programs that the sanctuary may be able to augment and support with specific outreach initiatives.

Comment MP-32: The Education and Outreach Action Plan should include provisions to conduct meaningful Tribal and Indigenous outreach per Traditional Ecological Knowledge. Diverse Tribal perceptions should be recognized with respect to the goals of this action plan. This is missing from ocean conservation.

Response: Activity EO-1.2 of the Education and Outreach Action Plan describes formation of an Education and Outreach Activities Working Group to assess subject areas of greatest need and provide a respectful environment to address diverse cultural and educational priorities. Activity EO-1.2 has been modified to indicate that the Indigenous Cultures Advisory Panel would also be asked to provide guidance for meaningful Tribal and Indigenous outreach that draws on Indigenous Knowledge. Staff would work cooperatively with participating Indigenous Cultures Advisory Panel representatives to incorporate Indigenous Knowledge into education and outreach programs.

Comment MP-33: The sanctuary should support multilingual and multicultural education and outreach.

Response: Strategies EO-1 and EO-2 require engagement with education providers to clarify educational needs so sanctuary staff can work with them to develop education programs tailored for local communities and schools. Implementation of these strategies would highlight where multicultural and multilingual education is of greatest need, including school districts, after-school programs, and environmental education programs. Successful multicultural education programs currently support neighboring national marine sanctuaries, and can offer guidance as well as potential partnerships. These include [Multicultural Education for Resources Issues Threatening Oceans \(MERITO\) Foundation](#) programs focused on CINMS and adjacent coastal

environments, and a MBNMS bilingual program providing community-based field trip experiences for youth and families.

Comment MP-34: Education and outreach should center engagement with local schools and underserved communities (i.e., Guadalupe and Santa Maria), including inland communities in the watershed.

Response: NOAA acknowledges that first-generation, low-income and inland-based students face particular barriers to experiencing the coastal environment and pursuing ocean conservation careers. NOAA has placed a priority on providing science and marine education programs to encourage underserved individuals and communities to be involved in stewardship activities and decisions that conserve, restore, and protect our underwater treasures. Existing NOAA education programs include the Bay-Watershed Education and Training (BWET) program in San Luis Obispo and Santa Barbara Counties and NOAA's Environmental Literacy Program. Both provide grants and in-kind support for underserved communities. NOAA staff would work with education partners to secure grant-funded education opportunities, which may include school education programs, summer internships and science camp programs, after school programs, field trip opportunities, field data observations and visiting scientist/Indigenous specialist partnerships.

Comment MP-35: The sanctuary should partner with Tribal and community groups, local area schools, and educators to create outreach and educational programs to share information about local marine science, ocean ecology, conservation, and Tribal histories, culture, and traditions.

Response: Activity EO-1.2 calls for formation of an Education and Outreach Activities Working Group formed with local partners to contribute to a needs assessment of existing education and outreach programs and identify educational topics that require more focus and attention. Members sought for this panel include formal education providers, informal education providers (such as nonprofit organizations and after-school programs), cultural and Tribal and Indigenous representatives, and ONMS staff. The results of the needs assessment called for in Activity EO-2.1 would drive priorities and funding for program implementation.

Educational materials may be developed to strengthen the areas of priority, specifically coastal Tribal and Indigenous histories and their cultural relationships with the marine environment. Education messages for other distinctive qualities and features, including geological formations and maritime heritage sites, may also be developed.

Comment MP-36: The sanctuary should include paid internships for students of the communities.

Response: NOAA and national marine sanctuaries have many [student opportunities](#), including [scholarship](#) and paid internship opportunities for K-12, undergraduate, and graduate students, and recent graduates. For more information, visit NOAA's [Student Opportunities database](#). In the management plan, Activity OA-3.2 in the Operations and Administration Action Plan has been modified to identify paid internships as a priority for the new sanctuary to increase staffing, while also providing training opportunities.

Comment MP-37: NOAA should establish a visitor center that could inform visitors about the sanctuary's purpose. Staff at the visitor center, once established, should consider partnering with the Guadalupe-Nipomo Dunes Center in Guadalupe.

Response: There are several existing visitor centers located in San Luis Obispo and Santa Barbara counties that NOAA could approach to explore partnership opportunities, such as providing education and outreach opportunities focused on the sanctuary. New and portable exhibits can be added as well at other community centers such as public libraries. Existing visitor centers may become hubs for sanctuary education programming, teacher education, and classroom field trips. At this time, development of a new sanctuary visitor center for CHNMS is not proposed in the management plan.

Comment MP-38: Seabirds breeding along the coast of Shell Beach (a hotspot for seabird breeding within the sanctuary) experience relatively high rates of human-caused disturbance compared to the rest of the state. Biological resources in the Shell Beach area would benefit from increased education and outreach opportunities provided by a new sanctuary.

Response: The Wildlife Disturbance Action Plan describes how NOAA would work with other agencies and partners to map key locations where wildlife disturbance is known, and seek to provide support with research and volunteer-based monitoring programs. Strategy WD-5 specifically focuses on development of education and outreach materials and programs to encourage the public to avoid and minimize recreation activities that cause disturbance.

Comment MP-39: Programs should include public education about wildlife protection and human recreational use impacts (e.g., off road driving, camping) on shorebird nests (i.e., snowy plover). There is concern about impacts that additional tourism/recreation, particularly off-roading, could have on shorebirds that nest on beaches. Shorebirds would benefit from protection from recreational activities and dogs. Please educate the public about the need to protect wildlife.

Response: NOAA has strong wildlife protection mandates and works in partnership with other resource protection agencies and organizations in development of outreach to the public. See the Wildlife Disturbance Action Plan for more information. Please also explore our [Wildlife Viewing Guidelines](#) and the [Pledge for Wildlife](#) on our website. These guidelines are promoted to the public at our sanctuary visitor centers.

Maritime Heritage Action Plan

Comment MP-40: Please include in the maritime heritage webpage (Activity MH-3.3 of the management plan) that recreational divers must leave any historic resources within the shipwrecks or other maritime resources in place.

Response: As NOAA develops a website for the new sanctuary, per management plan Activity MH-3.3, it would ensure information is provided about the importance of sanctuary users, including divers, not disturbing historical resources.

Offshore Energy Action Plan

Comment MP-41: Strategy OE-2 in the Offshore Energy Action Plan should be a priority in early discussions regarding offshore wind; rigorous scientific assessments of wildlife baseline conditions and potential impacts should be established before new energy and other impact-generating development projects are proposed.

Response: Overall, NOAA concurs with this comment and hopes to be able to promptly staff this particular priority program. Bringing on staff to work on this or any other priority would be dependent on available resources. West Coast Region national marine sanctuaries have already initiated some baseline monitoring for sound, having deployed a half dozen listening stations with partners within or adjacent to the sanctuary. The potential for sound impacts on marine species from offshore construction including facility decommissioning is an important issue for NOAA and other agencies, academia, and industry partners.

Comment MP-42: The management plan should include provisions for consistent monitoring and research of long-term impacts of offshore wind development, including (but not limited to): effects of offshore wind and associated infrastructure on upwelling; effects of offshore wind on migrating species and residential species; effects of offshore wind on fisheries.

Response: Strategy OE-2 shows NOAA's commitment to collaborate with a host of partners on baseline and monitoring studies related to offshore energy. In the Research and Monitoring Action Plan, Activity RM-1.1 calls for development of a Research Activities Panel, an effective means to organize the science community to collaborate on programs like monitoring of natural resources and physical oceanography. Strategy RM-5 seeks to develop monitoring programs specific to issues faced by the sanctuary.

Comment MP-43: The Offshore Energy Action Plan should include other potential marine renewable sources in addition to wind energy, such as wave and tidal energy. For any permits reviewed by ONMS for offshore energy development, the agency should develop requirements for mitigation measures and best management practices, including for subsea transmission cables and related infrastructure.

Response: If, in the future, other offshore renewable energy projects such as tidal and wave energy are proposed within the sanctuary, CHNMS staff would be able to conduct appropriate permit reviews of such projects under the sanctuary regulations, even if not mentioned in detail in the management plan. Further, see Activity OE-1.1 which envisions NOAA staff collaborating with other agencies on any form of coastal or offshore energy projects.

Comment MP-44: Similar to information in the EIS, NOAA should clarify in the Offshore Energy Action Plan its authority under the NMSA to evaluate and issue special use permits. NOAA should likewise add to this action plan a strategy specific to ONMS permitting review of proposed offshore energy development in the sanctuary. NOAA has the necessary expertise in the marine environment, and has experience and protocols for permitting transoceanic cabling in sanctuaries.

Response: Based on this comment and other comments, NOAA added a specific strategy (Strategy OE-3) to the Offshore Energy Action Plan about how it would apply, and how it would

clarify, the permit processes to review offshore energy development, including reviewing permit requests for subsea electrical transmission cables.

Comment MP-45: The Offshore Energy Action Plan should include a requirement that any proposal to install offshore wind turbines within the proposed sanctuary, including in state waters, be reviewed by NOAA as a request for authorization, and not be certified as a pre-existing activity.

Response: NOAA does not typically use the management plan (or action plans) to lay out its regulatory requirements for permit process; those are contained in site regulations. In summary, an ONMS authorization could be used to consider allowing a proposal to install offshore wind turbines if the sanctuary had already been designated, and NOAA would use the certification review process for an offshore wind turbine only if such a facility has been approved by a federal or state agency prior to the date of sanctuary designation.

Comment MP-46: Regarding Strategy OE-4 (changed to OE-5 in the final management plan), NOAA should apply lessons learned at other existing sanctuary sites as guidance and use only qualified, legitimate, peer-reviewed science and Traditional Ecological Knowledge from recognized Tribal advisors, not commercial consulting firms.

Response: Staff and managers at different national marine sanctuaries discuss issues in common and look for ways to collaborate and communicate on shared problems. NOAA anticipates it would continue that practice for this sanctuary, in particular with MBNMS to the north and CINMS to the south. Sanctuary managers rely on data, peer-reviewed science and gray literature, as well as data and other information provided by public, academic, and private sources. Strategy ICH-2 highlights various programs that would increase the sanctuary's use of Indigenous Knowledge and other Indigenous information.

Comment MP-47: The Offshore Energy Action Plan should include more details and be more specific about how offshore wind will coexist adjacent to and within sanctuary boundaries. Offshore wind should not be characterized as a threat, and offshore wind companies should be listed as partners and their expertise utilized for various activities.

Response: The preamble paragraph for the Offshore Energy Action Plan describes what were community motivations expressed at the time the sanctuary was proposed—concerns over the threats offshore energy posed to natural, historical and cultural resources of the area proposed for the sanctuary. The Offshore Energy Action Plan applies broadly to offshore energy in the area, including oil and gas and offshore wind. Offshore wind activities can produce some impacts and threats to resources from construction of offshore wind facilities, and to some degree from their operation. There can also be positive outcomes from offshore wind development due to its ability to reduce carbon emissions from the state's energy production portfolio; a sentence to this effect has been added to the introduction to that action plan. NOAA has also noted that the wind industry can be a partner in carrying out the priorities in this action plan, and Activity BE-3.2 in the Blue Economy Action Plan supports pursuing collaborations with the offshore wind industry in a manner that could support sanctuary goals.

Comment MP-48: The Offshore Energy Action Plan should include BOEM and BSEE more as partners; although it may be implied, it is better to be specific.

Response: BOEM and BSEE were already noted as government partners listed at the end of the Offshore Energy Action Plan.

Research and Monitoring Action Plan

Comment MP-49: The sanctuary should develop robust research educational programs, stressing both the best of western science and Indigenous Knowledge and history and should make this accessible to all interested.

Response: National marine sanctuaries conduct and support research and monitoring programs focused on natural processes, human dimensions, ecosystem health, living resources and maritime archaeological resources. Researchers collect data and use system modeling to better understand changing conditions and inform best management practices.

This region has been home to coastal, ocean-going Indigenous Peoples for more than 10,000 years. NOAA recognizes the importance of Indigenous Peoples' traditional knowledge for understanding the environment, and adapting and responding to environmental change. The research and monitoring action plan stresses the need for a “two-eyed way of knowing” that incorporates both western and Indigenous Knowledge. This principle would guide all ecological assessments conducted by CHNMS and results would be made public in documents produced such as condition reports, climate vulnerability assessments, and other publications.

The management plan’s introduction section also describes a planned Indigenous Collaborative Co-Stewardship Framework, providing support for the sharing of Indigenous values, knowledge, traditions, and cultural connections to the land and sea. Strategy ICH-2 in the Indigenous Cultural Heritage Action Plan calls for NOAA to respectfully work with the Indigenous Cultures Advisory Panel to explore ways to gather, share, and apply (when and where appropriate) Indigenous Knowledge, and local and customary knowledge.

Sanctuary education and outreach efforts link communities and help spread awareness of the ocean's influence and connection to humanity. Blending modern data-driven science with Indigenous Knowledge and cultural history enhances conservation values and expands ocean awareness. ONMS welcomes the opportunity to highlight Indigenous Knowledge and Indigenous voices in coastal, cultural, and ocean education programs and outreach messages.

Comment MP-50: The management plan should include provisions to continue to support scientific collaborative research with local credible universities.

Response: Please see the Research and Monitoring Action Plan, specifically Strategy RM-1 and Activity RM-1.4. NOAA welcomes and encourages scientific collaborations.

Comment MP-51: The management plan should have a provision to monitor wind wake effects and their potential impacts on the ecosystem and fisheries resources.

Response: See Activity RM-4.2, which describes needed science partnerships to study and monitor offshore wind energy development. Studying the wind wake effects could be an area of investigation, building on current wind wake models and published papers. Also, Activity RM-1.1 calls for (among several things) a Research Activities Panel to identify research needs, which could include work on wind wake. ONMS is currently partnering with California Cooperative

Oceanic Fisheries Investigations to monitor key metrics in the wind energy areas and will continue to work with relevant federal partners and wind energy companies to understand impacts of wind energy development. ONMS research staff are already working with the California Marine Sanctuary Foundation to develop a wind energy research and monitoring plan for the state of California.

Comment MP-52: For the Research and Monitoring Action Plan, partners should include scientists, environmental conservation groups, wind farm developers, traditional and local knowledge holders, and others who can help guide and support these monitoring and research activities.

Response: The Research and Monitoring Action Plan has a list of potential partners that includes many of these stakeholders and rightsholders. This list is not exhaustive and is not meant to be but has a number of the relevant groups the commenter wishes to see involved.

Comment MP-53: The Research and Monitoring Action Plan should identify and involve offshore wind leaseholders in research programs including how to bring their data collection from characterization work into the sanctuary's management.

Response: ONMS has added offshore wind companies to the list of potential partners in the final Research and Monitoring Action Plan

Comment MP-54: The Research and Monitoring Action Plan should provide a better explanation of how Traditional Ecological Knowledge will be used in the plan.

Response: Indigenous Knowledge is incorporated throughout the Research and Monitoring Action Plan. Details of how to incorporate it and what aspects are critical would have to be developed in conjunction with multiple Tribal and Indigenous partners. The inclusion of Indigenous Knowledge should be addressed after designation as ONMS will be working with multiple Tribal and Indigenous partners, including through the Indigenous Cultures Advisory Panel, and will want to be inclusive of the diversity of values and needs of each partner.

Comment MP-55: The Research and Monitoring Action Plan identifies two areas for “special focus” of research and monitoring: deep-sea ecosystems and nearshore biological communities (see Activity RM-3.4). It was suggested that the current convergence zone and the transition zones between flat-bottom and canyon systems be added to these “special focus” areas. Changes in these zones may impact nutrient transfer, habitat suitability, ecosystem connectivity, and other processes vital to species and ecosystem health.

Response: These two habitat types are included under the umbrella of deep-sea ecosystems and nearshore biological communities so there is no need to add them as additional special focus areas.

Comment MP-56: Strategy RM-4 should make use of existing academic and research facilities in the region to evaluate and design mitigation measures for offshore wind.

Response: Activity RM-4.2 articulates the development of research partnerships to monitor and understand wind farm development. The activity has been edited to include consideration of mitigation design and evaluation measures. ONMS staff have already begun partnership

development with key research institutions in the areas including Cal Poly San Luis Obispo and California Cooperative Oceanic Fisheries Investigations. During the scoping process, ONMS staff held roundtables to discuss research partnership opportunities with offshore wind highlighted as a key information need.

Comment MP-57: Activity RM-6.2 should establish a threshold for information reliability so that flawed information from outside sources is not used.

Response: Establishing a threshold for information reliability could be something that the new sanctuary's Research Activity Panel (See Activity RM-1.1) addresses, but it is standard practice for sanctuary science to be peer reviewed and sources vetted to ensure reliable information is used.

Resource Protection Action Plan

Comment MP-58: The management plan should include CSLC staff in the list of potential governmental partners.

Response: NOAA agrees. See relevant "potential partners" sections in the management plan.

Comment MP-59: The management plan should include actions to establish partnerships between federal and state agencies to promote MPA management to achieve outcomes consistent with the NMSA.

Response: MPA partnerships have long been established. Partnerships related to the state MPAs are the intent in management plan Strategy RP-1. Given that the existing sanctuaries in California have robust partnerships with the state MPAs through education, outreach, research, monitoring, and enforcement, the same approach is planned for the new sanctuary. Sanctuary staff regularly attend California MPA Leadership Team meetings, MPA Collaboratives, and the state's MPA work plan includes sanctuary and other agency partner actions.

Comment MP-60: Regarding Strategy RP-7, Morro Bay Estuary should be included within the sanctuary in collaboration with present management of Monterey Bay National Estuary Program to advance management goals of both entities.

Response: As discussed in the response to comment BO-7, NOAA is not including the Morro Bay Estuary in the final sanctuary boundaries at this time. In preparation of the final management plan, NOAA removed Strategy RP-7 and integrated its contents into the new Boundary Adjustment Action Plan. This new action plan articulates a process to consider inclusion of the estuary in the future. That strategy lays out what the SAC and Indigenous Cultures Advisory Panel might consider, how to incorporate Indigenous Knowledge from Tribes and other Indigenous groups, and a framework to specifically develop a concept of what activities would warrant further sanctuary protection.

Comment MP-61: The offshore wind industry should be involved in the Resource Protection Action Plan in many different strategies, including those dealing with permit compliance and enforcement penalties.

Response: The permit compliance and enforcement aspects of the Resource Protection Action Plan are intended to be the responsibility of the sanctuary and its state and federal agency

partners, and permit recipients bound by the terms of sanctuary permits. Should an offshore wind company seek a sanctuary permit, then it would be involved in the permitting process as an applicant and potential permit holder. NOAA welcomes input from the offshore wind industry on resource protection issues through the SAC process.

Comment MP-62: Additional conservation measures should be established for Rodriguez Seamount as part of Strategy RP-1.

Response: Activity RP-1.3 describes the first step in evaluating the potential need for additional conservation measures for Rodriguez Seamount. The sanctuary would use the best available science and threats analysis to conduct this assessment, as well as collaborating, likely first through the SAC, to consult with affected users and other management entities.

Comment MP-63: The sanctuary might add meaningful support to help the Pismo clam (*Tivela stultorum*) population rebound.

Response: Baseline conservation and recovery strategies for the Pismo clam could first require an analysis of the current health and abundance, as well as threats to the population and how the sanctuary could add value to address this issue. Activity RM-3.4 in the Research and Monitoring Action Plan includes similar activities which could be applied to the Pismo clam. Therefore, NOAA agrees that sanctuary activities could provide meaningful support to the Pismo clam population.

Water Quality Action Plan

Comment MP-64: Modifications to the Water Quality Action Plan are needed and it should include a more expansive list of agencies that are related to the water quality issues, including city of Pismo Beach and city of Santa Maria. As Strategy WQ-1 makes clear, until NOAA improves its understanding of water quality conditions in adjoining watersheds, NOAA is not in a position to make some of the general statements about urban runoff and current water quality conditions that are reflected in the management plan.

Response: NOAA has added the cities of Santa Maria and Pismo Beach to the list of Water Quality Action Plan potential partners in the final management plan, and welcomes the opportunity to collaborate with these important local jurisdictions. In the introduction section of the Water Quality Action Plan, statements about water quality conditions were based on reports from the California Water Board, not speculation or assumption on NOAA's part. Building on those types of information sources, and others, Strategy WQ-1 seeks to improve the understanding of what is known about water quality in local watersheds.

Comment MP-65: The management plan should include a Water Quality Protection Plan (WQPP), similar to the WQPP implemented by MBNMS to address sources of pollution emanating from urban and agricultural land uses. Also, lessons from MBNMS' Water Quality Action Plan should be applied to the new CHNMS Water Quality Action Plan, in addition to considering actions taken by the state of California to reduce plastic and microplastics in waterways and entering the ocean when developing water quality programs.

Response: The CHNMS Water Quality Action Plan is modeled after the MBNMS WQPP, and was developed based on lessons learned from MBNMS. It would be up to sanctuary

management and partners to determine if they create a WQPP for the new sanctuary, but the Water Quality Action Plan strategies have similar intent. Strategy WQ-5 includes activities to address plastic of all sizes entering the sanctuary.

Comment MP-66: There are concerns and opposition to the reach and intended scope of Activity WQ-2.3 and Activity WQ-2.4 and restrictions that may be imposed on agricultural uses as a result of the water quality action plan, which calls for identifying activities requiring a permit in Activity WQ-2.4 and represents a duplicative regulatory approach. Similarly, Activity RP-2.2 calls for tracking and reviewing projects, plans, and proposed actions of other agencies that may affect sanctuary resources. NOAA failed to put in writing any assurances that it would not exercise this new regulatory authority on agriculture. The management plan should be revised to clearly articulate what potential new regulatory authority NOAA could choose to impose on farms and ranches in San Luis Obispo County (related to discharge regulations). NOAA is urged to use a collaborative non-regulatory approach for agricultural discharges. There is already sufficient regulation. The need is to coordinate and collaborate within the existing regulatory system.

Response: Water Quality Action Plan activities WQ-2.2, WQ-2.3, and WQ-2.4 were modified to provide more clarity and intent. Examples were added to activities WQ-2.3, and WQ-2.4 was modified to read “Identify existing activities located within sanctuary boundaries that would require a sanctuary permit under CHNMS regulations specific to a direct discharge into CHNMS.” This clarifies that there would be no direct restrictions imposed on agricultural activities as they would not be located within sanctuary boundaries (seaward of mean high water). NOAA stands by its commitment to use a collaborative non-regulatory approach for agricultural discharges as detailed in Activity WQ-4.3.

Comment MP-67: NOAA must consider ocean acidification and hypoxia hotspots among its management priorities for the sanctuary. NOAA should ensure that nutrient-rich discharges from wastewater treatment plants and nutrient runoff into the sanctuary are mitigated. The management plan includes Activity CC-1.3 under Strategy CC-1 to assess the effects of climate change on ocean acidification. Science has found that wastewater discharges have a greater effect on ocean acidification than climate change, thus NOAA must develop a similar strategy and corresponding action plan to deal with nutrients from wastewater treatment facilities and other onshore sources.

Response: NOAA agrees with the importance of assessing and mitigating hypoxia and ocean acidification. Activity RP-2.1 would include developing a permit program that is adaptive to the changing demands for regulatory review. As part of this permit program, any discharges to the sanctuary that would violate the sanctuary regulations would be evaluated and ONMS may consider authorizing permits from other agencies allowing the discharge. The discharges must meet water quality standards necessary for beneficial uses of the receiving waterbody, as described in the [California Ocean Plan](#) or the [Water Quality Control Plan for the Central Coastal Basin Plan](#) (California State Water Resources Control Board, 2023; Central Coast Regional Water Quality Control Board, 2019). Strategy RM-3 describes activities to assess, monitor, and report ocean conditions.

Comment MP-68: Regarding Strategy WQ-1, the management plan must include a robust enter and injure provision, modeled after GFNMS.

Response: The enter and injure provision for discharges into the sanctuary is part of the proposed discharge regulation at 15 C.F.R. 922.232(iii). Similar to GFNMS and other national marine sanctuaries, the regulation states that the following is prohibited, with certain exceptions: “Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality . . .”

Wildlife Disturbance Action Plan

Comment MP-69: Sanctuary staff should closely collaborate with researchers when considering research restrictions, such as white shark research.

Response: NOAA has a responsibility to protect sanctuary resources and works with subject matter experts, partner agencies, and researchers to develop appropriate permit conditions that can allow for research activities to occur while limiting impacts on sanctuary resources and other ocean user groups. This holistic approach is the norm at other sanctuary sites and considers the latest science, expert opinion, and stakeholder concerns. Given known concerns about white shark research in particular, NOAA has developed substantial expertise on how to responsibly permit and allow for safe white shark research in national marine sanctuaries by working in conjunction with the state of California and relevant concerned parties.

Comment MP-70: The Wildlife Disturbance Action Plan should include activities to address potential impacts on threatened southern sea otters from motorized and non-motorized vessels. Threats including poaching, aggressive treatment against otters, and unchecked kelp harvesting need enforcement and protection.

Response: In the Wildlife Disturbance Action Plan, Activity WD-1.1 calls for an initial, general assessment of disturbance to wildlife (frequency, intensity, locations, animals and habitats threatened, etc.), as a first step in considering whether additional protection measures are warranted. Activity WD-1.2 is a separate specific assessment of the potential for impacts on wildlife, like sea otters, from the operation of motorized personal watercraft and what, if any actions, are necessary to prevent wildlife disturbance.

Comment MP-71: NOAA should enable the Whale Entanglement Team and the Protecting Blue Whales and Blue Skies initiative.

Response: NOAA believes the conservation actions from both the Whale Entanglement Team and the Protecting Blue Whales and Blue Skies initiatives are critical for conservation of whales. See Activity WD-4.3 regarding support for regional disentanglement teams. The Protecting Blue Whales and Blue Skies initiative has grown to become a regional-scale program that NOAA expects would be able to help the new sanctuary (Blue Whales Blue Skies, 2022).

Comment MP-72: The Wildlife Disturbance Action Plan should include offshore wind operators as partners with NOAA to work together to closely monitor wildlife impacts from offshore wind, including designing potential adaptive mitigation measures to reduce overall impacts on wildlife.

Response: NOAA welcomes assistance from interested parties, including the offshore wind industry, in monitoring efforts and designing potential adaptive mitigation measures associated with offshore wind. The industry has been added as a partner for this action plan, and NOAA would specifically welcome their participation along with others in implementing Strategy WD-3.

Add Desalination Action Plan

Comment MP-73: Desalination industry representatives requested inclusion of a specific and standalone action plan in the management plan for onshore and offshore desalination, as it relates to the potential for conventional onshore desalination plants and to the potential for innovative offshore desalination projects. As an alternative, guidelines similar to MBNMS desalination guidelines could be prepared.

Response: Activity WQ-2.7 was added to the Water Quality Action Plan to address desalination projects. It includes participating on the statewide interagency desalination working group and considering adapting the same MBNMS desalination guidelines for CHNMS.

Add Marine Debris Action Plan

Comment MP-74: The management plan should include an action plan and activities related to reducing marine debris including sources of single-use plastic and microplastic. Activities should specifically support federal and statewide legislative efforts and local ordinances that ban or reduce single-use plastics. The sanctuary should participate in related public processes occurring in municipalities that encompass watersheds that drain to the sanctuary including ways it can support reducing sources of single-use plastic and/or education and outreach about the impacts of single-use plastic on sanctuary resources.

Response: NOAA agrees that reducing marine debris, specifically all sizes of plastic material waste, is a priority. Efforts have already been initiated to characterize the types and amount of debris found on beaches within the sanctuary. In addition, NOAA has been successful in receiving grant funds to study the effectiveness of biodegradable plastic used in agriculture fields, as well as developing technology and industry support of making agriculture plastic more recyclable. NOAA has added language to Activity WQ-2.3 and Activity WQ-5.1 in the management plan to highlight steps the sanctuary can take to assess and address marine debris including inputs from onshore sources.

Non-Governmental Engagement

Comment MP-75: Point Blue Conservation Science should be referenced in several action plans, as they have expertise to contribute to strategies in the following action plans: climate change, offshore energy, Blue Economy, education and outreach, resource protection, and research and monitoring.

Response: NOAA recognizes the expertise of Point Blue Conservation Science and the contributions the organization can make in implementing action plans. Point Blue Conservation Science is added to the list of potential partners in the climate change, offshore energy, Blue Economy, education and outreach, resource protection, and research and monitoring action plans.

Comment MP-76: The management plan must include mechanisms for non-governmental interests to participate in the IPC.

Response: The Indigenous Collaborative Co-Stewardship Framework (see management plan introduction section) is intended to provide an overall inclusive approach that is a starting point that would be adapted as needed. The IPC, as envisioned, is modeled after the IPC at Olympic Coast National Marine Sanctuary (OCNMS) in Washington state. The purpose of the IPC is to provide “an effective and efficient forum for communication and exchange of information and policy recommendations regarding the management of the marine resources and activities. Its role is to bring together state, federal and Tribal government(s) for timely policy discussions, planning management initiatives, and to provide management recommendations” (See the introduction of the final management plan: framework for Indigenous collaborative co-stewardship section). The IPC for this new sanctuary would consist of NOAA, the state of California, and the one (currently) federally recognized Tribe, the Santa Ynez Band of Chumash Indians. The SAC is intentionally created to provide an avenue for non-governmental interests to advise on sanctuary management.

Comment MP-77: The management plan needs better inclusion of fiber optic cable companies as potential partners in particular in the Climate Change, Resource Protection and Research and Monitoring action plans.

Response: NOAA welcomes inclusion of stakeholders in management plan implementation. Fiber optic cable companies should work with the new sanctuary to identify specific activities within the climate change, resource protection, and research and monitoring action plans they could support as potential partners.

Other Issues and Requests

Comment MP-78: NOAA should add text to the management plan acknowledging adjacent (CINMS and NOAA’s intent for the two sanctuaries to work together and collaborate on sanctuary programs.

Response: It is long-held standard practice for all the West Coast Region sanctuaries to work closely together. Much collaboration and sharing of information, staff, and resources occurs. For the sanctuaries along the California coast, each advisory council includes a staff representative (usually the site’s superintendent) to ensure the advisory councils are informed and coordinated as needed. It is NOAA’s intention to ensure the new sanctuary is part of this U.S. West Coast-wide collaboration and works closely with both MBNMS and CINMS in particular, including fostering connections between advisory councils.

Comment MP-79: NOAA should adopt strong regulations and a robust management plan, (which must include a plan for maintenance and cleanup) to provide sufficient protections for the region’s sensitive habitats, cultural resources, and sustainable human uses. Too often have we seen abandoned wind energy projects left to become rust and rubble in sensitive areas.

Response: NOAA believes that the regulations and management plan are sufficiently strong and robust to protect sanctuary resources while allowing for compatible uses in the sanctuary.

With regard to maintenance and cleanup activities, these are typically seen as conditions of permits to ensure that there are no harmful discharges or wastes left behind by permittees.

Comment MP-80: The management plan should not be construed to limit vehicular access to Oceano Dunes for recreational uses.

Response: The sanctuary boundaries extend shoreward to the mean high water line and do not include the upland dune areas, nor impede current beach or dune vehicle access. See also the response to comment BO-19 regarding NOAA certification (per 15 C.F.R. 922.234) of a CCC coastal development permit for the Oceano Dunes SVRA.

Comment MP-81: NOAA should develop an Introduced Species Action Plan to monitor invasive kelp and other invasive species, similar to partnership activities in CINMS. NOAA should evaluate the impacts of including measures to contain and limit the spread of introduced species.

Response: NOAA has received many suggestions for significant expansion (and more detail) of the management plan, new strategies, and new action plans. As described in the response to Comment MP-1, NOAA is reluctant to commit, at this time, to taking on initiatives in the final management plan it cannot be certain it can complete. NOAA would be monitoring with partners the potential appearance of introduced species in the sanctuary and otherwise enforcing the prohibition on the introduction of an introduced species (see 15 C.F.R. 922.232(10)).

Comment MP-82: The management plan fails to include significant threats to ocean health and marine species, such as: Fukushima radioactive contamination, tank farm dumping, military explosives, sonar, toxic waste dumps, training exercises, land-based facility pollution (including PFAS compounds), rocket launches, DCP activities, and more.

Response: The management plan is a roadmap for a new sanctuary to begin to establish programs and implement actions that can address a myriad of threats and issues. As noted in response to comment MP-1, the final management plan is not intended to include a detailed assessment of and response plan for all conceivable threats. Strategy RP-1 commits to working with partners to identify and address resource threats. Additionally, new issues and threats can be brought to the SAC and as appropriate the Indigenous Cultures Advisory Panel, prompting assessment, discussion, and development of management recommendations.

Comment MP-83: The management plan should reflect that an increasingly crowded ocean means responsibly and rationally accommodating compatible uses of the marine environment.

Response: Sanctuary regulations are designed to protect marine resources while accommodating responsible uses compatible with resource protection.

Comment MP-84: ONMS needs to consult with the PFMC on potential habitat impacts from future proposed activities, including aquaculture, within the proposed sanctuary.

Response: PFMC is listed as a potential partner in the management plan's Resource Protection Action Plan, which includes the goal of evaluating and addressing adverse impacts from human activities in the sanctuary. As such, NOAA intends to notify the PFMC should proposed activities

within the sanctuary arise affecting fishing, or related to aquaculture. NOAA looks forward to continuing its collaborative relationship with PFMC in national marine sanctuaries in the West Coast Region.

Appendix B: Scoping Summary

The Scoping Summary remained unchanged between publication of the draft and final environmental impact statement (EIS). Please note that it was Appendix A in the draft EIS, and is now Appendix B in the final EIS.

Introduction

Scoping is the public process under the National Environmental Policy Act (NEPA) by which the National Oceanic and Atmospheric Administration (NOAA) solicits public input on the scope and significance of issues and alternatives to be addressed in an EIS that are related to designating a portion of waters along and offshore of the central coast of California as a national marine sanctuary. Appendix B describes the public scoping process for the proposed Chumash Heritage National Marine Sanctuary (CHNMS) and presents the analysis and summary of public comments received.

Public scoping is conducted early in the NEPA planning process and is not a single event or meeting. NOAA published a Notice of Intent to conduct scoping and prepare a draft EIS for the proposed CHNMS in the Federal Register on November 10, 2021. The public scoping period was open from November 10, 2021, through January 31, 2022, during which NOAA hosted three virtual public scoping meetings where oral comments were accepted, and written comments were due by January 31, 2022.

How this Summary Was Used

The results of the scoping process have assisted NOAA in moving forward with the designation process, including preparation and release of draft designation documents, and in formulating alternatives for the draft EIS, including developing proposed CHNMS boundaries, regulations, and a management plan. The scoping process also informed the initiation of any consultations with federal, state, or local agencies, Tribes, and other interested Indigenous groups and parties, as appropriate.

Statistics

- *Number of overall written comments:* **1,190**
- *Number of oral scoping meeting comments:* **100**
- *Number of comments in support of designation:* **766**
 - *Number of petitions:* 11
 - *Number of signatures:* 8,732
 - *Number of campaign comments:* 217
 - *Elected officials:*
 - Wade Crowfoot, Secretary for California Natural Resources (appointed by Governor Gavin Newsom)
 - Bruce Gibson, District 2 Supervisor, San Luis Obispo County
 - John Laird, Senator – California Senate District 17
 - County of Santa Barbara Board of Supervisors

- Steve Gama, Port Hueneme City Council member, 2021 Mayor
 - Representative Salud Carbajal (CA-24)
 - Senator Dianne Feinstein (CA)
 - Senator Alex Padilla (CA)
 - Jan Marx, San Luis Obispo City Council Member
- *Number of comments in opposition to designation: 315*
 - *Number of petitions: 0*
 - *Number of campaign comments: 218*
 - *Elected officials:*
 - City of Morro Bay
 - Morro Bay Chamber of Commerce
 - San Luis Obispo County Board of Supervisors
 - Jeff Heller, Morro Bay City Councilmember
- *Number of comments that did not take a position: 146*
 - *Number of campaign comments: 69*
 - *Note: Some commenters did not explicitly support or oppose the proposed sanctuary designation but had specific requests/critiques that are incorporated into this summary.*

Appendix B.1: Scoping Comment Summary

Appendix B.1 organizes summarized public scoping comment points into topic areas. Appendix B.1 is organized by topic area section and references the document(s) relevant to each topic area (i.e., EIS, management plan, or sanctuary regulations). In-text superscript number citations in Appendix B.1 refer to the corresponding row number in the table in Appendix B.2.

Appendix B.1 starts with NEPA issues such as alternatives and affected environment topics, which generally match up with the chapters/sections/appendices identified in the EIS Table of Contents. The last section of Appendix B.1 addresses non-NEPA issues, such as sanctuary names and main reasons for support/opposition.

Alternatives

Many comments supported the proposed sanctuary boundary in the Notice of Intent; while some comments requested a larger boundary and others requested downsizing the boundaries or excluding certain geographic areas. Additionally, some comments requested the inclusion or exclusion of numerous specific regulations.

Larger Boundaries

Relevant to: EIS Chapter 3

- Extend boundaries to connect Monterey Bay National Marine Sanctuary (MBNMS) to Channel Islands National Marine Sanctuary (CINMS); creating a contiguous stretch of protected area where oil drilling is prohibited and wildlife is protected.
- Extend boundaries to include the following locations given their importance to the Chumash People: the Ventura County border (plus offshore islands), including waters around Carpinteria Valley (major Chumash site and harbor seal rookery); Hollister Ranch through Gaviota to Dos Pueblos Ranch (also important biological resources); Hueneme Beach (Chumash vessel launch site).
- Extend the eastern boundary further into the Santa Barbara Channel to provide additional Channel protections and better management activities in the Channel including oil and gas development and vessel speed reductions for whale protections.⁴¹
- Establish a 200-mile boundary to reduce negative impacts of Mega Fishing Factories.
- Expand boundaries to include the following areas: Goleta Slough; southern coast of SB County; more of the Gaviota Creek watershed; coastal Blue Carbon areas (e.g., Morro Bay East Estuary State Marine Reserve and Morro Bay State Marine Recreational Area).
- Study the largest possible boundaries; approve the proposal including the Wind Energy Area.

Smaller Boundaries – General

Relevant to: EIS Chapter 3

- Scale boundaries back. Exclude the Morro Bay Wind Energy Area if it is proved to negatively impact migrating and resident marine animals, sea birds, and plant ecosystems.

- Expect a myriad of existing marine resource conservation laws/regulations to exist within proposed boundaries and potentially limit or inhibit certain activities.
- Reduce boundaries to the smallest size justified per the National Marine Sanctuary Act's (NMSA) language: *discrete ecological unit*.
- Limit boundaries to (a) 2 miles offshore, (b) federal waters given threats from oil and gas.
- Narrow boundaries to include ONLY locations with cultural resources and significance essential to the Chumash People (e.g., submerged villages) similar to national marine sanctuaries designated for a specific cultural feature: Monitor National Marine Sanctuary, Wisconsin Shipwreck Coast National Marine Sanctuary.
- Exclude the following: all tributaries, fishing, property, coastal beaches, and dunes between Point Buchon and Point Sal (see comment 1034); buffer zones extending sanctuary protections to the Oceano Dunes State Vehicular Recreation Area (SVRA); 8 known U.S. Navy sunken military crafts.
- If sanctuary allows development of offshore wind within its boundary, the seaward boundary should follow the 40-fathom curve (northern to southern) boundary and most of the westward portion of the Bureau of Ocean Energy Management (BOEM)-proposed Diablo Canyon Call Area. Set the northernmost boundary to a min. of 5 miles south/away from the Morro Bay Wind Energy Area.
- Consider excluding submarine telecommunications cable landing sites and routes.
- Consider and address the need for sanctuary boundaries to connect with MBNMS (north) and the CINMS (south).
- Make it the size of the proposed wind farm.

Smaller Boundaries – Offshore Energy Concerns

Relevant to: EIS Chapter 3

- Include an appropriate number of exclusion zones, buffers, and coastal buffers around offshore wind energy within the proposed CHNMS.
- Exclude the following: BOEM's Morro Bay Wind Energy Area (Morro Bay 399 Area); offshore wind project areas in state waters near Vandenberg Space Force Base (VSFB) (~11 mi²) under consideration by the California State Lands Commission (CSLC) or applications accepted for consideration.
- Adjust sanctuary boundaries in coordination with agencies (BOEM, Bureau of Safety and Environmental Enforcement (BSEE), U.S. Coast Guard (USCG), and Department of Defense (DoD)) to reduce and avoid jurisdictional overlap causing regulatory hurdles and ensure no imposition on Morro Bay Wind Energy Area's operational infrastructure. Consult with these agencies to clarify and resolve issues related to offshore energy use prior to undertaking any designation.
- Reconsider boundaries (shift northernmost boundary southward and offshore) to allow for undersea export cable routes to onshore interconnection points and other associated electrical substations (avoiding legal conflicts and permitting hurdles between NOAA and BOEM) and offshore wind vessel traffic routes.
- Set boundaries at a minimum 5-mile buffer to any offshore wind farms, in addition to sufficient sanctuary-free corridors, areas for transmission cables, and service vessels.

- Consider modified boundaries to balance the complementary goals of conserving this marine ecosystem and advancing offshore wind energy projects outside the sanctuary.
- Avoid implementing sanctuary boundaries such that future opportunities for offshore wind generation or supply chain in the Central Coast is prevented. Considering the economic and environmental benefits it could bring historically disadvantaged communities.
- Ensure enough area outside the sanctuary boundaries is available to achieve the state's goals for offshore wind production, given California's increasingly limited areas offshore available.
- Exclude existing oil and gas facilities; exclude or grant exemptions/waivers for terminated leases (8 platforms to be decommissioned in the future) and these specific leases: Santa Ynez Unit (Platforms Heritage, Harmony, and Hondo), Point Pedernales Unit (Irene).
- Boundaries should be no larger than reasonably necessary to protect and preserve the sanctuary, while allowing for the continued and future production of energy from all sources.
- Analyze the extent to which proposed area is already adequately protected and managed by existing federal, state, and local regulations such that designation may not be required or can be limited to an area smaller than proposed.
- Proposed CHNMS would be the largest protected ocean area in the continental U.S., NOAA should reassess the purpose and need for sanctuary this large considering the panoply of existing federal, state, and local protections in the area.
- Consider moving the proposed southern half of the sanctuary boundary northward and westward to avoid unnecessary conflict with existing users.

Regulations – General

Relevant to: EIS Chapter 3, Regulations, Management Plan

- Prohibit developments that risk altering the shoreline, ocean stability, or disturbing seabed.
- Adopt sanctuary regulations that protect wildlife, plants, fish, and their habitats; prohibit or strictly regulate any commercial harvesting of biological resources; consider designating some areas as marine reserves, restricting any kind of fishing/taking.
- Adopt sanctuary regulations and measures that protect water quality by prohibiting the discharge or deposit of any harmful materials into the sanctuary (with exceptions similar to language within MBNMS regulations).
- Develop programs to reduce pollution from land and ocean-based sources.
- Adopt sanctuary regulations that protect cultural values with the strongest possible protection for Chumash sacred sites, cultural places, and cultural values; prohibit disturbing cultural resources and taking of cultural artifacts.
- Ensure any water quality regulations do not inadvertently and adversely impact traditional Central Coast fishing, cattle grazing, agricultural, or residential uses.
- Allow regulatory exceptions for agricultural discharges from agricultural lands.
- Do not include water quality regulations relating to discharging or depositing. Use the low water datum as maximum regulatory extent impacting onshore uses.

- Regulate/restrict non-consumptive recreation activities when appropriate (e.g., to protect nesting birds, migrating/feeding whales, etc.).
- Prohibit sanctuary from permitting or authorizing dredging, disposal, or commenting on harbor dredging. Grandfather all existing dredged material disposal sites.
- Consider dredging disposal exemption for Port San Luis Harbor, contingent upon compliance with Coastal Regional Sediment Management Plan.
- DoD exclusions and exemptions to account for past, current, and future military operations inside of the sanctuary; ensure military, civil, and commercial operations at Vandenberg are unimpeded.
- Discuss each regulation of the adjacent sanctuaries in California to determine what level of regulation the proposed sanctuary should have.
- Do not restrict or prohibit submarine telecommunication cable installation, maintenance, and repair, or existing or future submarine fiber optic cables transiting the proposed sanctuary boundaries.
- Allow access for everyone to enjoy, study, and benefit from the marine resources in the proposed area; do not limit recreational boat access and ensure the allowance of motorized personal watercraft (MPWC) use.
- Regulate transit corridors and vessel speeds to reduce vessel strike risk for threatened or endangered blue, humpback, fin, and other large whales in the proposed area.
- Address any potential restrictions to current and future marine transportation activities' ability to provide economic opportunities to harbors within the proposed sanctuary. This includes commercial and recreational fishing, industrial marine related uses, as well as all coastal dependent and related user groups.
- Consider prohibitions similar to those of other sanctuaries as related to hydrocarbons/minerals; discharging/depositing material; submerged lands; disturbing, taking, possessing, harvesting, etc. marine mammals, seabirds, or resources; fishing gear; historical resources; sanctuary signs and boundary markers; introduced species; seized property; bombing activities (DoD); deserting vessels; attracting white sharks.
- Consider reflecting sediment management in sanctuary regulations with an exemption for sediment management activities that benefit habitat protection and restoration.
- Exempt shipping activities so as not to cause further delays in the shipping supply chain.
- Discourage any prohibitions or disincentives to develop desalination projects in the future.
- Proposed sanctuary should not preclude the possibility of future advancements in innovative technologies not yet available, but potentially useful for power generation or potable water.
- Consider banning industrial scale development of deep-water port at the Diablo Canyon site (under consideration as a post de-commissioning use).
- Accommodate existing commercial, recreational, and municipal uses. Explicitly state this with no prohibitions of existing uses and with no layers of added regulatory review.
- Integrate the use of reports prepared for state level compliance into the federal approval process with respect to future activities potentially impeded by this designation. E.g., accept documents such as a California Environmental Quality Act Environmental Impact Report to satisfy any federal documentation requirements.
- Allow exploration of seafloor and seismic testing to learn about Ring of Fire threats.⁸⁸

- Prohibit mining.

Regulations – Fishing

Relevant to: EIS Chapter 3, Regulations, Management Plan

- Retain part “9” of Section II, “Goals Description” in the final designation, stating CHNMS will have no impact on treaty fishing rights or impose future fishing regulations.
- Do not impose regulations that interfere, directly or indirectly, with existing recreational fishing access and practices or unnecessarily inhibit, burden, or restrict sportfishing.
- Create stronger/more detailed language than in MBNMS that prohibits a sanctuary role in fisheries management or fisheries-related issues. Issue a strong statement of the sanctuary’s support of commercial and recreational fishing (recognizing the social and economic benefits they provide in the proposed sanctuary regulations).
- Exempt seafood industry from regulation of indirect activities that may fall outside those managed through the Magnuson-Stevens Act.
- Clearly reflect that sanctuary managers must have the authority to regulate fishing.
- Exempt scientific surveys (Exempted Fishing Permits) are used to inform stock assessments, Fishery Management Plans, and both recreational and commercial fishing regulations from any regulations that could affect ongoing research.
- Prior to any regulatory change, conduct consultations with the Pacific Fishery Management Council and NOAA Fisheries.
- Prohibit fishing in some areas to protect unique oceanographic features such as underwater seamounts (i.e., include a no-fishing zone around Rodriguez Seamount and buffer area of 10–40km in the EIS), plateaus, and canyons.
- Permanently ban use of all forms of gill nets within the sanctuary.
- Phase in regulations leading to requiring “ropeless” gear for all fixed-gear fisheries when large whales are at the greatest entanglement risk; require use of weak-line measures to mitigate adverse impacts of pot-trap fisheries on listed humpback whales.
- Only allow operation of small scale and family-based fishing industry (like in the Central Coast) do not allow large scale commercial fishing.

Regulations – Offshore Energy

Relevant to: EIS Chapter 3, Regulations, Management Plan

- Prohibit development of the following: any offshore wind and associated infrastructure (including any exemptions or permits), other renewable energy projects, oil and gas (and phase out existing infrastructure and leases), exploration (including seismic surveys), drilling, seismic testing, seabed mining, or procurement activities.
- Prohibit (or regulate) transport of liquid petroleum products through the sanctuary.
- Ensure sanctuary regulations and management plan allow for Morro Bay Wind Energy Area’s vital activities and infrastructure, including geophysical surveys, seafloor cable placement and maintenance (reference Olympic Coast National Marine Sanctuary submarine fiber optic cables for impact), vessel transit, and shore power landings or upgrading port and harbor areas to streamline permitting.
- Do not restrict offshore energy research, exploration, development activities, and allow continued use of marine seismic technology for existing and future energy activity.

- Grandfather activities authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of sanctuary designation.
- Prohibit boundary changes to accommodate new wind farm areas or aquaculture.
- Consider impacts of, and alternatives to, promulgating regulations specifically granting the Secretary discretionary approval authority to allow seabed disturbance to facilitate the transmission of potential offshore wind energy from the Morro Bay 399 Wind Energy Area.
- Do *not* prohibit offshore energy production (oil, gas, and wind), leases, and transportation facilities, or other uses like carbon capture and sequestration.

Management Plan

- Enact commitments for monitoring and enforcement of sanctuary regulations.
- Create research programs to develop an understanding of climate change and analyze threats, impacts, resilience, and adaptation potential.
- Include wildlife/conservation scientists in research, management, and decision making.
- Develop a set of accessible and scientific performance metrics to monitor, evaluate, and track marine life protection success that can be communicated to the public and stakeholders, and to compare to domestic and international counterparts.¹⁴
- Address vessel traffic-related issues by developing a vessel speed reduction plan, establishing advisory bodies, and exploring creative planning tools and technologies.⁴⁸
- Describe strategy to fund and staff sanctuary including the impact on other sanctuaries.
- Define consensus community support and address this proposal's failure to meet that threshold. Specifically address opposition letters NOAA has received in draft EIS analysis.
- Identify each nationally significant resource within the proposed sanctuary and discuss the sanctuary's plan to manage threats.
- Identify and discuss any impacts on other NMSs for this sanctuary to reach its goals.
- Discuss plan to allow maintenance, research, and development to take place for energy/data transmission lines or kinetic energy devices.
- Consider the costs and benefits associated with additional sanctuary-based permitting and regulatory requirements on top of existing regulatory layers.
- Consult, collaborate, and coordinate with other federal agencies and governmental stakeholders concerning responsibility for communications infrastructure, and its security, reliability, and integrity; developing regulatory procedures and processes for allowable and prohibited activities; creating straightforward, clear, and consistent requirements on the protection and use of the marine environment.
- Develop a Purpose & Need (P&N) statement for the CHNMS that acknowledges the multiple critical marine uses and an evaluation of reasonable alternatives.
- Discuss NOAA's strategy to publicly communicate with regulatory agencies.
- Identify unique elements of the proposed sanctuary not protected by other marine protected areas (MPAs).
- Discuss what areas within the U.S. Exclusive Economic Zone (EEZ) do not meet NOAA's National Significance Criteria for designation of a sanctuary.

- Determine the location of the shoreward boundary (watersheds to the U.S. EEZ) and assess pros and cons of each potential boundary.
- Engage with landowners and resource custodians to develop long-term protection strategies for traditional activities, cultural, natural, and maritime resources.
- Do not limit recreational vehicular access to Oceano Dunes in the management plan.
- Work with the Department of Navy to avoid interfering with DoD activities.
- Consult with the business community and stakeholders (e.g., offshore wind, space/aeronautics, blue economy) to improve conservation and understand possible impacts and implications.
- Conduct careful spatial planning for the disposal of dredging spoils.
- Design management measures and alternatives with U.S. Fish and Wildlife Service (USFWS) for sea otter conservation.
- Include a “quality of life” impact study strategizing community engagement, enrichment, and support for efforts to improve community quality of life.
- Promote collaborative, connective marine research with MBNMS and CINMS.
- Historical shipwreck discoveries should not interfere with protection of Indigenous cultural resources and heritage.
- Promote recreational access and activities (e.g., boating, diving, angling, jet skiing, etc.).
- Provide public guidance, education, and training on responsible recreational water access, boater use and infrastructure installment, and MPWC operators’ practices.
- Focus on marine research that improves the marine science field and its management. Perform baseline biodiversity studies and monitor change over time (e.g., surveys inside/outside sanctuary) to identify management effectiveness.⁹²

Sanctuary Co-management

Relevant to: Management Plan, EIS Chapter 3

- Promote education for historically underrepresented communities and create programs concerning ocean ecology, Tribal culture, and hands-on citizen science (see comment 1053).
- Ensure adequate public media, publicity, and onsite signage.
- Regulate threats through management programs or other mechanisms: Climate change; Offshore renewable energy; Desalination; Recreation and tourism; Commercial shipping; DoD activities; Introduced species; Whale entanglement; Platform decommissioning; Aquaculture; algal blooms; Ports and Harbors.
- Do not restrict handicap access and create a policy on universal accessibility.
- Encourage programs engaging and soliciting data from the angling, spearfishing, diving, and hunting communities to promote sound management practices for fish and wildlife.
- Address opportunities to benefit “Blue Economy” (per Federal Register Notice of Intent).
- Address alternatives for any proposed administrative, operations, and enforcement office locations including economics and budget estimates. Include effects to existing coastal related uses, transportation, offices, and related buildings.
- Apply lessons learned from MBNMS’ establishment and management plans concerning fisheries, marine transportation, and harbors operations.
- Center Native American culture interpretation in designation, management documents.

- Hold public meetings to dynamically explore prospective sanctuary boundaries.
- Encourage community science, promote NEPA-compliant ecosystem-based management practices, incorporate Traditional Ecological Knowledge.
- Embrace a “partnerships first” model and cultivate partnerships with scientific, academic, and community organizations.
- Ensure regulations and management plan requirements are compatible with the CSLC’s responsibilities and authorities.
- Support wide ranging surveys of diverse ocean ecosystems in the proposed area and conduct eDNA ecological monitoring. See comment 1053 for details. Making the biodiversity research program in CHNMS fully integrated with the local community of leaders and students will advance science, technology, engineering, and mathematics (STEM) education, provide links to future careers, and connect the Chumash heritage with this new type of data.
- Create a coastal educational center connecting education, culture and science that includes community and classroom spaces, a lab, computational center, culturally centered gathering space, and a small aquarium.
- Establish dedicated CHNMS staff and a Coordinator for Research Activities position to coordinate activities between other national marine sanctuaries. in the sanctuary.
- Ensure a continuous, interactive relationship with the public and research socio economic impacts of sanctuary designation on the local area.
- Explore and promote a govt-to-govt collaboration and co-management approach that includes the Chumash, state, and federal agencies for a future CHNMS designation. (See comment 1029. See pgs. 9–13 in comment 1018).
- Suggestions support an inclusive, intentional government-to-government collaboration structure for the new sanctuary between Chumash Tribes, state, and federal governments and co-management system across all management activities that prioritizes Indigenous perspectives and values within management plans.
- Suggest a two-dimensional management structure: (1) the political dimension of the government-to-government relationship, and (2) the active, analytical, and inclusive co-management dimension between Tribal, federal, and state agencies.
- Benefits to co-management: consistent with executive orders and Biden’s recent memo; provides an opportunity to uplift and prioritize California’s Indigenous People’s stewardship knowledge and perspectives in management decisions; studies show benefits to a more formal, collaborative co-management approach.¹³
- Design and establish protocols, policies, and practices that formally and systematically allow for the integration of Traditional Ecological Knowledge, Tribal perspectives, preferences, and stewardship into sanctuary management; ensure Indigenous input is incorporated into all phases of the CHNMS designation process to recognize the Indigenous perspective and culture.
- As sovereign entities, the Chumash political status should be acknowledged in decision-making and planning at all levels.
- Support co-management between Tribal, state, and federal agencies by (a) exploring different co-management frameworks, and (b) developing collaborative planning tools to help integrate each government’s approach to policy and management processes

(including ecosystem-based management and Traditional Ecological Knowledge perspectives).

- Chumash commenters recommend integrating the following into management plans: (a) developing and implementing programmatic and ecosystem-based planning tools (e.g., Ocean Health Index, marine spatial planning) to evaluate impact on sanctuary over time, (b) protocols and protections for integrating aspects of Tribal stewardship, specifically regarding consent for sharing Indigenous knowledge and data (e.g., requests) such that Traditional Ecological Knowledge is protected, safeguarded for future generations, and the diversity of Tribal science and knowledge is acknowledged.
- Center Indigenous leadership and role in management by: (a) directing leadership to Indigenous Peoples regarding studies, planning, and monitoring of ecosystems, (b) recognizing the Chumash Tribe as the appropriate governmental entity to manage their own resources, (c) giving deference to Tribal decisions on conservation and management plans, (d) ensuring Tribal co-authorship of formal planning and policymaking agreements between Tribes and the sanctuary, (e) following Hawaiian Islands Humpback Whale National Marine Sanctuary as an example of relationship-building with Indigenous Peoples.
- Commenters noted the benefits of recognizing, respecting, prioritizing, and incorporating Tribal and Indigenous voices in co-management: (1) form a more integrative, adaptive, and ecosystem-based approach to sanctuary governance; (2) restoring and maintaining traditional relationships can create integrated health within and between ecological and human communities; (3) elevate the understanding of Indigenous People's inherent part of the land, (4) continue the region's legacy of collaborative approaches to conservation (e.g., memorandum of understanding (MOU) between TNC and Santa Ynez Band of Chumash Indians at Dangermond Preserve).
- Include and engage diverse Chumash communities (all culturally affiliated Tribal governments and related Chumash Bands) in a collaborative and robust consultation process and participation in co-management, including non-federally recognized Tribes and groups, the San Luis Obispo Chumash community.
- Avoid transferring regulatory power from sanctuary to the Chumash People in order to avoid any potential regulation of fisheries; push to not provide any legal authorities the ability to manage fisheries.
- The Northern Band of Chumash is not federally recognized; government-to-government relationship would not exist.
- Synergistic and cumulative impacts on marine ecosystems should be taken into account. No single marine resource use or activity, such as commercial and recreational fishing, should be considered and managed in isolation from other marine activities within a sanctuary. As co-managers, we should recognize that the synergistic and cumulative impacts from human use of marine ecosystems, including the impacts of land-use activity such as farming and urban development and climate disturbance impact coastal and marine systems.
- Support implementation of meaningful Tribal co-management with the Northern Chumash Tribal Council.
- Look to existing Tribal governing structures and works, such as the Mai Ka Po Mai Native Hawaiian guidance document, Wishtoyo Foundation Tribal Marine Protected

Areas White Paper, the Chumash portion of CINMS' Ecosystems Services Assessment (pgs. 185–207), and others for further reference.

Indigenous Concerns

- Develop a management plan that provides the strongest possible protection and commitment to preserving Chumash sacred sites, cultural place, Tribal resources, cultural values, and underwater Native archeological sites (investigate only with the consent and involvement of Chumash elders).
- Integrate Indigenous leadership, Indigenous values, and traditional knowledge throughout the planning, implementation processes, management and decision making, to ensure equitable, effective, and community-led co-management and collaborative conservation moving forward.
- Consider establishing a visitor or educational centers with programs that provide educational and outreach opportunities to local students, community members (with special attention and encouragement directed towards underserved communities) related to: Tribal culture, heritage, history, and ocean ecology in a manner that honors all voices past and present and recognizes this sanctuary as a novel, inclusive conservation effort due to the past exclusion of Indigenous ecological knowledge in modern science and conservation).
- Recognize, implement, and elevate the use of Indigenous Traditional Ecological Knowledge as a foundational scientific ecosystem-based management strategy to aid in sanctuary preservation.
- Create specific spaces, roles, agreements within sanctuary management for Indigenous Peoples: (a) prioritize full-time paid positions for Indigenous Peoples involving day-to-day operations, decision-making, native/cultural practitioner roles, STEM/research positions, (b) include an Office of Tribal Affairs (OTA), establish a cultural working group or council, and adopt a U.N. Declaration of Rights of Indigenous Peoples,(c) trained Native certified divers to work alongside NOAA divers.
- Concerns include separately naming and creating the proposed CHNMS separate from CINMS does not acknowledge that CINMS is part of the Chumash heritage as well; “That the impact of this sanctuary would not protect the rights of Chumash and Salinan People with regards to fishing, gathering and religious rights (exact wording from Commenter 1091).”
- Future grants and revenue generated by the sanctuary must benefit natives first and foremost.
- Support implementation of policies designating funds/set asides specifically earmarked for native groups in all efforts from education to research to any other lucrative practice overseen by future sanctuary administration.

Fishing

- Support and facilitate sportfishing access; ensure management does not unnecessarily inhibit, burden, or restrict sportfishing unless regulation is specifically tailored to address genuine, specific, and demonstrable harms.

- Support and facilitate scientific activities (e.g., NOAA surveys, stock assessments, etc.) that are important to improve understanding of living marine species (e.g., marine species populations, whale migratory patterns).
- Support, protect, and promote recreational and commercial fishing activities as they are economically important, socially, and culturally integral to the local identity; include a clear statement reflecting this in the management plans.
- Include explicit, clear, detailed, and strong language (stronger than MBNMS') that indicates the sanctuary will avoid regulatory interference in fisheries and prohibits the sanctuary from taking any role in fisheries management or regulation (directly, indirectly, or even appear to have regulatory interference).
- Include comprehensive language in designation documentation that recognizes (a) native and modern commercial fishing and recreational fishing as a resource that will be protected, preserved, and promoted as part of the sanctuary equal to that of other sanctuary resources, and (b) supporting responsible and equitable development of local aquaculture industry, including aspects regarding education, access, and financial support for cultivators.
- Acknowledge fishing activities as a compatible use compliant with 16 United States Code (U.S.C.) §1434(a)(5).
- Include language that guides the sanctuary interactions with the fishing community, including engagement, soliciting input and feedback, and discussions regarding how to improve public relations with the fishing community and help improve best practices (voluntarily).
- Consider allowing NOAA to have a more active, authoritative role in managing and regulating fisheries and engaging local and commercial fishing to ensure responsible use of fishing resources continue and any new regulations do not overly constrain public use; particular concerns covered allowing the sanctuary to manage gear type used and allowing certain types of fishing to a specified spatial extent (e.g., see precedent examples with fishing regulations: Gray's Reef, Flower Garden Banks, and Florida Keys national marine sanctuaries).
- Sanctuary should consult and coordinate with the Pacific Fisheries Management Council (PFMC) while (a) developing a management plan, (b) regarding potential conflicts with regulations that could economically impact the seafood industry (alongside fishermen and seafood processors) and (c) to continue the transparent, public, and science-based processes of fisheries management continues and be the main pathway for evaluating and setting fishing regulations (alongside the California Department of Fish and Wildlife (CDFW) and others).
- Discuss how the sanctuary will work with commercial fishing and aquaculture industries, especially considering the majority of commercial fishing organizations in the area are opposed to the sanctuary.
- Although the Office of National Marine Sanctuaries (ONMS) does not regulate fishing, ONMS should coordinate with agencies which do to meet the Biden Administration goals for protected areas by 2030. Potential places to evaluate the need for increased fishing protection would be to mirror the polygons of the established state of California MPAs within the proposed area that do not currently prohibit fishing.²³

- Establish a Native Chumash Fishing Commission (NCFC) within all the sanctuaries of our Northern Islands off the Coast of California in order to establish a cooperative relationship with local coastal communities.
- Recommend a careful review of the level of protection to marine life that can be provided by the proposed CHNMS. There are designated California MPAs within the proposed area as well as many unprotected yet significantly important quality habitats offshore, nearshore kelp forests, and diverse coastal wetlands. We recommend a careful review of the role of these MPAs in supporting the priority management goals of the NMSA, and whether additional protective measures and/or marine zoning strategies (such as no-take MPAs) and tools should be considered under a co-management strategic framework that combines the Chumash, California, ONMS, and other relevant federal agencies. The CHNMS should consider management actions supporting California's MPA network in partnership with CDFW and should include an education, outreach, monitoring, and enforcement plan focused specifically on supporting MPA implementation within its boundary.
- If any MPA is implemented, recommend keeping it within Point Conception and Espada Bluff. This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
 - 34° 27.000' N. lat. 120 28.000' W. long
 - 34° 27.000' N. lat. 120 32.000' W. long
 - 34° 32.000' N. lat. 120 31.000' W. long
 - 34° 32.000' N. lat. 120 41.000' W. long

Sanctuary Advisory Council (SAC)

- Include economic interest groups and ocean users within sanctuary and adjacent areas.
- Designate representation for local operators: commercial, recreational fishing, and fishing industry dependent business (e.g., buyers and processors); offshore wind industry (specifically requested a seat for American Clean Power and Offshore Wind California); tourism and recreation; harbor managers; farmers, and ranchers; renewable energy.
- Suggested 50% of voting members should represent and be chosen by local, resource-dependent Tribes and stakeholders.
- Local jurisdictions should organize SAC independently from national marine sanctuary management.
- SAC input should have a clearly functional role as indicated in the management plan and members should have binding authority in management decisions.
- SAC members should fully represent the entire region and all interested parties to create an inclusive, diverse SAC stakeholder group (beyond NOAA's interests) and have the ability to provide input to the Draft Management Plan.
- All SAC agendas and supporting materials should be made publicly available < 5 days prior to any meeting.
- All meeting information and policy decisions should be publicly available for comment and review.

- Designate multiple seats specifically and solely for Chumash natives (ensure equal participation for First Peoples) representation with a budget/stipend to ensure that Chumash natives are compensated.
- First Peoples require equal participation alongside the SAC in determining the agenda and the role of Salinan and Chumash Peoples.
- Solicit thoughts on support research, monitoring, and advance scientific understanding of the area from SAC Research Members and Alternates.

Offshore Energy

- ONMS should coordinate with USCG, NOAA Fisheries, and the offshore wind energy industry to evaluate the location of vessel traffic lanes and access routes to allow large installation and construction vessels to enter/exit California central coast ports.
- Continue to include the offshore wind industry in the planning process to reduce the risk of unintended consequences that might occur due to this potential designation.
- Continue collaboration, open dialogue, and avoid undue limitations with the CSLC's decision-making authority (especially with regard to the offshore wind lease areas currently under California Environmental Quality Act review).
- Management plan and regulations should acknowledge the presence of “preexisting” infrastructure (e.g., undersea electricity transmission cables) and account for repair, maintenance, and removal of facilities in areas leased by the CSLC or a local grantee of public trust lands, to ensure that the regulations and management plan do not interfere with lessees' rights and responsibilities under their lease terms.
- Include measures to minimize conflict between climate action, environmental protection, federal and state policies.
- Consider the possibility of future renewable ocean energy opportunities beyond wind projects as the designation process moves forward.
- CHNMS management should recognize management plans and regulatory framework that undersea cable corridors will need to pass through the proposed CHNMS from Morro Bay Wind Energy Area or other offshore wind developments; cables must be properly cited and buried and demonstrate no electromagnetic disturbance and minimize impacts on natural and cultural resources within the proposed sanctuary.
- Regarding transmission cables and other associated onshore infrastructure, address siting and impact assessment through permits (e.g., special use permit) and mitigation hierarchy analysis; specify the mechanisms for authorizations or granting easements (suggested that associated fees contribute to SLO county subsidizing housing for citizen science groups and Chumash personnel participating in cultural educational programs); explain the structure of permitting authority and roles; consider concrete blankets for electromagnetic cables to avoid exposure and disturbance; include stipulations for funding climate science research (suggested for commercial offshore wind farm in the 399 area).
- Support research for and establish a monitoring plan for impacts related to offshore wind energy cables. Suggested study areas include using ROVs to monitor the cables, noise studies, electromagnetic fields, sediment movement, oxygen and phosphorus levels, temperature, current, wind velocity, wave height changes, impacts on marine life

behavior, and changes in migration patterns related to offshore wind farms and undersea cables.

- Highlight sensitivity of marine habitat and wildlife to oil and gas development and spills and ensure through regulation that impacts of such activities within or adjacent to the sanctuary are minimized.
- Completely remove all four offshore oil and gas facilities still in operation within the proposed sanctuary boundary allowing the marine environment to be restored to its natural condition.
- Defer designation until there is more certainty on impacts on existing and potential energy production, such as pending development of the Morro Bay Wind Energy Area.
- Federal, state, and regional goals cannot be met without offshore wind development and leasing. There is clear local and national support for offshore wind in this region and an economic opportunity ready to be seized.
- NOAA must make clear that any designation will allow—or at a bare minimum, not prohibit or separately regulate—facilities or activities needed for offshore energy development and transmission. At a minimum, any CHNMS regulations and management plan must allow for energy development from existing and future facilities inside and outside the Morro Bay Wind Energy Area, including allowing transportation rights of way or easements to shore.
- Work with BOEM and BSEE to proactively expedite decommissioning of existing oil and gas infrastructure, phase-out leases, and preclude additional leases (avoid ‘grandfathering in’). As offshore wells are abandoned, a well-designed “rigs-to-reefs” program could be developed in the proposed area to provide artificial reef habitat and to support an ocean trust fund (with the cost savings relative to costs for complete removal).
- As part of the management plan and the sanctuary’s role in this region, ONMS should work with BOEM and CSLC to prioritize seascape-level planning and processes to balance the multiple uses of the ocean (energy production, wildlife habitat, sensitive habitat, and productive fishing grounds) and to fully evaluate potential impacts of renewable energy development to natural and cultural resources in the region. Create designation document language that prohibits offshore wind development and associated infrastructure from being allowed inside the CHNMS boundary, ever. Including, do not allow any of the following that would allow for offshore wind development: permitting methods for turbines or cables, changing boundaries.
- In order to fill data gaps and advance climate science, Home Front EJ suggests that interested investors in the OWF development fund a NOAA Pacific Marine Environmental Laboratory (PMEL) observation buoy system in the 399 area as soon as possible. This will open data share and collaboration avenues between NOAA and the California Polytechnic University of San Luis Obispo’s (Cal Poly), Marine Science Department studying Ocean Acidification (OA) and other oceanic climate science issues.

Water Quality

- Develop programs similar to MBNMS’ approach to address impacts associated with water pollution (similar to MBNMS’ Water Quality Protection Program (WQPP) and Agriculture Water Quality Alliance (AWQA)).

- Include strong agricultural representation in any management or governing bodies.

Introduced Species

- Create a monitoring plan for protecting against invasive species, with special attention to any use of foreign-flagged vessels for offshore wind construction and operations.
- Include measures to contain and limit the spread of introduced species.
- Create an action plan in response to new sightings of introduced species. Continue research partnerships and develop a CHNMS monitoring and research program.

Marine Debris

- Include an action plan and activities related to reducing marine debris including sources of single use plastic and microplastic.
- Support federal and statewide legislative efforts and local ordinances that ban or reduce single-use plastics and participate in watershed-related municipal public processes.

Air Quality/Climate Change

Relevant to: Management Plan, EIS Section 4.2

- Address how the proposed area is ideal for studying climate change.
- Address threats of climate change and evaluate potential impacts on air quality from commercial shipping regulations and/or management activities.
- Analyze climate change impacts on the ocean if sanctuary is not designated, considering ocean protected areas build resiliency and help combat and adapt to climate change impacts.
- Analyze the proposed sanctuary's carbon sequestering potential (e.g., kelp forests, seagrass beds, wetlands) and ability to buffer vulnerable coastal communities.
- Address that the proposed sanctuary would create a connected corridor of ocean and coastal management and protection in CA between three national marine sanctuaries and enhance the ability of managers to respond to climate change threats and conserve valuable resources.
- Consider CHNMS alignment with the state of California Ocean Acidification Action Plan.

Water Quality

Relevant to: Management Plan, EIS Section 4.2

- Analyze water pollution associated impacts and address the current state of water quality.⁴⁹
- Assess sources of pollution that degrades the quality of water that ultimately flows to the ocean, such as: oil and gas activities, urban point and nonpoint sources, agriculture, etc.
- Address and analyze impacts on water quality in the proposed area from (1) allowing offshore oil drilling, (2) submarine cables,¹⁸ (3) sanctuary programs dedicated to water quality protection, (4) sanctuary regulations related to watersheds that feed into the proposed area, (5) preventing discharges of certain harmful materials, and (6) potential discharges from DoD activities associated with VSFB.

Oceanography

Relevant to: Management Plan, EIS Section 4.2

- Address importance/uniqueness of converging ocean currents creating “critical transition area” for upwelling, nutrient availability, productivity in proposed area.⁴¹
- Address how additional protections could impact the proposed area’s unique/important oceanographic features (e.g., underwater seamounts, plateaus, canyons)⁴¹ that consequently create special habitats for marine life.
- Analyze the impacts of an alternative with full protection of the Rodriguez Seamount area (i.e., no fishing).²²

Geology/Mining

Relevant to: Management Plan, EIS Section 4.2

- Examine seismic setting in the proposed area including at the Murray Fracture Zone area and the southern portion of the San Andreas Fault’s largest subsidiary, the Hosgri Fault.
- Examine historic seismic activity creation of unique biological niches.
- Examine shifting historic Chumash cultural resources/artifacts into concentrated areas (besides being spread out across the proposed national marine sanctuary).
- Analyze negative impacts of allowing offshore oil drilling in sanctuary to natural resources.
- Analyze impacts of prohibiting seafloor exploration and seismic testing.⁸⁸

Biological Resources

Relevant to: EIS Section 4.3, Management Plan

- Analyze threats to marine mammals: vessel traffic (speed and routes)⁷⁶, noise, sonar technology; water pollution; fisheries; oil^{38, 70, 72} and analyze the potential need for additional protected coastal areas.
- Assess and address biologically important areas for: gray and blue whales,² pinniped pupping areas^{37, 71} and consider connectivity impacts on southern sea otter population.³⁶
- Address habitat and potential benefits to Endangered Species Act (ESA)-listed species;⁴³ address introduced species⁵⁰ and impacts on specific species: sea turtles (leatherbacks)⁸³ and invertebrates (e.g., abalone, crustaceans).
- Address marine habitats in the area, highlighting important and critical habitats plus the species they support⁴⁴ (e.g., kelp forests).
- Concerning fish in the proposed area, address: diversity, species, stock status, overfishing, MPA effectiveness/spillover, assess importance area for juvenile white sharks, and analyze impacts on fish in watersheds connected (e.g., steelhead).
- Address bird species and habitat in proposed area,⁴⁴ assess the need for further protection.
- Address potential benefits resulting from location adjacent to Morro Bay National Estuary, inclusion of Santa Lucia Bank.
- Analyze an alternative with full protection for the Rodriguez Seamount.²²
- Analyze impacts on biological resources of integrating Indigenous cultural practices.⁸⁵

- Address ecological hotspots,⁴¹ biodiversity, and endemic species in proposed area,⁴⁰ unique aspects of the biogeographic transition zone and how sanctuary would impact it.
- Analyze impacts of non-consumptive recreational activities on wildlife.
- Analyze climate change threats to biological resources^{46, 69} and ways to mitigate threats.
- Evaluate regulations and/or management activities that address harmful algal blooms.
- Concerning fishing, address potential impacts of EIS alternatives: (1) “ropeless” gear regulations for all fixed-gear fisheries, (2) requiring weak-line measures, (3) permanently banning use of all forms of gill nets, in order to reduce marine mammal bycatch and mitigate impacts of pot/trap fisheries on listed distinct population segments (DPS) of humpback whales.
- Concerning fishing, address sanctuary overlaps with MPAs; commercial fishing and marine biodiversity loss;⁴⁷ lack of evidence that California’s well-managed fisheries harm biodiversity.⁷³
- Address and analyze all impacts of offshore wind (especially Morro Bay Wind Energy Area) and other energy construction, operation, and decommissioning activities on biological resources.
- Assess alternatives to permanent cable line placement.
- Consider the impacts of designating “cable corridors” to avoid fragile natural resources.
- Analyze impacts prohibiting oil and gas development on biodiversity.
- Analyze impacts of aquaculture, deep-sea mining, and submarine telecommunication.¹⁹

Commercial Fishing and Aquaculture

Relevant to: EIS Section 4.4

- Analyze impacts of additional commercial fishing regulations on fishermen, possible negative socioeconomic impacts on the local fishing community^{12,11} and the seafood industry’s resiliency and viability.
- Address and mitigate any restrictions to the historic “wet fish” commercial fisheries.
- Address impacts of the area’s fishing industry on the sanctuary as well as benefit of sanctuary designation on the fishing industry.
- Living marine resources are harvested sustainably under rules/regulations offered by NOAA Fisheries and CA Fish and Game Commission.
- Address California sea lion current populations, outlook, and potential effects to marine life within the boundaries, including commercial fisheries/sea lion interactions.
- Analyze offshore wind energy impacts on commercial fisheries in the proposed area.
- Analyze potential benefits of using oil and gas platforms and wind turbine foundations as artificial habitats on fisheries and the fishing community (given the “reefing” effect⁶⁴).
- Address possible mitigation measures such as proper layout, adequate surveys, and active coordination to minimize potential impacts from offshore wind.⁶⁵
- Consider and collaborate with the Central California Joint Cable/Fisheries Liaison Committee.⁵⁸

Recreational Fishing

Relevant to: EIS Section 4.6

- Analyze impacts recreational fishing restrictions would have on fishermen.
- Address potential benefits and impacts of ensuring recreational fishing access.^{34, 59, 66}
- Examine opportunities to educate local anglers on fishing opportunities, the importance of MPAs, and other conservation measures vital to maintaining thriving fisheries.
- See CINMS as an example of recreational fishing coexisting with conservation.

Cultural Heritage and/or Maritime Heritage Resources/Indigenous Communities

Relevant to: EIS Section 4.5

- Address Indigenous cultural and historical resources present in the proposed area^{54, 67, 79, 82, 84, 89} particularly the sacred significance of Pt. Conception; examine impacts of protection (addressing the cultural benefits), and consequence of not protecting them.
- Address the diversity of Chumash communities and other Indigenous People's Traditional Ecological Knowledge, perspectives, and traditions in the proposed area.
- Address history of Chumash dependence on a healthy marine environment⁶ and acknowledge Chumash interdependence evident throughout the proposed area.
- Consider how co-management would impact resources of the proposed CHNMS.
- Study maritime heritage resources in the proposed area, including historical shipwrecks⁶⁰ and address potential impacts of sanctuary on U.S. Navy sunken military craft.
- Assess impacts of existing and future offshore energy development on cultural resources.
- Consider the comprehensive cultural resource reviews submarine cables go through for project permitting, and benignly coexist with other ocean resources and uses.
- Address and respect the history of Xolon Salinan Tribe in proposed area,¹⁰ and assess the cultural resources impacts on Xolon Salinan Tribe—particularly review the memorandum of agreement (MOA) and MOU regarding Morro Rock, Morro Bay, and the estuary.⁹

Socioeconomic Resources, Human Uses, and Environmental Justice

Relevant to: EIS Section 4.6

- Address and analyze the potential economic impacts and benefits sanctuary designation could provide local communities, including: e.g., employment opportunities, income, property values; recreational opportunities;⁴² tourism revenue⁸⁶ (wildlife-based tourism,³ recreational boating,³⁹ etc.); promotion/marketing for local businesses; sustainable management of fisheries; scientific research, education, and outreach revenue and opportunities; ensuring military, civil, and commercial operations are unimpeded at Vandenberg³³, and protection of ecosystem services.^{24, 29}
- Specifically assess economic benefits of the designation to these specific counties: SB, SLO, and adjacent Ventura, Monterey, Kings, and Kern.

- Address marine sanctuary effects to coastal development: desalination projects, harbor expansion/improvement, and wind energy, and sediment management (for harbor maintenance/improvement and sea level rise resilience).
- Address potential short- and long-term impacts on ports and harbors: operations, increased costs, and potential restrictions. Emphasis on assessing impacts on Morro Bay Harbor.
- Assess economic contribution of current/potential tourism and recreation activities.^{53, 78}
- Study the trends indicating higher appreciation of native rights and culture in the U.S. and the impact public valuation of the proposed sanctuary.
- Consider the proposed sanctuary area's position as a major submarine cable landing hub already containing critical communications infrastructure⁵⁶ which is essential to the nation's economic stability and other vital public interests.⁵⁷
- Analyze potential impacts of designation on submarine cables and global communications infrastructure (e.g., interruption cost, repair delays resulting from restricted operations).
- Analyze and address socioeconomic impacts on nearby agricultural communities (and Hollister Ranch) Assess impacts of existing and future offshore energy development on agriculture, tourism, and rural quality of life.
- Analyze economic benefits of allowing wind energy.^{32, 61}
- Address potential impacts of power transmission lines on recreational and commercial activities; viewshed impacts⁶³(Big Sur Coast).
- Assess economic benefits of using innovative economic opportunities (e.g., renewable energy, aquaculture, desalination) during Diablo Canyon Power Plant (DCPP) decommissioning.
- Address how ONMS and the state could bolster efforts to increase collaboration with Native American Tribes and enhance public access for all people in the state.
- Analyze social and environmental justice issues on local Tribal, Indigenous, low income, and communities of color^{31, 81} and address how restricting oil and gas could advance EJ.²⁹
- Address impacts on/potential for discrimination against those with mobility impairment-related disabilities.
- Address how past and present environmental injustices disproportionately affect Indigenous communities and analyze how sanctuary would potentially alleviate those impacts.
- Analyze potential benefits of sanctuary citizen science programs to historically underrepresented students in ocean science.
- Evaluate regulations and/or management activities that address potential threats from desalination activities in proposed area.

Offshore Energy

Relevant to: EIS Section 4.7

- Analyze impacts of sanctuary boundaries including offshore oil and gas facilities on lessee's ability to perform lease activities, future development of offshore oil reserves, and terminated leases and the decommissioning process.⁴

- Evaluate, address, and analyze the potential impacts of sanctuary designation on: offshore energy research, exploration, future development and production activities (of both offshore wind⁸⁷ and oil); transmission cables for offshore energy (Morro Bay Wind Energy Area and other projects); state/national energy independence; regional employment, energy availability, reliability, cost, and affordability (e.g., renewable wind); protection from oil and gas activities.
- Analyze buffer options between offshore wind farms and sanctuary boundaries.

Marine Transportation

Relevant to: EIS Section 4.8

- Analyze impacts on vessel traffic to accommodate development of the Morro Bay Wind Energy Area, informed by USCG's Pacific Coast Port Access Route Study (PAC-PARS).⁸
- Assess impacts on all vessels that will transit the area, including recreational boaters.

Homeland Security and Military Uses

Relevant to: EIS Section 4.9

- Analyze potential impacts of sanctuary designation on submarine cables accounting for installation and maintenance requirements and their critical role in national security.¹⁶
- Address potential impacts of sanctuary on Department of Navy, Air Force, U.S. Space Force operations.⁸⁰
- Account for potential impacts of restricting installation and repair of submarine cables.

Relevant Federal and State Statutes

30x30 Goal

Relevant to: EIS Appendix F

- Biodiversity protections afforded to national marine sanctuary will help reach Governor Gavin Newsom's [Executive Order \(E.O.\) N-82-20](#) conserve 30% of our state's lands and coastal waters by 2030, and contribute to national and international 30x30 goals.

Biden Administration "Conserving and Restoring America the Beautiful" Initiative

Relevant to: EIS Appendix F

- Calls for the protection and restoration of at least 30% of lands and waters by 2030.
- Sanctuary would exemplify the principles of and contribute to the administration plan by increasing ocean access for traditionally underserved minorities, marine education, research, and uplift local and traditional knowledge within conservation strategies.

E.O. 14008 – "Tackling the Climate Crisis at Home and Abroad"

Relevant to: EIS Appendix F

- Sanctuary would be consistent with Biden-Harris Administration's goals to tackle climate crisis by conserving and restoring ocean and coastal habitats, advancing Tribally

and locally led stewardship, preventing oil drilling, and promoting renewable energy sources.

Biden Administration Announcement to Jumpstart Offshore Wind Energy Projects to Create Jobs (March 29, 2021)

Relevant to: EIS Appendix F, EIS Section 4.6

- Goal of developing 30 GW of offshore wind by 2030, creating nearly 80,000 jobs, while protecting biodiversity and promoting ocean co-use.

Secretary of the Interior Deb Haaland Announced First Proposed Commercial Wind Project Offshore Virginia

Relevant to: EIS Appendix F, EIS Section 4.6

- “The demand for offshore wind energy has never been greater...offshore wind a promising avenue for diversifying our national energy portfolio, creating good-paying union jobs, and tackling climate change...”

Existing Federal Legislation to Protect Marine and Coastal Environment

Relevant to: EIS Appendix F

- Clean Water Act (CWA), Magnuson-Stevens Fishery Conservation and Management Act (MSA), Marine Mammal Protection Act (MMPA), ESA, Migratory Bird Treaty Act (MBTA), Coastal Zone Management Act (CZMA), NEPA, Rivers and Harbors Act (as amended by the Outer Continental Shelf Lands Act (OCSLA)), National Historic Preservation Act, Antiquities Act, Native American Graves and Repatriation Act, Marine Protection, Research and Sanctuaries Act of 1972 or Ocean Dumping Act.
- Identify how these fail to address threats in the proposed sanctuary and how the sanctuary fulfills these purposes and policies.

Existing State Legislation to Protect Marine and Coastal Environment

Relevant to: EIS Appendix F

- California Coastal Act, Marine Life Management Act, Marine Life Protection Act, California Environmental Quality Act, California Coastal Sanctuary Act.
- Identify how these fail to address threats in the proposed sanctuary and how the sanctuary fulfills these purposes and policies.

Existing Local Legislation to Protect Marine and Coastal Environment

Relevant to: EIS Appendix F

- Plan Morro Bay, Central Coast Regional Water Quality Control Board Irrigated Lands Program (stems from California’s Porter-Cologne Act and the federal CWA).
- Identify how these fail to address threats in the proposed sanctuary and how the sanctuary fulfills these purposes and policies.

Outer Continental Shelf Lands Act

Relevant to: EIS Appendix F, EIS Section 4.7

- BSEE has authority to enforce safety and environmental regulations for the exploration, development, and production of offshore energy activities, including oil and gas, on the Outer Continental Shelf, pursuant to OCSLA (43 U.S.C. § 1331 *et seq.*) and permitting and regulating decommissioning activities of the oil and gas platforms, pipelines, and facilities (30 Code of Federal Regulations (C.F.R.) 250 Subpart Q) located on the Outer Continental Shelf.
- Under Section 8(p)(10), BOEM has no authority to lease or issue a right-of-way or easement on the Outer Continental Shelf within the boundaries of the National Marine Sanctuary System (43 U.S.C. § 1337(p)(10)).

UN Declaration of Rights of Indigenous Peoples

Relevant to: EIS Appendix F, EIS Chapter 3, Management Plan

- Adopt the UN Declaration of Rights of Indigenous Peoples.

NOAA & BOEM MOU: Responsibly Advance Offshore Wind Energy

Relevant to: EIS Appendix F

- Underscores NOAA and BOEM's commitment to leverage their resources and expertise to responsibly deploy 30 GW by 2030 in a way that protects environmental quality, creates jobs, and advances environmental justice.

California Senate Bill (SB) 100

Relevant to: EIS Appendix F

- Established a policy for CA that renewable energy and zero-carbon resources supply 100% of electric retail sales to end-use customers by 2045.
- Offshore wind is an essential addition to California's clean power mix.

2012 MOA and 2015 MOU Between the Salinan and Northern Chumash Regarding Morro Rock, Morro Bay, and the Estuary

Relevant to: EIS Appendix F, EIS Section 4.5

- MOA and MOU available through the California Native American Heritage Commission, The Governor's Office Tribal Advisor, The California Department of Parks and Recreation, and the City of Morro Bay.

Pacific Fisheries Management Council under Magnuson-Stevens Fishery and Conservation Act

Relevant to: EIS Appendix F

- PFMC, which manages fisheries on the U.S. West Coast, has the organizational structure, staffing, and appropriate stakeholder involvement to study fisheries and adopt appropriate regulations.

NMSA – Procedures for Designation and Implementation – Sanctuary Proposal – Fishing Regulations (16 U.S.C. §1434(a)(5))

Relevant to: EIS Appendix F

- This stands for the proposition that the PFMC is charged with developing commercial and recreational fishery regulations in federal waters, including measures that apply to waters within a national marine sanctuary.

NMSA – Sanctuary Designation Standards – Factors and Consultations Required in Making Determinations and Findings (16 U.S.C. §1433(b)(1)(D))

Relevant to: EIS Appendix F

- Commenter 1008 (Commercial Fishermen of Santa Barbara) does not see how the factors for designation are being met per this language. They will track this detail carefully and demand accountability on it if the designation moves forward.

E.O.s by Clinton and Obama, Plus Biden’s Recent Memorandum Prioritizing Consultation and Collaboration Between Federal Agencies and Tribes in Future Regulatory Policies

Relevant to: EIS Appendix F

- Collaborative co-management of the proposed designation and potential management and planning of CHNMS is consistent with these.

Biden’s E.O. on Climate-Related Financial Risk – Sets the Stage for the Federal Government, Including its Financial Regulatory Agencies, to Begin to Incorporate Climate-Risk and Other Environmental, Social, and Governance Strategies

Relevant to: EIS Appendix F

- Climate change adaptation focuses on conducting and translating research to minimize the dire impacts of anthropogenic climate change, including threats to biodiversity and human welfare. One adaptation strategy is to focus conservation on “climate-change refugia” (that is, areas relatively buffered from contemporary climate change over time that enable persistence of valued physical, ecological, and sociocultural resources). It is important to consider the proposed CHNMS as one regulatory tool that can provide climate-change refugia for marine life.

NMSA – Findings, Purposes, and Policies; Establishment of System – Purposes and Policies (16 U.S.C. § 1431(b)(6))

Relevant to: EIS Appendix F, Management Plan

- Requires that marine resource use in sanctuary waters be “compatible” with the goal of marine life protection, allowing any use to take place if it does not threaten the marine life of a sanctuary. A compatible use criterion for marine governance prioritizes the protection of sensitive natural and cultural areas.
- The Chumash Tribe recommends that future marine resource use should be carefully considered in terms of this compatible use value that has yet been clearly defined by the NMSA.

Presidential Policy Directive – Critical Infrastructure Security and Resilience, PPD-21 (Feb. 12, 2013); Department of Homeland Security, Communications Sector – Specific Plan 12-14 (2010)

Relevant to: EIS Appendix F, EIS Section 4.6, EIS Section 4.9

- Submarine cables have long been designated as critical infrastructure by the U.S. government due to their importance for U.S. commercial and national security interests.

United Nations Convention on the Law of the Sea (UNCLOS), Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force on Nov. 16, 1994) arts. 58(1); Proclamation No. 5030, 48 Fed. Reg. 10,605 (Mar. 10, 1983) (establishing the U.S. EEZ); Proclamation No. 7219, 64 Fed. Reg. 48,701 (Aug. 2, 1999) (establishing the U.S. contiguous zone)

Relevant to: EIS Appendix F, EIS Section 4.6, EIS Section 4.9

- The freedom to install and maintain submarine cables is well-established by treaty and customary international law. The U.S. has recognized UNCLOS as customary international law since 1981.
- Presidential proclamations expressly stated that EEZ and contiguous zone establishments did not infringe on these freedoms.

Biden’s E.O. on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

Relevant to: EIS Appendix F

- “An ambitious whole-of-government equity agenda” addresses “entrenched disparities in our laws and public policies,” and mandates a “comprehensive approach to advancing equity for all.”
- Emphasis on enabling and empowering people with disabilities.

E.O. 12898 – Requires that Environmental Justice Considerations be Incorporated into Agency Analysis

Relevant to: EIS Appendix F, EIS Section 4.6

- See, e.g., *California v. Bernhardt*, 472 F. Supp. 3d 573, 621–22 (N.D. Cal. 2020) (finding NEPA’s “hard look” requirement was not met when BLM concluded there would be no significant impact on minority or low-income populations while ignoring contrary evidence in the record); Exec. Order No. 12,898 § 1-101, 59 Fed. Reg. 7629, 7629 (Feb. 16, 1994).

Sunken Military Craft Act

Relevant to: EIS Appendix F, EIS Section 4.5

- The Naval History and Heritage Command administers the Navy’s authorities and responsibilities under the Sunken Military Craft Act to protect sunken military crafts.

California Governor Newsom’s [Statement of Administration Policy on Native American Ancestral Lands](#)

Relevant to: EIS Appendix F, Management Plan, EIS Section 4.5

- Directs state agencies, departments, commissions, etc. to support California Tribes’ co-management and access to lands and waters within Tribes’ ancestral territories. This designation would support this policy by protecting culturally important sites, preserving traditional history, and promoting Chumash stewardship of ancestral lands and waters.

[Guidelines for Specification of Disposal Sites for Dredged or Fill Materials](#) – 40 C.F.R. 230.4

Relevant to: EIS Appendix F, Management Plan

- Designation would redefine the area as a special aquatic site (defined at 40 C.F.R. 230.4).

Infrastructure Investment and Jobs Act (2021)

Relevant to: EIS Appendix F

- Directed the Department of the Interior to move expeditiously to set a regulatory framework for carbon capture and sequestration on the Outer Continental Shelf.

Appendix B.2: Information and Analyses for EIS (Submitted by Commenters)

Appendix B.2 contains information and analyses for the EIS submitted by commenters. Appendix B.2 satisfies the 2020 Council on Environmental Quality NEPA regulations requiring identification of these types of scoping comments in the EIS (85 Fed. Reg. at 43372-73 (40 C.F.R. 1502.17)). These comments are identified by in-text superscript number citations in Appendix B.1, which refer to the corresponding row number in Appendix B.2.

The following supplemental information (i.e., supplemental materials or references) was submitted during scoping for consideration by the lead and cooperating agencies in developing the EIS. Numbering corresponds to superscripts in Appendix B.1. References to the relevant EIS section in the table (far right column) are meant to indicate the section in the EIS that addresses the topic relevant to the comment.

* Superscript numbers in sections above refer to the citations below:

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|-------------------|---|----------------------|
| 1. Commenter 84 | <ul style="list-style-type: none"> Fewings, M. R., Washburn, L., Dorman, C. E., Gotschalk, C., and Lombardo, K. (2016), Synoptic forcing of wind relaxations at Pt. Conception, California, J. Geophys. Res. Oceans, 121, 5711–5730, doi:10.1002/2016JC011699. Caselle, J., Rassweiler, A., Hamilton, S. et al. (2015) Recovery trajectories of kelp forest animals are rapid yet spatially variable across a network of temperate marine protected areas. Sci Rep 5, 14102. https://doi.org/10.1038/srep14102. | EIS Section 4.3 |
| 2. Commenter 93 | <ul style="list-style-type: none"> Roman, Joe, et al. "Whales as Marine Ecosystem Engineers." The Ecological Society of America, John Wiley & Sons, Ltd, 3 July 2014, https://esajournals.onlinelibrary.wiley.com/doi/full/10.1890/130220. | EIS Section 4.3 |
| 3. Commenter 93 | <ul style="list-style-type: none"> Wilson, Clevo, and Clem Tisdell. "Conservation and Economic Benefits of Wildlife-Based Marine Tourism: Sea Turtles and Whales as Case Studies." Economics, Ecology and the Environment, The University of Queensland, Brisbane 4072 Australia, Feb. 2002, https://espace.library.uq.edu.au/data/UQ_177584/WP64.pdf. | EIS Section 4.6 |
| 4. Commenter 1223 | <ul style="list-style-type: none"> On July 23, 2021, BSEE published a Notice of Intent in the Federal Register for the Programmatic Environmental Impact Statement for Oil and Gas Decommissioning Activities on the Pacific OCS (86 Fed. Reg. 39055; https://www.federalregister.gov/documents/2021/07/23/2021-15723/programmatic-environmental-impact-statement-for-oil-and-gas-decommissioning-activities-on-the). BSEE extended the scoping period on September 23, 2021, through October 15, 2021 (86 Fed. Reg. 52922; https://www.federalregister.gov/documents/2021/09/23/2021-20588/programmatic-environmental-impact-statement-for-oil-and-gas-decommissioning-activities-on-the) | EIS Section 4.7 |
| 5. Commenter 1206 | <ul style="list-style-type: none"> U.S. Census Bureau 2012 (full citation not provided) | EIS Section 4.5 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|--|----------------------|
| 6. Commenter 1206 | <ul style="list-style-type: none"> The marine component of the Chumash diet consisted of >150 types of marine fishes as well as a variety of shellfish including crabs, lobsters, mussels, abalone, clams, oysters, chitons, and other gastropods. Shellfish were essential to the Chumash economy and material culture. In fact, the Chumash produced the majority of shell bead money used by peoples throughout southern California. The Chumash had an intimate relationship with the culture, sea, and our channel. Many animals, such as the swordfish, played a central role in Chumash maritime song, ceremony, ritual, and dance. As the first inhabitants of the region, Chumash recognized and celebrated the deep connection between coastal, marine and island areas. It was and is a cultural protocol to offer a prayer and or a song before harvesting as an interdependent act of reciprocity. Today, as Chumash recover a sense of place and community, they recognize the urgent need to re-build a bridge to their historic maritime traditions and to the other creatures that share this region with them. | EIS Section 4.5 |
| 7. Commenter 1191 | <ul style="list-style-type: none"> California Polytechnic Institute, https://doi.org/10.1088/2515-7620/ab4ee1 & E3, The Economic Value of Offshore Wind Power in California, http://castlewind.com/wp-content/uploads/2019/08/2019-08-E3-CastleWind-OffshoreWindValueReport_compressed.pdf. | |
| 8. Commenter 1191 | <ul style="list-style-type: none"> U.S. Coast Guard and Dept. of Homeland Security, Port Access Route Study: The Pacific Coast From Washington to California – Notification of Study, Request for Comments, 86 Fed. Reg. 40791 (July 29, 2021) available at https://www.federalregister.gov/documents/2021/07/29/2021-15923/port-access-route-study-the-pacific-coast-from-washington-to-california. | EIS Section 4.8 |
| 9. Commenter 774 | <ul style="list-style-type: none"> MOA and MOU (2012, 2015), established between the Salinan and Northern Chumash regarding Morro Rock, Morro Bay, and the estuary. The MOA and MOU describing “Salinan” and “Northern Chumash” includes all cultural and non-profit entities who use these cultural identities. The memorandums are available through the California Native American Heritage Commission, The Governor’s Office Tribal Advisor, The California Department of Parks and Recreation, and the City of Morro Bay. | EIS Section 4.5 |
| 10. Commenter 774 | <ul style="list-style-type: none"> The Xolon-Salinan ancestors lived within permanent and seasonal villages throughout these sacred coastlines, for over 13,000 years. Our ancestors’ remains are documented throughout these coastal regions of California, from Le’Sam lak’ aka Morro Lands, and north up to Dolan Rock-Sur’ coastline. Our ancestors fought many battles to protect these ancestral coastline territories. To this day, the Xolon-Salinan continues to protect these sacred landscapes within our coastal territories. | EIS Section 4.5 |
| 11. Commenter 1216 | <ul style="list-style-type: none"> According to California Department of Fish and Wildlife datasets, between 2010 and 2017, Morro Bay and Port San Luis Commercial fishermen and women landed, on average, 5,068,806 pounds of seafood with an ex-vessel value of \$8,750,108 per year. Note, ex-vessel revenues do not reflect the true economic impact of our fishermen’s actions. Some economists conservatively estimate a multiplier of at least 4x measures the true economic impact to the local economy. | EIS Section 4.4 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|---|----------------------|
| 12. Commenter 1216 | <ul style="list-style-type: none"> “Not only is the fishing industry of Morro Bay a powerful link to the past, but it is also an integral part of the city’s identity and provides a great sense of pride for its local residents.” – author of The Rise and Fall of Commercial Fishing in Morro Bay (source: Hidden History Final Project) Comments made over 40 years ago during a public hearing held by the South Central Regional Coastal Commission: the following "amenities" were highlighted by the City as being offered to tourists: boat builders, sport fishing accommodations, marinas, piers, commercial fishing operations, an aquarium, a museum of natural history, and 38 motels with 745 rooms to accommodate about 2,600 guests. (source: A Timeline – Historical Society of Morro Bay) | EIS Section 4.4 |
| 13. Commenter 908 | <ul style="list-style-type: none"> Literature on co-management shows benefits to a more formal, collaborative co-management approach, including improved management due to incorporation of better data and local ecological knowledge; more appropriate rules and regulations that can respond rapidly to changing conditions; more effective and efficient enforcement due to increased legitimacy of the co-management structures. Scholars show that successful co-management can increase equitable and fair use of resources and can contribute to the empowerment and development of marginalized communities. (Citations not provided.) | Management Plan |
| 14. Commenter 908 | <ul style="list-style-type: none"> National Academy of Public Administration 2021: 51. | Management Plan |
| 15. Commenter 908 | <ul style="list-style-type: none"> Vessel strike studies completed for CINMS. (Citations not provided.) | EIS Section 4.3 |
| 16. Commenter 1177 | <ul style="list-style-type: none"> Michael Matis, The Protection of Undersea Cables: A Global Security Threat (July 3, 2012) (M.S.S. Strategy Paper, U.S. Army War College: Carlisle, PA), https://apps.dtic.mil/sti/pdfs/ADA561426.pdf. | EIS Section 4.9 |
| 17. Commenter 1177 | <ul style="list-style-type: none"> L. Carter et al., Submarine Cables and the Oceans—Connecting the World, 30 UNEP-WCMC Biodiversity Series, ICPC and the United Nations Environment Program-World Climate Monitoring Centre (2009), https://www.unep-wcmc.org/system/dataset_file_fields/files/000/000/118/original/ICPC_UNEP_Cables.pdf?1398680911. U.N. Secretary-General, Oceans and the Law of the Sea, Seventieth Session, ¶¶ 53–55, U.N. Doc. A/70/74 (2015), https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/093/76/PDF/N1509376.pdf?OpenElement. U.N. Group of Experts on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, World Ocean Assessment I: The First Global Integrated Marine Assessment, pt. V, ch. 19 at 3–4 (2016), https://www.un.org/depts/los/global_reporting/WOA_RPROC/Chapter_19.pdf. | EIS Section 4.3 |
| 18. Commenter 1177 | <ul style="list-style-type: none"> Lionel Carter et al., Chemical and Physical Stability of Submarine Fibre-Optic Cables in the Area Beyond National Jurisdiction (ABNJ), Presentation at SubOptic 2019 (Mar. 3, 2019). | EIS Section 4.2 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|--|---|
| 19. Commenter 1177 | <ul style="list-style-type: none"> Luana Albert et al., A current synthesis on the effects of electric and magnetic fields emitted by submarine power cables on invertebrates, 159 Marine Environmental Research 104958, 104962 (2020). Lionel Carter et al., Chemical and Physical Stability of Submarine Fibre-Optic Cables in the Area Beyond National Jurisdiction (ABNJ), Presentation at SubOptic 2019 (Mar. 3, 2019); Christoph Kraus and Lionel Carter, Seabed recovery following protective burial of subsea cables – Observations from the continental margin, 157 Ocean Engineering 251 (2018), https://doi.org/10.1016/j.oceaneng.2018.03.037. L.A. Kuhn et al., MARS Biological Survey Report: Potential Impacts of the Monterey Accelerated Research System (MARS) Cable on the Seabed and Benthic Faunal Assemblages, Monterey Bay Aquarium Rsch. Inst., at i (2020) http://dx.doi.org/10.13140/RG.2.2.12907.57122. | EIS Section 4.3 |
| 20. Commenter 1151 | <ul style="list-style-type: none"> Katie Lebling and Eliza Northrop, “Leveraging the Ocean's Carbon Removal Potential,” World Resources Institute, October 8, 2020. | EIS Section 4.2 |
| 21. Commenter 1151 | <ul style="list-style-type: none"> “Blue Carbon,” IUCN, last accessed January 31, 2022. | EIS Section 4.2 |
| 22. Commenter 1139 | <ul style="list-style-type: none"> Marine Conservation Institute videos, story maps, and reports on CA seamounts can be found at: https://marine-conservation.org/californias-seamounts/. Detailed report on all CA seamounts including Rodriguez and the references can be found at: https://marine-conservation.app.box.com/s/woq71yl0sg8ragf6mnuxdqrf3ocysola. Contact Marine Conservation Institute for dataset and code used to manipulate Global Fishing Watch raw data into 23-km² blocks and calculate hours of fishing effort over a 9-yr period into each block. | EIS Section 4.2, EIS Section 4.3, Regulations |
| 23. Commenter 1128 | <ul style="list-style-type: none"> See Protected Seas letter for analysis of existing marine regulatory seascape information and maps. | Management Plan |
| 24. Commenter 1112 | <ul style="list-style-type: none"> Edward B. Barbier, Progress and Challenges in Valuing Coastal and Marine Ecosystem Services, 6 REV. ENV'T ECON. & POL'Y 1, 2 (2012) | EIS Section 4.6 |
| 25. Commenter 1112 | <ul style="list-style-type: none"> Inst. for Pol'y Integrity, Comments Re: Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Public Comment 6–9 (July 10, 2017) https://policyintegrity.org/documents/National_Monument_comments_July2017.pdf. | EIS Section 4.6 |
| 26. Commenter 1112 | <ul style="list-style-type: none"> Paul Lorah & Rob Southwick, Environmental Protection, Population Change, and Economic Development in the Rural Western United States, 24 POPULATION AND ENVIRONMENT 255, 265 (Jan. 2003). Rural Western United States, 24 POPULATION AND ENVIRONMENT 255, 265 (Jan. 2003). 7 Ray Rasker, Patricia H. Gude & Mark Delorey, The Effects of Protected Federal Lands on Economic Prosperity in the Non-metropolitan West, 43 J. REG'L ANALYSIS & POL'Y, 110, 118, 110 (2013). | EIS Section 4.6 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|--|----------------------------------|
| 27. Commenter 1112 | <ul style="list-style-type: none"> The Non-metropolitan West, 43 J. REG'L ANALYSIS & POL'Y, 110, 118, 110 (2013). 8 Kathryn Gazal, Ross Andrew & Robert Burns, Economic Contributions of Visitor Spending in Ocean Recreation in the Florida Keys National Marine Sanctuary, 14 WATER 198, 198, 204 (2022). 9 In considering the "marine economy," the relevant NOAA report evaluates "benefits | EIS Section 4.6 |
| 28. Commenter 1112 | <ul style="list-style-type: none"> In considering the "marine economy," the relevant NOAA report evaluates "benefits derived from the oceans and Great Lakes that result in jobs and wages, and that contribute directly to the nation's gross domestic product, or GDP." NAT'L OCEANIC & ATMOSPHERIC ADMIN. OFFICE OF COASTAL MGMT., NOAA Report on the U.S. Marine Economy: Regional and State Profiles 1 (2021), https://coast.noaa.gov/data/digitalcoast/pdf/econ-report-regional-state.pdf | EIS Section 4.6 |
| 29. Commenter 1112 | <ul style="list-style-type: none"> Jason Scorse & Judith Kildow, Ecosystem Services and Their Economic and Social Value, in ROUTLEDGE HANDBOOK OF OCEAN RESOURCES AND MANAGEMENT 176, 182 (Hance D. Smith et al., eds., 2015). | EIS Section 4.5, EIS Section 4.6 |
| 30. Commenter 1112 | <ul style="list-style-type: none"> Mary Ruckelshaus et al., Securing Ocean Benefits for Society In the Face of Climate Change, 40 MARINE POL'Y 154, 154 (2012). | EIS Section 4.2 |
| 31. Commenter 1112 | <ul style="list-style-type: none"> White House Environmental Justice Advisory Council, Final Recommendations: Justice40 Climate and Economic Justice Screening Tool & E.O. 12898 Revisions 77-81 (2021), https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf (defining environmental justice and environmental justice communities). | EIS Section 4.6 |
| 32. Commenter 1090 | <ul style="list-style-type: none"> Economic Impact of Offshore Wind Farm Development on the Central Coast of California: https://reachcentralcoast.org/wp-content/uploads/Economic_Value_OSW_REACH.pdf. | EIS Section 4.6 |
| 33. Commenter 1090 | <ul style="list-style-type: none"> Building a Thriving Space Enterprise on the Central Coast of California: https://reachcentralcoast.org/wp-content/uploads/Commercial-Space-Master-Plan.pdf. | EIS Section 4.6 |
| 34. Commenter 1088 | <ul style="list-style-type: none"> In 2020, California anglers contributed \$62.71 million in license sales and another \$17.1 million in excise taxes on fishing tackle and motorboat fuels to conservation of California's marine and freshwater aquatic resources through a system known as the American System of Conservation Funding. Ensuring continued fishing access for Californians is critical to providing much needed conservation funding for the California Department of Fish and Wildlife, while also providing opportunities for the public to connect with, and appreciate, the area's fish and wildlife resources. (Citations not provided.) | EIS Section 4.6 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|--|------------------------------|
| 35. Commenter 1056 | <ul style="list-style-type: none"> California Dungeness Crab Fishing Gear Working Group: https://www.opc.ca.gov/whale-entanglement-working-group/ CDFW 2021. Draft Conservation Plan for California's Commercial Dungeness Crab Fishery – December 2021 Draft. 129 pages. Available at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195798 Lebon, K.M., and R.P. Kelly. 2019. Evaluating alternatives to reduce whale entanglements in commercial Dungeness crab fishing gear. <i>Global Ecology and Conservation</i> 18:e00608. Moore, M.J. 2019. How we can all stop killing whales: a proposal to avoid whale entanglement in fishing gear. <i>ICES Journal of Marine Science</i> 76(4):781–786. | Regulations, EIS Section 4.3 |
| 36. Commenter 1056 | <ul style="list-style-type: none"> Hatfield, B.B., J.L. Yee, M.C. Kenner, and J.A. Tomoleoni. 2019. California sea otter (<i>Enhydra lutris nereis</i>) census results, spring 2019. U.S. Geological Survey Data Series 1118, Reston, Virginia, USA. | EIS Ch. 3, EIS Section 4.3 |
| 37. Commenter 1056 | <ul style="list-style-type: none"> Henry, A.E., J.E. Moore, J. Barlow, J. Calambokidis, L.T. Ballance, L. Rojas Bracho, and J. Urbán Ramírez. 2020. Report on the California Current Ecosystem Survey (CCES): Cetacean and seabird data collection efforts, June 26–December 4, 2018, U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-636. 38 pages. Carretta, J.V., E.M. Oleson, K.A. Forney, M.M. Muto, D.W. Weller, A.R. Lang, J. Baker, B. Hanson, A.J. Orr, J. Barlow, J.E. Moore, and R.L. Brownell, Jr. 2021a. U.S. Pacific Marine Mammal Stock Assessments: 2020. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-646. 394 pages. Calambokidis J., G.H. Steiger, C. Curtice, J. Harrison, M.C. Ferguson, E. Becker, M. DeAngelis, and S.M. Van Parijs. 2015. Biologically important areas for selected cetaceans within U.S. waters – West Coast region. <i>Aquatic Mammals</i> 41(1):39–53. Hazen, E.L., D.M. Palacios, K.A. Forney, E.A. Howell, E. Becker, A.L. Hoover, L. Irvine, M. DeAngelis, S.J. Bograd, B.R. Mate, and H. Bailey. 2016. WhaleWatch: a dynamic management tool for predicting blue whale density in the California Current. <i>Journal of Applied Ecology</i> 54(5):1415–1428. Abrahms B., E.L. Hazen, E.O. Aikens, M.S. Savoca, J.A. Goldbogen, S.J. Bograd, M.G. Jacox, L.M. Irvine, D.M. Palacios, and B.R. Mate. 2019. Memory and resource tracking drive blue whale migrations. <i>Proceedings of the National Academy of Sciences</i> 116(12): 5582–5587. | EIS Section 4.3 |

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| 38. Commenter 1056 | <ul style="list-style-type: none"> • Carretta, J.V., J. Greenman, K. Wilkinson, J. Freed, L. Saez, D. Lawson, J. Viezbicke, and J. Jannot. 2021b. Sources of Human-Related Injury and Mortality for U.S. Pacific West Coast Marine Mammal Stock Assessments, 2015–2019. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-643. 157 pages. • Carretta, J.V., E.M. Oleson, K.A. Forney, M.M. Muto, D.W. Weller, A.R. Lang, J. Baker, B. Hanson, A.J. Orr, J. Barlow, J.E. Moore, and R.L. Brownell, Jr. 2021c. Draft U.S. Pacific Marine Mammal Stock Assessments: 2021. Unpublished. Available at: https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports. • Data extracted from a bar chart published in NOAA’s “2020 West Coast Whale Entanglement Summary,” available at: https://media.fisheries.noaa.gov/2021-03/2020_West_Coast_Whale_Entanglement_Summary.pdf. • The “2019 West Coast Whale Entanglement Summary,” available at: https://media.fisheries.noaa.gov/dam-migration/wcr-nmfs_2019_entanglement_report_final-508_5-11-2020_rev.pdf, provides detailed species and fisheries entanglement data from 2014–2019. • Cassoff, R.M., K.M. Moore, W.A. McLellan, S.G. Barco, D.S. Rotstein, and M.J. Moore. 2011. Lethal entanglement in baleen whales. <i>Diseases of Aquatic Organisms</i> 96(3):175–185. • Moore, M.J., and J.M. Van der Hoop. 2012. The painful side of trap and fixed net fisheries: chronic entanglement of large whales. <i>Journal of Marine Biology</i> 2012:230653. • Santora, J.A., N.J. Mantua, I.D. Schroeder, J.C. Field, E.L. Hazen, S.J. Bograd, W.J. Sydeman, B.K. Wells, J. Calambokidis, L. Saez, and D. Lawson. 2020. Habitat compression and ecosystem shifts as potential links between marine heatwave and record whale entanglements. <i>Nature Communications</i> 11:536. • Ingman K., E. Hines, P.L.F. Mazzini, R.C. Rockwood, N. Nur, and J. Jahncke. 2021 Modeling changes in baleen whale seasonal abundance, timing of migration, and environmental variables to explain the sudden rise in entanglements in California. <i>PLoS ONE</i> 16(4): e0248557. • Pace, R.M., III, R. Williams, S.D. Kraus, A.R. Knowlton, and H.M. Pettis. 2021. Cryptic mortality of North Atlantic right whales. <i>Conservation Science and Practice</i> 3(2):e346. • Wade, P.R. 2017. Estimates of Abundance and Migratory Destination for North Pacific Humpback Whales in Both Summer Feeding Areas and Winter Mating and Calving Areas: Revision of Estimates in SC/66b/IA21. International Whaling Commission Report SC/A17/NP/11. 9 pages. • NOAA Fisheries (National Marine Fisheries Service). 2020. Biological report for the designation of critical habitat for the Central America, Mexico, and Western North Pacific DPS of Humpback Whales (<i>Megaptera novaeangliae</i>). 162 pages. Available at: https://media.fisheries.noaa.gov/2021-04/Biological%20Report_HWCH_081420_updated_508.pdf. • Barlow, J., and D. Hanan. 1995. An Assessment of the Status of Harbor Porpoise in Central California. Report of the International Whaling Commission, Special Issue 16:123–140. • Forney, K.A., J.E. Moore, J. Barlow, J.V. Carretta, and S.R. Benson. 2020. A multidecadal Bayesian trend analysis of harbor porpoise (<i>Phocoena phocoena</i>) populations off California relative to past fishery bycatch. <i>Marine Mammal Science</i> 37(2):546–560. | EIS Section 4.3 |
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| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| | <ul style="list-style-type: none"> Carretta, J.V. 2021. Estimates of Marine Mammal, Sea Turtle, and Seabird Bycatch in the California Large-Mesh Drift Gillnet Fishery: 1990–2019. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-654. 72 pages. Barlow, J., and G.A. Cameron. 2003. Field experiments show that acoustic pingers reduce marine mammal bycatch in the California drift gillnet fishery. <i>Marine Mammal Science</i> 19:265–283. Carretta, J.V., J. Barlow, and L. Enriquez. 2008. Acoustic pingers eliminate beaked whale bycatch in a gill net fishery. <i>Marine Mammal Science</i> 24(4):956–961. Carretta, J.V. and J. Barlow. 2011. Long-term effectiveness, failure rates, and “dinner bell” effects of acoustic pingers in a gillnet fishery. <i>Marine Technology Society Journal</i> 45(5):7–19. Barlow, J., R.L. Brownell, Jr., D.P. DeMaster, K.A. Forney, M.S. Lowry, S. Osmeck, T.J. Ragen, R.R. Reeves, R.J. Small. 1995. U.S. Pacific Marine Mammal Stock Assessments. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-219. Moore, M.J., G.H. Mitchell, T.K. Rowles, and G. Early. 2020. Dead cetacean? Beach, bloat, float, sink. <i>Frontiers in Marine Science</i> 7:333. Freedman, R., S. Herron, M. Byrd, K. Birney, J. Morten, B. Shafritz, B., C. Caldow, and S. Hastings. 2017. The effectiveness of incentivized and non-incentivized vessel speed reduction programs: case study in the Santa Barbara channel. <i>Ocean and Coastal Management</i>. 148:31–39. https://www.bsee.gov/stats-facts/ocs-regions/pacific/pacific-ocs-platforms https://response.restoration.noaa.gov/oil-and-chemical-spills/oil-spills/largest-oil-spills-affecting-us-waters-1969.html See BOEM Central California Call Area map at https://www.boem.gov/sites/default/files/renewable-energy-program/State-Activities/CA/Central-California-Call-Areas-Map.pdf (November 2018). Nichols, K.D., L. Segui, and K.A. Hovel. 2015. Effects of predators on sea urchin density and habitat use in a southern California kelp forest. <i>Marine Biology</i> 162:1227–1237. Raymond, W.W., B.B. Hughes, T.A. Stephens, C.R. Mattson, A.T. Bolwerk, and G.L. Eckert. 2021. Testing the generality of sea otter-mediated trophic cascades in seagrass meadows. <i>Oikos</i> 130(5):725–738. Smith, J.G., J. Tomoleoni, M. Staedler, S. Lyon, J. Fujii, and M.T. Tinker. 2021. Behavioral responses across a mosaic of ecosystem states restructure a sea otter–urchin trophic cascade. <i>Proceedings of the National Academy of Sciences</i> 118:11. https://www.fws.gov/ventura/endangered/species/info/sso.html | |
| 39. Commenter 1096 | <ul style="list-style-type: none"> According to the Bureau of Economic Analysis Outdoor Recreation Satellite Account, Boating and Fishing in California generated \$2,781,456,000 in 2020, dwarfing almost every other measured recreational sector. | EIS Section 4.8, EIS Section 4.6 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| 40. Commenter 1095 | <ul style="list-style-type: none"> Marchese, Christian. 2015. Biodiversity hotspots: A shortcut for a more complicated concept. <i>Global Ecology and Conservation</i>. Vol. 3; 297–309. sciencedirect.com/science/article/pii/S235198941400095X http://channelislands.noaa.gov/; http://www.nps.gov/chis/index.htm. For a detailed discussion of the biological and geographic attributes of the Santa Barbara Channel region, see NOAA's A Biogeographic Assessment of the Channel Islands National Marine Sanctuary: A Review of Boundary Expansion Concepts for NOAA's National Marine Sanctuary Program, NOAA Technical Memorandum NOS NCCOS 21, November 2005. National Park Service, U.S. Department of the Interior. Gaviota Coast Draft Feasibility Study & Environmental Assessment. April 2003. See pp. 48–49. | EIS Section 4.3 |
| 41. Commenter 1095 | <ul style="list-style-type: none"> NOAA National Centers for Coastal Ocean Science (NCCOS). 2005. A Biogeographic Assessment of the Channel Islands National Marine Sanctuary: A Review of Boundary Expansion Concepts for NOAA's National Marine Sanctuary Program. Prepared by NCCOS's Biogeography Team in cooperation with the National Marine Sanctuary Program. Silver Spring, MD. NOAA Technical Memorandum NOS NCCOS 21. 215 pp. | EIS Ch. 3, EIS Section 4.2, EIS Section 4.3 |
| 42. Commenter 1095 | <ul style="list-style-type: none"> https://sanctuaries.noaa.gov/visit/giys.html | EIS Section 4.6 |
| 43. Commenter 1095 | <ul style="list-style-type: none"> https://www.fws.gov/endangered/species/ https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline | EIS Section 4.3 |
| 44. Commenter 1095 | <ul style="list-style-type: none"> Inventory of Unconveyed State School Lands and Tide and Submerged Lands Possessing Significant Environmental Values. 1975. California State Lands Commission. https://www.slc.ca.gov/wp-content/uploads/2018/11/1975-InvUnconveyedLands.pdf | EIS Section 4.3 |
| 45. Commenter 1095 | <ul style="list-style-type: none"> The proposed CHNMS overlaps with several Audubon Pelagic Important Bird Areas (IBAs) and is adjacent to six onshore IBAs in an international program to identify high conservation areas for birds. The Pelagic IBAs include sooty shearwater, ashy-storm petrel, Brandt's cormorant, and pink-footed shearwater. The onshore IBAs include Point Conception 120W/34N, Point Conception 121W/34N, Vandenberg Air Force Base and Santa Ynez Sanctuary IBA and cover over 20 species of seabirds. For example, the projects are adjacent to a major Audubon marine IBA—the Piedras Blancas, CA IBA—that has high concentrations and congregations of sooty shearwater, which forage in these waters during the California summer months after breeding and nesting on Pacific islands. The IBA is already used extensively by fisheries and aquaculture (30% of the IBA), tourism and recreation (10% of the IBA), urban/industrial transport and ports (30% of the IBA), and the military (30% of the IBA). The proposed sanctuary is also along the Pacific Flyway migration route: https://www.audubon.org/birds/flyways | EIS Section 4.3 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| 46. Commenter 1095 | <ul style="list-style-type: none"> • http://www.unesco.org/new/en/natural-sciences/special-themes/biodiversity/biodiversity-science-and-policy/ipbes/#:~:text=The%20Intergovernmental%20Science%2DPolicy%20Platform,of%20biodiversity%20and%20ecosystem%20services • Listed on the California Endangered Species Act or as a Species of Special Concern; https://wildlife.ca.gov/Conservation • IPCC, 2019: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, P. Zhai, M. Tignor, E. Poloczanska, K. Mintenbeck, A. Alegría, M. Nicolai, A. Okem, J. Petzold, B. Rama, N.M. Weyer (eds.)]. In press. • Caselle, J.E., K. Davis, L.M. Marks. 2017. Marine management affects the invasion success of a non-native species in a temperate reef system in California, USA. Ecology Letters, (2017) doi: 10.1111/ele.12869 • Office of National Marine Sanctuaries. 2019. Channel Islands National Marine Sanctuary 2016 Condition Report. • U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Silver Spring, MD. 482 pp. • http://www.piscoweb.org/sea-star-wasting-syndrome-0 • Osborne, E.B., R.C. Thunell, N. Gruber, R.A. Feely, and C.R. Benitez-Nelson. 2020. Decadal variability in twentieth-century ocean acidification in the California Current Ecosystem. Nat. Geosci. 13, 43–49 (2020). https://doi.org/10.1038/s41561-019-0499-z | EIS Section 4.3 |
| 47. Commenter 1095 | <ul style="list-style-type: none"> • 27 IPBES (2019): Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. E. S. Brondizio, J. Settele, S. Díaz, and H. T. Ngo (editors). IPBES secretariat, Bonn, Germany. 1148 pages. https://doi.org/10.5281/zenodo.3831673 • Ramírez, Francisco, Isabel Afán, Lloyd S. Davis, and André Chiaradia. "Climate impacts on global hot spots of marine biodiversity." Science Advances 3, no. 2 (2017): e1601198. • Gittings, S.R., M. Tarrt, and K. Broughton. 2013. National Marine Sanctuary System Condition Report 2013. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Silver Spring, MD. 33 pp. (URL http://www.sanctuaries.noaa.gov/science/condition/) • "Management Plan Reviews." Office of National Marine Sanctuaries. Accessed January 12, 2022. https://sanctuaries.noaa.gov/management/mpr/. | EIS Section 4.3 |
| 48. Commenter 1095 | <ul style="list-style-type: none"> • https://channelislands.noaa.gov/manage/resource/whales-and-ships.html • CINMS Advisory Council Marine Shipping Working Group Final Report. 2016. Available at: https://www.environmentaldefensecenter.org/pdf/Marine_Shipping_Working_Group_Final_Report_May_2016.pdf | Management Plan, EIS Ch. 3 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| 49. Commenter 1095 | <ul style="list-style-type: none"> Central Coast Cooperative Monitoring Program 2019 Annual Water Quality Report, Central Coast Water Quality Preservation, Inc., at 4 (https://ccwqp.org/wp-content/uploads/2020/07/2019-CMP-Annual-Report.pdf) | EIS Section 4.2 |
| 50. Commenter 1095 | <ul style="list-style-type: none"> https://www.nps.gov/chis/learn/news/pr042817.htm https://sanctuaries.noaa.gov/science/sentinel-site-program/channel-islands/invasive-species.html#:~:targetText=CINMS%20is%20near%20a%20major,species%2C%20and%20disrupt%20ecosystem%20processes. | EIS Section 4.3 |
| 51. Commenter 1095 | <ul style="list-style-type: none"> https://olympiccoast.noaa.gov/management/intergovernmentalpolicy.html | Management Plan |
| 52. Commenter 1095 | <ul style="list-style-type: none"> Office of Hawaiian Affairs, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and State of Hawai'i. (2021). Mai Ka Pō Mai: A Native Hawaiian Guidance Document for Papahānaumokuākea Marine National Monument. Honolulu, HI: Office of Hawaiian Affairs. | Management Plan |
| 53. Commenter 1095 | <ul style="list-style-type: none"> NOAA Office for Coastal Management. 2015 NOAA Report on the National Significance of California's Ocean Economy. Middlebury Institute of International Studies at Monterey, Center for the Blue Economy. 2016. National Ocean Economics Program, State of the U.S. Ocean and Coastal Economies, 2016 Update. National Ocean Economics Program Market Data. https://www.oceaneconomics.org/Market/ocean/oceanEconResults.asp?IC=N&dataSource=E&selState=6&selCounty=06083&selYears=All&selSector=6&selIndust=All&selValue=All&selOut=display&noeplID=unknown | EIS Section 4.6 |
| 54. Commenter 1094 | <ul style="list-style-type: none"> The tomol is an example of how the Chumash have used natural resources from the sea. Our tomols are made from redwood logs that drifted to our shores from Canada and the Northwestern United States. Natural tar seeps along the shore were used as sealants for our boats and baskets. Coastal wetlands serve as fish nurseries. Plants from the wetlands were used to make cording to secure the planks of our boats. Ocean resources were vital to the Coastal Chumash communities. The abundant sea life fed our families. Abalone and other shells were used to make beads, household tools and many other items that were traded far and wide. There are numerous sacred sites, cemeteries and former village sites that are encompassed within the boundaries of the proposed marine sanctuary, both onshore and submerged that deserve preservation. For example, Point Conception is a key element of Chumash culture. The Western Gate or Humqag is known amongst most Indigenous North Americans as the way spirits of the dead pass from this world to the next. | EIS Section 4.5 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| 55. Commenter 1083 | <ul style="list-style-type: none"> Cables have a very low environmental impact. See: Vineyard Wind 1 Offshore Wind Energy Project Final EIS, Vol. 1 at 2-9 to 2-10 (Mar. 2021), describing the export cable installation method for an offshore wind energy project approved by the Bureau of Ocean Energy Management in a Record of Decision dated May 10, 2021. Available at: https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Vineyard-Wind-1-FEIS-Volume-1.pdf. Cables are constructed of a metal conductor wrapped in solid plastic insulation, shielding, and steel wire armor on the exterior. The cables contain no oil and therefore present no risk of an accidental spill, and they are typically buried under the seabed. | EIS Section 4.3 |
| 56. Commenter 1068 | <ul style="list-style-type: none"> PC-1 is a 13,076-route-mile fiber optic system designed and built from 1998 to 2000, with a total project cost of approximately \$1.35 billion. In addition to PC-1, Pan American Crossing, connecting the U.S. and Latin America, and near-completion CAP-1, which will connect the U.S. and the Philippines, land at Grover Beach. As noted, a sixth major international cable, landing in Grover Beach, is under construction and near completion. | EIS Section 4.6 |
| 57. Commenter 1068 | <ul style="list-style-type: none"> U.S. Department of Homeland Security, National Infrastructure Plan – Communications Sector at 1, http://www.dhs.gov/xlibrary/assets/nipp_snapshot_communications.pdf (“Communications Sector Plan”); see also Cybersecurity & Infrastructure Security Agency, Homeland Security Presidential Directive 7: Critical Infrastructure Identification, Prioritization, and Protection, https://www.cisa.gov/homeland-security-presidential-directive-7 (identifying telecommunications as a critical infrastructure sector). Improving Outage Reporting for Submarine Cables and Enhanced Submarine Cable Outage Data, 31 FCC Rcd 7947, 7948, para. 3 (2016). The FCC notes that it is estimated that submarine cables carry as much as 99% of all U.S.-international voice and data traffic. Id. at 7949, para. 3. PC Landing, for example, is a “carrier’s carrier” – a wholesale provider of large-scale circuit capacity to leading U.S. and Asia telecommunications carriers as well as to enterprise customers in the technology sector that operate their own networks, for the provision of high-speed, IP-based communications between the U.S., Japan and beyond. The type of traffic carried on the PC-1 network includes all manner of data, voice and video communications, such as secure U.S. government traffic, enterprise network traffic, broadcast network traffic, and financial institution-related traffic, to name just a few. L. Carter, D. Burnett, et al., Submarine Cables and the Oceans: Connecting the World, at 3 (ICPC/UNEP/UNEP-WCMC 2009) (UNEP Report) (describing the international network of submarine cables as “one of the most important infrastructural foundations for the development of whole societies and nations within a truly global economy”). Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, Notice of Proposed Rulemaking, 33 FCC Rcd 4058, 4097 (2018) (statement of FCC Chairman Ajit Pai). | EIS Section 4.6 |

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| 58. Commenter 1068 | <ul style="list-style-type: none"> Central California Joint Cable/Fisheries Liaison Committee, http://www.cencalcablefishery.com/. | EIS Section 4.4 |
| 59. Commenter 1060 | <ul style="list-style-type: none"> According to the U.S. Department of Commerce's Fisheries Economics of the United States 2018 report, California's saltwater recreational anglers annually generate \$2.8 billion in total sales impacts while supporting 21,145 jobs in the state. Furthermore, recreational anglers and boaters contribute the vast majority of funding for conservation of our nation's marine habitats and marine life. (Citations not provided.) | EIS Section 4.6 |
| 60. Commenter 1057 | <ul style="list-style-type: none"> There are 40 known historic shipwrecks in the region. The area encompassed by the proposed sanctuary includes the wrecks of Honda Point – site of the Navy's worst peacetime loss of ships as well as the gold-laden steamship S.S. Yankee Blade. (Citations not provided.) | EIS Section 4.5 |
| 61. Commenter 1050 | <ul style="list-style-type: none"> American Clean Power Association, et al., Federal Revenue and Economic Impacts from BOEM Offshore Wind Leasing (December 2021), https://cleanpower.org/resources/federal-revenue-and-economic-impacts-from-boem-offshore-wind-leasing/. | EIS Section 4.6 |
| 62. Commenter 1050 | <ul style="list-style-type: none"> https://www.nrdc.org/experts/francine-kershaw/landmark-offshore-wind-agreement-protects-right-whales | EIS Section 4.3 |
| 63. Commenter 1050 | <ul style="list-style-type: none"> https://www.boem.gov/sites/default/files/documents/renewable-energy/Vineyard-Wind-1-Supplement-to-EIS.pdf | EIS Section 4.6 |
| 64. Commenter 1050 | <ul style="list-style-type: none"> Claisse, J.T.; Pondella, D.J.; Love, M.; Zahn, L.A.; Williams, C.M.; Williams, J.P.; Bull, A.S. Oil platforms off California are among the most productive marine fish habitats globally. Proc. Natl. Acad. Sci. USA 2014, 111, 15462–15467. | EIS Section 4.4 |
| 65. Commenter 1050 | <ul style="list-style-type: none"> https://www.vineyardwind.com/fisheries-science https://www.enbw.com/media/enbw_us/docs/fisheries-outreach.pdf | EIS Section 4.4 |
| 66. Commenter 1044 | <ul style="list-style-type: none"> In California, saltwater recreational fishing supports 21,145 jobs and generates \$2.8 billion annually in sales. National Marine Fisheries Service. 2021. Fisheries Economics of the United States, 2018. U.S. Dept. of Commerce, NOAA Tech. Memo. NMFS-F/SPO-225, 246 p. Through fishing license purchases, excise taxes and direct donations, the recreational fishing community contributes approximately \$1.7 billion toward aquatic resource conservation each year. | EIS Section 4.6 |
| 67. Commenter 1029 | <ul style="list-style-type: none"> Chumash oral traditions include stories, saq'saqutina'ni and context with archeological discoveries suggest occupation of the central coast area for more than 15,000 years, with an older recorded date at Point Conception, an extremely important Chumash Sacred Place known to Native Americans as the Western Gate, Humqaq. Our histories begin and end on this coastline for time immemorial. The Chumash People have been known as the "Keepers" of the Souls the place where all people exit this life into the next, the journey from any other place on the "turtle island" to the afterlife has been widely accepted to be the furthestmost western point jutting out into the Pacific Ocean and towards the setting sun. Also see pgs. 13–15 in comment 1029. | EIS Section 4.5, Management Plan |

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| 68. Commenter 1018 | <ul style="list-style-type: none"> See “Chumash Caretaker Culture” (pg. 9) in comment 1018. | EIS Section 4.5, Management Plan |
| 69. Commenter 918 | <ul style="list-style-type: none"> Scripps Institute of Oceanography, FAQs: Climate Change in California, https://scripps.ucsd.edu/research/climate-change-resources/faq-climate-change-california. | EIS Section 4.3 |
| 70. Commenter 918 | <ul style="list-style-type: none"> Monterey Bay Aquarium, These Are the Greatest Threats Facing Sea Otters Today, https://www.montereybayaquarium.org/stories/threats-facing-sea-otters. | EIS Section 4.3 |
| 71. Commenter 899 | <ul style="list-style-type: none"> Hatfield, B., Yee, J., Kenner, M. C., Tomoleoni, J. A., & Tinker, M. T. (2018). California sea otter (<i>Enhydra lutris nereis</i>) census results, spring 2018 [Report]. United States Geological Survey. https://pubs.usgs.gov/ds/1097/ds1097.pdf. | EIS Section 4.3 |
| 72. Commenter 899 | <ul style="list-style-type: none"> Kuhn, R. A., Ansorge, H., Godynicki, S., & Meyer, W. (2010). Hair density in the Eurasian otter <i>Lutra lutra</i> and the sea otter <i>Enhydra lutris</i>. <i>Acta Theriologica</i>, 55, 211–222. https://doi.org/10.4098/j.at.0001-7051.014.2009 Costa, D. P., & Kooyman, G. L. (1982). Oxygen consumption, thermal regulation, and the effect of fur oiling and washing on the sea otter, <i>Enhydra lutris</i>. <i>Canadian Journal of Zoology</i>, 60(11), 2761–2767. https://doi.org/10.1139/z82-354 | EIS Section 4.3 |
| 73. Commenter 790 | <ul style="list-style-type: none"> Hilborn, Walters, Parrish, 2006. Review: California Marine Life Protection Act Science Advice and MPA Proposals <i>“Resulting from precautionary “ecosystem-based” fishery regulations enforced by both State and Federal fishery management agencies in recent years, there is now no evidence that current fishing practices upset the “natural” biological diversity of the marine ecosystem.”</i> | EIS Section 4.3 |
| 74. Commenter 790 | <ul style="list-style-type: none"> Emery 1969, in McW.Bickel, <i>The Journal of California Anthropology</i>, Vol. 5, No. 1 (SUMMER 1978) Bloom 1971; Flint 1971:324–328; Fairbridge 1976. | EIS Ch. 3 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
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| 75. Commenter 716 | <ul style="list-style-type: none"> Our research on coastally breeding seabirds in central Californian (Robinette et al. 2015) shows significant populations of pigeon guillemots, Brandt's cormorants, pelagic cormorants, western gulls, and black oystercatchers breeding within the proposed sanctuary. For much of the proposed sanctuary, human disturbance to seabirds is low compared to other areas in California. However, seabirds breeding along the coast of Shell Beach (a hotspot for seabird breeding within the proposed sanctuary) experience relatively high rates of human-caused disturbance. Biological resources in the Shell Beach area would benefit from increased education and outreach opportunities provided by a new sanctuary. Additionally, Robinette et al. (2019) shows that large headlands like Point Arguello and Point Buchon (both within the proposed sanctuary boundaries) provide enhanced foraging opportunities for breeding seabirds and likely enhance rates of juvenile fish recruitment to nearshore habitats. Finally, the proposed sanctuary would include important breeding populations of the federally threatened western snowy plover and the state and federally endangered California least tern (Robinette et al. 2021). Nur et al. (2011) shows that the waters over the shelf support a high abundance of foraging and migrating seabirds and that this hotspot is persistent from year to year. | EIS Section 4.3 |
| 76. Commenter 716 | <ul style="list-style-type: none"> Rockwood et al. (2017) shows that the proposed sanctuary would provide opportunities to decrease mortality of migrating blue, humpback, and fin whales due to ship strikes. | EIS Section 4.3 |
| 77. Commenter 716 | <ul style="list-style-type: none"> Our assessment of conservation opportunities in the California Current System shows that the proposed sanctuary is in the upper 90% for potential conservation value (Elliott et al. 2020). | EIS Section 4.3 |
| 78. Commenter 641 | <ul style="list-style-type: none"> It has been documented that visitors in the existing Greater Farallones and the northern portion of Monterey Bay National Marine Sanctuaries spent \$127 million for non-consumptive recreation activities, those that do not include removal of marine resources, and thereby supported nearly 1,700 jobs in 2011. Collectively, an estimated 4.17 million visitors engaged in recreation in the North Central California region, including 438,000 visitors in the Greater Farallones and the northern portion of Monterey Bay National Marine Sanctuaries. On average, each of these visitors made roughly five trips per year. Total spending for non-consumptive recreation was estimated at \$1.15 billion in 2011 for the entire North Central California Region. Roughly 11% of the total spending took place in the two Sanctuaries – \$86.25 million in Greater Farallones and \$40.82 million in the northern portion of Monterey Bay. The complete recreational economic impacts study, along with earlier national marine sanctuary socioeconomic reports, can be found at http://sanctuaries.noaa.gov/science/socioeconomic/pdfs/ncc-recreation-report.pdf. | EIS Section 4.6 |
| 79. Commenter 521 | <ul style="list-style-type: none"> "Marine Archaeology Along the Southern California Coast," D.T. Hudson, 1976, San Diego Museum Papers, No. 9). | EIS Section 4.5 |
| 80. Commenter 253 | <ul style="list-style-type: none"> See comment 253. | EIS Section 4.9 |
| 81. Commenter 180 | <ul style="list-style-type: none"> See comment 180 letter and attachments. | EIS Section 4.6 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|-------------------|--|----------------------|
| 82. Commenter 679 | <ul style="list-style-type: none"> • See comment 679. • Book titled "Kuta Teachings" has detailed ethnographic commentary on the religious importance of Point Conception to the Chumash People. • "Kahismuwas," a history of the Purisima mission Indians and their socio/political adjustments to Spanish and Mexican colonialism. This history is distinctive from many previous texts, for it is told from the perspective of the Kahismuwas People and not from that of the invading Spanish. • "Jonjonata," a book featuring the history of a Chumash town located on the eastern Kahismuwas border. • The "Tejon Chumash Handbook" is a useful reference for any study of coastal refugees fleeing Spanish and Mexican abuses in missions such as San Luis Obispo. • "The Chumash Nation" is a book which provides an overview of Chumash history from the 1770's to 1996. • "No Brave Champion," "Marginalizing the Chumash Indians," "An Apology to the Chumash Indians," and "Academic Nihilism" are a series of related books in the John Anderson Library. They document the past failures of local, state, and federal agencies to foster meaningful Chumash participation in planning and management of public facilities. • Copies of these texts are available at: johnandersonlibrary.org. | EIS Section 4.5 |
| 83. Commenter 151 | <ul style="list-style-type: none"> • Benson, S.R., K.A. Forney, J. Harvey, J. Carretta and P. Dutton. 2007. Abundance, distribution, and habitat of leatherback turtles (<i>Dermochelys coriacea</i>) off California, 1990–2003. <i>Fish. Bull.</i> 105:337–347. • Benson, S. R., T. Eguchi, D. G. Foley, K. A. Forney, H. Bailey, C. Hitipeuw, B. P. Samber, R. F. Tapilatu, V. Rei, P. Ramohia, J. Pita, and P. H. Dutton. 2011. Large-scale movements and high-use areas of western Pacific leatherback turtles, <i>Dermochelys coriacea</i>. <i>Ecosphere</i> 2(7):art84. doi:10.1890/ES11-00053.1. • Curtis, K., J. Moore, S. Benson. 2015. Estimating limit reference points for Western Pacific leatherback turtles (<i>Dermochelys coriacea</i>) in the U.S. West Coast EEZ. <i>PLOSone</i>. 10, 1–24. | EIS Section 4.3 |
| 84. Commenter 341 | <ul style="list-style-type: none"> • Yak tityu tityu yak tilhini Northern Chumash Tribe of San Luis Obispo County and Region are the Indigenous People of the coastal and interior areas of San Luis Obispo County and Region. This place has been our home for more than 10,000 years with an unbroken chain of inhabiting our homeland. We have an enduring and special relationship with yat spasini (the ocean) including the millions of ocean people who live there and the winged people who rely on her. Yat spasini covers some of our ancestral homeland and we know there are significant sites under the water of yat spasini. These sites include cemeteries, villages, ceremonial sites, and countless other places once used in our everyday lives. These places may be underwater but that does not diminish their importance and we seek their protection. We also understand that the good health of yat spasini is imperative to the good health of our Tribal community and all people. Humans are dependent on yat spasini and we must do all we can to defend her. | EIS Section 4.5 |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|-------------------------------|--|----------------------|
| 85. Commenter 710 and 719 | <ul style="list-style-type: none"> There are multiple peer-reviewed studies which support the integration of Indigenous leadership and cultural practices into marine management. Indigenous stewardship has not only shown to improve the sustainability of fish stocks as with Indigenous fisheries management in British Columbia, it also strengthens the resilience of ecosystems. Indigenous environmental stewardship practices strengthen ecosystem resilience and enhance biodiversity. (Citations not provided.) Though Indigenous Peoples represent ~5% of the world's population, they sustain nearly 80% of the world's biodiversity. (Citations not provided) | EIS Section 4.3 |
| 86. Commenter 84 (and others) | <ul style="list-style-type: none"> Scorse, Jason Ph.D. & Kildow, Judith Ph.D. (2014). The Potential Economic Impacts of the Proposed Central Coast National Marine Sanctuary. Prepared for the Sierra Club of California. | EIS Section 4.6 |
| 87. Commenter 895 | <ul style="list-style-type: none"> Studies by the National Renewable Energy Laboratory estimate that California has the potential to provide 150% of the State's electricity demand from offshore wind sources. https://www.nrel.gov/docs/fy16osti/65352.pdf https://slcprdwordpressstorage.blob.core.windows.net/wordpressdata/2021/10/Vandenberg-Offshore-Wind-Final-PEA_webacc.pdf. | EIS Section 4.7 |
| 88. Commenter 902 | <ul style="list-style-type: none"> The Hosgri Fault was discovered using these testing means, and this is currently our largest threat. It was found as a result of such testing by an oil company. If such testing had been prohibited the Hosgri Fault would have never been identified or explored. As a result of the Hosgri Fault identification the Diablo Canyon Power Plant Units One and Two were re-evaluated and the facility was back-fit to increase its ability to withstand a larger seismic event. The 6.5Mw San Simeon Earthquake of Dec. 22, 2003 resulted in much infrastructural damage and two people were killed in Paso Robles due to a masonry building collapse. The earthen fill dam at Whale Rock Reservoir developed longitudinal cracks along its crest and roads and bridges were damaged. Morro Bay Power Plant suffered damage. Not a lot is known about the blind thrust fault that caused this event. (Report ISBN-0-7844-0747-9, copyright 2004 by the American Society of Civil Engineers.) | EIS Section 4.2 |
| 89. Commenter 927 | <ul style="list-style-type: none"> The Chumash once lived in villages west of current tidal lines and on Point Conception. The ocean has submerged these lifeways of our Chumash ancestors. | EIS Section 4.5 |
| 90. Commenter 1033 | <ul style="list-style-type: none"> There are many studies showing the benefits of Marine protected areas. 7 Year Study --Early Results Suggest California Marine Protected Areas are a Success 9/5/19 https://scripps.ucsd.edu/news/early-results-suggest-california-marine-protected-areas-are-success | EIS Section 4.3 |
| 91. Commenter 1111 | <ul style="list-style-type: none"> Edgar, G., R. Stuart-Smith, T. Willis, S. Kininmonth, S. Baker, N. Barrett, et al. 2014. Global conservation outcomes depend on marine protected areas with five key features. Nature 506:216–220. doi: 10.1038/nature13022. Silver, E. 2009. An analysis of management strategies for the protection of shipwrecks in the NOAA National Marine Sanctuaries. PhD. diss., East Carolina Univ. https://www.proquest.com/docview/305070656/2550857697AE436CPQ/1?accountid=10362. | Management Plan |

| Comment Number | Information and/or Analyses | Relevant EIS Section |
|--------------------|---|----------------------|
| 92. Commenter 1111 | <ul style="list-style-type: none"> Dasgupta, S., A. Fensome. 2018. The ups and downs of marine protected areas: Examining the evidence. Mongabay. https://news.mongabay.com/2018/01/the-ups-and-downs-of-marine-protected-areas-examining-the-evidence/. | Management Plan |
| 93. Commenter 1111 | <ul style="list-style-type: none"> Davis, G. 2005. Science and society: marine reserve design for the California Channel Islands. Conservation Biology 19:1745-1751. doi: 10.1111/j.1523-1739.2005.00317. | Management Plan |

Appendix C: Best Management Practices

This section identifies proposed sanctuary resource protection mitigation measures used by the National Oceanic and Atmospheric Administration (NOAA) for vessel operations, anchoring, deployment of instruments, scuba diving, seafloor protection, uncrewed aircraft systems, aircraft operations, tagging fish, and conducting shoreline activities.

Appendix C remained largely unchanged between publication of the draft and final environmental impact statement (EIS). A new best management practices category, “Shoreline Activities,” was added as recommended by the U.S. Fish and Wildlife Service (USFWS) during consultation with the Office of National Marine Sanctuaries (ONMS).

Vessel Operations

All ONMS vessels must comply with the operational protocols and procedures in the NOAA Small Boats Policy (NOAA Administrative Order 209-125, available [online](#)). To minimize impacts on sanctuary resources during field activities, sanctuary vessels would adhere to the following standing orders and practices, which includes applicable mitigation measures from the National Ocean Service Surveying and Mapping programmatic EIS, available [online](#).

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 Fisheries Whale Watching guidelines unless otherwise covered by a NOAA Fisheries permit, and only then with extreme caution. Guidelines are available [online](#).

Vessel Speed and Maintaining Distance

- An Endangered Species Act (ESA)-listed whale is identified within 457 meters (500 yards) of the forward path of the vessel: All vessels must steer a course that increases the distance from the whale at a speed of 10 knots or less until the 457 meters (500 yards) minimum separation distance has been established.
- An ESA-listed whale is sighted within 91 meters (100 yards) of the forward path of a vessel: The vessel operator must reduce speed and shift the engine to neutral. Engines must not be engaged until the whale has moved outside the vessel’s path and beyond 457

meters (500 yards). If stationary, the vessel must not engage engines until the large whale has moved beyond 457 meters (500 yards). A single cetacean at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised.

- One or more cetaceans (whales, dolphins, or porpoises) are sighted while a vessel is underway: Attempt to remain parallel to the animal's course if feasible. Avoid excessive speed or abrupt changes in direction until the cetacean has left the area.
- One or more sea turtles are sighted while the vessel is underway: Attempt to maintain a distance of 45 meters (50 yards) or greater whenever possible.
- Avoid transit through North Pacific right whale critical habitat. For unavoidable transits, vessels must maintain a speed of 10 knots or less.
- Maintain a vessel separation distance of 3 nautical miles from Steller sea lion critical habitat, rookeries listed in 50 Code of Federal Regulations (C.F.R.) 223.202, and other haulouts/rookeries as observed during operations.
- Vessel crew should be trained to know the locations of known mammal haul out areas and avoid unnecessary transits within 0.5 nautical miles of these areas.
- Avoid approaching within 91 meters (100 yards) of in-water seals and sea lions.
- Vessel operators on project vessels operating at night will use the appropriate lighting to comply with navigation rules and best safety practices. All project areas will be continually monitored for protected species by posted crewmembers during vessel operations.
- In-water seals or sea lions are identified within 91 meters (100 yards) of the vessel: Avoid approaching within 91 meters (100 yards) of in-water seals and sea lions.

Operation of Vessels

- Due to the increased risk of collision at night, vessel operations, whenever possible, should be planned for daylight hours (i.e., between one half hour before sunrise and one half hour after sunset when possible).
- Restricted visibility can hinder an operator's ability to see and respond to 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.
- Standing Order for Nighttime Operations – If nighttime 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.
- Implement mandatory invasive species prevention procedures including, but not limited to, vessel and equipment washdown (including diving equipment), cleaning, and de-ballasting (exchange of ballast water in open ocean waters for those vessels used by NOAA's National Ocean Service that have ballast tanks).
- Do not attempt to feed, touch, ride, or otherwise intentionally interact with any marine protected species.
- Vessel crew must maintain at least one Protected Species Observer (PSO) at all times. This individual may perform other duties simultaneously. PSOs should use all means

- necessary to enhance visibility (e.g., spotlights, night vision, Forward Looking Infrared), and will be trained according to National Ocean Service Standard Operating Procedures.
- National Ocean Service would internally coordinate the location and timing of a given project, wherever possible, to ensure that areas are not repeatedly surveyed, except as needed to achieve research or monitoring goals.
 - National Ocean Service would not perform surveys on or near ongoing Navy exercises.
 - Sighting of any injured, dead, or entangled right whales: Report sighting immediately to the U.S. Coast Guard (USCG) via VHF Channel 16.
 - Sighting of any injured, dead, or entangled ESA-listed species: Immediately report to NOAA Fisheries using the contact information on the [NOAA Fisheries website](#). NOAA Fisheries also has created a Dolphin & Whale 911 telephone app that can be used to direct calls to the nearest stranding response helpline.
 - Sightings of critically endangered cetaceans including North Atlantic right whale, North Pacific right whale, Southern Resident killer whale, Main Hawaiian Island insular false killer whale, and Rice's whale: Report sighting within two hours of occurrence when practicable and no later than 24 hours after occurrence to [NOAA Fisheries](#). Right whale sightings in any location may also be reported to the USCG via VHF channel 16 and through the [WhaleAlert App](#).
 - Operating vessels in northern sea otter habitat: Do not operate vessels in such a way as to separate sea otters from other members of their group. If northern sea otters are observed in groups of fewer than 10 animals, do not approach within 100 m (109 yd). If the group size is greater than 10, do not approach within 500 m (547 yd).
 - Sighting of any protected marine species within 91 m (100 yd) of the vessel: Do not discharge.
 - Additional discharge restrictions when operating a vessel:
 - Follow the International Convention for the Prevention of Pollution from Ships (MARPOL) discharge protocols.
 - Meet all U.S. Environmental Protection Agency (USEPA) Vessel General Permits and USCG requirements.
 - Use anti-fouling coatings.
 - Clean hull regularly to remove aquatic nuisance species.
 - Avoid cleaning of hull in critical habitat. Avoid cleaners with nonylphenols.

Anchoring and Deployment of Instruments

- Ensure that all instruments placed in contact with the seafloor are properly secured to minimize bottom disturbance. Use retrievable instruments, when possible, to avoid abandoning deployed equipment on the seafloor.
- Deployment of instruments would occur slowly and under constant supervision to minimize risk and mitigate impacts should a collision or entanglement occur. Deployment operations would be postponed if species at risk of entanglement are observed.
- While vehicles or personnel are deployed, spotters would monitor activities at all times.
- Where possible NOAA staff will avoid leaving weights behind through use of an anchor retrieval system for sanctuary research gear.

- Do not anchor in coral critical habitat or other known areas of coral. Avoid anchoring in [abalone habitat](#).
- Avoid anchoring in seagrass.
- Vessel operators would not drag anchor chains.
- Vessel operators would select the anchor location based on depth, protection from seas and wind, and bottom type. Preferred bottom types are sticky mud or sand, as those characteristics allow the flukes of the anchor to dig into the bottom and hold the chain in place. When working in an un-surveyed area or in an area that has not been surveyed in many years, the ship would try to anchor in bays where data have already been collected, providing the ship with better information on where to drop the anchor.
- For instruments required to be left in the marine environment for long periods of time (i.e., a few months or more), staff would deploy subsurface floats that keep the mooring lines vertically tight at all times in order to significantly reduce any entanglement risk.
- Stiffer line materials should be used for towing and kept taut during operations to reduce the potential for entanglement in bottom features such as coral habitats and shipwrecks.
- Sighting of any protected marine species within 91 m (100 yd) of the work area: Suspend deployment of all instruments, divers, and autonomous systems. Work already in progress may continue if that activity is not expected to adversely affect the animal(s).
- Autonomous Underwater Vehicle (AUV) operation: Equipment such as AUVs would be programmed and operated to avoid seafloor disturbance.

Scuba Diving

- NOAA divers are required to be certified by the [NOAA Diving Program](#).
- Annual training requirements assure that NOAA divers are versed in NOAA diving standards, policies, and procedures that minimize impacts on sanctuary resources.
- When using a boat or platform to conduct self-contained underwater breathing apparatus (scuba) or snorkeling operations: At least one person should maintain a visual watch for mobile protected species to ensure none are sighted within the working area. If a listed species moves into the area of work, cessation of operation of any moving equipment within 15 m (50 ft) of the animal should occur. Activities may resume once the species has departed the project area of its own volition.
- Diving on or near coral: Divers/snorkelers/swimmers should not stand or rest on live corals/coral reefs. Bottom contact should only be in unconsolidated areas or non-living hard bottom.
- At all times during scuba or snorkel operations: scuba divers/snorkelers involved in in-water activities should have proper training and be capable of responsible dive/snorkel practices (e.g., proper buoyancy) such that they minimize injury to organisms, avoid unnecessary habitat impacts, and avoid injury to sensitive archaeological materials. It is the responsibility of NOAA or grantees/contractors to ensure that divers/snorkelers are trained to a level commensurate with the type and conditions of the diving activity being undertaken. Divers shall use appropriate diving equipment and tools, expert boat anchoring (e.g., hand placement by divers/snorkelers on verified non-living bottom habitat before deployment) and have diver awareness. The organization must have the capacity (appropriate insurance, safety policies, etc.) to oversee all proposed

diving/snorkeling activities. Scuba divers will avoid inadvertent disturbance to the seafloor.

Seafloor Protection

- To avoid potential disturbance of submerged cultural resources and artifacts, and to protect seafloor habitats and benthic species, sanctuary staff would continue to comply with NOAA regulations prohibiting unauthorized disturbance of the seafloor (15 C.F.R. § 922.232(a)(3)) and removal or disturbance of historical resources (15 C.F.R. § 922.232(a)(4)).
- When considering issuance of an ONMS research permit to authorize any coring of the sanctuary seafloor or other use of equipment that could impact seafloor habitats or benthic species, NOAA would exercise caution and, upon permitting any activities, require protective conditions to reduce impacts.
- When securing research and monitoring equipment to the seafloor, NOAA staff will select areas with sandy substrate for vessel anchoring and gear deployment.
- Anchoring of sanctuary vessels will be limited to sandy-bottom substrates to avoid damage to seagrasses and coral habitat.
- Whenever possible, NOAA staff will avoid leaving weights behind through use of an anchor retrieval system with sanctuary research gear.

Uncrewed Aircraft Systems

NOAA recognizes that even though responsibly operated UAS can be less disturbing to sanctuary wildlife than larger and noisier fixed wing aircraft and helicopters, these craft still hold the potential to create disturbance to wildlife, and in particular seabirds.

- NOAA requires that special permitting, authorization, and environmental compliance work must be addressed when flights will occur over sensitive areas or in the vicinity of protected species or marine mammals. Such operations “may require a permit, authorization, or inter-agency consultation to meet environmental compliance requirements. Sensitive areas may include, but are not limited to, national parks, national wildlife refuges, waterfowl production areas, wilderness areas, and national marine sanctuaries. For flights over animals, applicable statutes may include but are not limited to the ESA, 16 United States Code (U.S.C.) § 1531 *et seq.*, Marine Mammal Protection Act (MMPA), 16 U.S.C. § 1361 *et seq.*, and Migratory Bird Treaty Act (MBTA), 16 U.S.C. § 703 *et seq.* These permits may contain specific mitigation measures, or other terms and conditions that will need to be met. All flights must comply with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*; NOAA Administrative Order 216-6A. The principal investigator is responsible for all environmental compliance.”
- In accordance with this agency policy, NOAA’s National Ocean Service requires that an Unmanned Aircraft Systems Operations Checklist be followed prior to the initiation of the operational phase of any UAS activity, including within national marine sanctuaries. The checklist includes requirements for assuring environmental compliance. This includes:

- Completion of all applicable environmental compliance reviews, consultations, and permitting requirements, including, but not limited to the:
 - NEPA (42 U.S.C. § 4321 *et seq.*);
 - NOAA Administrative Order 216-6A;
 - ESA (16 U.S.C. § 1531 *et seq.*); and
 - MMPA (16 U.S.C. § 1361 *et seq.*)
- Any required mitigation measures, best management practices, monitoring, terms and conditions, or other environmental compliance requirements.
- More specifically, UAS operations within the sanctuary are planned and executed in a manner that follows best practices designed to minimize or avoid disturbance to seabirds. These practices include:
 - Conduct a pre-flight check for birds in the flight area prior to UAS take-off. If birds are detected in the flight airspace, wait until they depart before initiating takeoff.
 - Provide a 50–100 foot buffer from areas where birds are present. This includes on land, nearshore, or on the water.
 - If one or more migratory birds or non-migratory birds is suspected of being disturbed in the air during airborne operations, wait until the bird(s) clear the flight area. Attempt operations again using more conservative parameters such as a different approach angle, different time of day, etc. If a second incident occurs, conduct no further UAS operations for this day.
 - If one or more threatened or endangered bird(s) is suspected of being disturbed in/around its nest, and/or if disturbance occurs during nesting season, conduct no further UAS operations. Contact the environmental compliance coordinator.
 - Maintain a log of each day's UAS operations to account for any disturbances to migratory or other birds and review this information with the site coordinator and the environmental compliance coordinator.

Aircraft Operations

- NOAA recognizes and requests pilots of charter and NOAA aircraft to comply with applicable Federal Aviation Administration-recommended practices relevant to flights above the sanctuary. In addition, the Federal Aviation Administration's [Advisory Circular 91-36D](#) "encourages pilots making visual flight rule flights near any noise-sensitive areas to fly at altitudes higher than the minimum permitted by regulation and on flight paths, which will reduce aircraft noise in such areas."

Tagging Fish

- Researchers would follow all local and federal laws, and secure proper permits.
- Where directed take is involved, such as in whale-tagging operations, sanctuary staff would ensure that appropriate permits are obtained from NOAA Fisheries pursuant to ESA and MMPA.
- To reduce stress on the fish (e.g., sharks, giant sea bass), NOAA researchers would minimize physical handling, keep the fish in the water for tagging, and use proper fishing gear.

- Fishes would not be tagged with tags greater than 2% of their body weight, and prohibited species will be released immediately.
- NOAA staff would follow additional best practices for tagging, as identified by NOAA Fisheries, available [online](#).

Shoreline Activities

- NOAA researchers and crew would avoid disturbing shorebird nesting areas, especially during nesting season, and would monitor for nesting shorebirds during any shoreline activities.
- NOAA staff would limit activities during shorebird breeding season and would have a monitor on site for any shoreline activities conducted during breeding season.
- Debris removal along the shoreline would be conducted outside of nesting bird season when conducting debris removal activities along shorelines where nesting birds (e.g., snowy plover, least tern) occur.

Appendix D:

Economic Cost-Benefit Analysis Prepared to Support Chumash Heritage National Marine Sanctuary Regulations

The White House Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) determined that the *Proposed Chumash Heritage National Marine Sanctuary; Notice of Proposed Rulemaking* was a significant regulatory action as defined by Executive Order (E.O.) 12866, *Regulatory Planning and Review*. In the draft environmental impact statement (EIS) for sanctuary designation, the National Oceanic and Atmospheric Administration (NOAA) provided an assessment of the potential costs and benefits of the proposed Chumash Heritage National Marine Sanctuary (CHNMS), and the analysis in the draft EIS, which is provided again here with minor updates as described below, continues to apply to the final EIS and final rule. Similar to other national marine sanctuaries within the National Marine Sanctuary System, the regulations identify prohibited uses and establish a process by which some of the prohibited uses may be permitted, as appropriate. The analysis provided here considers the effects of the sanctuary on offshore oil and gas, commercial fishing, recreational fishing, and non-consumptive recreation (e.g., snorkeling and scuba diving) sectors.

This analysis is qualitative in nature. This cost-benefit analysis only analyzes the expected costs and benefits of the Final Preferred Alternative. The analysis below has been updated to explain why the Final Preferred Alternative, which is smaller than the area NOAA analyzed in the draft EIS and proposed rule, under the Agency-Preferred Alternative, leads NOAA to expect less cost to operators in CHNMS than reported in the proposed rule. Although NOAA has made minor changes to the regulations from the draft to final EIS, none of the changes alter the initial determination that this proposed action will not be economically significant under E.O. 12866.

NOAA received a public comment regarding the cost-benefit analysis published with the draft EIS. NOAA responded to the comment (response to comment SE-2, see Appendix A), and no changes have been made to this analysis in response to the comment.

Need for This Action

The sanctuary would address the failure of the private markets to comprehensively manage this marine environment for public benefit, including for the purposes of protecting underwater historical and cultural resources, environmental resources, regulating human use of these resources, and conducting research and monitoring, education, and enforcement. To address the market failure and natural and human threats to marine and cultural resources in the Final Preferred Alternative, NOAA is proposing to designate the area as a national marine sanctuary.

NOAA proposes to designate CHNMS along the coast of central California to recognize the national significance of the area's ecological, historical, archaeological, and cultural resources and to manage this special place as part of the National Marine Sanctuary System. The National Marine Sanctuaries Act (NMSA) (16 United States Code (U.S.C.) 1431 *et seq.*) authorizes the Secretary of Commerce (Secretary) to designate national marine sanctuaries to meet the purposes and policies of the NMSA, including:

- “to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System” (16 U.S.C. 1431(b)(1));
- “to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities” (16 U.S.C. 1431(b)(2));
- “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities” (16 U.S.C. 1431(b)(6));
- “to develop and implement coordinated plans for the protection and management of these areas with appropriate federal agencies, state and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas” (16 U.S.C. 1431(b)(7)); and
- “to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques” (16 U.S.C. 1431(b)(8)).

The nationally-significant natural resources, physical features and habitats, and the cultural and historical resources within the sanctuary warrant and require long-term protection and management to reduce threats that would adversely affect their historical, cultural, archaeological, recreational, and educational value. For example, many threatened or endangered species—such as blue whales, snowy plovers, black abalone, white sharks, and leatherback sea turtles—rely on habitats, physical features, or prey found in the sanctuary. This area also contains hundreds of known or suspected shipwrecks of historical importance including several on the National Register of Historic Places. Moreover, this region and its abundant resources have been home to coastal, ocean-going Tribal and Indigenous Peoples for tens of thousands of years, and submerged village sites may exist along paleoshorelines in the submerged lands of the sanctuary. Threats to these natural, cultural, and historical resources include various levels of human development and activity, from offshore energy development, decommissioning and removal of coastal and offshore industrial facilities, vessel traffic, coastal runoff, and, most of all, from acute and cumulative impacts from climate change.

Accordingly, NOAA is proposing to designate this area as a national marine sanctuary to: (1) manage and protect nationally-significant natural resources, physical features and habitats, and cultural and historical resources through a regulatory and nonregulatory framework; (2) document, characterize, monitor, study, and conserve these resources; (3) provide interpretation of their natural, cultural, historical, and educational value to the public; (4) promote public stewardship and responsible use of these resources for various purposes to the extent compatible with the sanctuary’s principal goal of resource protection; (5) develop a coordinated, community-based, ecosystem-based management regime with partner federal agencies, state and local governments, and Indigenous Tribes and Tribal organizations; and (6) develop and carry out an innovative collaborative management structure to involve Indigenous communities, including federally recognized Tribes and other Tribal groups and organizations, in important management programs and initiatives of the sanctuary.

Establishing a new national marine sanctuary along the coast of central California would allow NOAA to complement and supplement existing federal and state resource management programs, policies, and regulations. For instance, discharge regulations to establish more comprehensive water quality protection across the geographic range for sanctuary protection under NMSA would bolster existing authorities under the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). NOAA has well-regarded and successful programs to conduct outreach, education, and communication that would recognize and promote this area's nationally significant natural, historical, and cultural properties. NOAA could contribute to the region's scientific expertise and technological resources to enhance ongoing research, and could provide a hub for the coordination of these activities. Through its focus on various initiatives benefiting the marine and coastal economy, NOAA designating the area as a national marine sanctuary would enhance and facilitate public stewardship of natural, historical, and cultural resources. Lastly, designating this new national marine sanctuary would provide expanded conservation of key resources within the California Current Large Marine Ecosystem, and create a collaborative framework to involve Indigenous communities in this important region-wide management opportunity.

Baseline

If NOAA does not designate a sanctuary along the coast of central California through this action, NOAA would not promulgate regulations under the NMSA; implement a management plan to protect and manage living marine resources and underwater cultural resources in the area; provide resources for research and monitoring, enforcement, education, or outreach; or otherwise maintain a presence along and offshore of the coast of central California. Existing activities in the sanctuary include recreation and tourism, research, education, marine transportation, offshore oil and gas development, fishing and aquaculture, and Department of Defense (DoD) activities. The existing activities occurring in the area of the proposed sanctuary are described in the final EIS by resource area under the No Action Alternative subsections in Chapter 4 (Affected Environment and Environmental Consequences). These activities would be allowed to continue, although they may be subject to regulations as detailed below.

Economic Effects of the Proposed Sanctuary

Designation of Chumash Heritage National Marine Sanctuary

Although the benefits of resource protection and conservation are not mentioned in each individual regulation below, they are applicable to the action as a whole. The Final Preferred Alternative (4,543 square miles) is smaller than the Agency-Preferred Alternative (5,617 square miles). NOAA expects that the benefits of resource protection and conservation in the Final Preferred Alternative would lead to increased use value, improved tourism and recreational experiences, and transfers and positive economic contributions as described below, but to a somewhat lesser extent than the Agency-Preferred Alternative described in the draft EIS.

Increased Value from Sanctuary Designation. Many of the goods and services provided by ecological, cultural, and heritage resources are challenging to estimate economically as they are not bought and traded in the market to yield benefits. These benefits are split into two types: use value and non-use value. Willingness to pay (WTP) is mathematically defined as the area

below the demand curve for a good or service and includes both use and non-use value. Use value can be estimated using several methods, including the travel cost method. Use value may be impacted by the number of species or cultural sites protected and the level of investment in museum exhibits, maritime heritage trails (including virtual trails using video and mobile phone technology), and educational workshops on topics highlighting sanctuary resources such as marine biodiversity and cultural heritage.

While use value comes from the direct enjoyment of resources, non-use value is comprised of option value (the value people place on the option to use the resource in the future), existence value (the value of knowing a resource or place exists), and bequest value (the value of knowing that the resource will be available to future generations). Non-use value is typically estimated using stated preference surveys that elicit WTP. Even if a person must spend money to access the resource, such as an entrance fee to a park, the price of admission does not reflect their true value. The difference between the price a person pays and the most they would be willing to pay for the good or service is what economists refer to as consumer surplus. This consumer surplus is a person's non-market value and does not require a person to actually use the resource.

Similar to other types of protected areas, national marine sanctuaries have economic value from both use and non-use value. When studying national parks, Haefele et al., 2016 found that over 95% of responding households to a survey indicated that protecting national parks for current and future generations was important to them, and 85% of respondents felt that, regardless of whether or not they had visited them, they personally benefited from national parks. The same study also found that the American public's total economic value of national parks is \$92 billion, where \$62 billion is for national park lands, waters, and historic sites, while \$30 billion was attributed to National Park Service programs. Total economic value includes both use and non-use (or existence value), meaning the total economic value includes the value that the public derives from knowing these resources are there and protected for current and future generations. The estimates included both land and water parks, indicating that the American public has value for protected marine resources, such as this national marine sanctuary designation.

One study has been conducted to estimate the use or non-use value of the CHNMS designation (Scorse & Kidlow, 2014). This research describes the economic benefits of sanctuary designation to the local community. Moreover, this action would increase protection and conservation of resources located within the sanctuary's boundaries. As a result, the action provides value to the American public at large.

Improved Tourism and Recreational Experiences. The designation of the sanctuary alone is likely to result in positive effects to the local region via increased national visibility and increased regional coordination of sanctuary messaging.

NOAA also has a robust communications and education program that focuses on educating the country about national marine sanctuaries, as well as encouraging the public to visit and use sanctuaries in a responsible manner. NOAA's promotion of the new sanctuary would likely attract more tourists to the area. Upon sanctuary designation, NOAA would implement research, education, interpretation, and outreach activities associated with the sanctuary. NOAA anticipates that these activities would have a positive impact on tourism by heightening public

awareness of, and interest in, the natural, cultural, and historical resources found in and around the sanctuary.

As outlined in the CHNMS management plan, NOAA would work with state, Tribal, and local partners to create more public exhibits, improve outreach, and raise awareness and knowledge to enhance the visitor experience. For example, designating the sanctuary would complement and enhance existing marine science and cultural heritage initiatives locally, at the state level, and regionally. This increased coordination and potential exposure of the site may attract and encourage divers, snorkelers, boaters, and maritime enthusiasts to visit these nationally significant marine resources, while following best management practices to reduce adverse impacts. While the specific efforts and partners would be determined as part of the implementation of the sanctuary management plan, NOAA would be creating opportunities for people to learn about and visit the sanctuary.

It is expected that the sanctuary designation will have positive impacts to human use, based on the anticipated increase in tourism driven by (a) the name recognition associated with national marine sanctuary designation; (b) the enhanced promotion of tourism; and (c) improved recreational experiences. However, given the absence of more detailed baseline data specific to this action, NOAA is unable to state the degree of effects with certainty. Without a sanctuary, NOAA would be unable to dedicate resources or create the programs described above to promote the sanctuary.

Transfers and Positive Economic Contributions from Increased Recreation and Tourism Spending in the Local Economy. The natural, recreational, and underwater cultural resources located along the Santa Barbara and San Luis Obispo coastline support the heritage and culture of Indigenous communities, improve residents quality of life, create a sense of place unique to the region, and are integral to the region's economy. An increase in tourism to the sanctuary could benefit the local economy in many ways. The increase in tourism could result in an associated increase in revenue since tourists tend to stay at hotels, eat at restaurants, purchase services and supplies from dive shops, and visit other local businesses. Increased visitation and demand for recreational experiences may result in newly established or expanded business.

Leeworthy et al. (2016) reported results from a household survey in the state of Washington that show the counties from which people are visiting Olympic Coast National Marine Sanctuary (OCNMS). We can make the comparison that many visitors are coming from counties that are not adjacent to OCNMS. For example, the counties of King, Pierce, and Thurston are part of the top five counties that recreators reside in that visited OCNMS. Households participated in outdoor recreation activities such as beach going (92.0 thousand person-days), sightseeing (81.0 thousand person-days), and wildlife watching (56.2 thousand person-days).

Shea et al. (2021) show the economic contributions to Channel Islands National Marine Sanctuary (CINMS) from spending induced by whale watching operations near CINMS. Overall, day trippers who use whale watching operations that visit CINMS contribute about \$3.3 million in output, \$2.1 million in value added, \$1.4 million in income, and 33 full- and part-time jobs to the local economy annually. Hotel guests who use whale watching operations that visit CINMS

contribute \$11.2 million in output, \$6.9 million in value added, \$4.7 million in income, and 94 full- and part-time jobs to the local economy. In the 2018–2019 seasons, about 19% of whale watching activity within the Channel Islands’ region occurred within CINMS, which means that these contributions have the potential to be impacted by changes within the sanctuary.

NOAA has determined that the sanctuary may result in economic transfers due to the potential increase in revenue and contributions to the local economy from higher resident and tourist spending. These transfers may occur because of local users switching to businesses within the area of the sanctuary that rely or utilize sanctuary resources and away from businesses that do not use sanctuary resources. Visitors and tourists may also choose to visit the sanctuary instead of alternative destinations, resulting in additional transfers.

Although NOAA expects that the sanctuary designation will have positive effects for the local economy, NOAA is unable to state the economic effects with certainty given the absence of baseline data specific to this action.

Government Costs

Costs

The potential operating budget below is an estimate of the costs involved in managing and operating a national marine sanctuary. This estimated cost range envisions NOAA and its partners increasing sanctuary activities over time. NOAA estimates these annual costs to be between \$400,000 and \$2,000,000. This range is based upon estimates from existing budgets of the Office of National Marine Sanctuaries (ONMS) sites. The activities NOAA would focus on after designation would include:

- hiring a sanctuary superintendent;
- establishing an administrative office;
- supporting the creation and operation of a Sanctuary Advisory Council (SAC);
- staff support for sanctuary administration and operation;
- staff support for resource protection needs including permitting, review and certification of existing permitted activities, and reviewing planned projects in the sanctuary;
- Tribal cultural liaison to work closely with numerous Tribal partners;
- creating a NOAA presence with exhibits and signage;
- mapping, characterization, archaeological documentation, and other activities described in the Maritime Heritage Action Plan;
- designing, building, and initial operation of a dedicated research vessel;
- implementing volunteer citizen science programs and a water quality protection program; and
- implementing sustainable recreation and tourism activities.

Net Effects

Although the net effects cannot be monetized or quantified at this point, net positive effects are expected as a result of increased marine conservation, cultural and maritime heritage recreation, improved recreational experiences, and increased non-market economic value from protection and management of sanctuary resources.

Regulation-Specific Effects of This Action

By designating this area as a national marine sanctuary, NOAA would administer the new sanctuary under the NMSA; implement site-specific regulations; and implement a permit program to protect and manage natural, cultural, and historical resources in accordance with 16 U.S.C. 1431(b) and 1433(a). The sanctuary regulations include the following prohibitions, and several of the prohibitions are subject to specified exceptions:

- prohibition on new oil and gas exploration, development, and production;
- prohibition on discharges;
- prohibition on drilling into or altering submerged lands;
- prohibition on possessing, taking, or injuring a sanctuary historical or cultural resource;
- prohibition on taking or possessing any marine mammal, sea turtle, or bird;
- prohibition on deserting a vessel aground, at anchor, or adrift in the sanctuary or leaving harmful matter aboard a grounded or deserted vessel;
- prohibition on attracting a white shark;
- prohibition on moving, collecting, catching, possessing, or injuring a sanctuary resource located below 1,500 feet water depth within the Rodriguez Seamount management zone;
- prohibition on introducing or otherwise releasing from within or into the sanctuary an introduced species; and
- prohibition on interfering with an enforcement action.

Lawful fishing activities would be allowed to continue in the sanctuary. The final regulations would also provide processes for permits, authorizations, and certifications consistent with other national marine sanctuaries on the U.S. West Coast. The sanctuary would enhance existing protections and programs for natural resources and underwater cultural and historical resources. It would also include additional management and enforcement mechanisms focused specifically on preserving nationally significant marine environments. This action would add additional levels of protection through increased enforcement, the ability to add stipulations to permits, and consequences of violating the law.

This section qualitatively assesses the costs and benefits of implementing the regulatory prohibitions as compared to the baseline of not designating a sanctuary. The Final Preferred Alternative is expected to impact the same or fewer users and operators in the sectors described below, and thus the costs to users and operators are expected to be the same or lower.

Prohibitions

Oil, gas, and minerals exploration, development, and production, except for oil and gas production and well abandonment pursuant to existing leases or lease units in effect on the effective date of sanctuary designation

The final regulations would prohibit new exploration, development, and production of oil, gas, or mineral resources, while exempting oil and gas production pursuant to existing leases or lease units in effect on the effective date of sanctuary designation.

Benefits: By prohibiting new oil and gas exploration, development, and production, this regulation would result in a reduction in the likelihood of future oil spills from within the sanctuary. This would provide both short- and long-term benefits to both users and non-users of the sanctuary via the protection of sanctuary habitat and resources. The exception would allow existing oil and gas production pursuant to leases or lease units in effect at the time of sanctuary designation to continue operations, which would not harm those existing activities.

Costs: In the long-term, the existing operations within the sanctuary are likely to be decommissioned as those projects reach the end of their operational life and not as a result of the final regulations. Additionally, no new costs to the current operators are anticipated as they are already required by the federal government leases and state and local approvals to remove all structures and rehabilitate any seabed disturbance. NOAA's participation in the review and permitting of those future actions would result in minimal, if any, additional time or permit review costs (ONMS authorizations have no cost to the permittee). There are currently no proposed lease sales for oil and gas development in the Pacific OCS. Long-term, within the next 30 years, it is possible that there may be policy changes that support oil and gas drilling in the ocean, resulting in long-term costs to oil and gas companies who would not be able to explore and extract oil from other reservoirs and fields in the area.

Discharges within or into the sanctuary, with some exceptions

NOAA is proposing a regulation prohibiting a discharge within or into the sanctuary, subject to enumerated exceptions.

Benefits: Water quality is important to all water-based natural resources, recreation-tourism uses, and commercial activities such as fishing within the sanctuary's boundaries. The discharge regulations would benefit fish populations, their habitat, and potentially result in benefits to commercial and recreational fisheries revenue. NOAA is including exceptions for certain discharges from lawful fishing activities and certain discharges from routine vessel operations, which would limit the costs to commercial and recreational activities as described in more detail below. NOAA is also exempting certain DoD and U.S. Coast Guard (USCG) activities related to discharge.

Costs: Costs to vessels would be minimal since they would be able to discharge outside of sanctuary boundaries (which may require additional gas to leave and return to the sanctuary) or at onshore pumpout facilities and because certain discharges from routine vessel operations are excepted from the discharge prohibitions. It is possible that some vessels may add sanitation devices to their vessels if they felt the individual benefits of doing so would exceed their costs of

leaving sanctuary waters or using onshore pumpout facilities. For existing operations that discharge into the sanctuary, NOAA's regulation includes a certification process, at no fee, to allow existing permitted discharges to continue grandfathering them in for the life of existing permits (see EIS Section 4.7.3 for more details). In the future, proposals for new discharges can be reviewed through permit mechanisms. Administrative costs to the federal government may also increase due to permit reviews since NOAA does not charge a fee for review of certifications, sanctuary general permits, or ONMS authorizations.

Cruise ship discharges, with limited exceptions

Benefits: Protecting water quality in the sanctuary area has enormous potential to provide both short- and long-term ecosystem service benefits (such as recreation) by improving and sustaining the resources on which users rely. Water quality is fundamental to commercial fishing and water-based recreation-tourism uses. Cruise ships, often with thousands of passengers, can create enormous volumes of treated sewage and other discharges. Most of these discharges would not be allowed in the sanctuary via regulations.

Costs: The costs to the cruise ship industry would be minimal to non-existent since ships do not call on any ports within the sanctuary and ships in passage could discharge once outside sanctuary boundaries.

Discharging or depositing from beyond the boundary of the sanctuary any material or other matter that enters the sanctuary and injures a sanctuary resource or quality

NOAA is proposing a standard regulation that prohibits a discharge from beyond the boundary of the sanctuary, that subsequently enters and injures sanctuary resources, subject to specified exceptions.

Benefits: Water quality is important to all water-based recreation-tourism uses and commercial fishing within and surrounding the sanctuary's boundaries. The discharge regulations would benefit fish populations and their habitat, and potentially result in benefits on commercial fisheries revenue.

Costs: An operator could incur the cost of updating their equipment to be compliant with the regulations, such as updating an onboard marine sanitation device to prevent untreated sewage flushed from a marine head from entering the sanctuary.

Disturbing the submerged lands

NOAA is proposing to prohibit disturbing the submerged lands of the sanctuary. This prohibition aims to reduce the risk of harm to sanctuary resources and habitats. NOAA has implemented similar regulations at other national marine sanctuaries and has determined that it effectively protects underwater resources, while allowing for compatible uses within the sanctuary. Exceptions are included for normal operations like anchoring a vessel or installing aids to navigation. NOAA is also proposing to exempt certain DoD and USCG activities related to disturbance of the seabed.

Benefits: The regulation may indirectly benefit commercial and recreational fishing by reducing the likelihood that activities could damage, or otherwise destroy seabed habitat. Through the protection of habitat, short- and long-term benefits are likely to occur to both users of the boundary and non-users who have value for ocean protection and the resources located within the sanctuary. The regulation would also benefit submerged maritime or cultural heritage resources such as shipwrecks or submerged Indigenous villages or cultural sites.

Costs: The regulation would allow submerged lands disturbance through a permitting process. Permitting review for disturbance of the submerged lands typically does not have any administrative cost to the applicant since NOAA does not charge for review of most activities. However, some anticipated activities such as any proposals to route subsea electrical transmission cables from offshore wind farms to shore through the sanctuary, or any proposals to route submarine fiber optic telecommunication cables through the sanctuaries, could be assessed a fee, via the special use permit provision of the NMSA (16 U.S.C. § 1441), to use the sanctuary seabed to protect the cables. However, NOAA on August 16, 2024 in Federal Register Notice ([89 Fed. Reg. 66689](#)), NOAA announced that the special use permit category for the continued presence of commercial submarine cables is modified such that it does not apply to sanctuaries designated after August 16, 2024 for a two-year period, including CHNMS. During this timeframe, the continued presence of submarine cables in CHNMS will not be subject to special use permit requirements. Offshore wind development is unlikely to see a change in potential costs associated with permits because of the low likelihood that cables will transit the sanctuary under the boundaries in the Final Preferred Alternative.

Disturbing a historical resource

NOAA is proposing to prohibit disturbing a historical resource. This prohibition aims to reduce the risk of harm to sanctuary resources. NOAA has implemented similar regulations at other national marine sanctuaries and has determined that it effectively protects underwater historical resources while allowing for compatible uses within the sanctuary.

Benefits: This action is expected to further the protection and conservation of historical resources. This would have both short- and long-term benefits to non-consumptive user groups such as snorkeling and diving that utilize these resources for recreation. Although no studies have been conducted specific to the use or non-use value of shipwrecks in the sanctuary area, there is evidence that both users and non-users are willing to pay for the protection of these resources (Whitehead & Finney, 2003; Mires, 2014). A more recent study that evaluated the total economic value of national parks to the American public found that nearly 95% of responding households indicated it was important to protect national parks, including historic sites, for current and future generations (Haelele et al., 2016). The same study also found that households placed a marginal value of \$3.87 (2014\$) on each history-focused national park.

Costs: There are no costs expected.

Taking or possessing a marine mammal, sea turtle, or bird

This prohibition is intended to deter sale of sanctuary resources and to further the policy of *in situ* preservation.

Benefits: Existing federal statutes that provide some level of protection for biological resources include the Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*), Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. § 1801 *et seq.*), Marine Mammal Protection Act (MMPA) (16 U.S.C. § 1361 *et seq.*), and MBTA (16 U.S.C. § 703 *et seq.*). With additional, comprehensive protection provided by NMSA under this action, including prohibitions on new oil and gas development and production and seabed disturbance, vulnerable biological resources in the sanctuary would be protected from potential industrial impacts, such as petroleum exploration and development and other activities that could disturb the seabed. In addition, by strengthening the existing laws and enabling additional enforcement presence as well as additional education and outreach, the prohibition on taking or possessing a marine mammal, sea turtle, or bird may help to further deter any existing illegal activities.

Costs: There are no expected costs of this regulation because this prohibition is already enforced through other statutes.

Deserting a vessel

At other adjacent national marine sanctuaries, NOAA has had problems with vessels left abandoned or deserted. Such vessels can break loose from anchorages and become marine debris or cause environmental harm. Also, the regulation allows NOAA further enforcement authority if a beached vessel is left by its owner.

Benefits: The potential for harm to sanctuary resources from abandoned vessels is very high. This regulation is expected to minimize future damage to sanctuary resources by allowing enforcement authority before a vessel sinks or runs aground, thereby avoiding costs resulting from navigation and environmental hazards. There is potential for both substantial short- and long-term benefits from avoiding pollution that comes from harmful substances that destroy fish habitat. For example, an abandoned boat that sinks may leak oil, fuel, and antifreeze, and leach many synthetic or often toxic materials from the body of the vessel into the environment.

Costs: The cost of vessel removal would vary greatly depending on many factors including the size of the vessel, its distance from shore, and the circumstances and condition of a particular vessel. For instance, the fee for an operator to tow a vessel away from shore before the vessel grounds may be minimal, whereas, the cost to recover a severely damaged, abandoned vessel could be substantial. Cost of vessel removal would also vary depending on whether or not the operator is insured and, if insured, the cost would likely be much lower than for an uninsured boater. In addition, the cost of vessel removal for an operator is minimal compared to the cost of liability should a vessel be abandoned, cause damage to sanctuary resources, and lead to a damage assessment case brought to recover damages from responsible parties. Abandoned vessels also present costs to the county, state, or federal government if a responsible party cannot be identified, in addition to the cost of damage and resulting restoration as required.

Attracting a white shark

The sanctuary is increasingly becoming a hotspot for sub-adult and possibly adult white sharks. Having the ability to control research on or ecotourism at white shark aggregation sites has been important at other national marine sanctuaries offshore California.

Benefits: NOAA is aware that some research involving chumming for, catching, and tagging white sharks in this area has occurred. NOAA has not identified operations that attract white sharks for ecotourism activities within the sanctuary. The benefits are expected to be small in the short- and long-term as a result of regulating attraction activities that may impact white shark behavior to help ensure any such activities, if conducted, would be conducted in a way compatible with the primary objective of protection of sanctuary resources, including white sharks.

Costs: The costs would be minimal in the short term, and would only affect one known researcher; effects would be zero for tourism operators, since no ecotourism operations attracting white sharks are known to engage in this practice in the sanctuary. In the long term, operators would be able to apply for permits to engage in this practice, and costs would be *de minimis* to permittees.

Disturbing resources deeper than 1,500 feet within the Rodriguez Seamount Management Zone, other than from fishing activities

The prohibition on disturbing resources deeper than 1,500 feet within the Rodriguez Seamount zone would cause a beneficial impact on natural resources, many uncommon if not unique to this seamount, and on commercial fishing from habitat enhancement and greatly lowered risk of use conflicts (e.g., new fiber optic cable placement; oil and gas development).

Benefits: The extra protections are expected to promote conservation of this environmentally important area, providing both short- and long-term benefits to those who depend on the resources that utilize this area for migration, nurseries, feeding, and habitat.

Costs: The final regulations would not change existing NOAA Fisheries regulations within the Rodriguez Seamount Management Zone. There are no costs anticipated for the commercial fishing sector. This is not a recreational diving site; thus, no costs are anticipated for the non-consumptive recreation sector. There is currently no offshore energy production proposed in this zone.

Introducing or otherwise releasing an introduced species

Consistent with similar regulations at all other national marine sanctuaries offshore California, NOAA proposes to adopt a regulation that would prohibit the release of an introduced species.

Benefits: The prohibition against introducing non-native species would benefit the natural ecosystem, as these species can survive and spread through sanctuaries, sometimes resulting in negative impacts to native species and habitats. These introductions can lead to catastrophic disruption of native populations. In turn, this protection could benefit commercial and recreational fisheries by improving stability in the numbers of indigenous fish species available for catch and helping to stabilize the potential for future revenues derived from commercial and for-hire fishing operations.

Costs: The sanctuary regulation prohibiting discharges would not allow ballast water to be discharged within the sanctuary, the furthest western boundary of which would be 52 nautical miles from land under the sanctuary's boundaries. Ballast water discharge is a primary vector for introduced species, and therefore ballast water discharge would be prohibited under both the

discharge regulation and the introduced species regulation. Vessels coming from international ports that transit the sanctuary will have already exchanged ballast water beyond 200 nautical miles from shore. Because some vessels engaged in trade along the U.S. Pacific Coast Region may have planned to rely on discharge beyond 50 nautical miles, this prohibition might affect their operations. However, because only one small area of the sanctuary is beyond 50 nautical miles from shore, and because few if any of these vessels would be making port calls within CHNMS, the discharge regulation and introduced species regulation would have short-term negligible costs. Additionally, there would be no expected costs associated with recreational fishing activities related to the introduced species prohibition because this regulation provides an exception for catch-and-release of striped bass. NOAA is not proposing any commercial or recreational fishing regulations with this action.

Determination of Significant Regulatory Action

Under E.O. 12866, as supplemented and reaffirmed by E.O. 14094 (Apr. 6, 2023), a regulation is considered a “significant regulatory action” if it is likely to: (1) have an annual effect on the economy of \$200 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, territorial, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in this E.O., as specifically authorized in a timely manner by the Administrator of OIRA in each case.”

The Office of Management and Budget (OMB) has determined this final rule is significant action under E.O. 12866, “Regulatory Planning and Review,” 58 Fed. Reg. 190 (Oct 4, 1993), as supplemented and reaffirmed E.O. 14094, “Modernizing Regulatory Review,” 88 Fed. Reg. 21879 (April 11, 2023). However, based upon the information provided in this analysis, this final rule would not meet the criteria for a significant regulatory action as defined in Section 3(f)(1) of E.O. 12866, as supplemented and reaffirmed by E.O. 14094. This means the estimated annual effect is less than \$200 million, and the action would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities.

Appendix E:

Compliance with Additional Regulatory Requirements

This section presents the existing additional statutory and regulatory consultation requirements and compliance for the proposed action. This section also includes the agencies or persons consulted regarding these requirements.

Between draft and final environmental impact statement (EIS), Appendix E was updated with consultation information that occurred between August 25, 2023 and the publication of this final EIS. This includes consultation meetings with relevant agencies, the Santa Ynez Band of Chumash Indians (SYBCI), and non-federally recognized Tribes, Indigenous groups, and culture-serving organizations, and outcomes for the following: National Historic Preservation Act (NHPA) Section 106 consultation (E.2); federal consistency review under the Coastal Zone Management Act (CZMA) (E.3); and Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultations (E.4 and E.7). See Section E.14 of this appendix for copies of the relevant consultation correspondence.

E.1 Consultations under the National Marine Sanctuaries Act

Under National Marine Sanctuaries Act (NMSA) section 303(b)(2), the National Oceanic and Atmospheric Administration (NOAA) is required to conduct a series of consultations with Congress, federal and state agencies, and other interested agencies. Per this requirement, NOAA sent consultation and notification letters with a copy of the draft EIS, and will be sending the final EIS to the following parties:

- U.S. House of Representatives Natural Resources Committee.
- U.S. Senate Committee on Commerce, Science, and Transportation.
- Department of Defense.
- Department of State.
- Department of Transportation.
- Department of the Interior.

NOAA also sent copies of the draft EIS to the following agencies and organizations, and will be sending the final EIS, consistent with National Environmental Policy Act (NEPA) requirements for inviting comments (40 Code of Federal Regulations (C.F.R.) 1503.1):

- Santa Ynez Band of Chumash Indians.
- State of California.
- Bureau of Ocean Energy Management.
- Bureau of Safety and Environmental Enforcement.
- U.S. Environmental Protection Agency.
- U.S. Army Corps of Engineers.
- U.S. Fish and Wildlife Service (USFWS).
- U.S. Coast Guard.
- Department of Defense: U.S. Navy, Naval History and Heritage Command.

NOAA has determined that the designation of Chumash Heritage National Marine Sanctuary (CHNMS) would not have a negative impact on the National Marine Sanctuary System and that sufficient resources exist to effectively implement sanctuary management plans and to update site characterizations. The finding for NMSA section 304(f) is available on the proposed sanctuary's [website](#).

In addition, NOAA consulted with the Pacific Fisheries Management Council (PFMC), as required in accordance with NMSA section 304(a)(5). Under section 304(a)(5) of the NMSA, NOAA shall accept a Council determination that regulations are not necessary unless NOAA finds that the determination fails to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed designation. Through this consultation, NOAA provided the PFMC with the opportunity to recommend any fishing regulations it deemed necessary to implement the proposed sanctuary designation and participated in two public meetings with the PFMC in September 2022 and November 2022, as the Council deliberated on this issue. At its hearing on November 6, 2022, the PFMC decided not to recommend any fishing regulations to implement the proposed designation but expressed a willingness to reconsider in the future should new information about the need for fishing regulations arise. The PFMC documented this decision in a letter to the Office of National Marine Sanctuaries (ONMS) West Coast Regional Office dated December 1, 2022. NOAA accepts the PFMC's response relative to the proposed designation of CHNMS.

E.2 National Historic Preservation Act of 1966 (54 United States Code (U.S.C.) §§ 300101 et seq.) – Section 106 Consultation

Section 106 of the NHPA (54 U.S.C. 306108) requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to the undertaking. “Historic property” means any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and material remains that are related to and located within such properties, including properties of traditional religious and cultural importance to an Indigenous nation or Tribe or Native Hawaiian organization. 36 C.F.R. 800.16(l).

The regulations implementing Section 106 of the NHPA (36 C.F.R. 800) establish a process requiring federal agencies to (i) determine whether the undertaking is a type of activity that could affect historic properties; (ii) identify historic properties in the area of potential effects; (iii) assess potential adverse effects; and (iv) resolve adverse effects. The regulations require that federal agencies consult with states, Tribes, and other interested parties when making their effect determinations.

NOAA has determined that designation of a national marine sanctuary and related rulemaking for sanctuary-specific regulations meet the definition of an undertaking as defined at 800.16(y). In fulfilling its responsibilities under Section 106 of the NHPA, NOAA sought to identify potential consulting parties in addition to the State Historic Preservation Officer, and to identify historic properties in the area of potential effects and assess the effects of the undertaking on

such properties in consultations with those identified parties. Through issuance of the draft EIS and proposed rule in 2023, NOAA requested public input, particularly in regard to the identification of historic properties within the proposed area of potential effect, and sought to identify additional consulting parties.

Pursuant to [36 C.F.R. 800.16\(l\)\(1\)](#), the term “historic property” means: “any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior.” The term includes “artifacts, records, and remains that are related to and located within such properties,” as well as “properties of traditional religious and cultural importance to an Indian Tribe . . . that meet the National Register criteria.” Comments received on the proposed rule (see EIS Appendix A, Cultural Resources section), the draft EIS, and the NHPA Section 106 consultation process informed the findings presented in this appendix.

In August 2023, NOAA initiated consultation under NHPA Section 106 with the federally recognized Santa Ynez Band of Chumash Indians via letter. In addition, NOAA also sent letters inviting 11 non-federally recognized Tribes, Indigenous groups, and culture-serving organizations that had expressed interest in the sanctuary designation project to participate as additional consulting parties under NHPA Section 106, including: the Northern Chumash Tribal Council, Northern Chumash Bear Clan, Coastal Band of the Chumash Nation, Chumash Maritime Association, Wishtoyo Foundation, yak titvu titvu yak tilhini Northern Chumash Tribe (YTT), Barbareño Band of Chumash Indians, Barbareño/Ventureño Band of Mission Indians, Barbareño Chumash Tribal Council, Salinan Tribe of Monterey and San Luis Obispo Counties, and Xolon Salinan Tribe. Six interested parties accepted NOAA’s invitation for meetings to discuss the consultation, and to address other questions related to the designation. The meetings were conducted as virtual sessions in October and November of 2023. In August 2024, NOAA shared its Finding of No Historic Properties Affected (which is included in section E.14 below) with the consulting parties. Subsequently, pursuant to 36 C.F.R. 800.4(d)(1), and concurrent with the publication of this final EIS, NOAA issues the following Finding of No Historic Properties Affected for this undertaking, for a 30-day public inspection and consulting party review period.

E.3 Coastal Zone Management Act (16 U.S.C. §§ 1451 et seq.) – Federal Consistency

In 1972, Congress enacted the CZMA (16 U.S.C. 1456) to encourage coastal states, Great Lakes states, and U.S. Territories and Commonwealths to preserve, protect, develop, and where possible, to restore or enhance the resources of the nation’s coastal zone. Section 307 of the CZMA is known as the “federal consistency” provision. The federal consistency provision requires federal actions (inside or outside a state’s coastal zone) that affect any land or water use or natural resource of a state’s coastal zone, to be consistent to the maximum extent practicable with the enforceable policies of the state coastal management program.

Section 307 of the CZMA requires federal agencies to consult with a state’s coastal program on potential federal agency activities that affect any land or water use or natural resource of the coastal zone. Because the proposed sanctuary lies partially within state waters, NOAA submitted

a copy of the proposed rule and supporting documents, including the draft EIS, to the California Coastal Commission (CCC) for evaluation of federal consistency under the CZMA. The EIS provides the backbone of the analysis necessary for that determination. NOAA will publish the final rule and designation only after completion of the federal consistency process under the CZMA. The federal consistency regulations can be reviewed at 15 C.F.R. part 930.

On April 11, 2024, NOAA submitted its federal consistency determination to the CCC for the agency's review. NOAA withdrew the federal consistency determination letter on April 23, 2024 after discussions with CCC staff. NOAA resubmitted its federal consistency determination to the CCC on June 14, 2024. NOAA's analysis found the proposed action would be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program. The CCC issued its Staff Report on July 24, 2024, which recommended that the Commission concur with the consistency determination (CCC Consistency Determination CD-0005-24). At a CCC public hearing on August 8, 2024, the CCC unanimously concurred with NOAA's consistency determination and found that the proposed action was consistent with the California Coastal Management Program. NOAA received the official concurrence letter from CCC staff on August 9, 2024.

E.4 Endangered Species Act (16 U.S.C. §§ 1531 et seq.) – Section 7 Consultation

The ESA of 1973, as amended, provides for the conservation of species that are endangered or threatened throughout all or a significant portion of their range, and the conservation of the ecosystems on which they depend. The ESA directs all federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the act. NOAA Fisheries works with USFWS to manage ESA listed species. Generally, NOAA Fisheries manages marine species, while USFWS manages land and freshwater species.

A species is considered endangered if it is in danger of extinction throughout all or a significant portion of its range. A species is considered threatened if it is likely to become an endangered species within the foreseeable future. When listing a species as threatened or endangered, NOAA Fisheries or USFWS also designates critical habitat for the species to the maximum extent prudent and determinable (16 U.S.C. § 1533(a)(3)).

Section 7(a)(2) of the ESA states that each federal agency shall, in consultation with the Secretary of Commerce and/or Interior, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. In fulfilling these requirements, each agency must use the best scientific and commercial data available. The consultation process is further developed in regulations promulgated at 50 C.F.R. part 402.

The ESA requires action agencies to consult or confer with the USFWS and/or NOAA Fisheries when there is discretionary federal involvement or control over the action. When a federal agency's action "may affect" a protected species, that agency is required to consult formally with NOAA Fisheries or USFWS, depending upon the endangered species, threatened species, or designated critical habitat that may be affected by the action (50 C.F.R. § 402.14 (a)). Federal agencies are exempt from this general requirement if they have concluded that an action "may

affect but is not likely to adversely affect” endangered species, threatened species, or designated critical habitat and NOAA Fisheries or the USFWS concurs with that conclusion (50 C.F.R. § 402.14 (b)). This is commonly referred to as “informal consultation.” This finding can be made only if *all* the reasonably expected effects of the proposed action will be beneficial, insignificant, or discountable. An action agency shall confer with USFWS and/or NMSF if the action is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat.

Most consultations are conducted informally with the federal agency or a designated non-federal representative. When the biological assessment or other information indicates that the action has no likelihood of adverse effect (including evaluation of effects that may be beneficial, insignificant, or discountable), NOAA Fisheries and/or USFWS provide(s) a letter of concurrence, which completes informal consultation. The agency is not required to prepare a biological assessment for actions that are not major construction activities, but, if a listed species or critical habitat is likely to be affected, the agency must provide the services with an account of the basis for evaluating the likely effects of the action.

In EIS Section 4.3.1 and Appendix G.1 of the draft EIS, NOAA identified 38 ESA-listed species under USFWS jurisdiction potentially present in the study area and designated critical habitat for six species in the study area. In EIS Section 4.3.1 and Appendix G.3 of the draft EIS, NOAA identified 22 ESA-listed species under NOAA Fisheries jurisdiction potentially present in the action area. NOAA then evaluated which of these species and habitat would likely be present in the action area and affected by implementing the proposed action and described any potential impacts in EIS sections 4.3.3–4.3.8.

As detailed in Section 4.3 of the draft EIS, ONMS believes implementation of the Initial Boundary Alternative or other action alternatives identified in the draft EIS is not likely to adversely affect any species listed as threatened or endangered, or habitats critical to such species, under the ESA. Concurrent with public review of this EIS, on August 24, 2023, ONMS initiated consultation with NOAA Fisheries and USFWS under section 7 of the ESA to ensure that the preferred alternative for sanctuary designation will be compliant with the ESA. ONMS sent supplemental letters to NOAA Fisheries and USFWS on June 14, 2024 to provide an update on the Final Preferred Alternative and to explain why the update did not change NOAA’s conclusion that the overall effects determination remains that the sanctuary designation may affect, but is not likely to adversely affect, listed species and their designated critical habitat. Consultations with USFWS and NOAA Fisheries resulted in ONMS revising conclusions for nine ESA-listed species under USFWS jurisdiction listed in Table G.1-1 and adding eight species under NOAA Fisheries jurisdiction and removing six species from Table G.3-1 in Appendix G. Importantly, despite these alterations, the overall effects determination remains that the sanctuary designation **may affect, but is not likely to adversely affect** listed species and their designated critical habitat. On June 21, 2024, ONMS received a formal letter of concurrence from USFWS that sanctuary designation may affect, but is not likely to adversely affect 29 listed species and designated critical habitat for four species under USFWS jurisdiction. Furthermore, USFWS stated the proposed project would be beneficial because CHNMS would improve protection of the habitat and species within the proposed sanctuary. This letter concluded consultation with USFWS pursuant to ESA Section 7(a)(2). On July 1,

2024, ONMS received a formal letter of concurrence from NOAA Fisheries that sanctuary designation may affect, but is not likely to adversely affect listed species and their designated critical habitat.

E.5 Marine Mammal Protection Act of 1972 (16 U.S.C. §§ 1361 et seq.)

The Marine Mammal Protection Act (MMPA), as amended, prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. The MMPA defines “take” as: “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (16 U.S.C. § 1362(13)). Harassment means any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment) (16 U.S.C. § 1362).

Section 101(a)(5)(A-D) of the MMPA provides a mechanism for allowing, upon request, the “incidental,” but not intentional, taking, of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing or directed research on marine mammals) within a specified geographic region. The NOAA Fisheries Office of Protected Resources processes applications for incidental takes of small numbers of marine mammals. Authorization for incidental takes may be granted if NOAA Fisheries finds that the taking would be of small numbers, have no more than a “negligible impact” on those marine mammal species or stocks, and not have an “unmitigable adverse impact” on the availability of the species or stock for “subsistence” uses. NOAA Fisheries issuance of an incidental take authorization also requires NOAA Fisheries to make determinations under NEPA and Section 7 of the ESA.

Effect Determination for Marine Mammals for the Proposed Action

NOAA/ONMS determined that implementing the proposed action would result in beneficial impacts on marine mammals as described in Section 4.3 of the draft EIS. Section 4.3 describes the marine mammals potentially occurring in the study area and analyzes potential impacts that the proposed action could have on marine mammals. Without mitigation measures, vessel operations do create the possibility for collision with a marine mammal or for temporary disturbance of a marine mammal, such as a California sea lion or common dolphin, which are frequently encountered in the study area. NOAA will operate sanctuary vessels using the precautionary practices described in EIS Section 3.2 and Appendix C of the draft EIS, including posting lookouts, managing vessel speed, and avoiding night operations.

The contribution of noise to the sanctuary soundscape from conducting sanctuary management activities would be minor related to the scope of existing activities in the region. Any acoustics effects on living marine resources from engine noise, movement of equipment through the water, and other underwater sound generated from propulsion machinery or depth sounders would be minor and temporary. Potential impacts from use of multibeam sonar during sanctuary management actions are anticipated to be limited to temporary behavioral

disturbances of marine mammals within the mid- and higher- frequency hearing range (e.g., dolphins) with all sound exposures anticipated to be less than one minute. ONMS' multibeam and other active acoustic activities have been assessed programmatically pursuant to NEPA with those of other NOAA National Ocean Service programs, including the Office of Coast Survey, which conducts the majority of echo sounder surveys for the National Ocean Service (National Ocean Service Surveying programmatic EIS). As part of that programmatic review, the National Ocean Service has completed an informal Section 7 ESA consultation with NOAA Fisheries and has completed a formal Section 7 consultation with USFWS (the consultation with USFWS was informal consultation for all species occurring outside Alaska; in other words, for all non-Alaska species, USFWS concurred with the National Ocean Service's conclusion that the proposed action was not likely to adversely affect listed species or designated critical habitat). In response, USFWS and NOAA Fisheries indicated that the proposed National Ocean Service activities are not likely to result in the incidental take of marine mammals under USFWS' or NOAA Fisheries' jurisdiction, and that incidental take regulations are therefore not required. ONMS would comply with all required mitigation when conducting activities under this National Ocean Service Surveying programmatic EIS within the proposed CHNMS. National Ocean Service [Surveying programmatic EIS](#) is available online.

Should ONMS conduct, permit, or authorize any future activities, NOAA/ONMS would evaluate the environmental impacts from such activities on a case-by-case basis and would seek any necessary authorizations from NOAA Fisheries prior to conducting the proposed activity.

E.6 Migratory Bird Treaty Act (16 U.S.C. §§ 703 et seq.)

The Migratory Bird Treaty Act (MBTA) of 1918 implements the U.S.' commitment to bilateral treaties, or conventions, with Great Britain, Canada, Japan, Russia, and Mexico for the protection of shared migratory bird resources. The MBTA establishes that it is unlawful to pursue, hunt, take, capture, kill or sell migratory birds unless authorized by a permit issued by USFWS. Take is defined in regulations as: "pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect" (50 C.F.R. § 10.12). The statute does not discriminate between live or dead birds and gives full protection to any bird parts including feathers, eggs, and nests. The MBTA protects over 800 species of birds that occur in the U.S., and the list of migratory bird species protected by the MBTA is set forth in 50 C.F.R. § 10.13. Of these migratory bird species protected under the MBTA, 53 species may be found transiting, resting, or foraging within the study area (see Appendix G.2). USFWS issues permits for scientific collecting, banding, and marking, falconry, raptor propagation, depredation, import, export, taxidermy, waterfowl sale and disposal, and special purposes. USFWS has also developed, and continues to develop, voluntary guidance that helps project proponents reduce incidental take of migratory birds.

MBTA No Take Statement for the Proposed Action

Effect Determination for Migratory Birds

NOAA/ONMS determined that the proposed action would not cause the take of any migratory bird species protected under the MBTA. Section 4.3.1 and Appendix G.2 of the final EIS describes the 53 migratory bird species that may be found transiting, resting, or foraging within

the study area, and analyzes potential impacts the proposed action could have on these species. Any impacts on migratory birds associated with implementing the proposed action would be negligible, such as human disturbances from vessel traffic, noise from recreational activities, or from other activities in support of the sanctuary management such as research or educational activities. Any disturbances that did occur would be negligible and would not rise to the level of take under the MBTA. Should NOAA/ONMS conduct, permit, or authorize any future activities that would cause the take of any species protected under the MBTA, NOAA/ONMS would evaluate the environmental impacts from such activities on a case-by-case basis.

E.7 Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801 et seq.) – Essential Fish Habitat Consultation

In 1976, Congress passed the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The MSA fosters long-term biological and economic sustainability of the nation's marine fisheries out to 200 nautical miles from shore. Key objectives of the MSA are to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood. The MSA promotes domestic commercial and recreational fishing under sound conservation and management principles and provides for the preparation and implementation, in accordance with national standards, of fishery management plans (FMPs).

The MSA provides Councils and NOAA Fisheries with authority to identify and designate in the FMP EFH and Habitat Areas of Particular Concern (HAPC). The MSA defines EFH as “those waters and substrate necessary for fish for spawning, breeding, feeding, or growth to maturity” (MSA § 3(10)). HAPCs are subsets of EFH that exhibit one or more of the following traits: (i) provide important ecological function; (ii) are sensitive to human-induced environmental degradation; (iii) are stressed by development; or (iv) are rare (50 C.F.R. § 600.815(a)(8)).

The consultation requirements of Section 305(b) of the MSA provide that:

- Federal agencies must consult with the Secretary of Commerce on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH.
- The Secretary shall provide recommendations (which may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH) to conserve EFH to federal or state agencies for activities that would adversely affect EFH.
- The federal action agency must provide a detailed response in writing to NOAA Fisheries and to any regional fishery management council commenting under Section 305(b)(3) of the MSA within 30 days after receiving an EFH conservation recommendation.

“Adverse effect” is defined in the regulations as: “any impact that reduces quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from actions occurring within EFH

or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions” (50 C.F.R. § 600.910).

The trigger for EFH consultation is a federal action agency’s determination that an action or proposed action, funded, authorized, or undertaken by that agency may adversely affect EFH. If a federal agency makes such a determination, then EFH consultation is required. If a federal action agency determines that an action does not meet the may adversely affect EFH test (i.e., the action will not adversely affect EFH), no consultation is required.

The Department of Commerce’s guidelines for implementing the EFH coordination and consultation provisions of the MSA are at 50 C.F.R. §§ 600.905-930. These guidelines provide definitions and procedures for satisfying the EFH consultation requirements, which include the use of existing environmental review processes, general concurrences, programmatic consultations, or individual EFH consultations (i.e., abbreviated, expanded) when an existing process is not available. The EFH guidelines also address coordination with the councils, NOAA Fisheries EFH conservation recommendations to federal and state agencies, and council comments and recommendations to federal and state agencies.

The proposed sanctuary action area is located within EFH and HAPCs for various federally managed fish species within the Pacific Coast Groundfish, Coastal Pelagic Species, and Highly Migratory Species FMPs. The EFH regulations encourage regional Fishery Management Councils to designate HAPCs within areas identified as EFH to focus conservation priorities on specific habitat areas that play a particularly important role in life cycles of federally managed fish species. HAPCs help focus research and conservation efforts on localized areas that are especially important ecologically or are vulnerable to degradation. HAPCs are subsets of the total area necessary to support healthy stocks of fish throughout all their life stages. Section 4.3.1 and Appendix G.4 of this EIS identifies the EFH and HAPCs that overlap with the action area following procedures established by the MSA.

NOAA/ONMS began consultation with NOAA Fisheries on August 24, 2023 to make an effects determination with regard to the proposed action’s effects on EFH. On July 1, 2024, ONMS received a formal letter of concurrence from NOAA Fisheries that ONMS-led on-water activities after sanctuary designation would have no more than minimal adverse effects on EFH and HAPC.

E.8 Executive Order (E.O.) 13175 – Consultation and Coordination with Indian Tribal Governments and Tribal Engagement

Under E.O. 13175 of November 6, 2000, federal departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with officials of federally recognized nations and Tribes on the development of federal policies that have Tribal implications. The E.O. identifies fundamental principles guiding agencies in formulating or implementing policies that have Tribal implications, including working with Indian Tribes (defined to be federally recognized Tribes) on a government-to-government basis to address issues concerning Indian Tribal self-government, Tribal trust resources, and Indian Tribal treaty

and other rights, recognizing the right of Indian Tribes to self-government, and supporting Tribal sovereignty and self-determination. NOAA implements E.O. 13175 through the NOAA Administrative Order 218-8 (Policy on Government-to-Government Consultation with Federally Recognized Indian Tribes and Alaska Native Corporations), and the NOAA Tribal Consultation Handbook. Under these policies and procedures, NOAA offers affected federally recognized Tribes government-to-government consultation at the earliest practicable time it can reasonably anticipate that a proposed policy or initiative may have Tribal implications.

NOAA identified the Santa Ynez Band of Chumash Indians as the only federally recognized Tribe in the area of the proposed sanctuary. NOAA sent a letter to this Tribe following publication of the Notice of Intent (November 19, 2021) offering government-to-government consultation. NOAA subsequently accepted a request for government-to-government consultation from the Santa Ynez Band of Chumash Indians on January 26, 2022. To date, six formal consultation meetings have been conducted, on January 27, 2022, April 14, 2022, August 12, 2022, September 1, 2022, December 19, 2022, and May 30, 2024, as well as one informational meeting with NOAA Leadership on April 28, 2022. Between consultation meetings, staff-level communications and coordination between NOAA and the Santa Ynez Band of Chumash Indians has been frequent. In the course of this consultation, NOAA shared relevant portions of the draft EIS, draft management plan, and final EIS with the Santa Ynez Chumash, and incorporated comments received and information exchanged. NOAA's government-to-government consultation with the federally recognized Tribe for the purpose of designating the new national marine sanctuary will continue until the designation is finalized. In concluding consultation, NOAA will follow its policies under NAO 218-8 and the NOAA Tribal Consultation Handbook.

E.9 E.O. 12898 – Federal Actions to Address Environmental Justice in Minority and Low-Income Populations and E.O. 14096 Revitalizing Our Nation's Commitment to Environmental Justice for All

E.O. 12898 and E.O. 14096 direct federal agencies to identify and address disproportionately high and adverse effects of their actions on human health and the environment of communities with environmental justice concerns. Additionally, federal agencies are directed to better protect overburdened communities from pollution and environmental harms; strengthen engagement with communities and mobilize federal agencies to confront existing and legacy barriers and injustices; promote the latest science, data, and research, including on cumulative impacts; increase accountability and transparency in federal environmental justice policy; and honor and build on the foundation of ongoing environmental justice work. The designation of national marine sanctuaries by NOAA helps to ensure the enhancement of environmental quality for all populations in the United States. The sanctuary designation would not result in disproportionate negative impacts on any communities with environmental justice concerns. In addition, many of the potential impacts from designating the sanctuary would result in long-term or permanent beneficial impacts by protecting sanctuary resources, which may have a positive impact on communities by providing employment and educational opportunities, and potentially result in improved ecosystem services. In compliance with E.O. 12898 and E.O.

14096, EIS Section 4.6, *Socioeconomic Resources, Human Uses, and Environmental Justice*, in this EIS addresses environmental justice issues associated with the action in the Environmental Consequences sections (EIS sections 4.6.3–4.6.9).

E.10 National Environmental Policy Act

ONMS has prepared this EIS to evaluate the environmental effects of the proposed action of designating a new national marine sanctuary, which considered alternatives for the proposed designation of a national marine sanctuary along and offshore of the coast of central California, in accordance with NEPA.

E.11 Paperwork Reduction Act (44 U.S.C. §§ 3501 et seq.)

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

NOAA has an OMB control number (0648–0141) for the collection of public information related to the processing of ONMS permits across the National Marine Sanctuary System. NOAA’s proposal to create a national marine sanctuary along the coast of central California would likely result in a minimal increase in the number of requests for ONMS general permits, special use permits, certifications, and authorizations because this action proposes to add those approval types for this proposed sanctuary. A large increase in the number of permit requests would require a change to the reporting burden certified by OMB control number 0648-0141. While a large increase in permits is not expected as a result of this action, NOAA is requesting a revision and extension of its approved information collection request, outside of this proposed action, for national marine sanctuary permits to include the additional estimated permit numbers, which will apply to CHNMS.

In the most recent Information Collection Request revision and approval for national marine sanctuary permits (dated November 30, 2021), NOAA reported approximately 424 national marine sanctuary permitting actions each year, including applications for all types of ONMS permits, requests for permit amendments, and the conduct of administrative appeals. Of this amount, CHNMS is expected to add 5 to 15 permit requests per year. The public reporting burden for national marine sanctuaries general permits is estimated to average three responses with an average of 1.5 hours per response, to include application submission, a cruise or flight log (or some other form of activity report), and a final summary report after the activity is complete. See Section G of the proposed rule for more detailed information.

E.12 Regulatory Flexibility Act (5 U.S.C. §§ 601 et seq.)

The Regulatory Flexibility Act (RFA), as amended and codified at 5 U.S.C. 601 *et seq.*, requires federal agencies to prepare a regulatory flexibility analysis of a rule’s impact on small entities whenever the agency is required to publish a notice of proposed rulemaking, unless the agency can certify, pursuant to 5 U.S.C. 605, that the action will not have significant economic impact on a substantial number of small entities.

The RFA requires agencies to consider, but not necessarily minimize, the effects of proposed rules on small entities. There are no decision criteria in the RFA. Instead, the goal of the RFA is to inform the agency and public of expected economic effects of the proposed rule and to ensure the agency considers alternatives that minimize the expected economic effects on small entities while meeting applicable goals and objectives. Section F of the proposed rule quantifies the potential effects of a national marine sanctuary designation.

The analysis detailed in Section F of the proposed rule serves as the factual basis for and supports NOAA's decision to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, no further analysis is needed under the RFA (5 U.S.C. 605(b)).

E.13 E.O. 12866 – Regulatory Impact

OMB has determined this rule is significant action under E.O. 12866, "Regulatory Planning and Review," 58 Fed. Reg. 190 (Oct 4, 1993), as supplemented and reaffirmed by E.O. 14094, "Modernizing Regulatory Review," 88 Fed. Reg. 21879 (April 11, 2023). Based upon the information provided in NOAA's accompanying Cost-Benefit Analysis, this proposed rule would not meet the criteria for a significant regulatory action as defined in Section 3(f)(1) of E.O. 12866, as supplemented and reaffirmed by E.O. 14094. This means the estimated annual effect is less than \$200 million, and the action would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities. Therefore, NOAA did not prepare the full regulatory impact analysis under E.O. 12866.

E.14 Consultation Correspondence

Refer to the CHNMS website for [relevant correspondence](#) between NOAA and consulting parties on the draft EIS. Correspondence with consulting parties on this final EIS is included below the order as follows.

- NHPA Section 106 Finding of No Historic Properties Affected
- CZMA Federal Consistency Determination
- CZMA Letter of Concurrence – CA Coastal Commission
- ESA/EFH Supplemental Consultation Letter – NOAA Fisheries
- ESA/EFH Letter of Concurrence – NOAA Fisheries
- ESA Supplemental Consultation Letter – USFWS
- ESA Letter of Concurrence – USFWS

NHPA Section 106 Finding of No Historic Properties Affected

Finding of No Historic Properties Affected for the Proposed Chumash Heritage National Marine Sanctuary Designation

August 2024

Summary

This document describes the National Oceanic and Atmospheric Administration's (NOAA's) compliance with Section 106 of the National Historic Preservation Act (NHPA) and documents the agency's **Finding of No Historic Properties Affected** (Finding) for the undertaking of designating the waters along and offshore of the central California coast as a national marine sanctuary, pursuant to 36 Code of Federal Regulations (CFR) § 800.4(d)(1). NOAA has prepared this documentation following the standards outlined in 36 CFR § 800.11(d). This Finding and supporting documentation are being provided to the consulting parties and will be available to the public at: <https://sanctuaries.noaa.gov/chumash-heritage>.

NOAA has determined that historic properties are present within the Area of Potential Effects (APE), but that the undertaking will have no effect on them. The purpose of the proposed designation is, in part, to increase protection of a collection of nationally significant cultural resources located within the central California coastal marine environment. Designation of the proposed Chumash Heritage National Marine Sanctuary will lead to direct and permanent protection of these significant resources through implementation of regulations expressly prohibiting harm or injury to archaeological sites and other historic properties located within the proposed sanctuary boundaries. Protection of these cultural resources would be additionally enhanced through long-term management activities including research and monitoring, outreach initiatives, volunteer involvement, and enforcement agency coordination. Furthermore, management of the proposed sanctuary would be guided by the principle of Indigenous collaborative co-stewardship, and through this designation NOAA endeavors to support Indigenous Peoples seeking to exercise their cultural and spiritual responsibilities linked to waters within the proposed sanctuary boundaries.

Description of the Undertaking

Federal Involvement

The National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq.) is the organic legislation governing NOAA's Office of National Marine Sanctuaries (ONMS). The NMSA authorizes the Secretary of Commerce to designate as a national marine sanctuary any discrete area of the marine and Great Lakes environment with special national significance due to its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities (16 U.S.C. 1433(a)). In addition to designating and managing these special places, the NMSA provides additional purposes and policies that guide how NOAA manages these areas, including guidance to:

- Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities (16 U.S.C. 1431 (b)(2));

- Enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System (16 U.S.C. 1431 (b)(4));
- Support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas (16 U.S.C. 1431 (b)(5));
- Facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities (16 U.S.C. 1431 (b)(6));
- Develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas (16 U.S.C. 1431 (b)(7)).

The Undertaking

In July 2015, a broad community consortium led by the Northern Chumash Tribal Council submitted a nomination to NOAA through the Sanctuary Nomination Process (79 FR 33851), asking NOAA to consider designating an area on the central California coast as a national marine sanctuary. The nomination asked NOAA to protect this nationally significant area for its biologically and culturally important resources. The nomination also identified opportunities for NOAA to expand upon existing local and state efforts to study, interpret, and manage the area's unique cultural and biological resources. NOAA accepted the nomination and issued a Notice of Intent to begin the designation process for the proposed sanctuary in November 2021 (86 FR 62512).

Proposed designation of the Chumash Heritage National Marine Sanctuary meets the definition of an undertaking as defined at § 800.16(y). Specifically, the undertaking includes three actions: 1) delineation of the proposed Chumash Heritage National Marine Sanctuary boundaries; 2) a notice of proposed rulemaking in the Federal Register containing proposed regulations for the sanctuary; and 3) publication of a draft management plan for the proposed national marine sanctuary, which outlines the proposed goals, objectives, and strategies for managing sanctuary resources for the next five years, as described in section 304(a)(2)(C) of the NMSA.

The purpose of this proposed designation is to increase protection of the ecological, historical, and cultural qualities of the central California coastal marine environment. The proposed designation would provide conservation and comprehensive ecosystem-based management to address threats to the nationally significant biological, cultural, and historical resources of the proposed sanctuary. By implementing a management plan approach that includes a variety of actions, the sanctuary would: 1) develop coordinated and collaborative marine science, education and outreach, and cultural heritage programs to assist in managing the area's nationally significant resources; 2) respond to interest for a community-based, ecosystem-based management regime to address threats to the natural environment, wildlife, and cultural resources of the area; and 3) highlight the many diverse human activities, cultural connections, and maritime heritage values of the area, from the various Tribes and Indigenous communities to existing activities in the area.

The undertaking does not include assessment of project-specific effects on historic properties that may occur once the proposed sanctuary is designated (e.g., research, education, management activities, or issuance of permits). Future project-specific undertakings will be reviewed on a case-by-case basis in compliance with NHPA.

Area of Potential Effects

As defined in the Section 106 regulations (36 CFR § 800.16(d)), the APE is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The dimensions of the APE are influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

The APE for this undertaking, consistent with the scope of the study area and impact analysis in the draft EIS for the proposed sanctuary designation, is defined as the areas within the boundaries of the proposed action and alternatives. The APE is the waters below the mean high tide line along and offshore the central coast of California, as defined by the Initial Boundary Alternative combined with the areas in Sub-Alternative 5a and Sub-Alternative 5b, as described in Chapter 3 of the draft EIS (Figure 1).

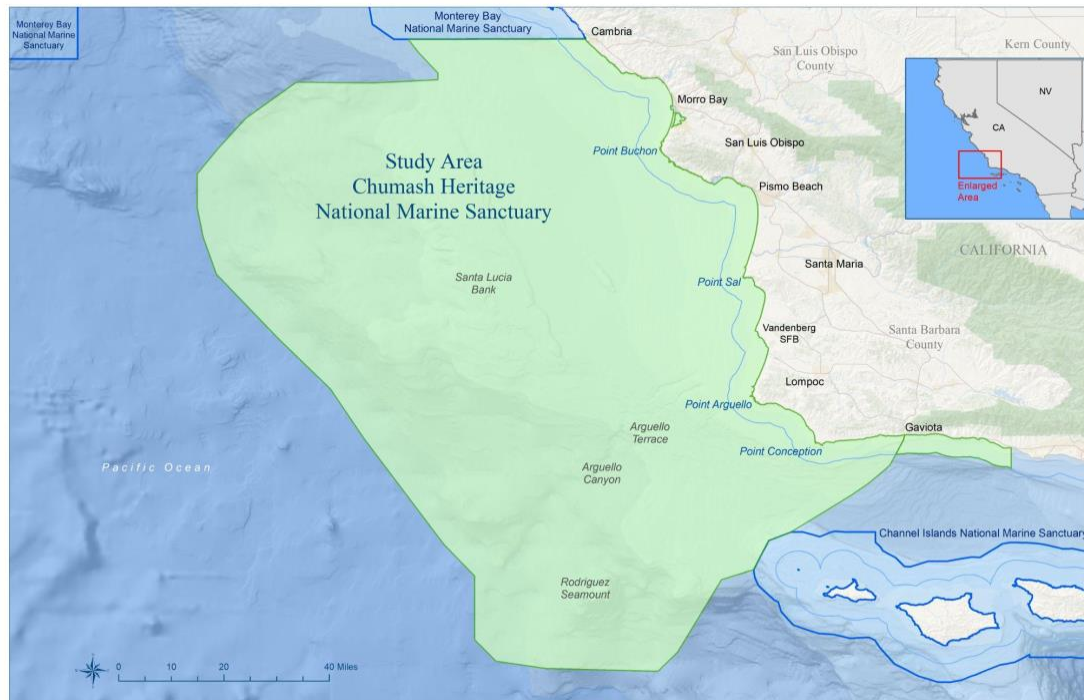


Figure 1. Map of the Area of Potential Effects

Consultation with Appropriate Parties and the Public

NOAA initiated the Section 106 process concurrent with issuance of the Notice of Intent to begin the designation process for the proposed sanctuary in November 2021 (86 FR 62512). Through this notice NOAA invited public participation in the Section 106 process.

On August 24, 2023, NOAA released for public comment a draft sanctuary management plan, notice of proposed rulemaking (proposed rule/regulations), and an accompanying draft EIS for the proposed

Chumash Heritage National Marine Sanctuary. In the draft designation documents, NOAA committed to identify consulting parties pursuant to 36 CFR § 800.3(f); consult on existing information regarding the proposed undertaking and the geographic extent of the APE; and solicit additional information on historic properties within the APE from the consulting parties and the public. The documents are accessible at: <https://sanctuaries.noaa.gov/chumash-heritage/>. NOAA also held a 62-day public review and comment period on the draft designation documents, during which NOAA held three public comment meetings. All public comments are available online at: <https://www.regulations.gov/document/NOAA-NOS-2021-0080-1228/comment>. A summary of public comments received is included as Appendix A to the draft EIS.

Concurrent with the release of the August 2023 draft designation documents, NOAA initiated Section 106 consultation through correspondence to the SHPO and the Tribal Historic Preservation Officer (THPO) of the Santa Ynez Band of Chumash Indians, in addition to inviting other potential consulting parties to participate in review of the undertaking. A list of entities that received an invitation from NOAA to participate as consulting parties is included as Appendix A. These letters solicited interested party comments and input regarding the identification of, and potential effects on, historic properties from the proposed sanctuary designation for the purpose of obtaining input for the Section 106 review (36 CFR § 800.2(d)(3)) and to determine their interest in participating as a consulting party. NOAA followed up with six Tribes and groups that expressed interest, conducting a series of virtual meetings in September and October, 2023. A list of these meetings is included in Appendix A.

Description of the Steps Taken to Identify Historic Properties

Through development of the draft EIS for the proposed Chumash Heritage National Marine Sanctuary designation and in consultation with the parties, NOAA compiled existing and available information on historic properties within the APE, including any data concerning possible historic properties not yet identified. A description of historic properties and cultural resources is available in section 4.5.1 of the draft EIS and a summary is provided below. If designated as a national marine sanctuary, NOAA recognizes that additional long-term historic property identification efforts are warranted, in part to meet the agency's responsibilities to identify and evaluate historic property under Section 110 of NHPA. NOAA has identified this effort as a management goal through the *Indigenous Cultural Heritage Action Plan* and *Maritime Heritage Action Plan* described in the Draft Management Plan.

Pre- Contact Historic Properties

Pre-contact cultural resources (i.e. from a time before Indigenous People encountered non-Indigenous settlers) that may be present within the APE include formerly terrestrial areas now submerged that have the potential to contain sites and landscape features and sites and landscapes potentially significant as Traditional Cultural Properties. Corresponding with lower global sea level during the Late Pleistocene, areas extending west from the present central California coastline that may have the potential to contain now submerged landform features extend less than three miles off the Big Sur coast, up to six miles just north and south of Point Piedras Blancas, and up to approximately nine miles offshore of Estero Bay (BOEM, 2022). This corresponds to an area from the present-day shoreline out to a water depth of approximately 800 feet. Pre-contact period sites within this area, if present, would most likely be found in the vicinity of paleochannels or river terraces that offer the highest potential of site preservation; however, preservation conditions are variable and depend on local geomorphological conditions and the speed of

sea level rise (BOEM, 2022, pp. 73-74). Numerous pre-contact archaeological sites have been documented along the central California coast, and a few nearby isolated artifact finds suggest human occupation in the area may date back at least 10,000 years (Jones et al., 2009).

Representatives of Chumash and Salinan Tribes have expressed to NOAA that they consider many locations along the central coast region to be sacred places (BOEM and CEC, 2021). In particular, Morro Rock and the surrounding waters are known to be a culturally significant place for Chumash and Salinan peoples, who refer to Morro Rock as Lisamu' and Le'samu, respectively. The Channel Islands and surrounding waters and Point Conception are also well known as significant places for Chumash Peoples. Point Conception is one of the earliest known sites of human settlement on the California coast and is identified by Chumash people as a "jumping off place" for the spirits of the dead (Braje et al., 2021). Tribes and Indigenous Peoples often choose to hold sacred or culturally important places confidential, and NOAA recognizes that many other coastal and offshore locations are important.

Historic Period Historic Properties

Historic period cultural resources located or likely to be present within the APE include the archaeological remains of landings, wharves, shipwrecks, and aircraft losses. Known and reported sites with the APE are described in the tables below. For the purpose of this consultation, NOAA is administratively considering these sites to be eligible for the National Register of Historic Places. The California Gold Rush side-wheel passenger steamer S.S. *Yankee Blade*, the oil tanker S.S. *Montebello*, and the USCG Cutter *McCulloch* are listed in the National Register of Historic Places.

Table 1. Known shipwreck sites.

| Name | Year Lost | Type/Service | Site Location | Presence in APE |
|---------------------------------|-----------|-----------------------------|------------------|-----------------|
| <i>Yankee Blade</i> ** | 1854 | Steamship/Passenger – Cargo | Point Pedernales | ✓ |
| <i>Gosford</i> | 1893 | Bark/Collier | Cojo Bay | ✓ |
| <i>San Pedro</i> | 1894 | Steamship/Wrecker | Cojo Bay | ✓ |
| <i>Sibyl Marston</i> | 1909 | Steam Schooner | Surf | ✓ |
| <i>Santa Rosa</i> | 1911 | Steamship/Passenger – Cargo | Point Pedernales | ✓ |
| USCG Cutter <i>McCulloch</i> ** | 1917 | USCG Cutter | Point Conception | ✓ |
| USS <i>Delphy</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>S. P. Lee</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>Nicholas</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>Woodbury</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>Young</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>Chauncey</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |
| USS <i>Fuller</i> | 1923 | U.S. Navy Destroyer | Point Pedernales | ✓ |

| Name | Year Lost | Type/Service | Site Location | Presence in APE |
|----------------------|-----------|-----------------------------|------------------|-----------------|
| <i>Harvard</i> | 1931 | Steamship/Passenger – Cargo | Point Pedernales | ✓ |
| <i>Nippon Maru</i> | 1933 | Motorship Tanker | Point Pedernales | ✓ |
| <i>Montebello</i> ** | 1941 | Motorship Tanker | Cambria | ✓ |
| <i>Humble SM-1</i> | 1961 | Oil Drilling Barge | Government Point | ✓ |
| <i>Pacbaroness</i> | 1987 | Motorship Bulk Carrier | Point Conception | ✓ |
| <i>Ballena</i> | 2000 | NOAA Research Vessel | Point Arguello | ✓ |
| <i>Nash</i> | 2014 | Freight Barge | Point Conception | ✓ |

** Listed on the NRHP.

Source: Schwemmer, R., 2022.

Table 2. Historic landings, wharves, and piers.

| Historic Place Name | County | Nearest Geographic Place Names | Presence in APE |
|------------------------|-----------------|--------------------------------|-----------------|
| Cayucos Landing & Pier | San Luis Obispo | Cayucos | ✓ |
| Pecho Landing | San Luis Obispo | Point Buchon | ✓ |
| Pismo Landing | San Luis Obispo | Pismo | ✓ |
| Point Sal Wharf | Santa Barbara | Point Sal | ✓ |
| Chute Landing | Santa Barbara | Point Sal South | ✓ |
| Meherin Wharf | Santa Barbara | Lompoc North | ✓ |
| Lompoc Landing | Santa Barbara | Purisima Point | ✓ |
| Espada Landing | Santa Barbara | Point Conception | ✓ |
| Gaviota Wharf | Santa Barbara | Gaviota | ✓ |

* Abbreviations for alternatives: IBA = Initial Boundary Alternative, 5a = Sub-Alternative 5a, 5b = Sub-Alternative 5b.

** Within Port San Luis and/or San Luis Obispo Bay; therefore, within the study area but not within the sanctuary's boundary alternatives.

Source: Davidson & U.S. Coast and Geodetic Survey, 1889.

The Basis for the Determination of No Historic Properties Affected

NOAA carefully considered comments and information shared by Indigenous groups engaged as consulting parties in the NHPA Section 106 consultation process (see Appendix A). NOAA also considered additional public input provided on the draft EIS and draft Management Plan. Input received from these comments helped NOAA update cultural resource descriptions in Section 4.5 of the EIS, but did not result in the identification of any new historic properties within the APE or consideration of any new potential effects to historic properties not previously considered through designation of the sanctuary.

Under the NHPA and its implementing regulations, an “effect” is “an alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.” Through its analysis of the undertaking and having considered input received through the consultation process, NOAA has determined that the designation of the proposed Chumash Heritage National Marine Sanctuary will not have an effect, as that term is defined for purposes of Section 106 of the NHPA, on historic properties within the APE.

NOAA’s Finding of No Historic Properties Affected will be met through the proposed sanctuary regulations that provide increased protection to cultural resources and the submerged lands within the proposed sanctuary boundaries. Specifically, the finding is supported by NOAA’s inclusion of a proposed prohibition on moving, removing, or injuring, or attempting to move, remove, or injure, a sanctuary historical resource; or possessing or attempting to possess a sanctuary historical resource. NOAA further commits to conducting Section 106 consultation for future activities that may constitute undertakings, such as the issuance of permits, updates to the sanctuary management plan, or research and field efforts.

NOAA’s draft EIS for the proposed designation found the beneficial impacts on underwater cultural heritage and maritime heritage resources from implementing the proposed sanctuary would be direct, long-term, and significant. This is due primarily to the direct and permanent protections of these culturally and historically significant resources that would be provided by implementing regulations to prohibit harm or injury to shipwrecks and cultural/historic resources. In addition, protection of these resources would be enhanced through conducting research and monitoring activities to inform long-term management, ongoing Tribal consultation, and enhancing stewardship through outreach initiatives, volunteer involvement, and enforcement agency coordination.

Through management of the sanctuary that is guided by Indigenous collaborative co-stewardship, NOAA seeks to support Indigenous Peoples seeking to exercise their cultural and spiritual responsibilities linked to waters within the sanctuary. Based on meetings with Tribes and Indigenous groups, and consideration of submitted comments, NOAA does not believe that any of the proposed sanctuary regulations would interfere with Indigenous peoples or groups exercising their self-determination. However, should there be any specific Indigenous cultural activities that might otherwise conflict with sanctuary regulations, NOAA has proposed a cultural activities general permit category to allow for “Native American cultural or ceremonial activities” to ensure that may be allowed to occur within the proposed sanctuary.¹³

¹³ For details, see the Proposed Rule’s Sanctuary General Permits section at page 58136 (PDF page 14): <https://downloads.regulations.gov/NOAA-NOS-2021-0080-1228/content.pdf>

Appendix A - Parties Consulted and Invited

State Historic Preservation Office

In August 2023, concurrent with the release of the draft designation documents, NOAA sent a letter to the State Historic Preservation Office initiating consultation under Section 106 of the NHPA with regard to designation of the proposed sanctuary. NOAA has not received a response to this letter from the SHPO.

Tribal Historic Preservation Officer – Santa Ynez Band of Chumash Indians


In August 2023, NOAA sent a letter to the Tribal Historic Preservation Officer with the Santa Ynez Band of Chumash Indians (SYBCI) initiating consultation under Section 106 of the NHPA with regard to designation of the proposed sanctuary. NOAA has been engaged in government-to-government consultation with this federally-recognized sovereign Tribe, and SYBCI have also been assisting NOAA with preparation of the environmental impact statement in their capacity as a cooperating agency. Several government-to-government consultation meetings and calls have been ongoing with the SYBCI throughout the sanctuary designation process (January 27, 2022, April 14, 2022, August 12, 2022, September 1, 2022, December 19, 2022, and May 30, 2024). Throughout these information exchanges, NOAA has received input to help improve the accuracy of cultural resource information described in Section 4.5 of the EIS. However, these discussions did not result in NOAA learning of additional historic properties or any historic properties that could be affected through designation of the sanctuary.

Additional Parties

Several non-federally recognized Tribes and Indigenous groups, and culture-serving organizations, expressed an interest in the proposed sanctuary designation and were actively involved in providing culturally-related input and comments. NOAA invited these entities to be additional consulting parties: the Northern Chumash Tribal Council, Barbareño Band of Chumash Indians, Barbareño-Ventereño Band of Mission Indians, YTT Northern Chumash Tribe, Salinan Tribe of Monterey and San Luis Obispo Counties, Xolon Salinan Tribe, Barbareño Chumash Tribal Council, Northern Chumash Bear Clan, Coastal Band of the Chumash Nation, Wishtoyo Foundation, and Chumash Maritime Association. A series of six online meetings and calls were held between October 3-18, 2023 at which each participating group was invited to comment on any historic properties that could be adversely affected through designation of the sanctuary. The meetings provided important exchanges of information and perspectives, and were followed by each entity submitting substantive written comments during the comment period for the draft designation documents (see the Tribal and Indigenous section in Appendix A within the Final EIS for comments and responses). The information shared helped NOAA to update and improve many aspects of the cultural resource information presented in Section 4.5 of the EIS, and to make improvements and refinements to the proposed Indigenous Collaborative Co-Stewardship framework presented in the Management Plan. However, through these comments, NOAA did not learn of any new historic properties that could be adversely affected through designation of the sanctuary.

Among the groups invited to participate as additional consulting parties, the following parties accepted NOAA's invitation to participate in an online meeting or call:

- Xolon Salinan Tribe (October 3, 2023)
- Coastal Band of the Chumash Nation, Northern Chumash Tribal Council, Northern Chumash Bear Clan (October 10, 2023)

- 
- Wishtoyo Foundation (October 11 and 18, 2023)
 - Barbareño Chumash Tribal Council (October 16, 2023)
 - YTT Northern Chumash Tribe, Barbareño/Ventureño Band of Mission Indians, and Barbareno Band of Chumash Indians (October 17, 2023).

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CZMA Federal Consistency Determination



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Office of National Marine Sanctuaries | West Coast Region
 99 Pacific Street, Bldg 100, Suite F
 Monterey, CA 93940

June 14, 2024

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 Federal Programs Manager
 California Coastal Commission
 455 Market Street, Suite 300
 San Francisco, CA 94105-2219

Cassidy Teufel
 Energy, Ocean Resources and Federal Consistency
 California Coastal Commission
 455 Market Street, Suite 228
 San Francisco, CA 94105-2219

Dear Ashley Reineman and Cassidy Teufel:

The purpose of this letter is to ensure compliance with the requirements of Section 307 of the Coastal Zone Management Act (CZMA; 16 U.S.C. 1456 and its implementing regulations (15 CFR part 930, subpart C), related to the proposed designation of Chumash Heritage National Marine Sanctuary (CHNMS), including the proposed sanctuary regulations and management plan actions. Pursuant to the requirements of 15 CFR Part 930, subpart C, the National Oceanic and Atmospheric Administration (NOAA) submits for your review the following consistency determination for the proposed designation of CHNMS located off the central coast of California.

Summary and Finding

NOAA proposes to designate an area off the central California coast as a national marine sanctuary. The proposed designation would provide for comprehensive and coordinated conservation and management of the nationally significant natural, historical and cultural resources of this area, while enhancing public awareness and appreciation, and facilitating public and private uses including recreation and tourism, as authorized and directed by the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq.). NOAA published proposed regulations, a draft sanctuary management plan, and draft environmental impact statement (EIS) prepared under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) in the Federal Register on August 24, 2023.

For the reasons described below, NOAA finds the proposed action would be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program (CCMP).

Olympic Coast
National Marine Sanctuary
 115 E. Railroad Avenue
 Suite 301
 Port Angeles, WA 98362

Cordell Bank
National Marine Sanctuary
 P.O. Box 159
 Olema, CA 94950

Greater Farallones
National Marine Sanctuary
 The Presidio
 991 Marine Drive
 San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
 99 Pacific Street
 Suite 455A
 Monterey, CA 93940

Channel Islands
National Marine Sanctuary
 University of California Santa Barbara
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Description of the Proposed Action

The NMSA is the organic legislation governing NOAA's Office of National Marine Sanctuaries (ONMS). The NMSA authorizes the Secretary of Commerce to designate as a national marine sanctuary any discrete area of the marine and Great Lakes environment with special national significance due to its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. 16 U.S.C. 1433(a). In addition to designating and managing these special places, the NMSA provides additional purposes and policies that guide how NOAA manages these areas, including guidance to:

- Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities (16 U.S.C. 1431 (b)(2));
- Enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System (16 U.S.C. 1431 (b)(4));
- Support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas (16 U.S.C. 1431 (b)(5));
- Facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities (16 U.S.C. 1431 (b)(6));
- Develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas (16 U.S.C. 1431 (b)(7)).

In July 2015, a broad community consortium led by the Northern Chumash Tribal Council submitted a nomination to NOAA through the ONMS Sanctuary Nomination Process (79 FR 33851), asking NOAA to consider designating an area off the central California coast as a national marine sanctuary. NOAA issued a Notice of Intent to begin the designation process for the proposed sanctuary in November 2021 (86 FR 62512). The California Coastal Commission submitted a letter during the public scoping process (NOAA-NOS-2021-0080-3455) and stated, "we look forward to working closely with NOAA staff at the appropriate time to help ensure that the review process is completed as quickly and efficiently as possible. National marine sanctuary status for this area would also appear to be complementary with applicable policies of California's Coastal Management Program, including those focused on protecting marine and coastal habitats, water quality, public recreational access, fisheries, and archeological and visual resources. Should the current proposal move forward, then we are prepared to fully support the effort by reviewing the proposed designation in an objective and thorough manner and working collaboratively with NOAA to ensure that the designation of the Sanctuary is consistent with the relevant policies of California's Coastal Management Program."

The principal purpose of this proposed action is to increase protection of the ecological, historical, and cultural qualities of the central California coastal marine environment. The proposed designation would provide conservation and comprehensive ecosystem-based management to address threats to the nationally-significant biological, cultural, and historical resources of the proposed sanctuary. By implementing a management plan approach that includes a variety of actions, the sanctuary would: 1) develop coordinated and collaborative marine science, education and outreach, and cultural heritage programs to assist in managing the area's nationally-significant resources; 2) respond to interest for a community-based, ecosystem-based management regime to address threats to the natural environment, wildlife, and cultural resources of the area; and 3) highlight the many diverse human activities, cultural connections, and maritime heritage values of the area, from the various Tribes and Indigenous communities to existing activities in the area.

On August 24, 2023, NOAA released for public comment a draft sanctuary management plan, notice of proposed rulemaking (including proposed regulations and terms of designation), and an accompanying draft EIS for the proposed Chumash Heritage National Marine Sanctuary (CHNMS). The documents are accessible at <https://sanctuaries.noaa.gov/chumash-heritage/>.

The proposed action analyzed in the draft EIS is to designate a new sanctuary in the coastal and offshore waters of central California, with terms of designation, regulations, and a sanctuary management plan. For the purposes of the draft EIS, the scope of the study area and impact analysis is generally defined as the human uses of the environment, as well as the natural environment, within the boundaries of the proposed action and alternatives. In some resource areas, the study area is necessarily larger than the proposed sanctuary area because there is potential for impacts to occur beyond the proposed boundary. The study area is generally the waters along and offshore the central coast of California from Cambria to Naples and offshore between 3 to 70 miles, as defined by the Initial Boundary Alternative and Sub-Alternative 5a and Sub-Alternative 5b, as described in Chapter 3 of the draft EIS. While the draft EIS and proposed rule identified an Agency-Preferred Alternative, the final boundaries for the proposed sanctuary could be any boundary configuration within the geographic scope of the alternatives analyzed in the draft EIS. **Therefore, this consistency determination applies to the entire study area, including all alternatives and any boundary alternative that is qualitatively within the scope and spectrum of alternatives assessed in the draft EIS.** See Chapter 3 of the draft EIS for descriptions of each boundary alternative and sub-alternative.

The proposed sanctuary regulations would prohibit the following activities, subject to specified exceptions and exemptions:

- Oil, gas, and minerals exploration,¹ development, and production, except for continued oil and gas production at Platform Irene and at Platform Heritage;
- Discharges within or into the sanctuary, with some exceptions;
- Cruise ship discharges, with limited exceptions;

¹ Exploration for oil and gas resources would include disturbing the seabed by drilling an exploration well, as well as high energy seismic testing conducted for the purpose of locating potential oil and gas reserves.

- Discharging or depositing from beyond the boundary of the sanctuary any material or other matter that enters the sanctuary and injures a sanctuary resource or quality, with some exceptions;
- Disturbing the seabed, with some exceptions;
- Disturbing a historical resource, with limited exceptions;
- Taking or possessing a marine mammal, sea turtle, or bird, with limited exceptions;
- Deserting a vessel;
- Attracting a white shark;
- Disturbing resources deeper than 1,500 feet within the Rodriguez Seamount Management Zone, other than from lawful fishing activities, with limited exceptions;
- Introducing or otherwise releasing an introduced species, with limited exceptions; and
- Interfering with an enforcement investigation or action.

The draft sanctuary management plan describes non-regulatory actions in 11 action plans: Indigenous Cultural Heritage; Climate Change; Maritime Heritage; Offshore Energy; Water Quality; Blue Economy; Wildlife Disturbance; Education and Outreach; Resource Protection; Research and Monitoring; and Operations and Administration. Each action plan provides background information on resource management issues and an overview of the direction the proposed sanctuary would take to address management needs. The goals for each action plan are summarized, and the strategies describe how the goals would be accomplished for a particular issue or program area.

Depending on which boundary is selected for sanctuary designation, the proposed management plan may be modified, as needed, to address only those issues within the sanctuary boundaries. In addition, the final rule may include regulatory modifications that are a logical outgrowth of the proposed rule and that do not constitute a substantial change to the proposed action relevant to environmental concerns. As such, **this consistency determination applies to the draft management plan and any modifications as established in the final management plan as described above. In addition, this consistency determination applies to the proposed rule and any regulatory modifications, as established in the final rule, that are a logical outgrowth of the proposed rule and the impacts of which are qualitatively within the scope and spectrum of the alternatives impacts analysis in the draft EIS.**

Summary of Environmental Analysis and Evaluation of Coastal Effects

As required under NEPA, NOAA prepared a draft EIS that analyzes the potential impacts of the proposed sanctuary designation on the human environment, and considers a range of boundary alternatives for the proposed sanctuary designation. The draft EIS describes in detail the proposed sanctuary's environment, resources, regulations, and evaluates how implementing the proposed sanctuary boundaries, regulations, and management plan could affect the human environment. See draft EIS Chapter 4, Affected Environment and Environmental Consequences, and Chapter 5, Conclusion, for analyses of impacts of the action alternatives on these resources.

For the Initial Boundary Alternative and all action alternatives, there would be beneficial impacts associated with implementation of proposed sanctuary regulations (e.g., prohibitions against seabed disturbance, certain vessel discharges, and new offshore oil and gas development) that provide added resource protection in the issue areas of physical resources, biological resources, commercial fishing and aquaculture, cultural heritage and maritime heritage resources, and Department of Defense and homeland security activities. Some of the action alternatives would result in reduced beneficial impacts when compared to the Initial Boundary Alternative due to their reduced sanctuary size. No significant adverse impacts to any resource area are expected to result from the proposed action and the incremental impact of the proposed action in combination with ongoing resource protection, research, and stewardship programs, and ongoing or future commercial and industrial activities in the region, would be negligible (draft EIS Section 4.10).

Evaluation of Relevant Enforceable Policies of California's Coastal Management Program

NOAA contacted Cassidy Teufel on April 19, 2023 to request a meeting and list of the California Coastal Management Program's enforceable policies that may be relevant to the proposed action. NOAA staff had a call with Alexis Barrera on May 4, 2023, which resulted in a list of the following relevant enforceable policies for the proposed action: California Coastal Act sections 30220, 30230, 30231, 30232, 30232 (a, b), 30234.5, 30240, 30244, 30251, and 30262. On February 23, 2024, Cassidy Teufel suggested the addition of the following policies on coastal access to the list: California Coastal Act sections 30210, 30211, and 30214. NOAA's evaluation of the relevant enforceable policies is presented below.

Article 2: Public Access

Policy: **Section 30210 – Access; recreational opportunities; posting.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Effect: NOAA's proposed action is fully consistent with this enforceable policy because designating the sanctuary would not adversely affect existing or future public access to the shoreline, as there are no proposed regulatory prohibitions or restrictions on public access (draft EIS Section 4.6) or programmatic plans to limit any coastal access. The sanctuary could span 100 to 150 miles of coastline in San Luis Obispo and Santa Barbara counties which offer many public coastal access points. Between San Luis Obispo County and Santa Barbara County, there are at least 13 state parks, numerous smaller local parks, and other smaller coastal accessways such as access easements all providing coastal access (draft EIS Section 4.6). Additionally, there are at least 11 public boat launches or access locations that provide access into the sanctuary (draft EIS Section 4.6).

Signage specific to sanctuary access points would be explored once the sanctuary is designated. Growing sanctuary awareness through collaboration with partners and developing an overall "NOAA presence" is a goal of the Education and Outreach and Operations and Administration action plans in the management plan. Upon sanctuary designation, staff would evaluate infrastructure and operations requirements, including signage needs, for which the estimated operating budget takes into account (draft management plan Activity OA-2.1, Appendix B).

Additionally, staff would undertake creating and installing coastal signage and develop a 5-year plan for signage and other physical outreach tools (draft management plan Activity EO-2.2).

Policy: **Section 30211 – Development not to interfere with access.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Effect: NOAA's sanctuary designation would not adversely affect public access to the shoreline, as there are no proposed prohibitions against public access and no development is being proposed as part of the sanctuary designation (draft EIS Section 4.6, draft EIS Chapter 2). Ocean access would remain unchanged by this proposed action. Further, ONMS jurisdiction is limited to coastal and ocean waters beginning at the mean high water line; therefore, ONMS does not have the authority to regulate land-based development or activities that could interfere with the public's access to the ocean, such as the off-roading area in Oceano Dunes State Vehicular Recreation Area.

Policy: **Section 30214 (a), (b), and (c) – Implementation of public access policies; legislative intent.**

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Effect: As described above, NOAA's proposed sanctuary regulations would not prohibit public access and therefore designating the sanctuary would not regulate public access in any circumstance. Instead, non-regulatory management tools would be used to educate and encourage the sustainable use of sanctuary resources and promote sustainable recreation (draft EIS Chapter 3; draft management plan Blue Economy Action Plan). For example, the draft management plan's Wildlife Disturbance Action Plan would develop education and outreach materials and programs to teach the public about wildlife behavior, needs, and ways to avoid and minimize disturbance.

The need for additional sustainable tourism and recreation programs and messaging regarding sustainable practices during recreation and tourism activities would be evaluated following designation. Goals of sanctuary management include raising public awareness of tourism and recreation impacts on the ocean and striving to cultivate a generation of ocean stewards (see Blue Economy Action Plan Activity BE-1.1 and Strategy BE-2 in the draft management plan).

Aesthetic values of the coastline would be enhanced through public stewardship activities such as creek and beach cleanups in partnership with cooperating organizations, and assessing and reducing debris, particularly plastic, in or entering the sanctuary. Additionally, regulations on discharges and new offshore oil and gas development would improve water quality and keep ocean views clear of any new oil and gas platforms (draft management plan Blue Economy Action Plan, Activity BE-2.2; Water Quality Action Plan, Strategy WQ-2, Strategy WQ-3, and Strategy WQ-5; EIS Chapter 3).

Article 3: Recreation

Policy: **Section 30220 – Protection of certain water-oriented activities.** Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Effect: NOAA's proposed sanctuary regulations are intended to support and enhance recreational opportunities in the area by protecting aesthetic and ecological qualities of the area under all boundary alternatives. Furthermore, there are no proposed sanctuary regulations that would prohibit lawful recreational activities; for example, neither fishing nor motorized personal watercraft use would be prohibited (draft EIS Section 3.9.7). Section 4.6 of the draft EIS concludes that NOAA's proposed action would provide benefits to recreation and tourism by adding protection to the natural resources that contribute to the area's value as a recreation-tourist destination, while not restricting activities in the coastal zone such as boating, fishing, surfing, kayaking, wildlife viewing, and coastal access.

Section 4.8 of the draft EIS concludes that the proposed sanctuary regulations prohibiting discharges of material into the sanctuary would result in short-term minor adverse impacts on marine transportation. Current state and federal regulations limit different types of discharges into the waters of the proposed sanctuary, so the addition of the proposed sanctuary regulations would represent an incremental increase in restrictions on vessel discharges. The proposed vessel discharge regulations include enumerated exceptions, including for fish, fish parts, chumming materials or bait used during lawful fishing activities, and certain vessel effluent and operating discharges. Other proposed sanctuary regulations that would have minor adverse impacts on marine transportation include the prohibition on deserting/abandoning vessels and the prohibition on introduced species.

Additionally, non-regulatory management approaches would be used to facilitate, highlight, and further value these water-oriented recreational activities. As described in the draft management plan's Blue Economy Action Plan, NOAA seeks to enhance sustainable tourism and recreation in order to support a viable coastal economy, while protecting sanctuary resources and supporting the broader community.

Article 4: Marine Environment

Policy: **Section 30230 – Marine resources; maintenance.** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Effect: The proposed action of designating this area as a national marine sanctuary is fully consistent with this enforceable policy because designation would enhance the protection, knowledge, and awareness of this special area while facilitating multiple uses under all boundary alternatives (draft EIS Section 2.1). Per the NMSA, NOAA designates a sanctuary in part to maintain and protect the natural biological communities, and where appropriate, restore and enhance natural habitats, populations, and ecological processes (draft EIS Section 1.1.1). The proposed sanctuary regulations are designed to protect the sanctuary area and species, for example by prohibiting seabed disturbance and discharges of oil and other pollutants in the sanctuary subject to enumerated exceptions; offering special protections around the Rodriguez Seamount, an important and biodiverse offshore geologic feature; and prohibiting the take or possession of marine mammals, seabirds, or sea turtles, except by federal authorization or permit (draft EIS Section 3.2.2).

Minor physical or acoustic disturbance, including temporary displacement of marine species, could result from NOAA or its partners conducting research, monitoring, or resource protection activities to implement the proposed sanctuary management plan. NOAA would avoid or minimize disturbance of living marine resources by implementing best management practices and mitigation measures when conducting routine field activities (draft EIS Section 4.3.3, Appendix C). Due to these operational protocols and the low intensity and frequency of NOAA's planned activities within the sanctuary, the likelihood of disturbance of marine resources through conducting sanctuary management activities would be very low and any adverse impacts would be temporary (draft EIS sections 4.2.3 and 4.3.3).

Overall, the regulatory framework of the CCMP would be enhanced by proposed sanctuary regulations that are intended to protect the marine environment, including coastlines. Section 4.3 of the draft EIS concludes that the proposed action would provide benefits to biological resources in the area. Research activities in the proposed sanctuary would be coordinated and supported to provide the information necessary to better manage and protect the area's resources. The proposed action plans in the draft management plan would make use of research results and develop materials and projects to increase public awareness of the value and need for protection and wise management of these marine resources.

Policy: **Section 30231 – Biological productivity; water quality.** The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain

optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Effect: NOAA's proposed sanctuary regulations would prohibit depositing or discharging material and other matter within the sanctuary boundary, and from beyond the boundary of the sanctuary if such matter subsequently enters the sanctuary and injures resources or qualities (15 CFR § 922.232(a)(2)(i) and (ii), subject to enumerated exceptions. These proposed regulations would bolster existing authorities and reduce the amount of discharges from vessels, new oil and gas facilities, or other activities in the study area. Therefore, the proposed sanctuary regulations would ultimately limit the amount of pollutants such as oil, sewage, and other hazardous materials from entering the ocean environment and injuring sanctuary resources. These regulations would provide direct, indirect, and long-term benefits on water quality, biological productivity, and public access (draft EIS sections 4.2, 4.3, and 4.6). The non-regulatory management measures outlined in the draft management plan's Water Quality Action Plan would bolster these regulations by placing a strong focus on working collaboratively with partners and stakeholders, and promoting public stewardship in adjacent watersheds to ensure water quality entering the sanctuary meets California and sanctuary standards.

In addition, Monterey Bay National Marine Sanctuary, managed by NOAA just north of the proposed CHNMS, has previously entered into a Memorandum of Agreement (MOA) with the State of California, U.S. Environmental Protection Agency, and local governments regarding sanctuary regulations relating to water quality within State waters. The agreement addresses integration and coordination of research and monitoring efforts and has supported the development of a comprehensive water quality protection program. Similar agreements could be arranged for the proposed CHNMS regarding a Water Quality MOA as described in Activity WQ-2.5 of the draft management plan.

Policy: **Section 30232 – Oil and hazardous substance spills.** Protection against the spillage of crude oil, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Effect: NOAA's proposed sanctuary regulations would protect against oil and hazardous substance spills by prohibiting: 1) oil and gas exploration, development, and production, except continued oil and gas production of existing reservoirs under production prior to the effective date of sanctuary designation, as well as 2) prohibiting discharges within or into the sanctuary, or from beyond the sanctuary boundary any material or other matter that enters and injures sanctuary resource or quality, subject to enumerated exceptions.

New oil and gas development would be prohibited due to concerns of potential accidents such as oil spills, disturbance to the submerged lands during construction, and other discharges that occur during normal operation (e.g., discharge of produced water). Such activities could severely disrupt and threaten the natural and aesthetic qualities of the area and thus be inconsistent with the purposes of the sanctuary. Importantly, only new oil and gas development would be

prohibited; oil and gas production pursuant to a valid lease in effect at the time of sanctuary designation would be allowed to continue. See the draft management plan's Offshore Energy Action Plan for how NOAA plans to responsibly manage offshore energy activities, conduct necessary research and monitoring, and coordinate with other agencies and affected stakeholders, for example by supporting joint agency cooperation and review of new development and decommissioning (strategies OE-1, OE-2, and OE-3).

Further, the proposed discharge regulations would establish more comprehensive water quality protection across the geographic range proposed for sanctuary protection and would bolster existing authorities. This would reduce the amount of discharges from vessels, new oil and gas facilities, or other activities with the potential for oil and hazardous substance spills (see water quality subsections of draft EIS sections 4.2 and 4.3.3).

The draft management plan's Resource Protection Action Plan prioritizes oil spill response readiness and other hazardous spill contingency plans, and also outlines plans to monitor vessel traffic to further reduce the likelihood of oil or hazardous substance spills.

Policy: Section 30233 (a) and (b) – Diking, filling or dredging; continued movement of sediment and nutrients.

- (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
 - (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
 - (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
 - (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
 - (6) Restoration purposes.
 - (7) Nature study, aquaculture, or similar resource dependent activities.

- (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

Effect: NOAA's proposed sanctuary regulations include prohibiting discharges, which would extend to dredged material except dredged material deposited at sites authorized by the U.S. Environmental Protection Agency prior to the effective date of the sanctuary designation. Depending on NOAA's final boundary selection, this regulatory exception could apply to the existing Morro Bay dredge disposal sites. The proposed sanctuary regulations would allow NOAA to issue a permit for beneficial use of dredged material removed from public harbors adjacent to the sanctuary (see 15 CFR § 922.232(f)(1)(iii)), such as dredged material removed from Port San Luis that is suitable as a resource for habitat protection or restoration purposes. Drilling into, dredging, or otherwise altering the submerged land of the sanctuary is also prohibited, with some exceptions (draft EIS Table 3-1). These proposed sanctuary regulations would complement and bolster existing federal and California authorities and would have direct beneficial impacts on sanctuary resources under any boundary alternative.

Policy: **Section 30234.5 – Economic, commercial, and recreational importance of fishing.** The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Effect: NOAA recognizes the valuable commercial fishing grounds and recreational fishing opportunities found within the area being considered for sanctuary designation (see draft EIS sections 4.4 and 4.6). With designation of the sanctuary, NOAA would not directly regulate lawful fishing activities. When NOAA consulted with the Pacific Fishery Management Council (PFMC) pursuant to Section 304(a)(5) of the NMSA, the PFMC notified NOAA that it had determined that additional fishing regulations were not necessary at this time to implement the proposed sanctuary. NOAA accepts the PFMC's response relative to the proposed designation of CHNMS. Therefore, the proposed action, under any alternative assessed in the draft EIS, is not expected to cause significant adverse impacts on commercial or recreational fishing resources or cause significant economic loss to commercial or recreational fisheries (draft EIS sections 4.4 and 4.6). In support of commercial and recreational fishing, direct protection of sanctuary resources through proposed federal regulations (draft EIS Section 3.2) are expected to provide direct or indirect, long-term beneficial impacts on ecosystem and habitat upon which healthy commercial and recreational fisheries depend under all boundary alternatives (draft EIS Section 4.4). Although, some minor to moderate adverse impacts may occur due to implementation of sanctuary regulations regarding discharges, vessel abandonment, and introduced species. The relevant proposed regulatory prohibitions that would benefit commercial and recreational fishery resources and their potential impacts on commercial and recreational fishing are described in detail in draft EIS sections 4.4.3 and 4.6.3.

Article 5: Land Resources

Policy: **Section 30240 – Environmentally sensitive habitat areas; adjacent developments.**

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Effect: All of NOAA's sanctuary boundary alternatives would primarily encompass marine habitats in ocean and coastal waters with all shoreward boundaries ending at the mean high water line. As such, the sanctuary would largely contain marine habitats, but may also cover some intertidal terrestrial habitats within the coastal interface such as marine mammal haul out and shorebird nesting areas. The proposed action is fully consistent with this enforceable policy because NOAA intends to protect sanctuary resources, including sensitive habitat areas in the coastal zone and throughout the sanctuary, from the impacts of coastal development via its proposed regulations prohibiting seabed disturbance and discharges or deposits from beyond the boundary of the sanctuary that subsequently enter the sanctuary and may harm a sanctuary resource or quality. As stated in the draft EIS, NOAA would coordinate with existing coastal management authorities regarding protection of environmentally sensitive habitat areas and to address impacts from several proposed construction and decommissioning projects (draft EIS Section 4.10, Table 4-10) that have the potential to harm sanctuary resources.

Activities that are otherwise prohibited by sanctuary regulations could be authorized by the ONMS authorization process. This process would allow ONMS to impose terms and conditions on the activity that it deems reasonably necessary in order to protect sanctuary resources and qualities, for example permitted development near seabird nesting areas or marine mammal haul out areas (draft EIS Section 3.2.2). Additionally, sanctuary research, resource protection, education, and management activities are expected to be harmonized and coordinated with the activities of other agencies and jurisdictions, and would continue to be protective and supportive of sustainable conservation of these habitats.

Policy: **Section 30244 – Archaeological or paleontological resources.** Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Effect: NOAA's proposed sanctuary regulations would provide additional protection and beneficial impacts to the sanctuary's seafloor, historical, cultural, and maritime heritage resources, both within and beyond the limit of the State of California's jurisdiction and under all boundary alternatives (see draft EIS Section 2.2.1 and Section 4.5) Archaeological sites and other cultural resources, such as shipwrecks and Native American artifacts, are already afforded protections under state and federal law, including the National Historic Preservation Act (54 U.S.C. § 300101 *et seq.*). The proposed sanctuary regulations would supplement existing protections by applying to activities conducted by federal, state, and private citizens and would protect all shipwrecks and other cultural underwater resources within sanctuary boundaries from injury or salvage, regardless of whether they are eligible or listed on the State Register of Historic Places and National Register of Historic Places. The draft management plan's Maritime Heritage Action Plan outlines how NOAA would identify, protect, and raise awareness of the proposed sanctuary's maritime, historical, and archaeological resources.

Article 6: Development

Policy: **Section 30251 – Scenic and visual qualities.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Effect: No coastal development of a sanctuary office or a visitor center is planned at this time. None of the boundary alternatives would cause adverse impacts on visual resources. If new construction or development of a visitor center or sanctuary office is proposed onshore adjacent to the proposed sanctuary area in the future, it would be subject to a separate review and permitting process. Since no location has been identified for such a facility, it was not addressed in the draft EIS (draft EIS Section 4.1.5).

Article 7: Industrial Development

Policy: **Section 30262 – Oil and gas development.**

(a) New or expanded oil and gas development shall not be considered a coastal-dependent industrial facility for the purposes of Section 30260, and may be permitted only if found consistent with all applicable provisions of this division and if all of the following conditions are met:

- (1) The development is performed safely and consistent with the geologic conditions of the well site.
- (2) Activities related to that development are consolidated, to the maximum extent feasible and legally permissible, unless consolidation will have adverse environmental consequences and will not significantly reduce the number of producing wells, support facilities, or sites required to produce the reservoir economically and with minimal environmental impacts.
- (3) The development will not cause or contribute to subsidence hazards unless it is determined that adequate measures will be undertaken to prevent damage from such subsidence.
- (4) All oilfield brines are reinjected into oil-producing zones unless the Geologic Energy Management Division of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks. Exceptions to reinjections will be granted consistent with the California Ocean Plan of the State Water Resources Control Board and where adequate provision is made for the elimination of petroleum odors and water quality problems.
- (5) (A) All oil produced offshore California shall be transported onshore by pipeline only. The pipelines used to transport this oil shall utilize the best achievable technology

to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems.

(B) Once oil produced offshore California is onshore, it shall be transported to processing and refining facilities by pipeline.

(C) The following guidelines shall be used when applying subparagraphs (A) and (B):

(i) "Best achievable technology," means the technology that provides the greatest degree of protection taking into consideration both of the following:

(I) Processes that are being developed, or could feasibly be developed, anywhere in the world, given overall reasonable expenditures on research and development.

(II) Processes that are currently in use anywhere in the world. This clause is not intended to create any conflicting or duplicative regulation of pipelines, including those governing the transportation of oil produced from onshore reserves.

(ii) "Oil" refers to crude oil before it is refined into products, including gasoline, bunker fuel, lubricants, and asphalt. Crude oil that is upgraded in quality through residue reduction or other means shall be transported as provided in subparagraphs (A) and (B).

(iii) Subparagraphs (A) and (B) shall apply only to new or expanded oil extraction operations. "New extraction operations" means production of offshore oil from leases that did not exist or had never produced oil, as of January 1, 2003, or from platforms, drilling islands, subsea completions, or onshore drilling sites, that did not exist as of January 1, 2003.

"Expanded oil extraction" means an increase in the geographic extent of existing leases or units, including lease boundary adjustments, or an increase in the number of well heads, on or after January 1, 2003.

(iv) For new or expanded oil extraction operations subject to clause (iii), if the crude oil is so highly viscous that pipelining is determined to be an infeasible mode of transportation, or where there is no feasible access to a pipeline, shipment of crude oil may be permitted over land by other modes of transportation, including trains or trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

(6) If a state of emergency is declared by the Governor for an emergency that disrupts the transportation of oil by pipeline, oil may be transported by a waterborne vessel, if authorized by permit, in the same manner as required by emergency permits that are issued pursuant to Section 30624.

(7) In addition to all other measures that will maximize the protection of marine habitat and environmental quality, when an offshore well is abandoned, the best achievable technology shall be used.

(b) Repair and maintenance of an existing oil and gas facility may be permitted in accordance with Section 30260 only if it does not result in expansion of capacity of the oil and gas facility, and if all applicable conditions of subdivision (a) are met.

(c) Where appropriate, monitoring programs to record land surface and near-shore ocean floor movements shall be initiated in locations of new large-scale fluid extraction on land or near shore before operations begin and shall continue until surface conditions have stabilized. Costs of monitoring and mitigation programs shall be borne by liquid and gas extraction operators.

(d) Nothing in this section shall affect the activities of any state agency that is responsible for regulating the extraction, production, or transport of oil and gas.

Effect: NOAA's proposed sanctuary regulations would prohibit exploring for, developing, or producing oil or gas under all boundary alternatives other than continued production of oil or gas under leases that predate sanctuary designation. Thus, the only exception would be for continued oil and gas production of existing reservoirs at Platform Irene and at Platform Heritage, including well abandonment, because NOAA lacks the authority to terminate valid leases, permits, licenses, or rights of subsistence use or access that exist at the time of sanctuary designation. However, NOAA could regulate the exercise of those leases, permits, licenses, and rights consistent with the purposes for which the sanctuary is designated (16 U.S.C. § 1434(c)). See above under **Section 30232** for more discussion of how the proposed action is consistent with this enforceable policy to the maximum extent practicable. Leasing of new areas for development within the sanctuary would be prohibited and could not be permitted.

Consistency Determination

As required by 15 CFR 930.39, this consistency determination is based on a review of the potential effects of the proposed action on California's coastal uses and resources and the CCMP's enforceable policies. NOAA has evaluated the proposed action and determined that it is consistent to the maximum extent practicable with the enforceable policies of the CCMP. The proposed action has many reinforcing objectives that complement the CCMP's enforceable policies. As such, NOAA requests your concurrence with our consistency determination.

Specifically, this determination is based on the following:

- NOAA's proposed action would improve understanding, management, and protection of sanctuary resources;
- NOAA's proposed action would have beneficial impacts on physical resources, biological resources, commercial fishing, cultural and maritime heritage, and socioeconomic uses of the proposed sanctuary area;
- NOAA's proposed action would not have any significant adverse effect on the operations of recreational, research, or commercial users of the proposed sanctuary;

- ONMS-led field activities would be low in intensity and frequency and NOAA would implement self-imposed best management practices and mitigation measures when conducting routine field activities, therefore any adverse impacts from conducting routine research, monitoring, education, or resource protection actions would be avoided as much as possible, and if they did occur, would be negligible or minor; and
- NOAA's analysis found that no significant adverse impacts to any resource area are expected to result from the proposed action and the incremental impact of the proposed action in combination with ongoing resource protection, research, and stewardship programs, and ongoing or future commercial and industrial activities in the region, would be negligible (draft EIS Section 4.10).

Pursuant to 15 CFR 930.41, the California Coastal Commission has 60 days to complete its review of this consistency determination and to provide concurrence, subject to a right of extension up to 15 days upon notice to NOAA. If no response is received within this timeframe, state concurrence with this action will be conclusively presumed.

NOAA appreciates your cooperation in completing this process in a timely manner. If you have questions, or if we can assist you during your review period, please contact Laura Ingulsrud, NOAA ONMS West Coast Regional Policy Analyst, at laura.ingulsrud@noaa.gov.

Sincerely,



William J. Douros
Regional Director

cc: Jules Kelly, Environmental Scientist, Energy, Ocean Resources, and Federal Consistency Division, California Coastal Commission

Joseph Street, Manager, Energy, Ocean Resources, and Federal Consistency Division, California Coastal Commission

Link: [Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement](#)

[Chumash Heritage National Marine Sanctuary Draft Management Plan](#)

[Chumash Heritage National Marine Sanctuary Proposed Rule](#)

Proposed Chumash Heritage National Marine Sanctuary Draft Management Plan Supplemental Explanation

The draft management plan contains 11 action plans with strategies and activities, which outline management activities; non-regulatory programs; collaborations with partners; and set priorities for resource protection, research, and education programs.

Although the draft management plan was developed for the Initial Boundary Alternative (IBA), each of the same 11 action plans would also apply to the other four boundary alternatives described in the draft environmental impact statement (Alternatives 1, 2, 3, and 4).¹ The purpose of the action plans would not change, and none would be removed under any boundary alternative. Rather, the primary difference is that management activities and priorities would be focused on coastal and marine resources found within the area of each particular boundary alternative. In other words, all boundary alternatives smaller than the IBA would result in NOAA's reduced level of effort in management plan activities occurring in the areas not included in the sanctuary. Otherwise, depending on the geographic range of the sanctuary, there could be slight differences in details of how the strategies are executed, the priority in which they are pursued, and slight variation in potential partnerships².

The 11 action plans include:

Program-based

1. Indigenous Cultural Heritage Action Plan
2. Maritime Heritage Action Plan
3. Resource Protection Action Plan
4. Education and Outreach Action Plan
5. Research and Monitoring Action Plan
6. Operations and Administration Action Plan

Issue-based

7. Climate Change Action Plan
8. Offshore Energy Action Plan
9. Water Quality Action Plan
10. Blue Economy Action Plan
11. Wildlife Disturbance Action Plan

The following pages describe how the management plan could differ under each boundary alternative, starting with the Initial Boundary Alternative.

¹ The draft environmental impact statement also considers two sub-alternatives: Sub-Alternative 5a (Morro Bay Estuary) and Sub-Alternative 5b (Gaviota Coast Extension). Sub-Alternative 5a could be added to the Initial Boundary Alternative or Alternative 1, and Sub-Alternative 5b could be added to any of the action alternatives. Both Sub-Alternatives reflect very small geographic areas. NOAA anticipates that inclusion of either or both Sub-Alternatives in a boundary would result in either no changes to management plan implementation, or at most only minor changes in level of effort or coastal resource focus.

² ONMS does not limit partnerships to groups, organizations, or communities that are immediately adjacent to the sanctuary. ONMS values collaboration with all interested parties in the general sanctuary area, and would encourage partnerships regardless of spatial location.

Proposed Chumash Heritage National Marine Sanctuary Draft Management Plan Supplemental Explanation

Initial Boundary Alternative (IBA)**1. Indigenous Cultural Heritage Action Plan**

The purpose of this action plan is to work in partnership with native communities along the California central coast to honor, celebrate, and protect the unique Indigenous cultural heritage and resources connected to the proposed sanctuary. Priorities focus on understanding and protecting cultural resources within the proposed sanctuary, appropriately applying traditional ecological knowledge, giving prominence to local Indigenous culture through sanctuary programs, and carrying out cultural outreach and education opportunities to serve Indigenous communities and the general public.

2. Maritime Heritage Action Plan

The Maritime Heritage Action Plan's goal is to identify, protect, and raise awareness of the proposed sanctuary's maritime, historical, and archaeological resources and to collaborate with community partners engaged in maritime traditions, traditional ecological knowledge, and protection of sanctuary waters. Prior to the sanctuary designation proposal, ONMS had already carried out many successful missions to understand and conserve the maritime heritage in the study area, but the long history of maritime activity in the area indicates more could be done with a sanctuary designation.

3. Resource Protection Action Plan

This action plan's goal is to maintain and improve the proposed sanctuary's natural biological and ecological processes and maritime and cultural resources by evaluating and addressing adverse impacts from human activities and applying traditional ecological knowledge and perspectives. Like with other national marine sanctuaries, a considerable amount of interagency coordination and cooperation, as well as partnerships, would be necessary to help ensure conservation of proposed sanctuary resources.

4. Education and Outreach Action Plan

The Education and Outreach Action Plan's purpose is to promote and encourage appreciation of cultural and natural resources of the proposed sanctuary by building greater public understanding, engagement, and stewardship. The action plan seeks to inspire ocean and climate literacy and conservation ethics through collaboration with community partners and programs. Similar to other national marine sanctuaries, this action plan shows how establishing durable and flourishing partnerships would be a key to the success of proposed CHNMS education and outreach initiatives.

5. Research and Monitoring Action Plan

This action plan's goal is to ensure the best available science is accessible to address current and projected sanctuary and resource management needs. Strategies would include the national marine sanctuary science team carrying out research, as well as developing partnerships to help mobilize the research capacity already in the region. The action plan also provides some examples of needed research and long-term monitoring known at this time, and the kinds of infrastructure that would help achieve long-term management goals.

6. Operations and Administration Action Plan

This action plan's purpose is to create sanctuary infrastructure, staffing, and program support to ensure the management plan is effectively implemented. Strategies include developing a "NOAA presence" within sanctuary communities that support the proposed sanctuary's mission; establishing a Sanctuary Advisory Council; developing infrastructure to aid management such as vessels, offices, and related facilities, or partnerships to help bring that infrastructure to life; and developing sanctuary volunteer program(s) for key priorities.

Proposed Chumash Heritage National Marine Sanctuary Draft Management Plan Supplemental Explanation

7. Climate Change Action Plan

The purpose of the Climate Change Action Plan is to protect and enhance ecosystem function and resilience from climate change through five strategies that include: climate research and monitoring, assessment and adaptation, mitigation actions, education and outreach, and community partnerships. Through climate mitigation measures, ONMS would investigate the application of blue carbon habitat protection and enhancement and marine carbon dioxide removal approaches.

8. Offshore Energy Action Plan

This action plan's goal is to aid long-term management of proposed sanctuary resources, ecosystem services, and cultural heritage by informing the management of offshore energy activities occurring in or adjacent to the proposed sanctuary, conducting necessary research and monitoring, and coordinating with other agencies and affected stakeholders. Moreover, this action plan would support coordinated planning and monitoring of offshore energy activities occurring, and anticipated to occur, within the broader region. Effectively implementing this action plan would require active participation in federal, state, and local agencies' regulatory actions. The action plan itself would not govern offshore energy activities but may inform future regulatory actions.

9. Water Quality Action Plan

This action plan's goal is to promote stewardship of water quality while accommodating many diverse uses. Examples of key strategies and activities include improving understanding of water quality conditions in adjoining watersheds that drain to the proposed sanctuary; coordinating with other federal, state, and local agencies, tribes, businesses, and interest groups; and collaborating on solution-focused watershed activities across the diverse landscapes of the proposed sanctuary.

10. Blue Economy Action Plan

The Blue Economy Action Plan for the proposed sanctuary primarily focuses on tourism and recreation. The sustainable tourism and recreation strategies and visitor use addressed in this plan are aimed to support a viable economy, while protecting sanctuary resources and supporting the broader community. The action plan envisions promoting the proposed sanctuary as an iconic travel destination and cultivating a generation of visitors with a strong ocean stewardship ethic. This action plan also includes support for advancing the marine technology sector in the region. Sanctuaries as place-based organizations, are uniquely positioned to use a destination stewardship approach to work collaboratively with communities to promote sustainable tourism and contribute to local economies, while also protecting sensitive marine wildlife and habitats. Sanctuaries are managed to protect and conserve their resources and to allow uses that are compatible with resource protection.

11. Wildlife Disturbance Action Plan

This action plan's purpose is to assess and mitigate wildlife disturbance within proposed sanctuary boundaries. Example strategies in the action plan include evaluating wildlife disturbance by visitors and recreational users; evaluating aircraft disturbance; and establishing partner relationships with law enforcement agencies to ensure effective means to protect wildlife.

Proposed Chumash Heritage National Marine Sanctuary Draft Management Plan Supplemental Explanation

Alternative 1

In general, the management plan and field activities under Alternative 1 would be the same as those described for the IBA, except:

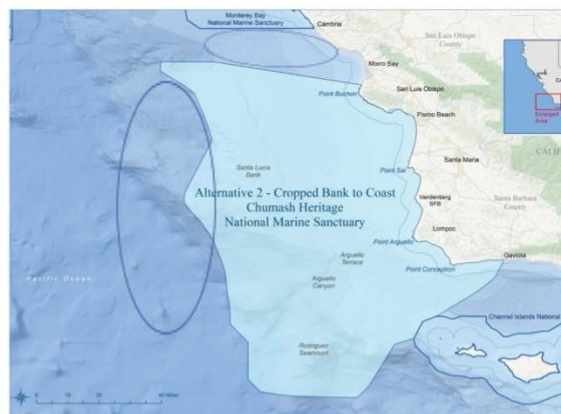
- Some research and monitoring activities would not take place in the area west of the Santa Lucia Bank that would not be part of CHNMS under this alternative.
- The focus of education and outreach activities may be slightly reduced to only focus on those areas along and within CHNMS boundaries under Alternative 1.



Alternative 2

In general, the management plan and field activities under Alternative 2 would be the same as those described for the IBA, except:

- Some research and monitoring would likely be reduced that would have otherwise been conducted in waters west of the Santa Lucia Bank and north of Hazard Canyon Reef in Montaña de Oro State Park.
- The focus of education and outreach activities may be reduced to exclude waters west of the Santa Lucia Bank and north of Hazard Canyon Reef in Montaña de Oro State Park up to Cambria.



Proposed Chumash Heritage National Marine Sanctuary Draft Management Plan Supplemental Explanation

Alternative 3

In general, the management plan and field activities under Alternative 3 would be the same as those described for the IBA, except:

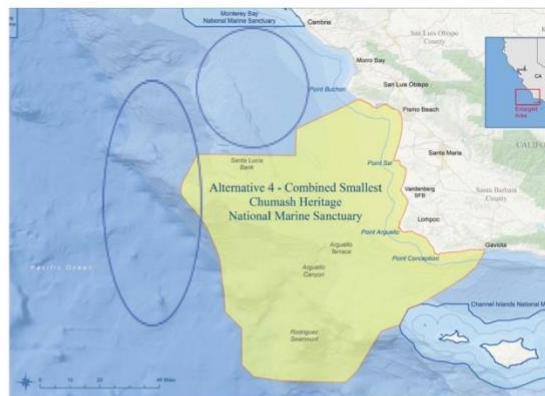
- Some research and monitoring would likely be reduced that would have otherwise been conducted in waters north of the Santa Lucia Bank.
- The focus of education and outreach activities may be reduced to the area from roughly Port San Luis/Avila Beach south to Gaviota and Goleta.
- There would likely be a considerably reduced role for the future sanctuary staff within the Offshore Energy Action Plan, as ancillary development related to leases within the Morro Bay Wind Energy Area, such as subsea electrical transmission cables to shore, or the potential for development of additional wind energy areas, could be developed outside of the proposed sanctuary.



Alternative 4

In general, the management plan and field activities under Alternative 4 would be the same as those described for the IBA, except:

- Some research and monitoring would likely be reduced that would have otherwise been conducted in waters west and north of the Santa Lucia Bank.
- The focus of education and outreach activities may be reduced to the area from roughly Port San Luis/Avila Beach south to Gaviota and Goleta.
- There would likely be a considerably reduced role for the future sanctuary staff within the Offshore Energy Action Plan, as ancillary development related to leases within the Morro Bay Wind Energy Area, such as subsea electrical transmission cables to shore or the potential for development of additional wind energy areas, could be developed outside of the proposed sanctuary.



CZMA Letter of Concurrence – CA Coastal Commission

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

GAVIN NEWSOM, GOVERNOR

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
VOICE (415) 904-5260



August 9, 2024

Via Electronic Mail Only To: michael.murray@noaa.gov

Mr. Michael Murray
US Department of Commerce, National Oceanic and Atmospheric Administration
Office of National Marine Sanctuaries, West Coast Region
99 Pacific Street, Building 100, Suite F
Monterey, CA 93940

Re: Consistency Determination No. CD-0005-24 for the Chumash Heritage National Marine Sanctuary Designation in San Luis Obispo and Santa Barbara County.

Dear Mr. Murray,

On August 8, 2024, the California Coastal Commission unanimously concurred with the above-referenced consistency determination submitted by the National Oceanic and Atmospheric Administration. The Commission found that the proposed project was consistent with the California Coastal Management Program. Please contact me at Jules.Kelly@coastal.ca.gov should you have any questions regarding this matter.

Sincerely,

Jules Kelly, PhD
Environmental Scientist
Energy, Ocean Resources and Federal Consistency Division

cc. Central Coast District Office, CentralCoast@coastal.ca.gov

ESA/EFH Supplemental Consultation Letter – NOAA Fisheries

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Office of National Marine Sanctuaries | West Coast Region
99 Pacific Street, Bldg 100, Suite F
Monterey, CA 93940

June 14, 2024

Jennifer Quan, Regional Administrator
Protected Resources Division
NOAA Fisheries West Coast Regional Office
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802

Dear Administrator Quan:

The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is contacting you regarding the informal consultation we initiated on August 24, 2023, under Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), and implementing regulations at 50 C.F.R. part 402, for the proposed designation of Chumash Heritage National Marine Sanctuary (CHNMS).

This supplemental letter is intended to notify you of the following:

- NOAA ONMS has identified a Final Preferred Alternative (see Figure 1) sanctuary boundary (Alternative 4, Combined Smallest [with a minor adjustment to the shoreward northeastern corner of the boundary in the final environmental impact statement (EIS)], Sub-Alternative 5b, Gaviota Coast Extension, plus a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank). This is a smaller boundary than that presented in the Agency-Preferred Alternative (Alternative 2, Cropped Bank to Coast, combined with Sub-Alternative 5b, Gaviota Coast Extension) identified in the draft EIS (see Figure 2);
- Following consultation with NOAA Fisheries, eight species were added to Appendix G.3, Table G.3-1;
- No revisions to the **Essential Fish Habitat** analysis; and
- Importantly, despite these alterations, the overall effects determination remains that the sanctuary designation **may affect, but is not likely to adversely affect** listed species and their designated critical habitat.

Impacts on Listed Species and Critical Habitat

In the draft EIS, it was determined that 22 listed species and designated critical habitat for three species under NOAA Fisheries jurisdiction may occur in the action area and may be affected by the proposed action using the NOAA Fisheries Threatened and Endangered Species Directory.

Consultation with NOAA Fisheries led to the addition of seven listed species, one candidate species, and removal of one species, increasing the total to 27 listed species and 1 candidate

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National Marine Sanctuary
115 E. Railroad Avenue
Suite 301
Port Angeles, WA 98362

Cordell Bank
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Olema, CA 94950

Greater Farallones
National Marine Sanctuary
The Presidio
991 Marine Drive
San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
99 Pacific Street
Suite 455A
Monterey, CA 93940

Channel Islands
National Marine Sanctuary
University of California Santa Barbara
Ocean Science Bldg 514, MC 6155
Santa Barbara, CA 93106



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species. Species are identified in Table G.3-1 (see final EIS Appendix G.3) and designated critical habitat for three species are identified in Table G.3-2 (see final EIS Appendix G.3).

The following listed species were added to final EIS Appendix G.3, Table G.3-1: Loggerhead turtle, North Pacific right whale, Giant manta ray, Green sea turtle, Green sturgeon, Oceanic white tip, and Olive ridley turtle. The Sunflower sea star was added as a candidate species for ESA listing.

The final EIS has been revised to reflect the updates summarized in this letter, including final EIS sections 3.6 (describing the boundary of Alternative 4), 3.7 (summarizing comparison statistics for the boundary alternatives), 4.3 (Biological Resources), Appendix C (Best Management Practices, which was revised to add a new BMP category for “Shoreline Activities” per USFWS recommendation), Appendix E.4 (summarizing the status of ESA section 7 consultation); and Appendix G (Biological Species Lists). The attached copy of the initial consultation letter contains more information on these sections.

Because NOAA ONMS already concluded that all of the boundary alternatives identified in the draft EIS were not likely to adversely affect any species listed as threatened or endangered, or critical habitats under the ESA, NOAA ONMS believes implementation of the Final Preferred Alternative is also not likely to adversely affect any ESA-listed species. NOAA ONMS’s analysis continues to conclude that any impacts resulting from the designation of the proposed sanctuary would be beneficial, insignificant, or discountable for the same reasons as listed in the initial consultation letter (please see pages 2-3 of the initial consultation letter, attached here).

Therefore, NOAA ONMS determined that the proposed action of designating a portion of the central California coast and offshore waters as a new national marine sanctuary **may affect, but is not likely to adversely affect** listed species and their designated critical habitat.

NOAA ONMS requests your concurrence with our determinations pursuant to Section 7 of the ESA of 1973 and the consultation procedures at 50 C.F.R. Part 402. ONMS certifies that the best scientific and commercial data available was used in order to prepare the final EIS and this accompanying request for informal consultation.

Impacts on Essential Fish Habitat

No change is necessary to the analysis of impacts on Essential Fish Habitat (EFH) and Habitats of Particular Concern (HAPC). Because NOAA ONMS already concluded that routine field activities within all of the boundary alternatives identified in the draft EIS would have no more than minimal adverse effects on EFH and HAPC, NOAA ONMS believes implementation of the Final Preferred Alternative would also have **no more than minimal adverse effects** on EFH and HAPC.


Conclusion

NOAA ONMS appreciates your cooperation in completing this informal Section 7 consultation and EFH consultation in a timely manner. Please let us know by June 17, 2024 if you need to see the updated final EIS sections 3.6, 3.7, 4.3, Appendix C, Appendix E.4, or Appendix G. NOAA ONMS will continue to coordinate with NOAA Fisheries via email to provide any requested

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information or to answer any questions related to this consultation request. Contact Laura Ingulsrud, NOAA ONMS West Coast Regional Policy Analyst, at laura.ingulsrud@noaa.gov with any questions.

Sincerely,



William J. Douros
Regional Director

cc: Chris Yates, Assistant Regional Administrator, Protected Resources Division, NOAA Fisheries West Coast Regional Office

Dan Lawson, Long Beach Branch Chief, Protected Resources Division, NOAA Fisheries West Coast Regional Office

Lisa Van Atta, Assistant Regional Administrator, California Coastal Office, NOAA Fisheries West Coast Regional Office

Rosalie del Rosario, West Coast Region Endangered Species Act Section 7 Consultations Coordinator, NOAA Fisheries West Coast Regional Office

Eric Chavez, Essential Fish Habitat Coordinator, NOAA Fisheries West Coast Regional Office

Eric Shott, Endangered Species Act Section 7 Coordinator, California Coastal Office, NOAA Fisheries West Coast Regional Office

Rob Clapp, Endangered Species Act Section 7 Contact for Pacific Ocean (within U.S. Exclusive Economic Zone), NOAA Fisheries West Coast Regional Office

Brian Meux, Acting Branch Chief, San Francisco Bay Branch, NOAA Fisheries West Coast Regional Office

Sara Azat, Fish Biologist, NOAA Fisheries West Coast Regional Office

Michelle Benedum, Aquaculture, ESA and EFH Coordination and Consultation, Contractor with Saltwater Inc. in support of NOAA Fisheries West Coast Region Protected Resources Division

Link: [Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement](#)

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Attachments:



Figure 1. The Final Preferred Alternative as identified in the final EIS, which includes: Alternative 4 (with a minor adjustment to the shoreward northeastern corner of the boundary between draft and final EIS), Sub-Alternative 5b (Gaviota Coast Extension), plus a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank.

Note: the final EIS contains a more thorough explanation and detailed maps on the minor boundary modification to Alternative 4.

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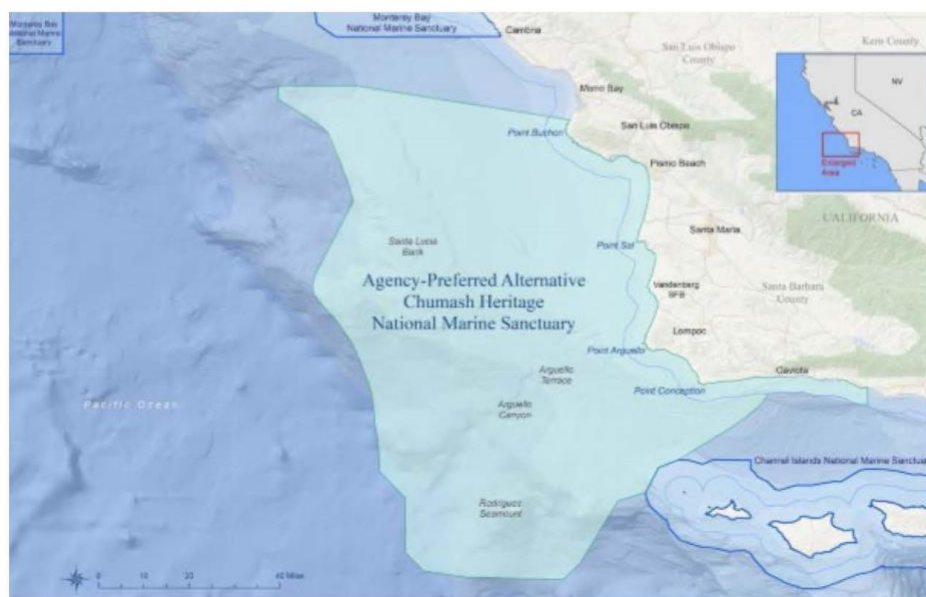


Figure 2. Agency-Preferred Alternative. For comparison with the Final Preferred Alternative identified in the final EIS, this was the Agency-Preferred Alternative that was previously identified in the draft EIS.

[See next page for the original August 24, 2023 consultation letter]



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
 Office of National Marine Sanctuaries | West Coast Region
 99 Pacific Street, Bldg 100, Suite F
 Monterey, CA 93940

August 24, 2023

Jennifer Quan, Regional Administrator
 Protected Resources Division
 NOAA Fisheries West Coast Regional Office
 501 West Ocean Boulevard, Suite 4200
 Long Beach, CA 90802

Dear Administrator Quan:

The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is contacting you to initiate informal consultation under Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), and implementing regulations at 50 C.F.R. part 402, for the proposed designation of Chumash Heritage National Marine Sanctuary (CHNMS). On August 24, 2023, ONMS released for public comment a draft management plan, notice of proposed rulemaking, and an accompanying draft environmental impact statement (EIS). The documents are available for public comment until October 25, 2023, at <https://sanctuaries.noaa.gov/chumash-heritage/>. As described in the enclosed draft EIS, NOAA's preferred boundary alternative consists of Alternative 2, Cropped Bank to Coast, combined with Sub-alternative 5b, Gaviota Coast Extension (see EIS Section 5.4.9). NOAA is also proposing a set of proposed regulations (see EIS Section 3.2.2 as well as the notice of proposed rulemaking for the full text of the proposed regulations).

Impacts on listed species and critical habitat

To support this request for informal Section 7 consultation, the enclosed draft EIS provides the following information (sections 3.4, 3.7, 4.3, Appendix C, Appendix E.4, Appendix G):

- A description of the action, including mitigation measures (Chapter 3, Section 4.3, Appendix C);
- The purpose and need of the proposed action (Chapter 2);
- A description of the action area, including maps (sections 3.4, 3.7, 4.3);
- A description of any listed species or designated critical habitat that may be affected by the action (Section 4.3.1, Appendix G);
- A description of habitat requirements, occurrence patterns, and federal status for each of the listed species (Section 4.3.1, Appendix G);
- An analysis of the potential routes of effect to any listed species or designated critical habitat (sections 4.3.3, 4.3.5, 4.3.8, Appendix G); and
- Cumulative effects analysis (Section 4.10).

Olympic Coast
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 Olema, CA 94950

Greater Farallones
National Marine Sanctuary
 The Presidio
 991 Marine Drive
 San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
 99 Pacific Street
 Suite 455A
 Monterey, CA 93940

Channel Islands
National Marine Sanctuary
 University of California Santa Barbara
 Ocean Science Bldg 514, MC 6155
 Santa Barbara, CA 93106



The NOAA Fisheries Threatened and Endangered Species Directory was used to identify any ESA-listed species or critical habitat that may be present in the action area. Species's habitat requirements, habitat availability within the action area, and the components of the proposed action were evaluated and it was determined that 22 listed species and designated critical habitat for three species under NOAA Fisheries jurisdiction may occur in the action area and may be affected by the proposed action. NOAA believes implementation of the Initial Boundary Alternative or other action alternatives identified in the draft EIS is not likely to adversely affect any species listed as threatened or endangered, or habitats critical to such species, under the ESA. Further, there are several dozen species or distinct population segments (DPS)/evolutionarily significant units (ESU) that, while present on the U.S. West Coast, are not expected to occur in the study area or that proposed sanctuary activities would not affect. Appendix G of the draft EIS provides the names of those species not expected to occur in the study area.

In sections 4.3.3–4.3.8 of the draft EIS, NOAA analyzed the potential for beneficial or adverse impacts on the 22 listed species identified in Table G.3-1 (see Appendix G.3) and designated critical habitat for three species identified in Table G.3-2 (see Appendix G.3) under NOAA Fisheries jurisdiction from NOAA or partners conducting research, monitoring, or resource protection activities to implement the proposed sanctuary regulations and management plan. The specific categories of routine field activities conducted by ONMS staff and partners that may affect these species or critical habitat are: vessel use, scuba diving, deploying buoys and research or monitoring equipment, sampling organisms, removing materials (e.g., marine debris), deploying uncrewed underwater systems, deploying uncrewed aerial systems, deploying active acoustic equipment and towed instrument arrays, and seabird, fish, and marine mammal tagging studies.

NOAA's analysis concludes that any impacts resulting from the designation of the proposed CHNMS would be beneficial, insignificant, or discountable for the following reasons:

- Regulatory prohibitions on taking or possessing any marine mammal, sea turtle, or bird, with limited exception, and attracting any white shark within the Sanctuary – these species would benefit from the reduction in risk of disturbance or take through implementation of these prohibitions.
- Regulation protecting the submerged lands (seabed) – seafloor habitats would benefit from the significant reduction in area that could be developed for future offshore oil and gas development and from sanctuary management and the application of the proposed regulations to areas with the potential for additional offshore wind energy development. In addition, the decommissioning and removal of offshore oil and gas facilities could have reduced impacts on ESA-listed species and critical habitat based on potential mitigation measures imposed by the sanctuary.
- Resource Protection Action Plan – whales transiting the proposed sanctuary, including ESA-listed whale species, would experience beneficial impacts from implementation of the newly-expanded Area to be Avoided (ATBA) at Channel Islands National Marine Sanctuary (CINMS) and into the proposed CHNMS, as well as voluntary vessel speed reduction programs that currently exist on either side of the proposed sanctuary designed

to reduce the risk of fatal ship strikes, and could be expanded into the proposed sanctuary in the future.

- Outreach Programs – initiatives such as “Finding Hal” (a CINMS program) would similarly generate more scientific information on, identify suitable habitat for, and support potential out-planting of ESA-protected abalone species.
- Resource Protection – response to sanctuary resource emergencies, including landslides, oil spills, and marine mammal entanglements, would augment existing efforts, or be “first-time” programs, and thus also provide beneficial impacts on ESA-listed species and critical habitat within the proposed sanctuary and adjacent region.
- Noise and disturbances from sanctuary operational activities would be of limited duration, management activities would strive to reduce disturbance, and implementation of best management practices, including BMPs specific to protected species, (see Appendix C) would minimize potential impacts. ONMS research that may impact protected resources or habitat would be conducted in accordance with any applicable new or existing NOAA Fisheries and USFWS permits and with additional protective measures from any permits ONMS would issue to its own science staff, or standing orders to supplement protective measures in cases where there is increased risk to protected resources and habitats. Any associated potential impacts on ESA-listed species or critical habitat would be insignificant or discountable. In addition, future proposed NOAA field actions would be subject to the NEPA and environmental compliance process at the time they are undertaken, including any applicable NEPA reviews and statutory consultations (and any additional mitigation measures arising out of those consultations, as applicable).

Therefore, NOAA determined that the proposed action of designating a portion of the central California coast and offshore waters as a new national marine sanctuary **may affect, but is not likely to adversely affect** listed species and their designated critical habitat. ONMS requests your concurrence with our determinations pursuant to Section 7 of the ESA of 1973 and the consultation procedures at 50 C.F.R. Part 402. ONMS certifies that the best scientific and commercial data available was used in order to prepare the draft EIS and this accompanying request for informal consultation.

Impacts on Essential Fish Habitat

NOAA also evaluated the potential impacts of the proposed action on Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC). The draft EIS provides the following information related to this analysis (Section 4.3, Appendix C, Appendix E.7, Appendix G; see also Figure 4.4-3):

- A description of the action, including mitigation measures (Chapter 3, Section 4.3, Appendix C);
- A description of EFH and HAPC found in the sanctuary (Section 4.3.1, Appendix G, see also Figure 4.4-3); and

- An analysis of the potential impacts on EFH and HAPC from implementing the proposed action of designating a new sanctuary, which will eventually include routine field activities conducted by NOAA (Section 4.3, Appendix G).

The study area overlaps with EFH and HAPC for various federally-managed fish species within the Pacific Coast Groundfish, Coastal Pelagic Species, and Highly Migratory Species Fishery Management Plans. Among these, HAPC found within the study area include eelgrass/seagrass, canopy kelp, rocky reefs, and a network of federal and state marine reserves and marine conservation areas. ONMS routine field activities within the proposed CHNMS may affect designated EFH or HAPC. However, ONMS expects that ONMS-led on-water activities would have no more than minimal adverse effects on EFH and HAPC. ONMS looks forward to coordinating with NOAA Fisheries on the most appropriate path forward with regard to EFH consultation.

Conclusion

ONMS appreciates your cooperation in completing this informal Section 7 consultation and EFH consultation in a timely manner. ONMS will continue to coordinate with NOAA Fisheries via email to provide any requested information or to answer any questions related to this consultation request. Contact Laura Ingulsrud, ONMS West Coast Regional Policy Analyst, at laura.ingulsrud@noaa.gov with any questions.

Sincerely,



William J. Douros
Regional Director

cc: Chris Yates, Assistant Regional Administrator, Protected Resources Division, NOAA Fisheries West Coast Regional Office

Lisa Van Atta, Assistant Regional Administrator, California Coastal Office, NOAA Fisheries West Coast Regional Office

Rosalie del Rosario, West Coast Region Endangered Species Act Section 7 Consultations Coordinator, NOAA Fisheries West Coast Regional Office

Eric Chavez, Essential Fish Habitat Coordinator, NOAA Fisheries West Coast Regional Office

Eric Shott, Endangered Species Act Section 7 Coordinator, California Coastal Office, NOAA Fisheries West Coast Regional Office

Rob Clapp, Endangered Species Act Section 7 Contact for Pacific Ocean (within U.S. Exclusive Economic Zone), NOAA Fisheries West Coast Regional Office

Brian Meux, Acting Branch Chief, San Francisco Bay Branch, NOAA Fisheries West Coast Regional Office

Sara Azat, Fish Biologist, NOAA Fisheries West Coast Regional Office

Link: [Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement](#)

ESA/EFH Letter of Concurrence – NOAA Fisheries



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 West Coast Region
 501 West Ocean Boulevard, Suite 4200
 Long Beach, California 90802-4213
 July 1, 2024

Refer to NMFS No: WCRO-2023-03567

William J. Douros
 Regional Director
 99 Pacific Street, Bldg 100,
 Suite F
 Monterey, California 93940

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the proposed Chumash Heritage National Marine Sanctuary (CHNMS)

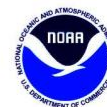
Dear Mr. Douros:

This letter responds to your June 14, 2024, request for concurrence from the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. Your request qualified for our expedited review and concurrence because it contained all required information on your proposed action and its potential effects to ESA-listed species and designated critical habitat.

Updates to the regulations governing interagency consultation (50 CFR part 402) were effective on May 6, 2024 (89 Fed. Reg. 24268). We are applying the updated regulations to this consultation. The 2024 regulatory changes, like those from 2019, were intended to improve and clarify the consultation process, and, with one exception from 2024 (offsetting reasonable and prudent measures), were not intended to result in changes to the Services' existing practice in implementing section 7(a)(2) of the Act. 84 Fed. Reg. at 45015; 89 Fed. Reg. at 24268. We have considered the prior rules and affirm that the substantive analysis and conclusions articulated in this letter of concurrence would not have been any different under the 2019 regulations or pre-2019 regulations.

We reviewed the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) consultation request document and related materials. Based on our knowledge, expertise, and your action agency's materials, we concur with the action agency's conclusions that the proposed action is not likely to adversely affect the NMFS ESA-listed or candidate species and/or designated critical habitat.

On February 15, 2024, NMFS requested ONMS to confirm the boundary of the marine sanctuary, the list of ESA-listed species, including the proposed sunflower sea star (*Pycnopodia helianthoides*), and their effect determinations. On June 14, 2024, ONMS provided a supplemental letter which identified a Final Preferred Alternative sanctuary boundary that is different than that presented in the Agency-Preferred Alternative identified in the draft Environmental Impact Statement (EIS). The following listed species were added to final EIS Appendix G.3, Table G.3-1: Loggerhead turtle, North Pacific right whale, giant manta ray, green



sea turtle, green sturgeon, oceanic white tip shark, olive ridley turtle, and the sunflower sea star (as a candidate species for ESA listing).

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Environmental Consultation Organizer (<https://www.fisheries.noaa.gov/resource/tool-app/environmental-consultation-organizer-eco>). A complete record of this consultation is on file at the Long Beach, CA office.

Reinitiation of consultation is required and shall be requested by ONMS by NMFS, where discretionary federal involvement or control over the action has been retained or is authorized by law and (1) the proposed action causes take; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the written concurrence; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA consultation.

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and any determination you made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation.

Section 305 (b) of the MSA directs federal agencies to consult with NMFS on all actions or proposed actions that may adversely affect EFH. Under the MSA, this consultation is intended to promote the conservation of EFH as necessary to support sustainable fisheries and the managed species' contribution to a healthy ecosystem. For the purposes of the MSA, EFH means "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity", and includes the associated physical, chemical, and biological properties that are used by fish (50 CFR 600.10). Adverse effect means any impact that reduces quality or quantity of EFH, and may include direct or indirect physical, chemical, or biological alteration of the waters or substrate and loss of (or injury to) benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of it and may include direct, indirect, site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) of the MSA also requires NMFS to recommend measures that can be taken by the action agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset the adverse effects of the action on EFH (50 CFR 600.905(b)).

The proposed action occurs within EFH for various federally managed fish species within the Coastal Pelagic Species (CPS), Pacific Coast Groundfish (PCG), and Highly Migratory Species (HMS) Fishery Management Plans (FMPs). Additionally, the proposed action occurs in an area characterized by potential occurrence of eelgrass, canopy kelp, and rocky reefs which are

considered habitat areas of particular concern (HAPCs) for various federally managed fish species. HAPCs are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPCs are not afforded any additional regulatory protection under MSA; however, federally permitted projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

NMFS determined the proposed action would adversely affect EFH for various federally managed fish species under the CPS, PCG, and HMS FMPs. Adverse effects to EFH due to NOAA and partners conducting research, monitoring, or resource protection activities include: 1) minor physical disturbance; 2) acoustic disturbance; 3) temporary displacement; 4) risk of vessel strike; and 5) risk of entanglement. Specific activities contributing to these effects include: 1) vessel use; 2) scuba diving; 3) deploying buoys; 4) research/monitoring equipment; 5) sampling organisms; 6) removing debris; 7) deploying uncrewed underwater systems; 8) deploying uncrewed aerial systems; 9) deploying active acoustic equipment and towed instrument arrays; and 10) seabird, fish, and whale tagging studies.

However, the proposed action includes measures to avoid or minimize impacts to EFH. For instance, NOAA divers are trained and follow NOAA protocols to avoid harming or otherwise disturbing habitat or living marine resources. If living marine resources were present in close proximity to any equipment or an activity's location, NOAA anticipates that any disturbance of the habitat/individual would be brief due to the short period of time NOAA-led activities would occur at a single location. Any avoidance would be localized and temporary, animals are expected to return to the area quickly after the activity ceases, and abandonment of habitat is not expected. Further, adverse impacts on living marine resources and their habitats in the proposed sanctuary are expected to be minor for the following reasons: 1) sanctuary-led field activities would occur infrequently (up to 120 days at sea per year), would be periodic, and spread out in space and time; and 2) all ONMS vessels must comply with the operational protocols and procedures in the NOAA Small Boats Policy (NOAA Administrative Order 209-125) and ONMS best management practices, which reduces the risk of adverse impacts.

NMFS believes that implementation of the proposed conservation measures will adequately address project-related adverse effects, and has no additional EFH conservation recommendations to provide at this time.

Please direct questions regarding this letter to Michelle Benedum in the Long Beach office at michelle.benedum@noaa.gov.

Sincerely,



Dan Lawson
PRD Long Beach Branch Chief

cc: Administrative File 151422WCR2024PR00121

ESA Supplemental Consultation Letter – USFWS

*** Confidential - Deliberative and Predecisional - Not for Further Distribution ***



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Office of National Marine Sanctuaries | West Coast Region
99 Pacific Street, Bldg 100, Suite F
Monterey, CA 93940

June 14, 2024

Joseph Brandt, Assistant Field Supervisor
Central Coast Division
Ventura Fish and Wildlife Office
2493 Portola Road Suite B
Ventura, CA 93003-7726

Dear Supervisor Brandt:

The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is contacting you regarding the informal consultation we initiated on August 24, 2023, under Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), and implementing regulations at 50 C.F.R. part 402, for the proposed designation of Chumash Heritage National Marine Sanctuary (CHNMS).

This supplemental letter is intended to notify you of the following:

- NOAA ONMS has identified a Final Preferred Alternative (see Figure 1) sanctuary boundary (Alternative 4, Combined Smallest [with a minor adjustment to the shoreward northeastern corner of the boundary in the final environmental impact statement (EIS)], Sub-Alternative 5b, Gaviota Coast Extension, plus a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank). This is a smaller boundary than that presented in the Agency-Preferred Alternative (Alternative 2, Cropped Bank to Coast, combined with Sub-Alternative 5b, Gaviota Coast Extension) identified in the draft EIS (see Figure 2);
- As a result of communications with USFWS, conclusions for nine of the analyzed species were changed from “may affect, not likely to adversely affect” to “no effect” in Appendix G.1, Table G.1-1;
- Conclusions for the remaining 29 analyzed species remained at “may affect, not likely to adversely affect” in Appendix G.1, Table G.1-1; and
- Importantly, despite these alterations, the overall effects determination remains that the sanctuary designation **may affect, but is not likely to adversely affect** listed species and their designated critical habitat.

Impacts on Listed Species and Critical Habitat

Consultation with USFWS led NOAA ONMS to change conclusions for nine ESA-listed species in Appendix G.1, Table G.1-1 to “no effect” from “may affect, not likely to adversely affect.” The species include: Giant Kangaroo Rat, Morro Bay Kangaroo Rat, San Joaquin Kit Fox, Least Bell's Vireo, Yellow-billed Cuckoo, California Red-legged Frog, California Tiger Salamander,

Olympic Coast
National Marine Sanctuary
115 E. Railroad Avenue
Suite 301
Port Angeles, WA 98362

Cordell Bank
National Marine Sanctuary
P.O. Box 159
Olema, CA 94950

Greater Farallones
National Marine Sanctuary
The Presidio
991 Marine Drive
San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
99 Pacific Street
Suite 455A
Monterey, CA 93940

Channel Islands
National Marine Sanctuary
University of California Santa Barbara
Ocean Science Bldg 514, MC 6155
Santa Barbara, CA 93106



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Foothill Yellow-legged Frog, and Vernal Pool Fairy Shrimp. As explained previously in the initial consultation letter sent on August 24, 2023, in sections 4.3.3–4.3.8 of the draft EIS, NOAA analyzed the potential for beneficial or adverse impacts on the 37 listed species and 1 candidate species identified in Table G.1-1 (see EIS Appendix G.1) and designated critical habitat for six species identified in Table G.1-2 (see EIS Appendix G.1) under USFWS jurisdiction from NOAA or partners conducting research, monitoring, or resource protection activities to implement the proposed sanctuary regulations and management plan.

The draft final EIS has been revised to reflect the updates summarized in this letter, including draft final EIS sections 3.6 (describing the boundary of Alternative 4), 3.7 (summarizing comparison statistics for the boundary alternatives), 4.3 (Biological Resources), Appendix C (Best Management Practices, which was revised to add a new BMP category for “Shoreline Activities” per USFWS recommendation), Appendix E.4 (summarizing the status of ESA Section 7 consultation); and Appendix G (Biological Species Lists). The attached copy of the initial consultation letter contains more information on these sections.

Because NOAA ONMS already concluded that all of the boundary alternatives identified in the draft EIS were not likely to adversely affect any species listed as threatened or endangered, or critical habitats under the ESA, NOAA ONMS believes implementation of the Final Preferred Alternative is also not likely to adversely affect any ESA-listed species. NOAA ONMS’s analysis continues to conclude that any impacts resulting from the designation of the proposed sanctuary would be beneficial, insignificant, or discountable for the same reasons as listed in the initial consultation letter (please see pages 2-3 of the initial consultation letter, attached here).

Therefore, NOAA determined that the proposed action of designating a portion of the central California coast and offshore waters as a new national marine sanctuary **may affect, but is not likely to adversely affect** listed species and their designated critical habitat. NOAA ONMS requests your concurrence with our determinations pursuant to Section 7 of the ESA of 1973 and the consultation procedures at 50 C.F.R. Part 402. NOAA certifies that the best scientific and commercial data available was used in order to prepare the final EIS and this accompanying request for informal consultation.

Conclusion

NOAA ONMS appreciates your cooperation in completing this informal Section 7 consultation in a timely manner. Please let us know by June 17, 2024 if you need to see the updated final EIS sections 3.6, 3.7, 4.3, Appendix C, Appendix E.4, or Appendix G. NOAA ONMS will continue to coordinate with USFWS via email to provide any requested information or to answer any questions related to this consultation request. Contact Laura Ingulsrud, NOAA ONMS West Coast Regional Policy Analyst, at laura.ingulsrud@noaa.gov with any questions.

Sincerely,



William J. Douros
Regional Director

*** Confidential - Deliberative and Predecisional - Not for Further Distribution ***

cc: Paul Souza, Regional Director, USFWS Pacific Southwest Region
 Steve Henry, Field Supervisor, Ventura Fish and Wildlife Office
 Kirby Bartlett, Senior Fish and Wildlife Biologist, Ventura Fish and Wildlife Office
 Emily Levin, Fish and Wildlife Biologist, Ventura Fish and Wildlife Office

Link: [*Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement*](#)

Attachments:

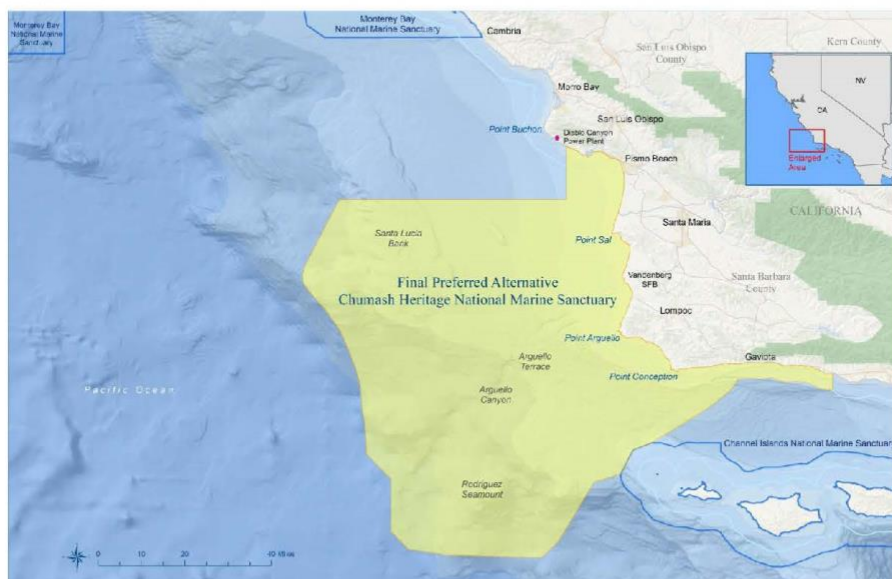
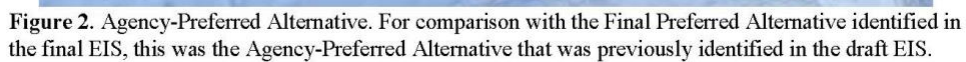


Figure 1. The Final Preferred Alternative that NOAA identified in the final EIS, which includes: Alternative 4 (with a minor adjustment to the shoreward northeastern corner of the boundary between draft and final EIS), Sub-Alternative 5b (Gaviota Coast Extension), plus a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank.

Note: the final EIS contains a more thorough explanation and detailed maps on the minor boundary modification to Alternative 4.



ESA Letter of Concurrence – USFWS



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
2023-0114719-S7

June 21, 2024

William J. Douros, Regional Director
Office of National Marine Sanctuaries, West Coast Region
National Oceanic and Atmospheric Administration
99 Pacific Street, Building 100, Suite F
Monterey, CA 93940

Subject: Informal Consultation on the Proposed Designation of the Chumash Heritage
National Marine Sanctuary off the Central California Coast

Dear William J. Douros:

We are responding to the National Oceanic and Atmospheric Administration Office of National Marine Sanctuaries' (NOAA ONMS) request, initially dated June 14, 2024, and received in our office on June 14, 2024, on the proposed designation of the Chumash Heritage National Marine Sanctuary (CHNMS). You are seeking our concurrence with your determinations that the designation of the CHNMS may affect, but is not likely to adversely affect 29 listed species (Table 1) and designated critical habitat for 4 species (Table 2) under U.S. Fish and Wildlife Service's (Service) jurisdiction. Your request and our response are made pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; Act).

We have based this informal consultation on information that accompanied the January 30, 2024, request for consultation, including the Draft Environmental Impact Statement (EIS; NOAA ONMS, 2023), your June 14, 2024, supplemental consultation request letter, and the amended Appendix G: Biological Species Lists (NOAA ONMS, 2024).

Consultation History

On August 24, 2023, NOAA ONMS requested informal consultation with the Service on the proposed designation of the CHNMS. On October 10, 2023, the Service met with NOAA ONMS to request additional information and discuss their species effect determinations. Additionally, we recommended that NOAA ONMS include conservation measures that minimize sandy beach activities during shorebird breeding season and include a monitor during management activities.

On January 30, 2024, NOAA ONMS sent a revised Appendix G that includes updates to species effect determinations and requested our concurrence on their updated determinations.

William J. Douros

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On February 15, February 23, and February 26, 2024, NOAA ONMS and the Service communicated about adding additional Best Management Practices (BMP) in Appendix C of the EIS.

On March 19, 2024, NOAA ONMS agreed to add the additional BMPs that we requested and to send an amended consultation request letter.

On June 5, 2024, NOAA ONMS requested the Service's confirmation of the listing status for the monarch butterfly (*Danaus plexippus*), foothill yellow-legged frog (*Rana boylei*), and the longfin smelt (*Spirinchus thaleichthys*).

On June 6, 2024, NOAA ONMS sent a revised Appendix G that included updated species effect determinations and requested our concurrence on their updated determinations.

On June 16, 2024, NOAA ONMS sent a supplemental consultation request letter that describes the Final Preferred Alternative sanctuary boundary NOAA ONMS has identified in their EIS.

Project Description

In accordance with the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq.), NOAA ONMS is proposing to designate a national marine sanctuary that is approximately 4,540 square miles along a 117-mile stretch that begins one mile east of the private marina at Diablo Canyon near Montaña de Oro State Park in San Luis Obispo County, to just south of Dos Pueblos Canyon in Santa Barbara County, which was one of the largest historical Chumash villages (Figure 1). The purpose of the project is to protect the ecological and cultural qualities of the Central Coast's marine waters and recognize Chumash tribal history and continuing legacy in the Central Coast. If designated, the CHNMS would prohibit new exploration, development, or production of oil, gas, or minerals within the national marine sanctuary; new discharge of primary-treated sewage within the sanctuary; and new site for disposal of harbor dredge material. Management activities within the proposed CHNMS would include scuba operations, operating sanctuary vessels, deploying equipment on the seafloor, marine debris reduction, and deploying remotely operated vehicles (ROVs) and other uncrewed systems.

William J. Douros

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Figure 1. NOAA ONMS's final preferred alternative CHNMS boundary identified in their final EIS.

Conservation Measures:

1. NOAA ONMS will conduct a pre-flight check for birds in the flight area prior to UAS take-off. If Endangered Species Act listed birds are detected in the flight airspace, they will wait until they depart before initiating takeoff or provide a 50-to-100-foot buffer from areas where birds are present. This includes on land, nearshore, or on the water.
2. NOAA ONMS staff will not conduct uncrewed aerial systems operations if one or more threatened or endangered birds is suspected of being disturbed around its nest, or if disturbance could occur during nesting season.
3. NOAA ONMS will not operate vessels within 109 yards of groups of 10 or fewer southern sea otters (*Enhydra lutris*), or within 547 yards of groups of greater than 10 southern sea otters.
4. While transiting in areas where southern sea otters are likely to occur, NOAA ONMS vessel operators will post a minimum of one dedicated lookout, operators will remain vigilant at the helm controls (keeping hands on the wheel and throttle at all times), and operators will act immediately to avoid an animal in their path.
5. NOAA ONMS will have a designated monitor during shoreline-based sanctuary management activities to ensure no impacts occur to Endangered Species Act listed birds during coastal bird breeding season (March to September).

NOAA ONMS has proposed additional Best Management Practices pertaining to vessel operations, anchoring and deployment of instruments, scuba diving, seafloor protection,

William J. Douros

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uncrewed aircraft systems, aircraft operations, tagging fish, and nesting shorebird monitoring in Appendix C of their draft EIS (NOAA ONMS 2023, pp. 307-313).

Not Likely to Adversely Affect Determinations

If designated, CHNMS management activities that have the potential to disturb listed species if they are present include vessel operations, marine and shoreline debris recovery, deployment of remotely operated or autonomous underwater vehicles, scuba and snorkel operations, and other resource protection or sampling activities occurring in the water or onshore. NOAA ONMS will minimize the risk of disturbance by having monitors present during sanctuary management activities and ceasing activities that could impact listed species if they are observed. Potential beneficial impacts from the proposed CHNMS designation include direct protection against certain activities that may degrade vital marine habitats and impact marine and nearshore species.

Table 1. Endangered Species Act listed species that could potentially be present during CHNMS management activities.

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Effect Determination |
|-------------------------|--------------------------------------|------------|---|---|---------------------------------------|
| Southern sea otter | <i>Enhydra lutris nereis</i> | Threatened | Kelp forests and harbors | The risk of vessel strikes would be discountable because management activities by vessel would include a monitor and appropriate buffer zone if any southern sea otters are detected. Action overall would be net beneficial. | Not likely to adversely affect (NLAA) |
| California clapper rail | <i>Rallus longirostris obsoletus</i> | Endangered | Tidal wetlands near or on shorelines | Action overall would be beneficial. Management activities will be conducted to avoid disturbance. | NLAA |
| California condor | <i>Gymnogyps californianus</i> | Endangered | Forage in open grasslands and beaches adjacent to coastal mountains | California condors are rarely in the vicinity of the proposed CHNMS. Action overall would be discountable. Management | NLAA |

William J. Douros

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| | | | | activities will be conducted to avoid disturbance. | |
| California least tern | <i>Sterna antillarum browni</i> | Endangered | Nest on beaches, mudflats, sand dunes. Forage in shallow estuaries and lagoons | Action overall would be beneficial. Management activities including debris removal will be conducted in a way to avoid disturbance. | NLAA |
| Hawaiian petrel | <i>Pterodroma sandwichensis</i> | Endangered | May be found in transit over offshore open ocean | Vessel strikes, aircraft, and UAS operations would be discountable because management activities would include measures to avoid strikes. Action overall would be beneficial. | NLAA |
| Marbled murrelet | <i>Brachyramphus marmoratus</i> | Threatened | Found in near-shore marine waters less than 100 feet deep. Potential nesting sites on shorelines (ground or rock cavities) | Vessel strikes, aircraft, and UAS operations would be discountable because management activities would include measures to avoid strikes. Action overall would be beneficial. | NLAA |
| Short-tailed albatross | <i>Phoebastria albatrus</i> | Endangered | May be found in transit over coastal and open ocean | Vessel strikes, aircraft, and UAS operations would be discountable because management activities would include measures to avoid strikes. Action overall would be beneficial. | NLAA |

William J. Douros

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| Southwestern willow flycatcher | <i>Empidonax traillii extimus</i> | Endangered | Prefer deciduous/mixed forests, but may be found on shorelines near riparian zones with dense tree cover | Vessel strikes, aircraft, and UAS operations would be discountable because management activities would include measures to avoid strikes. Action overall would be beneficial. | NLAA |
| Western snowy plover | <i>Charadrius nivosus nivosus</i> | Threatened | Frequently found on sand spits and dune-backed beaches, and potentially found on estuarine sands and mud flats | Vessel strikes, aircraft, UAS operations, and debris removal activities would be discountable because management activities would include measures to avoid strikes. Action overall would be beneficial. | NLAA |
| Tidewater goby | <i>Eucyclogobius newberryi</i> | Endangered | Potentially found in estuaries, marshes, and lagoons | Action overall would be beneficial. | NLAA |
| Unarmored threespine stickleback | <i>Gasterosteus aculeatus williamsoni</i> | Endangered | Found in intertidal areas including estuaries, salt marshes and tidal pools | Action overall would be beneficial. | NLAA |
| Morro shoulderband snail | <i>Helminthoglypta walkeriana</i> | Threatened | Primary habitat consists of coastal dune, coastal dune scrub, maritime chaparral, and Baywood fine sands | Action overall would be beneficial. | NLAA |

William J. Douros

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| Monarch butterfly | <i>Danaus plexippus</i> | Candidate | Overwintering habitats made up of Monterey pines, Monterey cypress, and eucalyptus potentially near shorelines, Present in coastal wetlands and grasslands | Vessel strikes, aircraft, and UAS operations would be discountable because management activities would include measures to avoid strikes. | NLAA |
| Beach layia | <i>Layia carnosa</i> | Threatened | Restricted to coastal sand dune habitat | Action overall would be beneficial. | NLAA |
| California jewelflower | <i>Caulanthus californicus</i> | Endangered | Potentially found in non-native grasslands near shorelines | Action overall would be beneficial. | NLAA |
| California seablite | <i>Suaeda californica</i> | Endangered | Restricted to upper intertidal zone of coastal salt marshes | Action overall would be beneficial. | NLAA |
| Chorro creek bog thistle | <i>Cirsium fontinale</i> var. <i>obispoense</i> | Endangered | Restricted to open seep areas in serpentine soils that may occur near shorelines. Only natural populations found in SLO County | Action overall would be beneficial. | NLAA |
| Contra costa goldfields | <i>Lasthenia conjugens</i> | Endangered | Found in vernal pools, swales, and other depressions in open grassland and woodland communities on or adjacent to shorelines | Action overall would be beneficial. | NLAA |

William J. Douros

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| Gambel's watercress | <i>Rorippa gambellii</i> | Endangered | Found in coastal wetland areas of SLO and Santa Barbara counties | Action overall would be beneficial. | NLAA |
| Gaviota tarplant | <i>Deinandra increscens ssp. villosa</i> | Endangered | Found in rare needlegrass grasslands within coastal sage scrub | Action overall would be beneficial. | NLAA |
| Indian knob mountainbalm | <i>Eriodictyon altissimum</i> | Endangered | Found in coastal dune scrub and maritime chaparral communities | Action overall would be beneficial. | NLAA |
| La graciosa thistle | <i>Cirsium loncholepis</i> | Endangered | Often found in riparian habitat near seeps or marshes | Action overall would be beneficial. | NLAA |
| Lompoc yerba santa | <i>Eriodictyon capitatum</i> | Endangered | Endemic to western Santa Barbara County, with populations just north of Lompoc as well as the VSFB. These populations prefer coastal sage and maritime chaparral | Action overall would be beneficial. | NLAA |
| Marsh sandwort | <i>Arenaria paludicola</i> | Endangered | Primarily found in coastal freshwater marshes | Action overall would be beneficial. | NLAA |
| Morro Manzanita | <i>Arctostaphylos morroensis</i> | Threatened | Found in coastal dune scrub, maritime chaparral, and coast live oak woodlands | Action overall would be beneficial. | NLAA |
| Nipomo mesa lupine | <i>Lupinus nipomensis</i> | Endangered | Limited to coastal dune scrub habitat | Action overall would be beneficial. | NLAA |

William J. Douros

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|------------------------|---|------------|---|-------------------------------------|------|
| Pismo clarkia | <i>Clarkia speciosa</i> <i>ssp. immaculata</i> | Endangered | Only 20 coastal occurrences between Pismo Beach and Morro Bay. Found in dry sandy soil derived from ancient marine terraces | Action overall would be beneficial. | NLAA |
| Salt marsh bird's beak | <i>Cordylanthus maritimus</i> <i>ssp. maritimus</i> | Endangered | Limited to upper tidal marsh habitat | Action overall would be beneficial. | NLAA |
| Spreading navarretia | <i>Navarretia fossalis</i> | Threatened | Primarily found in vernal pools, alkali beaches, and sinks | Action overall would be beneficial. | NLAA |

Table 2. Designated Critical Habitat

| Common Name | Species Name | Probability of Effect | Status |
|---|--|-----------------------|-----------------------------|
| Gaviota tarplant | <i>Deinandra increscens</i> <i>ssp. villosa</i> | Wholly beneficial | Designated critical habitat |
| Morro shoulderband (=banded dune) snail | <i>Helminthoglypta walkeriana</i> | Wholly beneficial | Designated critical habitat |
| Tidewater goby | <i>Eucyclogobius newberryi</i> | Wholly beneficial | Designated critical habitat |
| Western snowy plover | <i>Charadrius nivosus nivosus</i> | Wholly beneficial | Designated critical habitat |

Conclusion

You have determined that the proposed action may affect, but is not likely to adversely affect, the 29 listed species and designated critical habitat for 4 listed species. The proposed avoidance and minimization measures are sufficient to ensure that any impacts from the proposed CHNMS designation are discountable. Furthermore, the proposed project would be beneficial because the CHNMS would improve protection of the habitat and species within the proposed sanctuary. Therefore, we concur with NOAA ONMS' may affect, not likely to adversely affect determinations.

William J. Douros

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Consequently, further consultation, pursuant to section 7(a)(2) of the Act, is not required. We recommend that the NOAA ONMS contact the Ventura Fish and Wildlife Office if: (1) new information reveals effects of the action may affect the listed species or designated critical habitat in a manner or to an extent not considered in the assessment; (2) the action is subsequently modified in a manner that causes an effect to listed species or designated critical habitat that was not considered in the analysis; or (3) a new species is listed or critical habitat designated that may be affected by the proposed action.

If you have any further questions, please contact Emily Levin of my staff at (805) 677-3346, or by electronic mail at emily_levin@fws.gov.

Sincerely,

KIRBY BARTLETT

Digitally signed by KIRBY
BARTLETT
Date: 2024.06.21 14:08:54 -0700

Kirby Bartlett, acting for Joseph Brandt
Assistant Field Supervisor

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- [NOAA ONMS] National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries. 2023. Chumash Heritage National Marine Sanctuary Draft Environmental Statement. Silver Spring, MD.
- [NOAA ONMS] National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries. 2024. Appendix G: Biological Species Lists. Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement. Silver Spring, MD.
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Appendix F:

Analysis of Relevant Federal and State Statutes

Numerous federal and state agencies provide regulatory oversight of the resources within or near the study area. Many of these are particularly relevant to the study area, as they provide the primary current regulatory framework for resources in the study area. This appendix provides information on these federal and state laws and policies and how they intersect with management of the study area. The National Oceanic and Atmospheric Administration's (NOAA) sanctuary designation complies with all applicable environmental laws and regulations associated with the study area.

- Additions were made to Section F.2 Biological Resources and Section F.6 Offshore Energy, including: the Fish and Wildlife Conservation Act (F.2); and several laws related to advancing offshore wind in California: California Assembly Bill 525, Offshore Wind Expediting Act (SB 286); and Offshore Wind Advancement Act (AB 3) (F.6).
- Deep Seabed Hard Mineral Resources Act (F.1) under Geology and Oceanography was removed because it only applies in areas beyond national jurisdiction.

F.1 Physical Resources

Air Quality and Climate Change

Federal Clean Air Act, 42 United States Code (U.S.C.) § 7401 et seq.

The federal Clean Air Act requires the U.S. Environmental Protection Agency (USEPA) to set National Ambient Air Quality Standards (40 Code of Federal Regulations (C.F.R.) part 50) for six principal pollutants ("criteria" air pollutants) that can be harmful to public health and the environment (USEPA, 2022c).

Section 176(c)(4) of the federal Clean Air Act contains provisions that apply specifically to federal agency actions, including actions that receive federal funding. This section of the Clean Air Act requires federal agencies to ensure that their actions are consistent with the Clean Air Act and with applicable state air quality management plans. The USEPA's general conformity rule applies to federal actions occurring in nonattainment or in certain designated maintenance areas when the total direct and indirect emissions of nonattainment pollutants (or their precursors) exceed specified thresholds under National Ambient Air Quality Standards. The federal agency providing the funding for the proposed action is responsible for submitting conformity determination documentation to the USEPA (USEPA, 2022l; USEPA, 2022a). The proposed sanctuary designation does not include stationary or mobile sources of emissions and would not result in emissions that exceed the thresholds; therefore, the proposed sanctuary designation is not subject to a formal conformity determination.

California Clean Air Act

The California Clean Air Act requires the California Air Resources Board to evaluate and identify air quality-related indicators for Air Pollution Control Districts to use in assessing progress toward attainment of the state ozone standards (California Health and Safety Code, Sections 39607(f) and (g)).

The California Air Resources Board has established California Ambient Air Quality Standards for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, sulfates, 10-micron particulate matter, airborne lead, hydrogen sulfide, and vinyl chloride at levels designed to protect the most sensitive members of the population, particularly children, the elderly, and people who suffer from lung or heart diseases (California Air Resources Board, 2022).

MARPOL Annex VI Regulations for the Prevention of Air Pollution from Ships

Annex VI of MARPOL, the International Convention for the Prevention of Pollution from Ships, addresses air pollution from ocean-going ships. Annex VI's international air pollution requirements set limits on nitrogen oxides emissions and require use of fuel with lower sulfur content to reduce ozone-producing pollution. Designated emission control areas set more stringent standards for sulfur oxides, nitrogen oxides, and particulate matter. These requirements apply to vessels operating in U.S. waters as well as ships operating within 200 nautical miles of the coast of North America, also known as the North American Emission Control Area (USEPA, 2021). In 2011, the International Maritime Organization adopted more stringent measures to significantly reduce the amount of greenhouse gas emissions from ships; these measures went into effect on January 1, 2013 (IMO, 2019a).

Geology and Oceanography

See EIS Section 4.7 for specific regulations regarding oil, gas, and alternative energy development.

Submerged Lands Act, 43 U.S.C. § 1301 et seq.

Under the Submerged Lands Act, the location of energy and mineral resources determines whether or not they fall under state control. The Submerged Lands Act granted states title to natural resources located within three miles of their coastline. For purposes of the Submerged Lands Act, the term “natural resources” includes oil, gas, and all other minerals.

Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq.

Outer Continental Shelf Lands Act (OCSLA) established federal jurisdiction over submerged lands on the Outer Continental Shelf seaward of state boundaries. Under OCSLA, the Secretary of the Interior is responsible for the administration of mineral exploration and development of the Outer Continental Shelf. OCSLA provides guidelines for implementing an Outer Continental Shelf oil and gas exploration and development program, and authorities for ensuring that such activities are safe and environmentally sound.

Water Quality

Marine water quality is regulated by numerous statutes and government agencies. These serve to protect the marine environment from various point and nonpoint sources of marine pollution.

Federal Water Pollution Control Act, commonly known as the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq.

The CWA was passed in 1972 by Congress and amended in 1987. Point source discharges into waters of the United States are prohibited under the CWA unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. NPDES permits require compliance with technology- and water quality–based treatment standards. Two sections of the CWA deal specifically with discharges to marine and ocean waters.

CWA Section 312 (33 U.S.C. § 1322) establishes a regulatory framework to protect human health and the aquatic environment from disease-causing microorganisms that may be present in sewage from boats. Pursuant to Section 312 of the CWA and its implementing regulations (33 C.F.R. part 159), all recreational boats with installed toilet facilities must have an operable marine sanitation device on board. All installed marine sanitation devices must be U.S. Coast Guard (USCG)-certified. USCG-certified devices are so labeled except for some holding tanks, which are certified by definition under Section 312 of the CWA (33 U.S.C. § 1322).

Under CWA Section 403 (33 U.S.C. § 1343), any discharge to the territorial seas (3 miles) or beyond also must comply with the Ocean Discharge Criteria established under CWA Section 403.

Section 404 of the CWA establishes a permit program to regulate the discharge of dredged or fill material into waters of the U.S., including wetlands. Section 404 requires a permit before dredged or fill material may be discharged into waters of the U.S., unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities) (USEPA 2022e).

Under Section 401 of the CWA, a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the U.S. unless a Section 401 water quality certification is issued, or certification is waived. States and authorized Tribes where the discharge would originate are generally responsible for issuing water quality certifications. In cases where a state or Tribe does not have authority, the USEPA is responsible for issuing certification (33 U.S.C. § 1341) (USEPA, 2022d).

CWA Section 311 pertains to cleanup and removal of oil and/or hazardous substance discharges into navigable waters, adjoining shorelines, or certain other areas. Section 311(c)(1)(A) requires the President to ensure effective and immediate removal of a discharge by, for example, directing all federal, state, and private actions to remove a discharge or mitigate or prevent a substantial threat of a discharge (USEPA, 2023a).

Vessel Incidental Discharge Act (Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018, Pub. L. 115-282)

The Vessel Incidental Discharge Act was signed into law by the President on December 4, 2018. The Vessel Incidental Discharge Act requires the USEPA to develop new national standards of performance for commercial vessel incidental discharges and the USCG to develop corresponding implementing regulations.

Pursuant to the Vessel Incidental Discharge Act, the following interim requirements apply until the USEPA publishes future standards and the USCG publishes corresponding implementing regulations under the Vessel Incidental Discharge Act:

- For large, non-fishing commercial vessels: The existing vessel discharge requirements established through the USEPA 2013 Vessel General Permit and the USCG ballast water regulations, and any applicable state and local government requirements.
- For small vessels and fishing vessels of any size: The existing ballast water discharge requirements established through the USEPA 2013 Vessel General Permit and the USCG ballast water regulations, and any applicable state and local government requirements (USEPA, 2022k).

On October 26, 2020, the USEPA published a Notice of Proposed Rulemaking for Vessel Incidental Discharge National Standards of Performance under the 2018 Vessel Incidental Discharge Act (USEPA, 2022i). A Supplemental Notice of Proposed Rulemaking followed on October 18, 2023 (USEPA, 2023c).

Prior to the Vessel Incidental Discharge Act, the USEPA regulated incidental discharges from commercial vessels under the NPDES Permit Program, primarily through two NPDES general permits: the Vessel General Permit and the Small Vessel General Permit (USEPA, 2022j).

Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. § 401 et seq.

Section 9 of the Federal Rivers and Harbors Appropriations Act of 1899 prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army.

Section 10 prohibits the unauthorized obstruction or alteration of any navigable water of the United States. Under Section 10, the construction of any structure in or over any navigable water of the United States, the excavating from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters is unlawful unless authorized by the U.S. Army Corps of Engineers (USACE; 33 C.F.R. § 320.2(b)). Navigable waters under the Rivers and Harbors Act are those “subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce” (33 C.F.R. § 329.4). Typical activities requiring Section 10 permits are construction of piers, wharves, bulkheads, marinas, ramps, floats, intake structures, cable, or pipeline crossings, and dredging and excavation. The proposed action does not include any construction or alteration that would require a permit under this act.

Title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA), also known as the Ocean Dumping Act, 33 U.S.C. §§ 1401 et seq.

The MPRSA, also known as the Ocean Dumping Act, prohibits dumping into marine waters material that would unreasonably degrade or endanger human health or the marine environment. Ocean dumping cannot occur unless a permit is issued under the MPRSA. The USEPA is the permitting agency for the ocean disposal of all materials except dredged material.

In the case of ocean disposal of dredged material, the decision to issue a permit is made by the USACE, using the USEPA's environmental criteria and subject to USEPA's concurrence (USEPA, 2022b).

Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.

The Oil Pollution Act of 1990 streamlined and strengthened the USEPA's ability to prevent and respond to catastrophic oil spills. A trust fund financed by a tax on oil is available to clean up spills when the responsible party is incapable or unwilling to do so. The Oil Pollution Act requires oil storage facilities and vessels to submit to the federal government plans detailing how they will respond to large discharges. The USEPA has published regulations for aboveground storage facilities; the USCG has done so for oil tankers. The Oil Pollution Act also requires the development of Area Contingency Plans to prepare and plan for oil spill response on a regional scale (USEPA, 2022g). See EIS Section 4.8 (Marine Transportation) for more information.

MARPOL Annex I Regulations for the Prevention of Pollution by Oil

Annex I of MARPOL, the International Convention for the Prevention of Pollution from Ships, addresses pollution of the marine environment by oil pollution from ships. It details discharge requirements for prevention of pollution by oil and oily materials (IMO, 2019b).

MARPOL Annex IV Regulations for the Prevention of Pollution by Sewage from Ships

Annex IV of MARPOL, Prevention of Pollution by Sewage from Ships, contains a set of regulations regarding the discharge of sewage into the sea from ships, including regulations regarding the ships' equipment, systems for the control of sewage discharge, the provision of port reception facilities for sewage, and requirements for survey and certification. The regulations in Annex IV prohibit the discharge of sewage into the sea within a specified distance from the nearest land, unless otherwise provided, since it is generally considered that bacterial processes in the ocean are capable of processing raw sewage (IMO, 2019b).

MARPOL Annex V Regulations for the Prevention of Pollution by Garbage from Ships

The Act to Prevent Pollution from Ships (33 U.S.C. § 1901 *et seq.*) implements provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL), including Annex V, which regulates prevention of pollution by garbage from ships. The discharge of solid wastes in United States waters is regulated under the Act to Prevent Pollution from Ships, as amended by the Marine Plastic Pollution Research and Control Act of 1987, and the CWA. Under these laws, the disposal of plastics is prohibited in all waters, and other garbage, including paper, glass, rags, metal, and similar materials, is prohibited within 14 miles (12 nautical miles) from shore (unless macerated). Garbage ground to pieces under an inch can be discharged beyond 3 nautical miles from shore (IMO, 2019c).

Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq.

CZMA provides incentives for coastal states to develop and implement coastal area management programs. Among other things, the CZMA requires states that participate in the National Coastal Zone Management Program to develop coastal nonpoint pollution control programs.

Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) addresses cleanup of hazardous substances and mandates liability for environmental cleanup on those whose actions cause release into the environment. In conjunction with the CWA, it requires preparation of a National Contingency Plan for responding to oil or hazardous substances release. The Superfund Enterprise Management System (SEMS) database contains information on hazardous waste sites, potentially hazardous waste sites, and remedial activities across the nation, including sites that are on the National Priorities List (NPL) or being considered for the NPL. SEMS contains information on sites located within the shoreline counties of the study area. There are 24 sites in San Luis Obispo County, 7 of which are near the coast (USEPA, 2022f). There are 33 sites in Santa Barbara County, 5 of which are near the coast, and 1 of which is located in marine waters near the study area (Platform Henry). Only one site in each county is on the NPL; all other sites mentioned are not on the NPL (USEPA, 2022f).

Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.

The Resource Conservation and Recovery Act (RCRA) addresses hazardous waste management, establishing duties and responsibilities for hazardous waste generators, transporters, handlers, and disposers. RCRA requires that vessels that generate or transport hazardous waste offload these wastes at treatment or disposal facilities or outside the territorial waters of the United States.

Porter-Cologne Water Quality Control Act, California Water Code § 13000 et seq.

The Porter-Cologne Water Quality Control Act contains provisions for enforcing water quality standards through issuance of Waste Discharge Requirements. Pursuant to the act, the State Water Resources Control Board (SWRCB) has the primary responsibility to protect California's coastal and ocean water quality. SWRCB has been given the authority by the USEPA to administer the NPDES program for California. The Regional Water Quality Control Boards, in coordination with the SWRCB, issue both state waste discharge requirements and NPDES permits to individual dischargers. Dischargers are required to establish self-monitoring programs for their discharges and to submit compliance reports to Regional Water Quality Control Boards. The SWRCB has established regulations to implement these measures through water quality control plans, including the California Ocean Plan, the Regional Water Quality Control Plans (Basin Plans), and the Thermal Water Quality Control Plan.

Marine Debris Act 33 U.S.C. § 1951 et seq.

The Marine Debris Act, signed into law in 2006 and amended in 2012, 2018, and 2020, establishes a Marine Debris Program within NOAA to identify, determine sources of, assess,

prevent, reduce, and remove marine debris and address the adverse impacts of marine debris on the economy of the United States, the marine environment, and navigation safety. The Marine Debris Act also directs NOAA to provide national and regional coordination to assist states, Tribes, and regional organizations in the process of addressing marine debris, and to undertake outreach and education activities for the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identifying and addressing marine debris. For instance, NOAA is charged with helping Regional Ocean Partnerships, such as the West Coast Governors Marine Debris Alliance.

California Health and Safety Code § 115875 et seq

Originally authorized under AB 411, California has established minimum standards for the sanitation of public beaches, including: (1) requiring the testing of the waters adjacent to all public beaches for microbiological contaminants; (2) establishing protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators; and (3) requiring that the waters adjacent to public beaches are tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators if appropriate. Since 2012, testing on beaches that are visited by more than 50,000 people annually and are located on an area adjacent to a storm drain that flows in the summer is required on a weekly basis from April 1 to October 31, inclusive, of each year.

California Coastal Act, Cal. Pub. Res. Code § 30000 et seq.

The California Coastal Act of 1976 mandates protections for terrestrial and marine habitat through its policies on visual resources, land development, agriculture, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, power plants, ports, and public works. The California Coastal Commission (CCC) administers various programs, including Local Coastal Programs and the Water Quality Program, which facilitates the interagency Nonpoint Source Pollution Control Program.

California Marine Invasive Species Act, Cal. Pub. Res. Code § 71200 et seq.

The California Marine Invasive Species Act of 2003 applies to all vessels, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside the coastal waters of the state, except vessels of the armed forces or a foreign vessel merely traversing the territorial sea of the United States and not entering or departing a United States port, or not navigating the internal waters of the United States, and that does not discharge ballast water into the waters of the state, or into waters that may impact waters of the state. The act requires mid-ocean exchange or retention of ballast water for vessels coming from outside the U.S. Exclusive Economic Zone (EEZ) and requires vessels coming from other west coast ports to minimize ballast water discharge. Record-keeping and other compliance measures apply to all vessels entering California waters.

California Ballast Water Regulations, CCR, Title 2, Division 3, Chapter 1, Article 4.6 et seq.

The master, operator, or person in charge of vessels over 300 gross registered tons capable of carrying ballast water arriving at a California port or place carrying ballast water from another port or place within the Pacific Coast must employ at least one of the following ballast water

management practices: (1) exchange the vessel's ballast water in near-coastal waters (more than 50 nautical miles from land and at least 657 feet deep), before entering the waters of the state, if that ballast water has been taken on in a port or place within the Pacific Coast region; (2) retain all ballast water on board the vessel; (3) use an alternative, environmentally sound method of ballast water management that, before the vessel begins the voyage, has been approved by the California State Lands Commission (CSLC) or the USCG as being at least as effective as exchange, using mid-ocean waters, in removing or killing non-Indigenous species; (4) discharge the ballast water to a reception facility approved by the commission; or (5) under extraordinary circumstances where compliance with the four options above is not practicable, perform a ballast water exchange within an area agreed to by the CSLC in consultation with the USCG. "Pacific Coast Region" is defined in Article 4.6 as all estuarine and ocean waters within 200 nautical miles of land or less than 2,000 meters (6,560 feet, 1,093 fathoms) deep, and rivers, lakes, or other water bodies navigable, connected to the ocean on the Pacific Coast of North America east of 154 degrees west longitude and north of 25 degrees north latitude, exclusive of the Gulf of California. Additional information on ballast water management is provided in EIS Section 4.8 (Marine Transportation).

California Clean Coast Act, Cal. Pub. Res. Code § 72400 et seq

The California Clean Coast Act, which became effective on January 1, 2006, prohibits the release from large passenger vessels (cruise ships) and other oceangoing ships (300 gross tons or more) of hazardous waste, oily bilge water, other waste, and sewage sludge into the marine waters of the state and marine sanctuaries and sets up notification protocols for release of these substances into state waters or waters of a national marine sanctuary. The Clean Coast Act also prohibits the release of graywater from cruise ships and oceangoing ships with sufficient holding capacity into the marine waters of the state. Furthermore, the Clean Coast Act requires the State Water Resources Control Board to request the appropriate federal agencies to prohibit the release of wastes from cruise ships and oceangoing ships into state marine waters and the four national marine sanctuaries in California. The Act is more stringent than federal regulation of cruise ships and also provides the strongest state protections from cruise ship pollution in the United States.

F.2 Biological Resources

There are numerous federal and state laws and regulations providing protection of biological resources in the study area. An overview of some of the primary regulations and regulating agencies are summarized below (note, the following does not comprise a comprehensive list).

Federal Authorities

Endangered Species Act, 16 U.S.C. § 1531 et seq.

The Endangered Species Act (ESA) of 1973, as amended, provides for the conservation of species that are endangered or threatened throughout all or a significant portion of their range, and the conservation of the ecosystems on which they depend. The ESA directs all federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the act. NOAA Fisheries works with the U.S. Fish and Wildlife Service (USFWS) to

manage ESA-listed species. Generally, NOAA Fisheries manages marine species, while USFWS manages land and freshwater species.

A species is considered endangered if it is in danger of extinction throughout all or a significant portion of its range. A species is considered threatened if it is likely to become an endangered species within the foreseeable future. When listing a species as threatened or endangered, NOAA Fisheries or USFWS also designates critical habitat for the species to the maximum extent prudent and determinable (16 U.S.C. § 1533(a)(3)).

Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. § 1801 et seq.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the U.S. claimed sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the U.S. EEZ (within 230 mi [200 nautical miles] of the shoreline). The MSA established a procedure for authorizing foreign fishing and prohibited unauthorized foreign fishing within the U.S. EEZ.

The MSA also established national standards for fishery conservation and management within the U.S. EEZ and created eight Regional Fishery Management Councils composed of state officials with fishery management responsibility, the regional administrators of NOAA Fisheries, and individuals appointed by the Secretary of Commerce who are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. The Councils are responsible for preparing and amending fishery management plans for each fishery under their authority that requires conservation and management.

Fishery management plans (FMPs) describe the fisheries and contain necessary and appropriate conservation and management measures, applicable to foreign vessels in U.S. waters and fishing by U.S. vessels. The plans are submitted to the Secretary of Commerce, who has delegated to NOAA approval of the plans. If approved, NOAA Fisheries promulgates implementing regulations. NOAA Fisheries may prepare Secretarial FMPs if the appropriate Council fails to develop such a plan.

Of particular relevance to this EIS is the Pacific Coast Groundfish FMP. Approved in 2006, Amendment 19 was prepared by NOAA Fisheries and the Pacific Fisheries Management Council (PFMC) to comply with Section 303(a)(7) of the MSA by amending the Pacific Coast Groundfish FMP to:

- Describe and identify Essential Fish Habitat (EFH) for the fishery.
- Designate Habitat Areas of Particular Concern (HAPC).
- Minimize to the extent practicable the adverse effects of fishing on EFH.
- Identify other actions to encourage the conservation and enhancement of EFH.

On January 1, 2020, NOAA Fisheries published a final rule to implement regulatory provisions of Amendment 28 to the Pacific Coast Groundfish FMP (84 Fed. Reg. 63966). Building on Amendment 19 that implemented management measures such as gear restrictions and area closures, Amendment 28 modified the configuration of EFH Conservation Areas that are closed

to groundfish bottom trawl fishing in order to protect EFH. There are three Bottom Trawl Closed Areas in the study area: East San Lucia Bank, Point Conception Point Arena North, and part of Big Sur Coast/Port San Luis. Additional areas were added to this list as part of Amendment 28, however none of the added areas are located in the study area. Also, Amendment 28 introduced block area closures (BACs) as a groundfish bottom trawl-specific management tool; BACs are areas of federal waters that may be closed to groundfish bottom trawl fishing and, when implemented, would have restrictions very similar to those of the trawl RCA. BAC boundaries and duration will be published in the Fed. Reg. and announced in a fishery bulletin (NOAA Fisheries, 2023b; PFMCI, 2022). There is also a bottom trawl footprint closure that prohibits the use of bottom trawl gear in depths greater than 700 fathoms to the outer extent of groundfish EFH (3,500 m) or the seaward extent of the EEZ, preventing the expansion of the use of this gear type into area where its historical use has been limited.

Fish and Wildlife Coordination Act and Implementing Regulations, 16 U.S.C. § 661 et seq.

Any federal agency that proposes to control or modify any body of water must first consult with the USFWS or NOAA Fisheries, as appropriate, and with the head of the appropriate state agency exercising administration over the wildlife resources of the affected state. The USACE has a memorandum of understanding (MOU) with the USFWS to provide a coordination act report to assist in planning efforts.

Fish and Wildlife Conservation Act, 16 U.S.C. § 2901-2912

The Fish and Wildlife Conservation Act directs the Secretary of the Interior to undertake research and conservation activities, in coordination with other federal, state, international, and private organizations, to fulfill responsibilities to conserve migratory nongame birds under existing authorities. The Secretary is directed to monitor and assess population trends and status for all species, subspecies, and migratory nongame birds; to identify effects of environmental change and human activities; and to identify species in need of additional conservation and identify conservation actions to ensure perpetuation of these species. More information is available [online](#) (USFWS, n.d.).

Marine Mammal Protection Act, 16 U.S.C. § 1361 et seq.

The Marine Mammal Protection Act (MMPA), enacted by Congress on October 21, 1972, establishes a national policy to prevent marine mammal species and population stocks from declining beyond the point where they cease to be significant functioning elements of the ecosystems of which they are a part. The MMPA, as amended, prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. The MMPA defines “take” as: “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (16 U.S.C. § 1362(13)). Harassment means any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment) (16 U.S.C. § 1362).

Section 101(a)(5)(A-D) of the MMPA provides a mechanism for allowing, upon request, the "incidental," but not intentional, taking, of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing or directed research on marine mammals) within a specified geographic region. The NOAA Fisheries Office of Protected Resources processes applications for incidental takes of small numbers of marine mammals. Authorization for incidental takes may be granted if NOAA Fisheries finds that the taking would be of small numbers, have no more than a "negligible impact" on those marine mammal species or stocks, and not have an "unmitigable adverse impact" on the availability of the species or stock for "subsistence" uses. NOAA Fisheries issuance of an incidental take authorization also requires NOAA Fisheries to make determinations under the National Environmental Policy Act (NEPA) and Section 7 of the ESA.

Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.

The Migratory Bird Treaty Act (MBTA) of 1918 implements the U.S.' commitment to bilateral treaties, or conventions, with Great Britain, Canada, Japan, Russia, and Mexico for the protection of shared migratory bird resources. The MBTA establishes that it is unlawful to pursue, hunt, take, capture, kill or sell migratory birds unless authorized by a permit issued by USFWS. Take is defined in regulations as: "pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect" (50 C.F.R. § 10.12). The statute does not discriminate between live or dead birds and gives full protection to any bird parts including feathers, eggs, and nests. The MBTA protects over 800 species of birds that occur in the U.S., and the list of migratory bird species protected by the MBTA is set forth in 50 C.F.R. § 10.13. Of these migratory bird species protected under the MBTA, 54 species may be found transiting, resting, or foraging within the study area. USFWS issues permits for scientific collecting, banding, and marking, falconry, raptor propagation, depredation, import, export, taxidermy, waterfowl sale and disposal, and special purposes. USFWS has also developed, and continues to develop, voluntary guidance that helps project proponents reduce incidental take of migratory birds.

Coastal Zone Management Act, 16 U.S.C. § 1451 et seq.

The Coastal Zone Management Act (CZMA) encourages states to preserve, protect, develop, and, where possible, restore or enhance the resources of the nation's coastal zone, such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, and coral reefs, as well as the fish and wildlife using those habitats. To encourage states to participate, the CZMA makes federal financial assistance available to any coastal state or territory that develops a coastal management program that is approved by NOAA. Federal agencies are required to carry out activities that affect any land or water use or natural resource of a state's coastal zone in a manner consistent to the maximum extent practicable with the enforceable policies of an approved state management plan.

Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, 16 U.S.C. § 4701 et seq.

The Nonindigenous Aquatic Nuisance Prevention and Control Act mandates ballast water management for vessels entering the Great Lakes. This law was reauthorized as the National Invasive Species Act of 1996 (NISA 96; Pub. L. 104-332), which strengthened the 1990 law and

required the development of voluntary ballast management guidelines for all other ships entering U.S. waters. The law also requires all vessels that enter U.S. territorial waters (with certain exemptions) to manage ballast water according to prescribed measures. NISA 96 also required the USCG to evaluate the effectiveness of the voluntary ballast management program three years after implementation. In 2004, voluntary guidelines were determined to be ineffective, and thus USCG initiated mandatory ballast management for all ships entering U.S. waters from outside the U.S. EEZ.

Current management strategies for preventing introductions via ballast water are limited to ballast water retention, open ocean exchange or alternate environmentally sound methods of ballast water management approved by USCG.

USCG Ballast Water Management Regulation

Linked to the National Invasive Species Act of 1996, the USCG established the rule, “Standards for Living Organisms in Ships’ Ballast Water Discharged in U.S. Waters” (77 Fed. Reg. 17253), which is codified at 33 C.F.R. Part 151 and 46 C.F.R. Part 162. The final rule became effective on June 21, 2012. The rule prohibits all vessels with ballast tanks to discharge untreated ballast water into U.S. waters. Ships must also manage their ballast water by following treatment methods and good practices.

Executive Order 13112: Invasive Species

Executive Order (E.O.) 13112 (1999) tasked executive departments and agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. E.O. 13112 also tasked the Department of the Interior with establishing an Invasive Species Advisory Committee. President Biden’s E.O. 14048 (2021) reestablished the Invasive Species Advisory Committee. The proposed action would support the agency in meeting the mandates of E.O. 13112 to prevent the introduction and spread of invasive species because it would be prohibited to introduce or otherwise release an invasive species from within or into the proposed Chumash Heritage National Marine Sanctuary (CHNMS). See Table 3-1 in the final EIS and the proposed rule for more details on introduced species regulations.

State Authorities

California Endangered Species Act, California Fish and Game Code § 2050 et seq.

The California ESA places the responsibility for maintaining a list of threatened and endangered species with the California Department of Fish and Wildlife (CDFW). The CDFW also maintains a list of candidate species that are under review for addition to either the list of endangered species or the list of threatened species. Pursuant to the requirements of California ESA, an agency reviewing a proposed project within its jurisdiction must determine whether any California-listed endangered or threatened species may be present in the project area and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may affect a candidate species.

Fish and Wildlife Protection and Conservation, California Fish and Game Code § 1600 et seq.

The state's authority in regulating activities in wetlands resides primarily with the CDFW and the State Water Resources Control Board (SWRCB). California regulates wetlands through the CDFW, which provides comment on USACE permit actions under the Fish and Wildlife Coordination Act. The CDFW may develop mitigation measures and require the preparation of a streambed alteration agreement if a proposed project would obstruct the flow or alter the bed, channel, or bank of a river or stream in which there are fish or wildlife resources, including intermittent and ephemeral streams. The CDFW is authorized to do so by the State Fish and Game Code Sections 1600–1616.

The California legislature gave the Fish and Wildlife Commission the authority to establish state marine reserves, state marine conservation areas, state marine parks, state marine recreational management areas, and special closures as a result of the California Marine Life Protection Act of 1999. The California Fish and Wildlife Commission also has the authority to prohibit or restrict activities that may harm resources, including fishing, collecting, swimming, boating, and public entry. The CDFW also conducts oil spill response, damage assessment, and restoration through its Office of Spill Prevention and Response.

California Assembly Bill 2109, California Fish and Game Code § 5517

California Assembly Bill 2109 was signed into law by Governor Gavin Newsom on September 19, 2022, providing new protections for white sharks in California waters. Sponsored by Assemblymember Steve Bennett, the bill passed the California legislature with an overwhelming majority of support. The new restrictions aim to get ahead of activities that may lead to increased interactions between white sharks and humans, and to give law enforcement more tools to protect white sharks from intentional efforts to catch or attract them. The new law also helps protect the public from interactions with white sharks that have been unintentionally hooked by fishermen by restricting when and where chum and shark bait can be used, while still allowing other legal fishing activities to continue.

New rules regarding take of white sharks went into effect on January 1, 2023. These rules, found in California Fish and Game Code, Section 5517, prohibit the use of shark bait, shark lures or shark chum to attract a white shark. Anglers also may not place those items into the water within one nautical mile of any shoreline, pier, or jetty, when a white shark is visible or known to be present.

California Assembly Bill 525, “Offshore wind energy projects”

In 2021, California Assembly Bill 525 was signed into law by the Governor Newsom and requires the California Energy Commission (CEC) to evaluate and quantify the maximum feasible offshore wind energy generation capacity in waters off the California coast; establish offshore wind planning goals for 2030 and 2045; and coordinate with specified State and local agencies to develop a five-part strategic plan for offshore wind development and to submit the plan to the California Natural Resources Agency and the Legislature by June 30, 2023. (California Air Resources Board, 2021). More information is available [online](#).

California Code of Regulations, Title 14 Division 1

The California Fish and Game Commission has broad authority under Title 14 to establish regulations that restrict both sport and commercial fishing and otherwise afford protection to marine organisms and habitats. Of particular relevance to this EIS are the 10 existing state marine protected areas (MPAs) in the study area (Title 14, Section 632).

There are a total of four state marine reserves in the study area: Morro Bay, Point Buchon, Vandenberg, and Point Conception. In a state marine reserve, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a scientific collecting permit or specific authorization from the California Fish and Wildlife Commission for research, restoration, or monitoring purposes.

There are a total of five state marine conservation areas in the study area: Cambria (which is also a state marine park), White Rock, Point Buchon, Kashtayit, and Naples. In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified. The California Fish and Wildlife Commission may issue scientific collecting permits or specifically authorize research, education, and recreational activities, and certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

There is one state marine recreational management area in the study area: Morro Bay. In a state marine recreational management area, it is unlawful to perform any activity that would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted unless specified.

California Coastal Act, California Public Resources Code § 30000 et seq.

The California Coastal Act defines the “coastal zone” as the area of the state that extends three miles seaward and generally about 1,000 yards (910 meters) inland. Almost all development within the coastal zone, which contains many wetlands, requires a coastal development permit from either the CCC or a local government with a certified Local Coastal Program. Additional details are provided in Section 4.6 of the EIS.

State Water Resources Control Board (SWRCB)

The SWRCB adopts statewide water quality control plans and policies, such as the Ocean Plan, the Thermal Plan, and the State Implementation Policy. The SWRCB has established a system of 34 Areas of Special Biological Significance (ASBS). These areas are designated for special protection from undesirable alteration in natural water quality. There are no ASBSs located in the study area. Additional information about the regulatory environment of the SWRCB is in Section 4.2 of the EIS.

California Marine Invasive Species Act, Cal. Pub. Res. Code § 71200 et seq.

The California Marine Invasive Species Program, authorized by the California Marine Invasive Species Act and administered by the CSLC, is charged with preventing or minimizing the

introduction of introduced species to California Waters from vessels over 300 gross registered tons, capable of carrying ballast water. See sections 4.2, 4.3, 4.4, and 4.8 of the EIS for more information about the California invasive species regulatory environment.

California Code of Regulations, Title 2, Division 3, Chapter 1, Article 4.6

Article 4.6, “Ballast Water Regulations for Vessels Arriving at California Ports or Places after Departing from Ports or Places Within the Pacific Coast Region” was designed to move the state toward elimination of the discharge of introduced species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable. The provisions of Article 4.6 apply to all vessels arriving at a California port or place from another port or place within the Pacific Coast Region. All such vessels shall: (1) exchange ballast water in near-coastal waters (more than 50 nautical miles from land and in water at least 200 meters [656 feet, 109 fathoms] deep) before entering the waters of the state if that ballast water was taken on in a port or place within the Pacific Coast Region; (2) retain all ballast water on board; (3) discharge the ballast water to a reception facility approved by the CSLC; or (4) use an alternative, environmentally sound method of ballast water management that has been approved by the CSLC or the USCG.

California Coastal Ecosystems Protection Act

The California Coastal Ecosystems Protection Act was authorized by SB 497 and signed by the Governor in 2005. The Act requires the state to adopt ballast water performance standards and sets specific deadlines for the removal of different types of species from ballast water.

F.3 Commercial Fishing and Aquaculture

Commercial fisheries in the study area are regulated by PFMC, NOAA Fisheries, the California State Legislature, and the California Fish and Game Commission. Coastal fisheries in state waters (up to 3 nautical miles from the shoreline) are generally managed by CDFW. NOAA Fisheries and PFMC regulate and manage ocean fisheries beyond state waters (from 3 nautical miles offshore to the extent of the U.S. Exclusive Economic Zone [EEZ], 200 nautical miles offshore). In federal waters, NOAA, USACE, USEPA, U.S. Department of Interior, U.S. Department of Agriculture, and the U.S. Department of Health and Human Services all have various jurisdictional oversight over aquaculture facilities and operations. Jurisdiction over aquaculture in state waters is addressed below.

See Appendix F, 4.2 (Physical Resources) above for a summary of water quality and vessel discharge requirements.

Federal Authorities

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 et seq.

General Provisions

The MSA is the primary federal law governing marine fisheries management in the United States. The MSA was enacted in 1976 and has been amended many times over the years with a notable revision in 1996 including provisions to minimize bycatch (the incidental harvest of

non-target species), promote protection of EFH, and catch and release in recreational fishing. The 1996 MSA revision is often referred to as the Sustainable Fisheries Act (SFA). Revisions in 2006 required an end to overfishing and to prevent overfishing through annual catch limits and accountability measures. The 2006 MSA revision is commonly referred to as the Magnuson-Stevens Reauthorization Act. Revisions in 2018 required modernization of recreational fishing data and mixed-use fisheries management through new reports, studies, and new guidance on fisheries management and science. The 2018 amendment is commonly referred to as the Modernizing Recreational Fisheries Management Act (NOAA Fisheries, 2023a). Key objectives of the MSA are to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood.

The MSA defines EFH as those waters and substrate necessary for fish for spawning, breeding, feeding, or growth to maturity. The consultation requirements of Section 305(b) of the MSA provide that:

- Federal agencies must consult with the Secretary of Commerce on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH.
- The Secretary shall provide recommendations (which may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH) to conserve EFH to federal or state agencies for activities that would adversely affect EFH.
- The federal action agency must provide a detailed response in writing to NOAA Fisheries and to any regional fishery management council commenting under Section 305(b)(3) of the MSA within 30 days after receiving an EFH conservation recommendation.

The PFMC is one of eight regional fishery management councils established by the MSA in 1976. The PFMC is tasked to recommend fishery management measures in the federal waters off Washington, Oregon, and California and has developed four fishery management plans (FMPs) focused on: groundfish, salmon, coastal pelagics, and highly migratory species. PFMC addresses a wide range of fisheries issues through regular amendments to those plans. The Groundfish FMP covers over 100 species of rockfish, including: flatfish, roundfish, sharks, skates, and others (PFMC, 2021). Chinook and Coho are the primary salmon species addressed in the Salmon FMP, while Northern Anchovy, Market Squid, Pacific Sardine, Pacific Mackerel, and Jack Mackerel are specified in the Coastal Pelagic Species FMP. Finally, the Highly Migratory Species FMP authorizes the PFMC to actively manage tunas (North Pacific Albacore, Yellowfin, Bigeye, Skipjack, and Northern Bluefin), sharks (Common Thresher, Pelagic Thresher, Bigeye Thresher, Shortfin, Mako, and Blue) billfish/swordfish (Striped Marlin and Pacific Swordfish), and other highly migratory fishes (Dorado). The PFMC also participates in international fishery management organizations such as the International Pacific Halibut Commission, and international commissions tasked with managing migratory tunas (Albacore, Yellowfin, and other highly migratory species).

Groundfish Management

The Groundfish FMP contains the rules for managing the groundfish fishery. It outlines the areas, species, regulations, and methods that PFMC and NOAA Fisheries must follow to make changes to the fishery. Groundfish are managed through numerous management measures

including harvest guidelines, quotas, trip and landing limits, area restrictions, seasonal closures, and gear restrictions (such as minimum mesh size for nets and small trawl footrope requirements for certain areas). The trawl sector of the groundfish fishery recently shifted to an individual fishing quota (IFQ) system and harvest co-operative program that was implemented in 2011. This program is expected to reduce harvest capacity in the fishery, to make the trawl sector of the fishery more efficient, and to lower bycatch from trawl gear. All sectors of the groundfish fishery are currently constrained by the need to rebuild groundfish species that have been declared overfished (Yelloweye Rockfish, Darkblotched Rockfish, Bocaccio, Pacific Ocean Perch, and Cowcod). Rebuilding plans have been developed to help these species recover. Because of the low available harvest of species managed under rebuilding plans, the overall groundfish harvest has been significantly reduced.

Since 2003, several groundfish conservation areas have been implemented through regulation by NOAA Fisheries to reduce overfishing on various groundfish species. A groundfish conservation area is defined by NOAA Fisheries as “any closed area intended to protect a particular groundfish species or species group or species complex.” The Rockfish Conservation Areas (RCA) are the only groundfish conservation areas in the study area. The RCAs are large area closures intended to protect overfished shelf rockfish species (e.g., Yelloweye Rockfish). The RCAs have boundaries defined by specific latitude and longitude coordinates that approximate depth contours over the shelf and differ between gear types, for example trawl, non-trawl, and recreational RCA, which vary throughout the year with cumulative limit periods. A core area over the shelf has been protected for more than a decade.

Based on recommendations within amendment 19 of the Pacific Coast Groundfish FMP, in 2006 NOAA Fisheries implemented EFH for groundfish. To minimize impacts on ecologically important habitats of groundfish EFH, NOAA Fisheries implemented areas closed to bottom trawl gear or all bottom contact gear (trawl and other bottom tending gear). In 2020, amendment 28 then modified the configuration of EFH Conservation Areas (EFHCAs) that are closed to groundfish bottom trawl fishing in order to protect EFH, closed waters deeper than 3,500 meters to bottom contact fishing gear, opened the trawl RCA to bottom trawl fishing off Oregon and California, and created a framework to consider and implement more flexible area closures with block area closures (PFMC, 2022). There are three EFH areas protected from fishing in the proposed sanctuary area: Point Conception, East San Lucia Bank, and part of the Big Sur Coast/Port San Luis EFH Conservation Areas. In addition, EFH guidelines identify HAPCs within EFHs, the study area contains two HAPCs including: rocky reefs and canopy kelp habitats.

National Fishing Enhancement Act

In 1984, the U.S. Congress signed the National Fishing Enhancement Act (Public Law 98-623, Title II) calling for the enhancement of fisheries resources through the use of artificial reefs. It provided for the creation of a National Artificial Reef Plan, the establishment of a reef-permitting system, national standards for artificial reef development, and required the development of long-term artificial reef plans. The National Artificial Reef Plan, updated in 2007, was designed to guide understanding the many facets of artificial reef development and use, including the roles of various levels of government, responding to information needs of various users, facilitating reef programs, and performance monitoring.

E.O. 13921: Promoting American Seafood Competitiveness and Economic Growth

In 2020, E.O. 13921 called for the expansion of sustainable U.S. seafood production, specifically highlighting aquaculture. Its goals are to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent federal actions; and remove unnecessary regulatory burdens. Sections 6, 7, and 8 direct NOAA to be the lead agency for NEPA review for aquaculture projects when the projects meet specific criteria, identify Aquaculture Opportunity Areas, and create a guidance document to assist individuals with navigating the federal permitting process for marine aquaculture.

State Authorities

Marine Life Management Act

California's Marine Life Management Act (MLMA), which became law on January 1, 1999 (codified in scattered sections of the California Fish and Game Code), regulates the harvest of California's marine living resources, including commercial fisheries. The fishery management system established by the MLMA applies to four groups of fisheries:

1. The nearshore finfish fishery and the white seabass fishery.
2. Emerging fisheries – new and growing fisheries that are not currently subject to specific regulation.
3. Those fisheries for which the Fish and Game Commission held some management authority before January 1, 1999. Future regulations affecting these fisheries will need to conform to the MLMA.
4. Those commercial fisheries for which there is no statutory delegation of authority to the Fish and Game Commission and Department.

The California Aquaculture Development Act, Cal. Pub. Res. Code § 825 et seq.

The California Aquaculture Development Act of 1979 established the CDFW (formerly the California Department of Fish and Game) as the lead agency for aquaculture in the state. In 1982, legislation was passed that provided guidelines and authority for aquaculture regulations developed by the Fish and Game Commission. These guidelines and authority for aquaculture regulations are in California Code of Regulations, Title 14, Natural Resources: Division 1. Fish and Game Commission – Department of Fish and Game. These regulations are referred to as Title 14. CDFW is responsible for issuing leases and permits for specific aquaculture activities and coordinating with two committees, the Aquaculture Development Committee, and the Aquaculture Disease Committee, which exist for the purpose of interaction among sectors of the aquaculture industry and government regulatory agencies.

There are several other state agencies that have regulatory authority over certain aspects of aquaculture. They include the California Departments of Health Service and Food and Agriculture (disease and health), the CSLC (leased lands), the CCC (coastal uses and public recreation and access), and the State Water Resources Control Board (water quality).

F.4 Cultural Heritage and Maritime Heritage Resources

Cultural and historical resources are regulated through numerous federal and state laws, as summarized below. Depending on the resources identified, the following authorities could apply within the study area.

Federal Regulations

National Historic Preservation Act of 1966, 54 U.S.C. § 300101 et seq.

Cultural and historical resources on state and federal lands are protected primarily through the National Historic Preservation Act (NHPA) (16 U.S.C. § 300101 *et seq.*) of 1966 and its implementing regulations (found at 36 C.F.R. Part 800). Section 106 of the NHPA requires federal agencies to identify and evaluate the effects of their actions on properties listed in or eligible for listing in the National Register of Historic Places. Consultation with the State Historic Preservation Officer, Native American Tribes Tribal Historic Preservation Officer, the Advisory Council for Historic Preservation, and other interested parties is part of the regulatory process. The intent of the process is to require the federal agency, in consultation with other affected parties, to make an informed decision as to the effect its actions would have on something that may be important to our heritage. To be protected under the NHPA, a property must meet specific criteria of significance established under the NHPA's regulations at 36 C.F.R. Part 60.

According to NHPA (36 C.F.R. PART 800), the agency official shall apply the National Register criteria (36 C.F.R. part 63) to properties identified within the area of potential effects that have not been previously evaluated for National Register eligibility, in consultation with the State/Tribal Historic Preservation Officer(s) and any Indian Tribe that attaches religious and cultural significance to identified properties, and guided by the Secretary's Standards and Guidelines for Evaluation. The passage of time, changing perceptions of significance, or incomplete prior evaluations may require the agency official to reevaluate properties previously determined eligible or ineligible. The agency official shall acknowledge that Indian Tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them. The National Historic Lighthouse Preservation Act of 2000 (NHLPA) (54 U.S.C. § 305101 *et seq.*) amended the NHPA and provided a mechanism for the disposal of Federally owned historic light stations that have been declared excess to the needs of the responsible agency (NPS, 2015).

Regarding assessment of adverse effects, NHPA (36 C.F.R. § 800.5) states that the agency official shall apply criteria of adverse effects to historic properties within the area of potential effects, in consultation with the State/Tribal Historic Preservation Officer and any Indian Tribe that attaches religious and cultural significance to identified historic properties. The agency official shall consider any views concerning such effects which have been provided by consulting parties and the public.

Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470aa et seq.

This act requires all archaeological excavations on federal lands to be undertaken pursuant to a permit issued by the federal land manager. This act also imposes criminal penalties for unauthorized excavations.

Native American Graves Protection and Repatriation Act of 1990, 25 U.S.C. § 3001 et seq.

This act requires federal agencies to identify and inventory possible Native American, native Alaskan, or native Hawaiian human remains, burial goods, or cultural items in their collections and to make them available for repatriation to affiliated Tribes or lineal descendants. The act also establishes procedures for handling and disposing of such remains, burial goods, or cultural items discovered on federal lands.

E.O. 13175: Tribal Consultation and Collaboration

Under E.O. 13175 of November 6, 2000, federal departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with Tribal officials in the development of federal policies that have Tribal implications. In support of implementation of E.O. 13175, on January 26, 2022, President Biden issued a Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships. The memorandum is available [online](#). For more details on the ongoing government-to-government consultation process between NOAA and the federally-recognized Santa Ynez Band of Chumash Indians, see Appendix E.

National Marine Sanctuaries Act, Section 301(b)(7) (16 U.S.C. § 1431(b)(7))

Section 301(b)(7) of the National Marine Sanctuaries Act (NMSA) authorizes NOAA to “Develop and implement coordinated plans” with various government entities, including “Native American Tribes.” In 2000, E.O. 13158: MPAs reaffirmed this by stating each federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA.

NOAA Implementing Regulations, 15 C.F.R. Part 922

15 C.F.R. 922.2 reiterates the NMSA policy of coordinating with government entities, including Native American Tribes. 15 C.F.R. 922.3 defines “Indian Tribes” as Indian or Alaska Native Tribes, bands, nations, pueblos, villages, or communities that the Secretary of Interior acknowledges to exist as Indian Tribes pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Other sections of the regulation clarify NOAA’s responsibility to protect treaty rights, fishing rights, cultural activities, and other interests of federally recognized Tribes.

Abandoned Shipwreck Act of 1987, 43 U.S.C. § 2101 et seq.

This act asserts federal ownership over certain shipwrecks found in state waters (within the 3-nautical mile line) and transfers ownership of those resources to the states. Included in the range of resources covered by this act are certain abandoned shipwrecks, which have been

deserted and to which the owner has relinquished ownership rights with no retention. Shipwrecks in federal waters remain under the jurisdiction of the federal government.

Sunken Military Craft Act of 2005, 10 U.S.C. § 113 et seq.

This act asserts federal ownership over sunken military craft, regardless of their location. The Act provides that no person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except (1) as authorized by a permit under this title by the Secretary concerned; (2) as authorized by regulations issued under this title; or (3) as otherwise authorized by law.

Antiquities Act of 1906, 54 U.S.C. § 320301 et seq.

This act requires a permit to excavate or remove any historic objects or antiquities from federal lands and grants the President the authority to designate as national monuments landmarks of historic or scientific importance. The permit provisions of the Antiquities Act are generally enforced through the NHPA process.

Historic Sites, Buildings, Objects, and Antiquities Act of 1935, 54 U.S.C. § 3201 et seq.

This act establishes the national policy of preserving historic sites, buildings, and objects of national significance and gives the Secretary of the Interior the power to make historic surveys and document, evaluate, acquire, and preserve archaeological and historic sites across the country. This act provided the authority behind the establishment of the National Historic Landmarks and Historic American Buildings Survey programs.

State Authorities

Administration and Control of State Lands, California Pub. Res. Code § 6301 et seq.

The referenced section of the California Public Resources Code provides authority for the CSLC (or “commission”) to administer and control state lands. In relevant part, it provides that the commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the state, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands or any interest therein, whether within or beyond the boundaries of the state as established by law, which have been or may be acquired by the state (a) by quitclaim, cession, grant, contract, or otherwise from the United States or any agency thereof, or (b) by any other means. All jurisdiction and authority remaining in the state as to tidelands and submerged lands as to which grants have been or may be made is vested in the commission. The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it. Relevant excerpts of the California Public Resources Code include the following:

§§ 6309. (a) The commission shall administer the Shipwreck and Historic Maritime Resources Program, which consists of the activities of the commission pursuant to this section and Sections §§6313 and §§6314.

(b) The commission has exclusive jurisdiction with respect to salvage operations over and upon all tide and submerged lands of the state. The commission may grant the privilege of conducting salvage operations upon or over those lands by the issuance of permits. The commission may adopt rules and regulations in connection with applications for those permits, and the operations to be conducted in the salvage operation, that the commission determines to be necessary to protect those lands and the uses and purposes reserved to the people of the state.

(c) The commission may issue permits for salvage on granted tide and submerged lands only after consultation with the grantee and a determination by the commission that the proposed salvage operation is not inconsistent with the purposes of the grant.

§§ 6313. (a) The title to all abandoned shipwrecks and all archaeological sites and historic resources on or in the tide and submerged lands of California is vested in the state. All abandoned shipwrecks and all submerged archaeological sites and submerged historic resources of the state shall be in the custody and subject to the control of the commission for the benefit of the people of the state of California. The commission may transfer title, custody, or control to other state agencies or recognized scientific or educational organizations, institutions, or individuals by appropriate legal conveyance.

(b) As used in this section, “submerged archaeological site” and “submerged historic resource,” shall be given the broadest possible meaning, to include any submerged object, structure, building, watercraft, aircraft, or vessel and any associated cargo, armament, tackle, fixture, human remains, or remnant of those objects, or a site, area, person, or place, which is historically or archaeologically significant, or significant in the prehistory or history or exploration, settlement, engineering, commerce, militarism, recreation, or culture of California and that is partially or wholly embedded in or resting on state submerged or tidal lands.

(c) Sites with archaeological or historic significance shall be determined by reference to their eligibility for inclusion in the National Register of Historic Places or the California Register of Historical Resources. Any submerged archaeological site or submerged historic resource remaining in state waters for more than 50 years shall be presumed to be archaeologically or historically significant. The commission, with the assistance of the State Office of Historic Preservation, shall identify, compile, and maintain an inventory of shipwreck sites, or sites of archaeological or historical significance and shall make the listing available to the public.

The CSLC’s regulations are codified in Title 2 of the California Code of Regulations.

Department of Parks and Recreation, California Public Resources Code § 5001 et seq.

The California Public Resources Code provides for California Department of Parks and Recreation’s (California state parks’) control of the state park system, including management of submerged archaeological and historical resources within state park units.

The department may manage state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. Department authority over units within the state park system shall extend to units of the state Marine Managed Areas system that are managed by the department.

The California state parks regulations are found in the California Code of Regulations, Title 14, Natural Resources, Division 3, § 4300 et seq. Several of the regulations pertain to historic or cultural resources.

California Code of Regulations, Title 14 Division 3

The Department of Parks and Recreation has broad authority under Title 14 to protect geological and archaeological features within designated state parks.

§ 4307. Geological Features.

(a) No person shall destroy, disturb, mutilate, or remove earth, sand, gravel, oil, minerals, rocks, paleontological features, or features of caves. (b) Rockhounding may be permitted as defined in Section 4301(v).

Note: Authority cited: Section 5003, Public Resources Code. Reference: Section 5008, Public Resources Code. This regulation is relevant because it addresses paleontological features.

§ 4308. Archaeological Features.

No person shall remove, injure, disfigure, deface, or destroy any object of archaeological or historical interest or value.

Note: Authority cited: Section 5003, Public Resources Code. Reference: Section 5008, Public Resources Code.

§ 4309. Special Permits.

The Department may grant a permit to remove, treat, disturb, or destroy plants or animals or geological, historical, archaeological, or paleontological materials; and any person who has been properly granted such a permit shall to that extent not be liable for prosecution for violation of the foregoing.

Note: Authority cited: Section 5003, Public Resources Code. Reference: Sections 5001.65 and 5008, Public Resources Code.

Fish and Wildlife Protection and Conservation, California Fish and Game Code § 1600 et seq.

California Code of Regulations, Title 14 Division 1

The California Fish and Game Commission has broad authority under Title 14 of the CCR to establish regulations that restrict unlawful injury, damage, taking, or possessing any geological or cultural marine resource. Of particular relevance to this EIS are the 10 existing MPAs in the study area (Title 14, Section 632 – Marine Protected Areas, Marine Managed Areas and Special Closures), some of which include submerged historic shipwrecks or other cultural or historic

artifacts. They include cultural resources from Indigenous Tribes. Regarding protection of cultural resources, Section 632 states, in part:

(A) State Marine Reserves: In a state marine reserve, it is unlawful to injure, damage, take, or possess any geological or cultural marine resource, except under a scientific collecting permit issued pursuant to Section 650 or specific authorization from the commission for research, restoration, or monitoring purposes.

(B) State Marine Parks: In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial purposes. Any human use that would compromise protection of geological or cultural features may be restricted by the commission as specified in subsection 632(b), areas and special regulations for use. The commission may issue scientific collecting permits pursuant to Section 650 or specifically authorize research, monitoring, and educational activities consistent with protecting resource values.

(C) State Marine Conservation Areas: In a state marine conservation area, it is unlawful to injure, damage, take, or possess any geological or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified in subsection 632(b), areas and special regulations for use. The commission may issue scientific collecting permits pursuant to Section 650 or specifically authorize research, education, and recreational activities, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

See Appendix F, Section 4.3 (Biological Resources) for additional information on MPAs.

F.5 Socioeconomics, Human Uses, and Environmental Justice

E.O. 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations and E.O. 14008: Tackling the Climate Crisis at Home and Abroad (2021)

E.O. 12898 directs federal agencies to identify and address disproportionately high and adverse effects of their actions on human health and the environment of minority or low-income populations. NOAA's compliance with this E.O is discussed in Appendix E (E.9), and Section 4.6 of the EIS addresses environmental justice issues. In 2021, President Biden signed E.O. 14008 reaffirming E.O. 12898, stating in Sec. 219 that agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related, and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts. In addition, Sec. 220 of E.O. 14008 called for the creation of a White House Environmental Justice Interagency Council (Interagency Council) within the Executive Office of the President.

E.O. 13045, Protection of Children from Environmental Health or Safety Risks

In April 1997, President Clinton signed E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This E.O. requires federal agencies to identify, assess, and address disproportionate environmental health and safety risks to children from federal actions.

California Coastal Act of 1976, Cal. Pub. Res. Code § 30000 et seq

The California Coastal Act of 1976 defines the “coastal zone” as the area of the state that extends three miles seaward and generally about 1,000 yards (910 meters) inland. In particularly important and generally undeveloped areas, where there can be considerable impact on the coastline from inland development, the coastal zone extends to a maximum of 5 miles (8 km) inland from mean high tide line. In developed urban areas, the coastal zone extends substantially less than 1,000 yards (910 meters) inland.

The Act establishes policies guiding development and conservation along the California coast. The Coastal Act requires that local governments lying wholly or in part within the coastal zone prepare a Local Coastal Program (LCP) for its portion of the coastal zone. LCPs implement the California Coastal Act by establishing plans that are consistent with the Coastal Act. A Local Coastal Program is defined by Coastal Act Section 30108.6 as “a local government’s (a) Land Use Plans, (b) zoning ordinance, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level.” Almost all development within the coastal zone, which contains many wetlands, requires a coastal development permit from either the CCC or a local government with a certified LCP.

County and City Plans

Santa Barbara County’s comprehensive General Plan governs physical development within the unincorporated parts of the county, including land use along Santa Barbara’s coastline (County of Santa Barbara 2023b). The Coastal Land Use Plan is an element of the County’s General Plan and outlines the Local Coastal Program (LCP). The LCP contains land use plans, zoning, and an implementation program. Under California Government Code Section 65303(k), the LCP is designed as a separate coastal element that takes precedence over the County’s General Plan within the coastal zone. Santa Barbara County LCP was partially certified in 1981 and numerous amendments have been approved since then. The uncertified portion of the plan relates to the Channel Islands, which is located outside the study area (County of Santa Barbara, 2023a).

In San Luis Obispo County, a Local Coastal Program (LCP) is incorporated within the County’s Land Use Element (LUE)/Land Use Ordinance (LUO) systems. The LUE/LUO systems replace typical general plan designations and zoning districts (County of San Luis Obispo, 2007).

Other Regulatory Requirements and Permit Processes

Other regulatory requirements and permit processes that affect land use in the study area include regulation of wetlands under Section 404 of the CWA and regulation of navigable waters under Section 10 of the Rivers and Harbors Act by the USACE; the regulations, plans and

management procedures of the open space management authorities mentioned above; and CSLC management of public lands under its jurisdiction, pursuant to the California Environmental Quality Act.

F.6 Offshore Energy

Offshore Oil and Gas

Offshore oil and gas development in federal waters is governed by BOEM, which is within the U.S. Department of Interior. BOEM manages offshore oil and gas leases and is responsible for administering the provisions of the OCSLA (43 U.S.C. § 1331 *et seq.*) regarding oil and gas development on the Outer Continental Shelf. BOEM is authorized to prepare and implement five-year plans which identify federal waters to be opened for offshore oil and gas exploration and development. The BOEM five-year plan for 2012-2017 does not include plans for leasing tracts offshore California. Areas off the Pacific coast are not included in the 2012-2017 proposed program (BOEM 2013b), “which seeks to accommodate the recommendations of governors of coastal states and of state and local agencies—an important priority established by OCSLA. The exclusion of the Pacific Coast is consistent with state interests, as framed in an agreement that the governors of California, Washington and Oregon signed in 2006, which expressed their opposition to oil and gas development off their coasts.”

In addition to BOEM provisions, offshore oil and gas exploration, development and production facilities are subject to compliance with numerous federal laws such as (but not limited to):

- National Environmental Policy Act.
- Endangered Species Act.
- Coastal Zone Management Act.
- Federal Water Pollution Control Act.
- Ports and Water Safety Act.
- Marine Mammal Protection Act.
- Clean Air Act.
- National Historic Preservation Act.
- Oil Pollution Act.
- Federal Oil and Gas Royalty Management Act.

Offshore oil and gas development within state waters is governed by the CSLC, which stopped leasing of new offshore tracts after the Santa Barbara oil spill in 1969. The California legislature codified the ban on new leases in 1994 when it approved the California Coastal Sanctuary Act. The CCC and other state agencies would have regulatory authority over any proposal to lease and ultimately develop oil and gas resources within state waters. Local governments would also have regulatory authority over onshore facilities necessary and dependent on offshore oil and gas development.

Federal approval of new leases offshore California on the Outer Continental Shelf was halted in 1982. Starting in 1990, there was a series of Presidential E.O.s that gave these dormant leases two “red lights” followed by a “green light.” President George H.W. Bush banned new federal offshore oil leasing from 1990 to 2000, including in California. In 1998, President Bill Clinton

extended this moratorium through 2012. However, in July 2008, President George W. Bush rescinded the E.O. On December 1, 2010, President Barack Obama issued an E.O. banning oil leasing in the Gulf of Mexico and off both the Atlantic and Pacific coasts for five years.

Alternative Energy

There are both federal and state regulations and permitting agencies governing the development of offshore alternative energy projects.

Ocean Thermal Energy Conversion Act, 42 U.S.C. § 9101 et seq.

With regard to alternative energy sources from the ocean, the Ocean Thermal Energy Conversion (OTEC) Act of 1980 established a licensing program for facilities and plants that would convert thermal gradients in the ocean into electricity. The OTEC Act directed the Administrator of NOAA to establish a stable legal regime to foster commercial thermal energy conversion development. In addition, the OTEC Act directed the Secretary of the department in which the USCG is operating to promote safety of life and property at sea for thermal energy operations, prevent pollution of the marine environment, clean up any discharged pollutants, prevent or minimize any adverse impacts from thermal energy facility construction and operation, and ensure that the thermal plume of a plant does not unreasonably impinge on and thus degrade the thermal gradient used by any other thermal energy plant or facility, or the territorial sea or area of national resource jurisdiction of any other nation unless the Secretary of State has approved such impingement after consultation with such nation. The OTEC Act also assigned responsibilities to the Secretary of State and the Secretary of Energy regarding offshore thermal energy conversion plants. Although there are no existing large-scale OTEC facilities worldwide, several pilot projects are being planned in other parts of the world (e.g., China). Tropical regions are considered the primary viable locations for OTEC plants due to the greater temperature differential between the shallow and deep water. It is unlikely that OTEC energy development is reasonably foreseeable in the proposed sanctuary expansion area.

Energy Policy Act of 2005

The Energy Policy Act of 2005 (Pub. L. 109-58) addresses offshore renewable energy and alternative uses of Outer Continental Shelf oil and gas facilities. The Act amends the OCSLA to authorize the U.S. Department of the Interior to act as lead federal agency for certain alternative energy and marine-related uses on the Outer Continental Shelf; in the study area, the most likely alternative offshore energy projects covered by this Act are wind or wave generating facilities. The U.S. Department of the Interior delegated OCSLA authority to the U.S. Department of the Interior's Minerals Management Service (now BOEM). The Act states that the Secretary of the Interior may grant a lease, easement, or right-of-way on the Outer Continental Shelf for activities that: support production of energy from sources other than oil and gas; support exploration, production, storage, and transportation of oil and gas; or use OCSLA-authorized facilities for other purposes.

The Energy Policy Act of 2005 precludes BOEM from issuing leases, easements, and rights-of-way for renewable energy projects in a national marine sanctuary (43 U.S.C. § 1337(p)(10)). BOEM's regulations essentially restate the Energy Policy Act of 2005. 30 C.F.R. § 585.204 states "BOEM may offer any appropriately platted area of the Outer Continental Shelf, as provided in §

585.205, for a renewable energy lease, except any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, or any National Monument.”

While they only pertain to marine and hydrokinetic energy development (MHK),¹⁴ the BOEM/Federal Energy Regulatory Commission Guidelines on Regulation of Marine and Hydrokinetic Energy Projects on the Outer Continental Shelf state: “Neither BOEM, through its leasing authority, nor Federal Energy Regulatory Commission, through its licensing authority, can approve a project in a National Park or a National Monument located on the Outer Continental Shelf. For BOEM, the same restriction applies to National Marine Sanctuaries and National Wildlife Refuges located on the Outer Continental Shelf” (BOEM, 2020). Therefore, BOEM has no authority to approve such projects within national marine sanctuaries. The guidelines further state that “depending on the individual authorization, Federal Energy Regulatory Commission may be authorized to approve MHK licenses without a BOEM lease in national marine sanctuaries.” Finally, the guidelines explain that unless the applicant is a federal agency with congressional authorization, MHK applicants generally must have a Federal Energy Regulatory Commission license to operate on the Outer Continental Shelf.

Office of Renewable Energy Programs

Within BOEM, the Office of Renewable Energy Programs oversees development of offshore renewable energy projects on the Outer Continental Shelf. This relatively new activity in the marine environment requires an assessment of the potential environmental impacts on resources on the Outer Continental Shelf. The Bureau’s responsibilities include determining and evaluating the effects of Outer Continental Shelf activities on natural, historical, and human resources and the appropriate monitoring and mitigating of those effects.

State Alternative Energy Regulations

Alternative energy projects in state waters would be subject to regulations and approvals established by the CSLC and CCC, plus any onshore facilities would require approvals from local jurisdictions. In addition, offshore energy projects in state waters would likely require approval from numerous other resource and permitting agencies, including CDFW, USCG and Federal Energy Regulatory Commission (license to tie-in to the onshore electrical transmission grid).

Recently enacted legislation (SBX2-Simitian, Chapter 1, Statutes of 2011) establishes a state policy goal of producing 33% of California’s electrical needs with renewable energy resources by December 31, 2020. The goal applies to all electricity retailers in the state. A substantial number of renewable energy projects are required to meet this directive, as well as to achieve the state’s climate change goal of reducing greenhouse gases in the atmosphere to 80% of 1990 levels by 2050, as set forth in E.O. #S-3-05, signed June 1, 2005, by then Governor Schwarzenegger.

In 2021, California Assembly Bill 525 (“Offshore wind energy projects”) was signed into law by Governor Newsom and requires the California Energy Commission (CEC) to evaluate and

¹⁴ Marine and hydrokinetic energy encompasses ocean thermal energy conversion (OTEC), which falls under the jurisdiction of NOAA. However, the BOEM guidelines uses the term only as it applies to technologies under BOEM’s leasing responsibility primarily referring to wave, tidal and ocean current technologies.

quantify the maximum feasible offshore wind energy generation capacity in waters off the California coast; establish offshore wind planning goals for 2030 and 2045; and coordinate with specified state and local agencies to develop a five-part strategic plan for offshore wind development and to submit the plan to the California Natural Resources Agency and the Legislature by June 30, 2023 (California Air Resources Board, 2021).

In October 2023, California Governor Newsom signed the Offshore Wind Expediting Act (SB 286; available [online](#)) and Offshore Wind Advancement Act (AB 3) into law, which pertain to the acceleration of offshore wind energy projects. The Offshore Wind Expediting Act (SB 286) establishes a “consolidated permitting” approach to wind projects in the coastal zone – the CCC is required to issue a consolidated coastal development permits for offshore wind projects after coordinating with local authorities and incorporating their recommendations into the final permit (California Legislative Information, 2023). The Offshore Wind Advancement Act (AB 3; available [online](#)) requires a second-phase plan be developed for seaport readiness, building on the existing strategic plan developed by the CEC and State Energy Resources Conservation and Development Commission.

CSLC staff from the Environmental Planning, Land Management, Mineral Resource Management, and Legal Divisions formed an interdivisional planning team (the “Alternative Energy Program”) in December 2011 in order to more effectively coordinate Commission activities related to renewable/alternative energy projects. CSLC staff members also participate in the Ocean Protection Council’s Marine Renewable Energy Working Group, which is working to solve the environmental and logistical challenges associated with development of offshore wave, tidal, and wind energy. There are no pending applications for development of offshore renewable energy at this time.

F.7 Marine Transportation

Authorities that apply to vessel traffic offshore California are summarized in this section. Additional authorities related to vessel discharges and marine water quality are described in EIS Section 4.2, Physical Resources, (under the water quality subsection), and in EIS Section 4.8, Marine Transportation.

Federal Authorities

Several acts of Congress govern the movements of commercial vessels in specified waterways. These acts include the Ports and Waterways Safety Act of 1972, the Port and Tanker Safety Act of 1978, and the Oil Pollution Act of 1990. In addition, the USCG Vessel Traffic Services (VTS) regulations became effective October 1994. The study area does not overlap with any USCG VTS area.

Ports and Waterways Safety Act (PWSA) of 1972, 46 U.S.C. § 70001 et seq.

The PWSA of 1972 authorizes the USCG to establish vessel traffic service/separation (VTSS) schemes for ports, harbors, and other waters subject to congested vessel traffic. The VTSS applies to commercial ships, other than fishing vessels, weighing 300 gross tons or more. The Oil Pollution Act of 1990 amended PWSA to mandate that appropriate vessels comply with

VTSSs. Two categories of vessels are defined in 33 C.F.R. 161 – VTS Users and Vessel Movement Reporting System (VMRS) Users, each with specific requirements.

Port and Tanker Safety Act of 1978, Pub. L. 95-474

The Port and Tanker Safety Act of 1978 amended the PWSA to provide broader regulatory authority over regulated and unregulated areas. The Act improved the supervision and control of all types of vessels operating in navigable waters of the U.S. and improved the safety of foreign or domestic tankers that transport or transfer oil or hazardous cargoes in ports or places subject to U.S. jurisdiction.

Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.

The Oil Pollution Act of 1990 established that parties responsible for discharging oil from a vessel or facility are liable for: (1) certain specified damages resulting from the discharged oil; and (2) removal costs incurred in a manner consistent with the National Contingency Plan (NCP). The liability for tankers larger than 3,000 gross tons was increased to \$1,200 per gross ton or \$10 million, whichever is greater. The fine for failing to notify the appropriate federal agency of a discharge was increased from a maximum of \$10,000 to a maximum of \$250,000 for an individual or \$500,000 for an organization, and the maximum prison term was increased from one year to five years. Civil penalties were authorized at \$25,000 for each day of violation or \$1,000 per barrel of oil discharged, and failure to comply with a federal removal order can result in civil penalties of up to \$25,000 for each day of violation (USEPA, 2022g).

Act to Prevent Pollution from Ships, 33 U.S.C. § 1901 et seq.

The discharge of solid wastes is regulated under the APPS, (33 U.S.C. § 1901 *et seq.*) as amended by the Marine Plastic Pollution Research and Control Act of 1987, and the CWA. The APPS regulates the disposal of plastics and garbage for the United States Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL). Under these laws the disposal of plastics is prohibited in all waters, and other garbage, including paper, glass, rags, metal, and similar materials, is prohibited within 14 miles (12 nautical miles) from shore (unless macerated).

State Regulations

California Ocean-Going Vessel Fuel Regulation

The California Air Resources Board (CARB) adopted the regulation, “Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels (OGVs) within California Waters and 24 Nautical Miles of the California Baseline” on July 24, 2008. This regulation is designed to reduce particulate matter, oxides of nitrogen, and sulfur oxide emissions from ocean-going vessels; reductions that are necessary to improve air quality and public health in California. The regulation is aimed at reducing emissions from OGVs by requiring low-sulfur fuels to be used within 24 nautical miles (about 28 mi) of the California coastline. As a result of this rule, the relative volume of vessel traffic has moved farther offshore and has resulted in a higher percentage of vessels now using the western approach to San Francisco. In 2020, Marine Notice 2020-2 was issued to remind owners, operators, and vessel management companies of the California OGV Fuel Regulation requirements, and to notify the aforementioned stakeholders

that CARB enforcement will begin performing further analysis of samples collected during the inspection process (California Air Resources Board, 2023).

F.8 Homeland Security and Military Uses

Homeland security and military uses of the study area are subject to federal regulations such as the CWA, the Act to Prevent Pollution from Ships (APPS) and MARPOL (the International Convention for the Prevention of Pollution of Ships) 73/78, MMPA, ESA and Federal Aviation Administration. See the Biological Resources Appendix F section above for information on the MMPA and ESA. The Physical Resources and Marine Transportation Appendix F sections above provide summary information for water quality regulations applicable to most types of vessels. See the Cultural Heritage and Maritime Heritage Resources Appendix F section above for information on the Sunken Military Craft Act. Additional information applicable to the Department of Defense (DoD), USCG, and military vessels is provided below.

Federal Water Pollution Control Act, commonly known as the Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.*

USCG and military vessels are included in the CWA definition of “vessels of the Armed Forces of the United States.”¹⁵ The Vessel General Permit does not apply to vessels of the Armed Forces of the United States. The No Discharge Zone (NDZ) offshore of California also does not apply to homeland security and military vessels.

Section 312(n) of the CWA (33 U.S.C. § 1322(n)), added in 1996, requires the USEPA and DoD to identify and evaluate discharges of Armed Forces vessels to determine which discharges require control for protection of the environment, and to set standards for those discharges. The Uniform National Discharge Standards program establishes national discharge standards for vessels of the Armed Forces that operate nationwide in coastal and inland waters. These national standards aim to reduce the environmental impacts associated with vessel discharges, stimulate the development of improved pollution control devices, and advance the development of environmentally sound military vessels (USEPA, 2022h; USEPA, 2023b).

APPS and MARPOL

The Act to Prevent Pollution from Ships (APPS) (33 U.S.C. § 1901 *et seq.*) includes exemptions for armed forces ships owned or operated by the USCG and military departments that the Secretary of the relevant department determines cannot fully comply with specified discharge requirements because compliance is not technologically feasible or would impair the ships’ operations or operational capability.

The Secretary of the Navy is required to develop and support technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including

¹⁵ Section 312(a)(14) of the CWA (33 U.S.C. 1322(a)(14)) states, “vessel of the Armed Forces” means – (A) any vessel owned or operated by the DoD, other than a time or voyage chartered vessel; and (B) any vessel owned or operated by the Department of Transportation that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A).

technologies and practices for the reduction of the waste stream generated aboard such ships. APPS includes provisions for plastic collection, storage, and disposal aboard Navy ships with plastic processors. There are exceptions for Navy ships for security, the safety of a ship, personnel health, and lifesaving, but otherwise, there are prohibitions for discharge of buoyant garbage or plastic from Navy submersibles, for discharge from Navy surface ships of plastic contaminated by food during the last three days before the ship enters port and for plastic except that contaminated by food during the last twenty days before the ship enters port. The President of the U.S. also has authority to make waivers of up to one year from specified requirements when in the paramount interest of the U.S.

Department of Defense Activities

The proposed area encompasses existing DoD Operating Areas (OP AREAS) utilized by the 30th Space Wing located at Vandenberg Space Force Base, California. Space Launch Delta 30 conducts spacelift operations, intercontinental ballistic missile testing, missile defense and aircraft operations. See Section 4.9 of the EIS for more details on DoD activities in the study area.

National Marine Sanctuaries Act 16 U.S.C. § 1431 *et seq.*

Regarding interagency cooperation, per NMSA Section 304(d)(1)(A), in general, federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource the actions are subject to consultation with the Secretary of Commerce. Section 304(d)(1)(B) describes the responsibilities of the parties during such a consultation, including that a written statement must be provided to the Secretary by the federal agency proposing the action. If the Secretary finds that the federal action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary can provide the federal agency with recommended reasonable and prudent alternatives to further protect sanctuary resources. Section 304(d) also outlines actions that may take place in cases where a recommendation by the Secretary of Commerce is not followed, and a sanctuary resource is subsequently injured. As federal agencies, this section applies to the Department of Homeland Security and DoD.

Appendix G: Biological Species Lists

Appendices G.1, G.2, and G.3 provide lists of protected species that are present in the study area and could be affected by the proposed action or alternatives. Appendix G.4 provides lists of Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) overlapping with the study area. See Appendix E for details on relevant additional statutory and regulatory consultation requirements and compliance for the proposed action (i.e., E.4, E.5, E.6, E.7, and E.14).

Between publication of the draft and final environmental impact statements (EIS) for the proposed Chumash Heritage National Marine Sanctuary (CHNMS), consultations with the U.S. Fish and Wildlife Service (USFWS) and NOAA Fisheries resulted in the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) revising effect conclusions for nine Endangered Species Act (ESA)-listed species under USFWS jurisdiction listed in Table G.1-1 and adding eight species under NOAA Fisheries jurisdiction and removing six species listed in Table G.3-1 in Appendix G. Importantly, despite these alterations, the overall effects determination remains that the sanctuary designation **may affect, but is not likely to adversely affect** listed species and their designated critical habitat.

ONMS does not believe the following species or distinct population segments (DPSs)/evolutionarily significant units (ESUs) occur in the study area or that proposed sanctuary activities would affect these species: 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 study 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 Oregon/Northern California Coasts coho salmon, Northern California steelhead, and California Central Valley steelhead.

G.1 ESA-Listed Species Under USFWS Jurisdiction

Table G.1-1 provides a list of the ESA-listed species under USFWS jurisdiction potentially present in the study area, and the species listing status.

Table G.1-1. ESA-listed species under USFWS jurisdiction.

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|------------------------|---------------------------------------|------------|--|--|--|
| Giant Kangaroo Rat | <i>Dipodomys ingens</i> | Endangered | <ul style="list-style-type: none"> - May be found on coastal grasslands with sandy soils. - Potentially present on shorelines. | <ul style="list-style-type: none"> - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| Morro Bay Kangaroo Rat | <i>Dipodomys heermanni morroensis</i> | Endangered | <ul style="list-style-type: none"> - Endemic to the Baywood fine sands in the Los Osos vicinity in western San Luis Obispo. - Potentially present on shorelines. | <ul style="list-style-type: none"> - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| San Joaquin Kit Fox | <i>Vulpes macrotis mutica</i> | Endangered | <ul style="list-style-type: none"> - May be found in the desert and grasslands of the San Joaquin Valley. - Potentially present on shorelines. | <ul style="list-style-type: none"> - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| Southern Sea Otter | <i>Enhydra lutris nereis</i> | Threatened | <ul style="list-style-type: none"> - Found throughout the coast in nearshore areas including kelp forests and areas with high human activity like harbors. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. - Management activities by vessel would be conducted to reduce strikes. | May affect, not likely to adversely affect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|-------------------------|--------------------------------------|------------|---|--|--|
| California Clapper Rail | <i>Rallus longirostris obsoletus</i> | Endangered | - Found within tidal wetlands near or on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. - Shoreline habitat used by this species may overlap with sanctuary boundaries and management activities. | May affect, not likely to adversely affect |
| California Condor | <i>Gymnogyps californianus</i> | Endangered | - Known to forage in open grasslands and beaches adjacent to coastal mountains. | - Minimal disturbance from management activities. | May affect, not likely to adversely affect |
| California Least Tern | <i>Sterna antillarum browni</i> | Endangered | - Nest on beaches, mudflats and sand dunes. - Forage in shallow estuaries and lagoons. | - Minimal disturbance from management activities. - Management activities by vessel would be conducted to reduce strikes. | May affect, not likely to adversely affect |
| Hawaiian Petrel | <i>Pterodroma sandwichensis</i> | Endangered | - May be found in transit over offshore open ocean. | - Minimal disturbance from management activities. - Management activities by vessel would be conducted to reduce strikes. | May affect, not likely to adversely affect |
| Least Bell's Vireo | <i>Vireo bellii pusillus</i> | Endangered | - Potentially found in coastal chaparral habitats. | - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|--------------------------------|-----------------------------------|------------|--|--|--|
| Marbled Murrelet | <i>Brachyramphus marmoratus</i> | Threatened | <ul style="list-style-type: none"> - Found in near-shore marine waters less than 100 feet deep. - Potential nesting sites on shorelines (ground or rock cavities). | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. - Management activities by vessel would be conducted to reduce strikes. | May affect, not likely to adversely affect |
| Short-tailed Albatross | <i>Phoebastria albatrus</i> | Endangered | <ul style="list-style-type: none"> - May be found in transit over coastal and open ocean. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Southwestern Willow Flycatcher | <i>Empidonax traillii extimus</i> | Endangered | <ul style="list-style-type: none"> - Prefer deciduous/mixed forests, but may be found on shorelines near riparian zones with dense tree cover. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Western Snowy Plover | <i>Charadrius nivosus nivosus</i> | Threatened | <ul style="list-style-type: none"> - Frequently found on sand spits and dune-backed beaches. - Potentially found on estuarine sands and mud flats. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Yellow-billed Cuckoo | <i>Rana draytonii</i> | Threatened | <ul style="list-style-type: none"> - Prefer dense wooded habitats near water. - Although they prefer riparian habitat, they may also be found in coastal marshes. | <ul style="list-style-type: none"> - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| California Red-legged Frog | <i>Rana draytonii</i> | Threatened | <ul style="list-style-type: none"> - Primarily found in streams or stock ponds that may be adjacent to shorelines. | <ul style="list-style-type: none"> - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|----------------------------------|---|------------|--|---|--|
| California Tiger Salamander | <i>Ambystoma californiense</i> | Threatened | - Potentially found in coastal wetlands. | - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| Foothill Yellow-legged Frog | <i>Rana boylei</i> | Endangered | - Potentially found in rivers or streams on or adjacent to shorelines. | - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |
| Tidewater Goby | <i>Eucyclogobius newberryi</i> | Endangered | - Potentially found in estuaries, marshes and lagoons. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Unarmored Threespine Stickleback | <i>Gasterosteus aculeatus williamsoni</i> | Endangered | - Found in intertidal areas including estuaries, salt marshes and tidal pools. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Morro Shoulderband Snail | <i>Helminthoglypta walkeriana</i> | Threatened | - Primary habitat consists of coastal dune, coastal dune scrub, maritime chaparral, and Baywood fine sands. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Monarch Butterfly | <i>Danaus plexippus</i> | Candidate | - Overwintering habitats made up of Monterey pines, Monterey cypress, and eucalyptus potentially near shorelines. - Present in coastal wetlands and grasslands. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Vernal Pool Fairy Shrimp | <i>Branchinecta lynchi</i> | Threatened | - Found in vernal pool regions and wetlands. | - Sanctuary boundaries have limited to no overlap with habitat used by species. | No effect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|--------------------------|---|------------|---|---|--|
| Beach Layia | <i>Layia carnosa</i> | Threatened | - Restricted to coastal sand dune habitat. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| California Jewelflower | <i>Caulanthus californicus</i> | Endangered | - Potentially found in non-native grasslands near shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| California Seablite | <i>Suaeda californica</i> | Endangered | - Restricted to upper intertidal zone of coastal salt marshes. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Chorro Creek Bog Thistle | <i>Cirsium fontinale</i> var. <i>obispoense</i> | Endangered | - Restricted to open seep areas in serpentine soils that may near shorelines - Only natural populations found in San Luis Obispo County. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Contra Costa Goldfields | <i>Lasthenia conjugens</i> | Endangered | - Found in vernal pools, swales, and other depressions in open grassland and woodland communities on or adjacent to shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Gambel's Watercress | <i>Rorippa gambellii</i> | Endangered | - Found in coastal wetland areas of San Luis Obispo and Santa Barbara counties. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|--------------------------|--|------------|--|---|--|
| Gaviota Tarplant | <i>Deinandra increscens</i> <i>ssp. villosa</i> | Endangered | - Found in rare needlegrass grasslands within coastal sage scrub. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Indian Knob Mountainbalm | <i>Eriodictyon altissimum</i> | Endangered | - Found in coastal dune scrub and maritime chaparral communities. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| La Graciosa Thistle | <i>Cirsium loncholepis</i> | Endangered | - Often found in riparian habitat near seeps or marshes. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Lompoc Yerba Santa | <i>Eriodictyon capitatum</i> | Endangered | - Endemic to western Santa Barbara County, with populations just north of Lompoc as well as Vandenberg Space Force Base (VSFB). - These populations prefer coastal sage and maritime chaparral. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Marsh Sandwort | <i>Arenaria paludicola</i> | Endangered | - Primarily found in coastal freshwater marshes. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |

| Common Name | Species Name | Status | Habitats in Study Area | Probability of Effect | Conclusion |
|------------------------|--|------------|---|---|--|
| Morro Manzanita | <i>Arctostaphylos morroensis</i> | Threatened | - Found in coastal dune scrub, maritime chaparral, and coast live oak woodlands. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Nipomo Mesa Lupine | <i>Lupinus nipomensis</i> | Endangered | - Limited to coastal dune scrub habitat. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Pismo Clarkia | <i>Clarkia speciosa ssp. immaculata</i> | Endangered | - Only 20 coastal occurrences between Pismo Beach and Morro Bay. - Found in dry sandy soil derived from ancient marine terraces. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Salt Marsh Bird's Beak | <i>Cordylanthus maritimus ssp. maritimus</i> | Endangered | - Limited to upper tidal marsh habitat. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |
| Spreading Navarretia | <i>Navarretia fossalis</i> | Threatened | - Primarily found in vernal pools, alkali beaches, and sinks. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. | May affect, not likely to adversely affect |

Source: USFWS' Environmental Conservation Online System (ECOS) Information for Planning and Conservation (IPaC) tool.

Table G.1-2 provides a list of the ESA-listed species under USFWS jurisdiction with critical habitat in the study area.

Table G.1-2. ESA-listed species under USFWS jurisdiction with critical habitat in the study area.

| Common Name | Species Name | Status |
|---|--|-----------------------------|
| California Red-legged Frog | <i>Rana draytonii</i> | Designated critical habitat |
| Gaviota Tarplant | <i>Deinandra increscens ssp. villosa</i> | Designated critical habitat |
| Morro Bay Kangaroo Rat | <i>Dipodomys heermanni morroensis</i> | Designated critical habitat |
| Morro Shoulderband (=banded dune) Snail | <i>Helminthoglypta walkeriana</i> | Designated critical habitat |
| Tidewater Goby | <i>Eucyclogobius newberryi</i> | Designated critical habitat |
| Western Snowy Plover | <i>Charadrius nivosus nivosus</i> | Designated critical habitat |

G.2 Migratory Birds Under USFWS Jurisdiction

Table G.2-1 provides a list of the USFWS migratory birds potentially present in the study area, their status, and some notes on range, habitat use, and potential effects.

Table G.2-1. Migratory birds under USFWS jurisdiction.

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|----------------------------|---|---------------------|-----------------|---|---|---|
| Allen's Hummingbird | <i>Selasphorus sasin</i> | BCC Rangewide (CON) | Feb 1–Jul 15 | 5–7 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Bald Eagle | <i>Haliaeetus leucocephalus</i> | Non-BCC Vulnerable | Jan 1–Aug 31 | 3–4 | - May be found on shorelines and over open water in study area. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Belding's Savannah Sparrow | <i>Passerculus sandwichensis beldingi</i> | BCC-BCR | Apr 1–Aug 15 | 6–7 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black Oystercatcher | <i>Haemotopus bachmani</i> | BCC Rangewide (CON) | Apr 15–Oct 31 | 6–7 | - May be found on shorelines or over study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|-----------------|-------------------------------|------------------------|------------------|---|---|---|
| Black Scoter | <i>Melanitta niger</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–3 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black Skimmer | <i>Rynchops niger</i> | BCC Rangewide (CON) | May 20–Sep 15 | 1–4 | - May be found on shorelines or over study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black Swift | <i>Cypseloides niger</i> | BCC Rangewide (CON) | Jun 15–Sep 10 | 0–3 | - May be found on shorelines or over study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black Tern | <i>Chlidonias niger</i> | BCC Rangewide (CON) | May 15–Aug 20 | 0–5 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black Turnstone | <i>Arenaria melanocephala</i> | BCC Rangewide (CON) | Breeds elsewhere | 2–7 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|-------------------------|-------------------------------|---------------------|------------------|---|---|---|
| Black-chinned Sparrow | <i>Spizella atrogularis</i> | BCC Rangewide (CON) | Apr 15–Jul 31 | 0–3 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black-footed Albatross | <i>Phoebastria nigripes</i> | BCC Rangewide (CON) | Breeds elsewhere | 0–3 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black-legged Kittiwake | <i>Rissa tridactyla</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–3 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Black-vented Shearwater | <i>Puffinus opisthomelas</i> | BCC Rangewide (CON) | Breeds elsewhere | 0–5 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Brown Pelican | <i>Pelecanus occidentalis</i> | Non-BCC Vulnerable | Jan 15–Sep 30 | 8–9 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|---------------------|-----------------------------|---------------------|-----------------|---|---|---|
| Bullock's Oriole | <i>Icterus bullockii</i> | BCC-BCR | Mar 21–Jul 25 | 3–7 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| California Gull | <i>Larus californicus</i> | BCC Rangewide (CON) | Mar 1–Jul 31 | 8 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| California Thrasher | <i>Toxostoma redivivum</i> | BCC Rangewide (CON) | Jan 1–Jul 31 | 7–8 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Cassin's Finch | <i>Carpodacus cassinii</i> | BCC Rangewide (CON) | May 15–Jul 15 | 0–4 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Clark's Grebe | <i>Aechmophorus clarkii</i> | BCC Rangewide (CON) | Jun 1–Aug 31 | 5–6 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|--------------------------|-----------------------------------|-----------------------|-----------------|---|---|---|
| Common Loon | <i>Gavia immer</i> | Non-BCC Vulnerable | Apr 15–Oct 31 | 4–8 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Common Murre | <i>Uria aalge</i> | Non-BCC Vulnerable | Apr 15–Aug 15 | 1–4 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Common Yellowthroat | <i>Geothlypis trichas sinuosa</i> | BCC-BCR | May 20–Jul 31 | 8–9 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Double-crested Cormorant | <i>Phalacrocorax auritus</i> | Non-BCC Vulnerable | Apr 20–Aug 31 | 6–9 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Golden Eagle | <i>Aquila chrysaetos</i> | Non-BCC Vulnerable | Jan 1–Aug 31 | 2–4 | - May be found on shorelines or above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|----------------------|--------------------------------|---------------------|------------------|---|---|---|
| Lawrence's Goldfinch | <i>Carduelis lawrencei</i> | BCC Rangewide (CON) | Mar 20–Sep 20 | 1–5 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Laysan Albatross | <i>Phoebastria immutabilis</i> | BCC Rangewide (CON) | Breeds elsewhere | Insufficient surveys | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Long-eared Owl | <i>Asio otus</i> | BCC Rangewide (CON) | Mar 1–Jul 15 | 0–2 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Long-tailed Duck | <i>Clangula hyemalis</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–4 | - May be found on shorelines and in open water in study area. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Manx Shearwater | <i>Puffinus puffinus</i> | Non-BCC Vulnerable | Apr 15–Oct 31 | 0–4 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|------------------------|-----------------------------|---------------------|------------------|---|--|---|
| Marbled Godwit | <i>Limosa fedoa</i> | BCC Rangewide (CON) | Breeds elsewhere | 6–8 | - May be found on shorelines or above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Mountain Plover | <i>Charadrius montanus</i> | BCC Rangewide (CON) | Breeds elsewhere | 0–4 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Nuttall's Woodpecker | <i>Picoides nuttallii</i> | BCC-BCR | Apr 1–Jul 20 | 7–8 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Oak Titmouse | <i>Baeolophus inornatus</i> | BCC Rangewide (CON) | Mar 15–Jul 15 | 7–8 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Olive-sided Flycatcher | <i>Contopus cooperi</i> | BCC Rangewide (CON) | May 20–Aug 31 | 0–6 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|------------------------|-------------------------------|---------------------|------------------|---|---|---|
| Pink-footed Shearwater | <i>Puffinus creatopus</i> | BCC Rangewide (CON) | Breeds elsewhere | 0–2 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Pomarine Jaeger | <i>Stercorarius pomarinus</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–4 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Red Phalarope | <i>Phalaropus fulicarius</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–2 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Red-breasted Merganser | <i>Mergus serrator</i> | Non-BCC Vulnerable | Breeds elsewhere | 2–7 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Red-necked Phalarope | <i>Phalaropus lobatus</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–8 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|------------------------|----------------------------------|---------------------|------------------|---|---|---|
| Red-throated Loon | <i>Gavia stellata</i> | Non-BCC Vulnerable | Breeds elsewhere | 1–6 | - May be found on shorelines and in open water in study area. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Ring-billed Gull | <i>Larus delawarensis</i> | Non-BCC Vulnerable | Breeds elsewhere | 5–8 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Royal Tern | <i>Thalasseus maximus</i> | Non-BCC Vulnerable | April 15–Aug 31 | 5–7 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Scripp's Murrelet | <i>Synthliboramphus scrippsi</i> | BCC Rangewide (CON) | Feb 20–Jul 31 | 0–4 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Short-billed Dowitcher | <i>Limnodromus griseus</i> | BCC Rangewide (CON) | Breeds elsewhere | 1–7 | - May be found on shorelines or above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|----------------------|----------------------------------|---------------------|------------------|---|---|---|
| South Polar Skua | <i>Stercorarius maccormicki</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–2 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Surf Scoter | <i>Melanitta perspicillata</i> | Non-BCC Vulnerable | Breeds elsewhere | 4–8 | - May be found on shorelines and in open water in study area. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Tricolored Blackbird | <i>Agelaius tricolor</i> | BCC Rangewide (CON) | Jun 1–Aug 10 | 0–3 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Western Grebe | <i>Aechmophorus occidentalis</i> | BCC Rangewide (CON) | Jun 1–Aug 31 | 5–8 | - May be found on shorelines and in open water in study area. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| White-winged Scoter | <i>Melanitta fusca</i> | Non-BCC Vulnerable | Breeds elsewhere | 0–4 | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

| Common Name | Species Name | Status | Breeding Season | Probability of Presence (yearly range scored out of 10) | Onsite habitat use | Probability of effect |
|-----------------------|----------------------------|---------------------|------------------|---|---|---|
| Willet | <i>Tringa semipalmata</i> | BCC Rangewide (CON) | Breeds elsewhere | 6–9 | - May be found on shorelines or above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Wilson's Storm-petrel | <i>Oceanites oceanicus</i> | Non-BCC Vulnerable | Breeds elsewhere | Insufficient surveys | - May be found on shorelines or in/above study area waters. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Wrentit | <i>Chamaea fasciata</i> | BCC Rangewide (CON) | Mar 15–Aug 10 | 8–9 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |
| Yellow-billed Magpie | <i>Pica nuttalli</i> | BCC Rangewide (CON) | Apr 1–Jul 31 | 0–3 | - May be found on shorelines. | - Actions would be mostly beneficial to reduce disturbance; minimal disturbance from management activities. |

Key: BCC: USFWS Birds of Conservation Concern

BCR: BCC only in Bird Conservation Region

CON: BCC throughout range

Non-BCC Vulnerable: not BCC but warrants attention due to Eagle Act or from potential offshore activities

Source: USFWS' Environmental Conservation Online System (ECOS) Information for Planning and Conservation (IPaC) tool.

G.3 Protected Species Under NOAA Fisheries Jurisdiction or Other Protections

Table G.3-1 provides a list of the protected species under NOAA Fisheries jurisdiction or other protections potentially present in the study area, the species listing status, and regional occurrence.

Table G.3-1. List of protected species in the study area under NOAA Fisheries jurisdiction or other protections.

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|---------------------|-------------------------------|--|------------------------|--|--|--|
| Southern sea otter | <i>Enhydra lutris</i> | ESA Threatened (USFWS jurisdiction); Marine Mammal Protection Act (MMPA) | Year-round, Common | Live and feed in marine coastal areas, bays, estuaries, and potentially on rocky or sandy areas along exposed outer coast. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| California sea lion | <i>Zalophus californianus</i> | MMPA | Year-round, Common | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Steller sea lion | <i>Eumetopias jubatus</i> | MMPA | Year-round, Occasional | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|------------------------|--------------------------------|-------------------------------|---------------------|--|--|--|
| Harbor seal | <i>Phoca vitulina</i> | MMPA | Year-round, Common | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Northern fur seal | <i>Callorhinus ursinus</i> | MMPA Depleted | Seasonal, Rare | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Northern elephant seal | <i>Mirounga angustirostris</i> | MMPA | Year-round, Common | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Guadalupe fur seal | <i>Arctocephalus townsendi</i> | ESA Threatened; MMPA Depleted | Seasonal, Very Rare | Haulout sites include sandy beaches or rocky coves. Found transiting and feeding in coastal waters. May be found foraging in pelagic waters. | - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|-------------------------------|---------------------------|-----------------------------|------------------------|--|--|--|
| Harbor porpoise | <i>Phocoena phocoena</i> | MMPA | Year-round, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Risso's dolphin | <i>Grampus griseus</i> | MMPA | Year-round, Occasional | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Common dolphin – long-beaked | <i>Delphinus capensis</i> | MMPA | Year-round, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Common dolphin – short-beaked | <i>Delphinus delphis</i> | MMPA | Year-round, Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|-----------------------------|-----------------------------------|-------------------------------|---------------------|--|--|--|
| Dall's porpoise | <i>Phocoenoides dalli</i> | MMPA | Year-round, Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Bottlenose dolphin | <i>Tursiops Truncatus</i> | MMPA Depleted | Year-round, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Pacific white-sided dolphin | <i>Lagenorhynchus obliquidens</i> | MMPA | Year-round, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Blue whale | <i>Balaenoptera musculus</i> | ESA Endangered; MMPA Depleted | Seasonal, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|---------------------------|-----------------------------------|--|------------------------|---|--|--|
| Humpback whale | <i>Megaptera novaeangliae</i> | ESA Endangered (Central America DPS), ESA Threatened (Mexico DPS); MMPA Depleted | Seasonal, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| North Pacific right whale | <i>Eubalaena japonica</i> | ESA Endangered | Seasonal, Rare | May be found in coastal waters while migrating south during the winter. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Sperm whale | <i>Physeter macrocephalus</i> | ESA Endangered; MMPA Depleted | Year-round, Occasional | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Short-finned pilot whale | <i>Globicephala macrorhynchus</i> | MMPA | Year-round, Very Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|-----------------------|------------------------------|-----------------------------|--------------------------------|--|--|--|
| Baird's beaked whale | <i>Berardius bairdii</i> | MMPA | Seasonal, Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Cuvier's beaked whale | <i>Ziphius cavirostris</i> | MMPA | Seasonality unknown, Very Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Killer whale | <i>Orcinus orca</i> | MMPA | Seasonal, occasional | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Sei whale | <i>Balaenoptera borealis</i> | ESA Endangered; MMPA | Seasonal, Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|--------------------|------------------------------|-----------------------------|----------------------|--|--|--|
| Fin whale | <i>Balaenoptera physalus</i> | ESA Endangered; MMPA | Seasonal, Occasional | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Gray whale | <i>Eschrichtius robustus</i> | MMPA | Seasonal, Common | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Leatherback Turtle | <i>Dermochelys coriacea</i> | ESA Endangered | Seasonal, Rare | May be found transiting and foraging in coastal and open waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Loggerhead turtle | <i>Caretta caretta</i> | ESA Endangered | Rare | May be found in the coastal waters while migrating. Higher temperatures in spring/summer can bring them closer to the coastline. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|--|---------------------------------|-----------------------------|---------------------|--|--|--|
| Green sea turtle | <i>Chelonia mydas</i> | ESA Threatened | Rare | May be found in the coastal waters. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Olive ridley turtle | <i>Lepidochelys olivacea</i> | ESA Threatened | Rare | May be found in the open ocean. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Chinook salmon (Sacramento River winter-run ESU) | <i>Oncorhynchus tshawytscha</i> | ESA Endangered | Seasonal | Found foraging in open ocean and estuaries before returning to tributaries to spawn. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Chinook salmon (California Coastal ESU) | <i>Oncorhynchus tshawytscha</i> | ESA Threatened | Seasonal | Found foraging in open ocean and estuaries before returning to tributaries to spawn. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|--|------------------------------|-----------------------------|---------------------|--|--|--|
| Coho Salmon (Central California coast ESU) | <i>Oncorhynchus kisutch</i> | ESA Endangered | Seasonal | Found foraging in open ocean and estuaries before returning to tributaries to spawn. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Steelhead (Central California Coast DPS) | <i>Oncorhynchus mykiss</i> | ESA Threatened | Seasonal | Found foraging in open ocean and estuaries before returning to tributaries to spawn. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Steelhead (South Central California Coast DPS) | <i>Oncorhynchus mykiss</i> | ESA Threatened | Seasonal | Found foraging in open ocean and estuaries before returning to tributaries to spawn. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Green sturgeon | <i>Acipenser medirostris</i> | ESA Threatened | Rare | May be found congregating in bays and estuaries in the summer and fall. Most commonly encountered north of Point Conception, California. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|--------------------|---------------------------------|-----------------------------|---------------------|--|--|--|
| Black abalone | <i>Haliotis cracherodii</i> | ESA Endangered | Year-round, Common | Found on rocky substrates in intertidal and shallow subtidal reefs. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| White abalone | <i>Haliotis sorenseni</i> | ESA Endangered | Year-round, rare | Found at depths ranging from 50–180 ft. Prefer open rock habit interspersed with sand channels. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Giant manta ray | <i>Mobula birostris</i> | ESA Threatened | Rare | May be found offshore, in oceanic waters, productive coastal areas, estuarine waters, oceanic inlets, or within bays and intercoastal waterways. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| Sunflower sea star | <i>Pycnopodia helianthoides</i> | Candidate for listing | Very rare | May be found in intertidal and subtidal coastal waters. Was historically moderately common pre-die off. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

| Common Name | Scientific Name | Listing or Protected Status | Regional Occurrence | Habitat within Study Area | Potential Effects | Conclusion |
|-------------------|--------------------------------|-----------------------------|---------------------|---|--|--|
| Oceanic white tip | <i>Carcharhinus longimanus</i> | ESA Threatened | Very rare | May be found offshore in deep water; typically, in the upper part of the water column near the surface. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |
| White sharks* | <i>Carcharodon carcharias</i> | CCR | Seasonal, Common | Nursery grounds found in nearshore waters. May be found foraging or in transit further off the coast as well. | <ul style="list-style-type: none"> - Actions would be mostly beneficial to reduce disturbance from commercial activities and protect water quality and critical habitat. - Minimal disturbance and risk of adverse impacts from management activities. | May affect, not likely to adversely affect |

* White sharks are not listed as an endangered or threatened species under the federal ESA. White sharks are listed under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and listed on the International Union for Conservation of Nature (IUCN) Red List, as Vulnerable. White sharks are federally managed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA); within the U.S. Exclusive Economic Zone (EEZ) offshore California, Oregon, and Washington, white shark management requirements are specified in the Highly Migratory Species FMP, which prohibits the commercial fishing of white sharks. The Shark Conservation Act (SCA) of 2010 improved existing domestic and international shark conservation measures. White sharks have been protected in California waters since January 1994; Title 14, California Code of Regulations (CCR), Fish and Game Code Section 28.06 states that white sharks may not be taken. California Assembly Bill 2109 was signed into law in September 2022, providing new protections for white sharks in California waters.

Table G.3-2 provides a list of the ESA-listed species under NOAA Fisheries jurisdiction with critical habitat in the study area.

Table G.3-2. ESA-listed species under NOAA Fisheries jurisdiction with critical habitat in the study area.

| Common Name | Species Name | Status | Habitat Description | Potential Impacts | Conclusion |
|--------------------|-------------------------------|-----------------------------|---|--|--|
| Humpback whale | <i>Megaptera novaeangliae</i> | Designated critical habitat | Specific areas designated as critical habitat for the Central America DPS of humpback whales contain approximately 48,521 nautical miles ² of marine habitat in the North Pacific Ocean within the portions of the California Current Ecosystem off the coasts of Washington, Oregon, and California. Specific areas designated as critical habitat for the Mexico DPS of humpback whales contain approximately 116,098 nautical miles ² of marine habitat in the North Pacific Ocean, including areas within portions of the eastern Bering Sea, Gulf of Alaska, and California Current Ecosystem. | CHNMS actions would be mostly beneficial to protect habitat and water quality. There would be minimal disturbance from proposed management activities. | May affect, not likely to adversely affect |
| Black abalone | <i>Haliotis cracherodii</i> | Designated critical habitat | This designation includes rocky intertidal and subtidal habitats from the mean higher high water (MHHW) line to a depth of –6 meters (m) (relative to the mean lower low water (MLLW) line), as well as the coastal marine waters encompassed by these areas. | CHNMS actions would be mostly beneficial to protect habitat and water quality. There would be minimal disturbance from proposed management activities. | May affect, not likely to adversely affect |
| Leatherback turtle | <i>Dermochelys coriacea</i> | Designated critical habitat | This designation includes approximately 16,910 square miles (43,798 square km) stretching along the California coast from Point Arena to Point Arguello east of the 3,000-meter depth contour; and 25,004 square miles (64,760 square km) stretching from Cape Flattery, Washington to Cape Blanco, Oregon east of the 2,000 meter depth contour. The designated areas comprise approximately 41,914 square miles (108,558 square km) of marine habitat and include waters from the ocean surface down to a maximum depth of 262 feet (80 m). | CHNMS actions would be mostly beneficial to protect habitat and water quality. There would be minimal disturbance from proposed management activities. | May affect, not likely to adversely affect |

G.4 Essential Fish Habitat and Habitat Areas of Particular Concern

Table G.4-1 provides a list of the EFH overlapping with the study area.

Table G.4-1. EFH in the study area.

| Species: Common name | Lifestage | EFH Description |
|--|-----------|---|
| Groundfish (90+ species) | ALL | Depths less than or equal to 3,500 m (1,914 fm) to mean higher high water level (MHHW) or the upriver extent of saltwater intrusion, defined as upstream and landward to where ocean-derived salts measure less than 0.5 ppt during the period of average annual low flow. Pacific Coast Groundfish FMP 101 August 2020 Seamounts in depths greater than 3,500 m as mapped in the EFH assessment geographic information system (GIS). Areas designated as HAPCs not already identified by the above criteria. |
| Coastal Pelagic Species (CPS) (Pacific sardine, Pacific [chub] mackerel, northern anchovy, jack mackerel, market squid, and all euphausiid (krill) species) | ALL | The east-west geographic boundary of EFH for CPS is defined to be all marine and estuarine waters from the shoreline along the coasts of California, Oregon, and Washington offshore to the limits of the EEZ and above the thermocline where sea surface temperatures range between 10°C to 26°C. |

Table G.4-2 provides a list of the HAPCs overlapping with the study area.

Table G.4-2. HAPCs in the study area.

| HAPC Type | Fishery Management Plan | Defining Characteristics |
|--------------------------------------|--|--|
| Rocky Reefs | Amendment 19 of the Pacific Coast Groundfish Fishery Management Plan | The rocky reefs HAPC includes those waters, substrates and other biogenic features associated with hard substrate (bedrock, boulders, cobble, gravel, etc.) to MHHW. A first approximation of its extent is provided by the substrate data in the groundfish EFH assessment GIS. However, at finer scales, through direct observation, it may be possible to further distinguish between hard and soft substrate in order to define the extent of this HAPC. |
| Canopy Kelp | Amendment 19 of the Pacific Coast Groundfish Fishery Management Plan | The canopy kelp HAPC includes those waters, substrate, and other biogenic habitat associated with canopy-forming kelp species (e.g., <i>Macrocystis</i> spp. and <i>Nereocystis</i> sp.). |
| Area of Interest: Rodriguez Seamount | Amendment 19 of the Pacific Coast Groundfish Fishery Management Plan | Areas of interest are discrete areas that are of special interest due to their unique geological and ecological characteristics. All seamounts off the coast of California have been designated as areas of interest, and are therefore considered HAPC. |

Areas of Interest:

Areas of interest are discrete areas that are of special interest due to their unique geological and ecological characteristics. The following areas of interest are designated HAPC:

- Off of Washington: All waters and sea bottom in state waters from the 3 nautical mile boundary of the territorial sea shoreward to MHHW;
- Off of Oregon: Daisy Bank/Nelson Island, Thompson Seamount, President Jackson Seamount; and
- Off of California: All seamounts, including Gumdrops Seamount, Pioneer Seamount, Guide Seamount, Taney Seamount, Davidson Seamount, and San Juan Seamount; Mendocino Ridge; Cordell Bank; Monterey Canyon; specific areas in the federal waters of Channel Islands National Marine Sanctuary (CINMS); specific areas of the Cowcod Conservation Area.

Appendix H:

Known Permitted Infrastructure and Activities in Study Area

Between publication of the draft and final environmental impact statements (EIS), the list of California State Lands Commission (CSLC) permits that was included in the draft EIS was updated by the CSLC, and the National Oceanic and Atmospheric Administration (NOAA) received additional permit information from the Central Coast Regional Water Quality Control Board (CCRWQCB), U.S Army Corps of Engineers (USACE), and California Coastal Commission (CCC).

The list in Table H-1 consists of permit information that NOAA has received up to April 2024 by the relevant agencies listed above. NOAA has identified 138 permits and leases for activities in the area of the proposed sanctuary (see Table H-1), including 114 active permits and leases, 11 permit amendments, and 13 applications either in process, pending, or on hold. These permits do not represent individual or discrete infrastructure and activities, since some infrastructure and activities listed in this appendix are associated with more than one issued permit. These activities include pipelines, piers, storm drain outfalls, fiber optic cables, and other industrial uses. A description of socioeconomic resources, including these activities, and potential impacts of the proposed action and alternatives on these activities is in Section 4.6 of the final EIS. Additional permit information likely exists that is not reflected in the list below. NOAA defers to the agency with jurisdiction for permit information regarding an activity or infrastructure within the boundaries of the sanctuary study area.

Table H-1. Known permitted infrastructure and activities in the study area (sources: K. Foster, CSLC, personal communication, 2024; A. Liebhaber & A. Wyatt-Mair, CCRWQCB, personal communication, 2024; W. Horn, CCC, personal communication, 2024; E. Sweeney, USACE, personal communication, 2024).

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|---|----------------------------------|------------------|----------|------------|--------------|
| CSLC | Active | 7326 | Pacific Ocean, near Cayucos | Right of Way Use | 10/01/2019 | 35.46022 | -120.98095 | IBA, 1 |
| CSLC | Active | 7623 | Cayucos Bay | Protective Structure Use | 05/05/1992 | 35.44823 | -120.91157 | IBA, 1 |
| CSLC | Active | 5589 | Pacific Ocean, Cayucos State Beach, Cayucos | Public Agency Use | 08/07/2019 | 35.44781 | -120.90701 | IBA, 1 |
| CSLC | Active | 9576 | Pacific Ocean, at Estero Bay, near the city of Morro Bay | Public Agency Use | 08/23/2019 | 35.41112 | -120.87473 | IBA, 1 |
| CSLC | Active | 8168 | 135,000 linear feet, more or less, in the Pacific Ocean, from Morro Bay in San Luis Obispo County to Santa Barbara in Santa Barbara County | Right of Way Use | 12/18/2015 | 35.41052 | -120.93165 | IBA, 1 |
| CSLC | Active | 8100 | Pacific Ocean at Estero Bay, near the city of Morro Bay | Industrial Use | 06/01/2015 | 35.41044 | -120.88045 | IBA, 1 |
| CSLC | Active | 8100 | Pacific Ocean at Estero Bay, near the city of Morro Bay | Industrial Use | 06/01/2015 | 35.40726 | -120.87837 | IBA, 1 |
| CSLC | Active | 8168 | 135,000 linear feet, more or less, in the Pacific Ocean, from Morro Bay in San Luis Obispo County, to Santa Barbara in Santa Barbara County | Right of Way Use | 12/18/2015 | 35.40340 | -120.91783 | IBA, 1 |
| CSLC | Active | 5971 | Seaward of Atascadero State Beach, Morro Bay | Public Agency Use | 04/01/1981 | 35.38343 | -120.86990 | IBA, 1 |
| CSLC | Active | 8204 | Pacific Ocean, offshore of Montaña de Oro State Park | Right of Way Use | 07/01/2010 | 35.34189 | -120.89886 | IBA, 1 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|--|----------------------------------|------------------|----------|------------|-----------------|
| CSLC | Active | 8140 | Offshore Montaña de Oro State Park, west-southwest of the community of Los Osos (Parcel 2) | Right of Way Use | 02/08/2000 | 35.32649 | -120.88893 | IBA, 1 |
| CSLC | Active | 8141 | Pacific Ocean, offshore of Montaña de Oro State Park | Right of Way Use | 02/08/2010 | 35.32461 | -120.89088 | IBA, 1 |
| CSLC | Active | 7603 | Pacific Ocean, south of Morro Bay | Right of Way Use | 01/10/1992 | 35.31249 | -120.90458 | IBA, 1 |
| CSLC | Active | 8142 | Pacific Ocean, offshore of Montaña de Oro State Park | Right of Way Use | 02/08/2010 | 35.30296 | -120.87688 | IBA, 1 |
| CSLC | Active | 8141 | Pacific Ocean, offshore of Montaña de Oro State Park | Right of Way Use | 02/08/2010 | 35.30263 | -120.87702 | IBA, 1 |
| CSLC | Active | 8144 | Pacific Ocean, near Los Osos | Right of Way Use | 03/02/2019 | 35.30250 | -120.87840 | IBA, 1 |
| CSLC | Active | 3135 | Estero Bay, just south of Baywood Park and two miles south of Morro Bay, in Section 27, T30S R10E, MDM | Right of Way Use | 05/28/1964 | 35.29483 | -120.91598 | IBA, 1 |
| CSLC | Active | 4892 | South of Cuesta by the Sea | Right of Way Use | 04/04/1974 | 35.29386 | -120.88021 | IBA, 1 |
| CSLC | Active | 9347 | In and adjacent to the Pacific Ocean, Avila Beach | Industrial Use | 06/28/2016 | 35.21110 | -120.85653 | IBA, 1, 2 |
| CSLC | Active | 9347 | In and adjacent to the Pacific Ocean, Avila Beach | Industrial Use | 06/28/2016 | 35.21110 | -120.85653 | IBA, 1, 2 |
| CSLC | Active | 6694 | Pacific Ocean between San Luis Obispo and Morro Bay | Public Agency Use | 06/12/1984 | 35.19028 | -120.83196 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 814 | Pacific Ocean, one mile north of Shell Beach | Public Agency Use | 06/26/1953 | 35.15938 | -120.68617 | IBA, 1, 2, 3, 4 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---|----------------------|---|----------------------------------|------------------|----------|------------|-----------------|
| CSLC | Active | 7665 | Ocean Boulevard across from 1624, 1654, and 1680 Montecito in Pismo Beach | Public Agency Use | 12/01/1992 | 35.15454 | -120.67620 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 5131 | Pacific Ocean, vicinity of Shell Beach | Protective Structure Use | 07/01/1976 | 35.15388 | -120.67499 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 4698 | Pacific Ocean adjacent to 2411, 2555, 2575, and 2651 Price Street, city of Pismo Beach | Protective Structure Use | 08/01/2015 | 35.14931 | -120.65382 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 402/ 31-53 | Pacific Ocean at Pismo Beach, Oceano | Protective Structure Use | 01/23/1940 | 35.11970 | -120.63845 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 8152 | In the Pacific Ocean, offshore of the city of Grover Beach | Right of Way Use | 04/20/2010 | 35.11479 | -120.67436 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 8152 | In the Pacific Ocean, offshore of the city of Grover Beach | Right of Way Use | 04/20/2010 | 35.11387 | -120.67228 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 8151 | In the Pacific Ocean, offshore of the city of Grover Beach | Right of Way Use | 04/20/2010 | 35.11312 | -120.67049 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 3875 | Pacific Ocean at Oceano near Arroyo Grande Creek | Right of Way Use | 03/01/1979 | 35.10008 | -120.63749 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 1449 | Pacific Ocean, adjacent to Oceano Dunes State Vehicular Recreation Area (SVRA) | Right of Way Use | 10/25/2003 | 35.04352 | -120.63921 | IBA, 1, 2, 3, 4 |
| CSLC | Expired. In holdover, pending application submittal | 6542 | Pacific Ocean, adjacent to the Oceano Dunes Off-Highway Vehicle Park, near Oso Flaco Creek, Pismo Beach | Public Agency Use | 10/01/2003 | 35.02996 | -120.63470 | IBA, 1, 2, 3, 4 |
| CSLC | New lease application on hold | 6911 | Pacific Ocean near Point Pedernales, offshore of the city of Lompoc | Right of Way Use | 11/01/2009 | 34.67651 | -120.64684 | IBA, 1, 2, 3, 4 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|-------------------------------------|----------------------|---|----------------------------------|------------------|----------|------------|-----------------|
| CSLC | Active | 7944 | State tide and submerged land (at the 3-mile limit) off Point Pedernales and Point Arguello | Oil & Gas Lease | 02/21/1997 | 34.61834 | -120.70592 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 7944 | State tide and submerged land (at the 3-mile limit) off Point Pedernales and Point Arguello | Oil & Gas Lease | 02/21/1997 | 34.57386 | -120.71245 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 402/31-52 | Pacific Ocean at Point Arguello | Protective Structure Use | 05/15/1940 | 34.55432 | -120.60919 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 4300 | Pacific Ocean, adjacent to Gaviota State Park, near Goleta | Public Agency Use | 03/01/2018 | 34.47005 | -120.22857 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 6943 | Pacific Ocean, near Point Conception | Right of Way Use | 02/01/2011 | 34.46639 | -120.51274 | IBA, 1, 2, 3, 4 |
| CSLC | Active | 6942 | Pacific Ocean, near Point Conception | Right of Way Use | 02/01/2011 | 34.46611 | -120.51263 | IBA, 1, 2, 3, 4 |
| CSLC | Application withdrawn ¹⁶ | A0000002181 | * ¹⁷ | | | 34.59082 | -120.78770 | IBA, 1, 2, 3, 4 |
| CSLC | Application | A0000002222 | | | | 34.51338 | -120.63350 | IBA, 1, 2, 3, 4 |
| CSLC | Application | A0000003284 | | | | 34.43512 | -120.06727 | 5b |
| CSLC | Active | 6995 | Pacific Ocean near Gaviota | Industrial Use | 06/01/2011 | 34.465 | -120.208 | 5b |
| CSLC | Active | 4977 | Pacific Ocean near Los Flores Canyon | Industrial Use | 01/01/1989 | 34.435 | -120.067 | 5b |
| CSLC | Active | 5515 | Pacific Ocean, near the city of Goleta | Industrial Use | 06/20/2015 | 34.432 | -119.924 | NA |
| CSLC | Active | 3120 | Ellwood, Parcel 18A | Oil & Gas Lease | 04/29/1964 | 34.408 | -119.901 | NA |
| CSLC | Active | 7629 | central Morro Bay | Public Agency Use | 05/01/2017 | 35.337 | -120.835 | 5a |
| CSLC | Active | 8010 | Pacific Ocean, adjacent to Refugio State Beach, near Goleta | Public Agency Use | 02/01/2018 | 34.458 | -120.070 | 5b |

¹⁶ Application A0000002181 was for the IDEOL wind project located in the Pacific Ocean, offshore Vandenberg Space Force Base.

¹⁷ Cells are blank where no information was provided by the agency responsible for issuing the permit.

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---|----------------------|--|---|------------------|------------|--------------|-----------------|
| CSLC | Expired. In holdover, pending application submittal | 8045 | Morro Bay, unincorporated community of Los Osos at Elfin Forest | Public Agency Use | 01/01/1999 | 35.334 | -120.808 | 5a |
| CSLC | Active | 7644 | Morro Bay, adjacent to 1147 9th Street, Los Osos | Recreational Use | 03/01/2018 | 35.331 | -120.834 | 5a |
| CSLC | Active | 9568 | Morro Bay, adjacent to 1135 5th Street, Los Osos | Recreational Use | 06/28/2019 | 35.332 | -120.383 | 5a |
| CSLC | Active | 9532 | Morro Bay adjacent to 1134 5th Street, Los Osos | Recreational Use | 02/04/2019 | 35.330 | -120.817 | 5a |
| CSLC | Active | 7456 | Pacific Ocean near the city of Goleta | Right of Way Use | 10/19/2012 | 34.439 | -119.966 | 5b |
| CSLC | Active | 7163 | Pacific Ocean, offshore of El Capitán State Beach, near the city of Goleta | Right of Way Use | 02/01/1988 | 34.436 | -120.067 | 5b |
| CSLC | Active | 5453 | Morro Bay | N/A | 5/21/1976 | 35.338 | -120.850 | 5a |
| CSLC | Active | 6674 | Pacific Ocean, Pismo State Beach | Public Agency Use | 4/20/2017 | 35.138 | -120.645 | IBA, 1, 2, 3, 4 |
| CSLC | Pending | 8154 | Pacific Ocean, Montaña de Oro State Park | Right of Way Use | 4/20/2010 | 35.335 | -120.928 | IBA, 1 |
| CSLC | Pending | 8278 | Pacific Ocean, Montaña de Oro State Park | Right of Way Use | 4/20/2011 | 35.337 | -120.897 | IBA, 1 |
| CSLC | Pending | 9105 | Pacific Ocean near Avila Beach | Protective Structure Use | 12/2/2013 | 35.207 | -120.855 | IBA, 1, 2 |
| CSLC | Active | 9632 | Pacific Ocean, Grover Beach | Right of Way Use | 6/23/2020 | 35.122 | -120.632 | IBA, 1, 2, 3, 4 |
| CSLC | Application | A0000004339 | Pacific Ocean, Grover Beach | Right of Way Use | 2/26/2024 | 35.121 | -120.638 | IBA, 1, 2, 3, 4 |
| CCRWQCB | Active | R3-2023-0013 | Pacific Ocean, Rancho Dos Pueblos | National Pollutant Discharge Elimination System (NPDES) General Permit, Aquaculture | 9/23/2002 | 34.4406690 | -119.9648030 | 5b |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|--|--------------------------------------|------------------|------------|--------------|-----------------|
| CCRWQCB | Active | R3-2022-0035 | Pacific Ocean, Morro Bay | NPDES General Permit, Limited Threat | 8/24/2021 | 35.3795500 | -120.8603200 | IBA, 1 |
| CCRWQCB | Active | R3-2011-0223 | Pacific Ocean, near El Capitán State Beach | NPDES General Permit, Low Threat | 6/9/2017 | 34.4786110 | -120.0202780 | 5b |
| CCRWQCB | Active | R3-2017-0042 | Pacific Ocean, approx. 2 miles offshore Coal Oil Point | NPDES General Permit, Low Threat | 8/21/2020 | 34.3882460 | -119.9089960 | NA |
| CCRWQCB | Active | R3-2022-0035 | Pacific Ocean, Morro Bay | NPDES General Permit, Limited Threat | 12/10/2009 | 35.3801290 | -120.8584150 | IBA, 1 |
| CCRWQCB | Active | R3-2022-0035 | Pacific Ocean, Gaviota Oil Heating Facility off Gaviota | NPDES General Permit | 12/1/2006 | 34.4753020 | -120.2038940 | NA |
| CCRWQCB | Active | 90-09 | Pacific Ocean, Diablo Canyon Nuclear Power Plant intake cove and Diablo Cove | NPDES Permit | NA | 35.2122220 | -120.8538890 | IBA, 1, 2 |
| CCRWQCB | Rescinded | 95-28 | Pacific Ocean, Estero Bay, Morro Bay Harbor, Willow Camp Creek | Rescinded NPDES Permit | NA | 35.3708330 | -120.8655560 | IBA, 1 |
| CCRWQCB | Active | R3-2015-0016 | Pacific Ocean, near San Luis Obispo Bay | NPDES Permit | 2/1/2016 | 35.1011110 | -120.6461110 | IBA, 1, 2, 3, 4 |
| CCRWQCB | Active | R3-2017-0049 | Pacific Ocean, Estero Bay north of Morro Strand State Beach | NPDES Permit | 1/26/2018 | 35.4069440 | -120.8847220 | IBA, 1 |
| CCRWQCB | Active | R3-2022-0029 | Pacific Ocean, Estero Bay, just north of Morro Bay | NPDES Permit | 8/5/2022 | 35.3864000 | -120.8831000 | IBA, 1 |
| CCRWQCB | Pending | R3-2002-0076 | Pacific Ocean, Estero Bay | NPDES General Permit, Aquaculture | NA | 35.4611110 | -120.9769440 | IBA, 1 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|--|--|----------------------------------|------------------|------------|--------------|-----------------|
| CCRWQCB | Active | R3-2019-0002 | Pacific Ocean, San Luis Obispo Bay at Oceano Dunes near mouth of Arroyo Grande Creek | NPDES Permit | 4/1/2019 | 35.1011110 | -120.6461110 | IBA, 1, 2, 3, 4 |
| CCRWQCB | Active | R3-2020-0004 | Pacific Ocean, near mouth of Toro Creek into Morro Bay | NPDES Permit | 12/1/2020 | 35.4122500 | -120.8861170 | IBA, 1 |
| CCRWQCB | Active | R3-2013-0028 | Pacific Ocean, San Luis Obispo Bay offshore Oceano Dunes SVRA | NPDES Permit | 2/1/2014 | 35.0436110 | -120.6391670 | IBA, 1, 2, 3, 4 |
| CCRWQCB | Active | R3-2017-0025 | Pacific Ocean, San Luis Obispo Bay near Avila Beach | NPDES Permit | 12/1/2017 | 35.1711110 | -120.7346110 | NA |
| CCRWQCB | Active | R3-2023-0013 | Varies per discharge | NPDES General Permit | 1/19/2024 | NA | NA | NA |
| CCRWQCB | Active | R3-2020-0005 (amended by R3-2023-0010) | Chorro Creek, drains into Morro Bay Estuary | NPDES Permit | 8/1/2020 | 35.3252580 | -120.7525000 | NA |
| CCRWQCB | Active | R3-2017-0021 | Pacific Ocean, at Goleta Slough | NPDES Permit | 11/10/2017 | 34.4222000 | -119.8336500 | NA |
| CCRWQCB | Active | R3-2022-0003 | Pacific Ocean, south of Pico Creek Beach | NPDES Permit | 5/1/2022 | 35.6117010 | -121.1455740 | NA |
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, Vandenberg Space Force Base (VSFB) Harbor | DEV RPSS | 6/28/2017 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-1995-5016300 | Pacific Ocean, almost 2 miles offshore south of the Jack and Laura Dangermond Preserve | Letter of Permission | 4/21/1995 | 34.4333 | -120.3493 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1996-5002200 | Pacific Ocean, a quarter mile offshore south of Point Conception Light Station | Letter of Permission | 10/10/1995 | 34.445 | -120.4686 | IBA, 1, 2, 3, 4 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|--|--|------------------|----------|------------|-----------------|
| USACE | Active | SPL-1996-5017000 | Pacific Ocean, Gaviota Coast | Letter of Permission | 11/28/1995 | 34.4689 | -120.2058 | 5b |
| USACE | Active | SPL-2003-01183-MWV | Pacific Ocean, immediately south of the VSFB Harbor breakwater | Letter of Permission | 6/18/2003 | 34.5537 | -120.6085 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1999-5005600 | Pacific Ocean, Gaviota Coast | Nationwide Permit (NWP) 25, NWP 33, NWP 26 | 12/4/1998 | 34.4331 | -119.9393 | 5b |
| USACE | Active | SPL-1995-5016300 | Pacific Ocean, ~2 miles offshore south of the Jack and Laura Dangermond Preserve | NWP 18 | 4/21/1995 | 34.4333 | -120.3493 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1998-5046600 | Pacific Ocean, Gaviota Coast | NWP 12 | 8/12/1998 | 34.4369 | -119.9666 | 5b |
| USACE | Active | SPL-2003-00534 | Pacific Ocean, Gaviota Coast | NWP 3, NWP 12 | 2/6/2003 | 34.4601 | -120.0439 | 5b |
| USACE | Active | SPL-2018-00184 | Pacific Ocean, Gaviota Coast, Gaviota State Park Pier | NWP 3 | 2/11/2019 | 34.47 | -120.22861 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1999-16028 | Pacific Ocean, Gaviota Coast, Gaviota State Park Pier | NWP 3 | 6/9/1999 | 34.4703 | -120.2286 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-2000-00698 | Pacific Ocean, immediately southeast of the VSFB Harbor breakwater | NWP 16, NWP 35 | 12/22/2000 | 34.5528 | -120.6069 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-2003-01183-MWV | Pacific Ocean, immediately south of the VSFB Harbor breakwater | NWP 16 | 6/18/2003 | 34.5537 | -120.6085 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-2002-00033 | Pacific Ocean, about 5 miles offshore west of Trestles Beach (within VSFB) | NWP 33, NWP 3 | 10/3/2001 | 34.6106 | -120.7303 | IBA, 1, 2, 3, 4 |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|--|----------------------------------|------------------|----------|------------|-----------------|
| USACE | Active | SPL-1997-5026100 | Santa Maria River | NWP 38 | 6/24/1998 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1997-5026100 | Santa Maria River | NWP 38 | 3/7/2008 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1997-5026100 | Santa Maria River | NWP 6 | 3/9/2007 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1997-5026100 | Santa Maria River | NWP 33 | 3/9/2007 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1997-5026100 | Santa Maria River | NWP 27 | 3/9/2007 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1995-5010000 | Pacific Ocean, near Pismo Dunes Natural Preserve | NWP 7 | 7/26/1995 | 35.0517 | -120.6381 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1999-15190 | Pacific Ocean, near Diablo Canyon Power Plant | NWP 18 | 1/28/1999 | 35.2033 | -120.8564 | IBA, 1, 2 |
| USACE | Active | SPL-2001-00836 | Pacific Ocean, Morro Bay Estuary | NWP 3 | 4/2/2001 | 35.3392 | -120.8531 | 5a |
| USACE | Active | SPL-1999-15811 | Pacific Ocean, Estero Bay between Toro Creek and Morro Creek | NWP 18, NWP 12 | 5/26/1999 | 35.3864 | -120.8764 | IBA, 1 |
| USACE | Active | SPL-2013-00778-BAH | Pacific Ocean, Estero Bay between Toro Creek and Morro Creek | NWP 6 | 11/6/2013 | 35.4124 | -120.8744 | IBA, 1 |
| USACE | Active | SPL-2013-00778-BAH | Pacific Ocean, Estero Bay between Toro Creek and Morro Creek | NWP 33 | 11/6/2013 | 35.4124 | -120.8744 | IBA. 1 |
| USACE | Active | SPL-2007-01043-VEN | Pacific Ocean, about 11 miles offshore southwest San Simeon State Park | NWP 3, NWP 14 | 8/22/2007 | 35.50906 | -121.29058 | IBA, 1 |
| USACE | Active | SPL-1996-5021700 | Pacific Ocean, Gaviota Coast | PERMITMOD | 11/27/1998 | 34.4346 | -120.1595 | 5b |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|--|----------------------------------|------------------|----------|------------|-----------------|
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, VSFB Harbor | PERMITMOD | 11/21/2007 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-1998-5009500 | Pacific Ocean, about 11 miles offshore southwest of Trestles Beach (within VSFB) | PERMITMOD | 12/18/1998 | 34.5997 | -120.8319 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1999-15991-MWV | Santa Maria River | PERMITMOD | 2/21/2003 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, VSFB Harbor | Regional General Permit | 6/28/2021 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, VSFB Harbor | Regional General Permit | 7/7/2011 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-1996-5021700 | Pacific Ocean, Gaviota Coast | Standard Permits | 12/22/1995 | 34.4346 | -120.1595 | 5b |
| USACE | Active | SPL-2022-00504-TS | Pacific Ocean, VSFB Harbor | Standard Permits | 9/13/2022 | 34.5551 | -120.6092 | NA |
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, VSFB Harbor | Standard Permits | 6/11/2007 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-2007-00689-JWM | Pacific Ocean, VSFB Harbor | Standard Permits | 3/12/2012 | 34.5554 | -120.6094 | NA |
| USACE | Active | SPL-1998-5009500 | Pacific Ocean, about 11 miles offshore southwest of Trestles Beach (within VSFB) | Standard Permits | 12/11/1997 | 34.5997 | -120.8319 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-1999-15991-MWV | Santa Maria River | Standard Permits | 11/18/1999 | 34.9706 | -120.65 | IBA, 1, 2, 3, 4 |
| USACE | Active | SPL-2019-00102-EBR | Pacific Ocean, Morro Bay Estuary | Standard Permits | 2/4/2019 | 35.3359 | -120.8451 | 5a |
| USACE | Active | SPL-2018-00728-TS | Pacific Ocean, Morro Bay Estuary | Standard Permits | 11/7/2018 | 35.34018 | -120.84908 | 5a |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|---|----------------------------------|------------------|----------|-----------|-----------------|
| CCC | Active | E-00-008 | Coastal zone offshore of the cities of Morro Bay, Santa Barbara, Manhattan Beach, and San Diego. From mean high tide line to an average of 10 miles offshore. | Coastal Development Permit | 03/07/2001 | NA | NA | IBA, 1, 2, 3, 4 |
| CCC | Amendment | E-00-008-A 1 | Same as E-00-008 | Coastal Development Permit | 04/18/2001 | NA | NA | NA |
| CCC | Amendment | E-00-008-A 2 | Same as E-00-008 | Coastal Development Permit | 04/26/2001 | NA | NA | NA |
| CCC | Active | E-99-011 | Coastal zone in state waters offshore of Montaña de Oro State Park, west-southwest of the City of Los Osos, San Luis Obispo County. | Coastal Development Permit | 05/01/2000 | NA | NA | IBA, 1, 2, 3 |
| CCC | Amendment | E-99-011-A 2 | Same as E-99-011 | Coastal Development Permit | 08/08/2007 | NA | NA | NA |
| CCC | Active | E-98-027 | Coastal zone offshore of Pismo State Beach in the City of Grover Beach, San Luis Obispo County. | Coastal Development Permit | 06/18/2000 | NA | NA | IBA, 1, 2, 3, 4 |
| CCC | Amendment | E-98-027-A 2 | Same as E-98-027 | Coastal Development Permit | 02/21/2006 | NA | NA | NA |
| CCC | Amendment | E-98-027-A 2 | Same as E-98-027 | Coastal Development Permit | 02/21/2006 | NA | NA | NA |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|---|----------------------------------|------------------|----------|-----------|-----------------|
| CCC | Amendment | E-98-027-A 3 | Same as E-98-027 | Coastal Development Permit | 06/22/2007 | NA | NA | NA |
| CCC | Amendment | E-98-027-A 4 | Same as E-98-027 | Coastal Development Permit | 09/20/2017 | NA | NA | NA |
| CCC | Active | 9-23-0548 | Coastal zone offshore Grover Beach (extending from one of four existing landing pipes in Grover Beach) through state and federal waters and terminating in Japan. | Coastal Development Permit | 12/05/2023 | NA | NA | IBA, 1, 2, 3, 4 |
| CCC | Active | E-00-004 | Coastal zone offshore Montaña de Oro State Park and Manchester State Beach. | Coastal Development Permit | 09/22/2000 | NA | NA | IBA, 1, 2, 3 |
| CCC | Amendment | E-00-004-A 1 | Same as E-00-004 | Coastal Development Permit | 01/08/2008 | NA | NA | NA |
| CCC | Active | E-98-029 | Coastal zone offshore Montaña de Oro State Park, west-southwest of the City of Los Osos in the County of San Luis Obispo. | Coastal Development Permit | Unknown | NA | NA | NA |
| CCC | Amendment | E-98-029-A 2 | Same as E-98-029 | Coastal Development Permit | 01/08/2008 | NA | NA | NA |
| CCC | Amendment | E-00-004-A 2 | Same as E-00-004 | Coastal Development Permit | 04/15/2019 | NA | NA | NA |

| Issuing Agency | Record Status | Lease/ Permit Number | General Location | Type of Lease, Permit, or Action | Lease Start Date | Latitude | Longitude | Alternative* |
|----------------|---------------|----------------------|---|----------------------------------|------------------|----------|-----------|-----------------|
| CCC | Active | 9-20-0275 | Coastal zone in Grover Beach, San Luis Obispo County, and state waters offshore. | Coastal Development Permit | 08/14/2020 | NA | NA | IBA, 1, 2, 3, 4 |
| CCC | Active | 9-22-0318 | State and federal waters offshore San Luis Obispo County. | Coastal Development Permit | 02/08/2023 | NA | NA | IBA, 1, 2, 3, 4 |
| CCC | Active | E-08-021 | Coastal zone offshore of San Luis Obispo County. | Coastal Development Permit | 03/16/2009 | NA | NA | IBA, 1, 2, 3 |
| CCC | Amendment | E-08-021-A1 | Coastal zone at Montaña de Oro State Park, San Luis Obispo County, and state waters offshore. | Coastal Development Permit | 04/15/2019 | NA | NA | NA |

* IBA = Initial Boundary Alternative; 1 = Alternative 1; 2 = Alternative 2; 3 = Alternative 3; 4 = Alternative 4; 5a = Sub-Alternative 5a; 5b = Sub-Alternative 5b.

Appendix I: Department of Defense Activities

The following list provided by the Department of Defense (DoD) describes existing activities carried out or approved by the DoD (“DoD activities”) that are conducted prior to the effective date of sanctuary designation. DoD activities are also described in Section 4.9 of the environmental impact statement (EIS). DoD has informed the National Oceanic and Atmospheric Administration (NOAA) that all activities listed below are carried out or approved by DoD. With respect to commercial and civil launches from Vandenberg Space Force Base (VSFB) and associated activities, DoD has informed NOAA that:

- DoD conducts National Environmental Policy Act (NEPA) reviews for these activities. Other federal agencies, such as the Federal Aviation Administration and/or the U.S. Coast Guard (USCG), may be cooperating agencies for purposes of these NEPA reviews.
- DoD also conducts all required natural and cultural resource consultations for these activities.
- Civil partners and commercial providers conducting these activities are required to comply with DoD best management practices.

In the final EIS, NOAA removed four activities that were listed in Appendix I of the draft EIS. The Navy clarified these activities were planned future activities rather than existing activities with accompanying completed environmental documentation.

These activities are subject to the exemption identified in 15 Code of Federal Regulations (C.F.R.) § 922.232(c). The existing activities provided here include all activities associated with the listed activities, but existing activities do not include new activities as described in the preamble to the Chumash Heritage National Marine Sanctuary (CHNMS) proposed rule.

- 1) Operational activities supporting DoD, civil, national security, and commercial space and ballistic launch, that originate from, are supported by, or are sanctioned by VSFB to further national strategic goals.
- 2) Weapons systems testing and training supported by the Point Mugu Sea Range and Naval Base Ventura County, including installations at Port Hueneme and San Nicolas Island, in support of national defense.
- 3) All aeronautical programs, including fixed wing, rotary wing, powered lift, gliders, lighter than air operations, and amphibious landing craft.
- 4) All launch and return operations, including ballistic missiles, supporting DoD, civil, national security, and commercial.
- 5) Space lift operations, including discharge of missile or launch components into the ocean necessary and incidental to launches.
- 6) Test and experimental activities hosted, supported, or conducted at VSFB that support DoD, civil, national security, and commercial space, ballistic launch, or surface vessels.
- 7) Missile exercises including air-to-air, surface-to-air, air-to-surface, surface-to-surface, and subsurface-to-surface.
- 8) Long-range weapons delivery and hypersonic vehicle testing.

- 9) Gunnery exercises including surface-to-air, surface-to-surface, air-to-surface, and ship, utilizing small, medium, and large calibers.
- 10) Bombing exercises against maritime targets, both explosive and non-explosive.
- 11) Rocket exercises.
- 12) Directed energy – laser targeting exercises.
- 13) Directed energy – high energy laser weapon exercises.
- 14) High powered microwave test exercises.
- 15) Electronic warfare operations.
- 16) Routine transits and military training and readiness activities, including manned and unmanned surface and subsurface vessels, aircraft, vehicle overflight, targets, and use of live and inert weapons.
- 17) Harbor and boat dock use including dredging, for inbound/outbound boat traffic, shipping, anchoring or mooring of vessels, loading/unloading, port, and pier needs; training activities in or near the boat dock including use of motorized personal watercraft.
- 18) Existing communications, energy resiliency, monitoring, and range infrastructure systems activities, including repair and maintenance of existing communication or data cables, mooring lines, boring, directional drilling, trenching, anchors, pipelines on/below/above the seabed, submarine power cables on/below/above the seabed, risers, and ocean pilings associated with such systems.
- 19) Planned and unplanned debris and noise pollution related to VSFB operations, tests, and experimental activities.
- 20) All emitted signals at frequencies and strengths related to VSFB operations, tests, and experimental activities that are conducted in the air, on, in, and under the water surface.
- 21) Natural resources intertidal monitoring and research projects.
- 22) Storm water discharges from storm water management systems along the coast of VSFB.

Appendix J: List of Document Preparers

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Additional Sources

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