

6 Other Considerations Required by NEPA

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

In accordance with 40 Code of Federal Regulations section 1502.16(c), analysis of environmental consequences shall include discussion of possible conflicts between the Proposed Action and the objectives of federal, regional, state, and local land use plans, policies, and controls. Table 6-1 identifies the principal federal and state laws and regulations that are applicable to the Proposed Action and describes briefly how compliance with these laws and regulations would be accomplished.

Table 6-1 Principal Federal and State Laws Applicable to the Proposed Action

<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
National Environmental Policy Act (NEPA) (42 U.S.C. section 4321 et seq.); Council on Environmental Quality NEPA implementing regulations (40 Code of Federal Regulations parts 1500-1508; Navy procedures for Implementing NEPA (32 Code of Federal Regulations part 775)	Navy	This Environmental Impact Statement (EIS) has been prepared in accordance with NEPA, Council of Environmental Quality regulations implementing NEPA, and Navy NEPA procedures. Public participation and review are being conducted in compliance with NEPA	Entire EIS
Executive Order 13045, Environmental Health Risks and Safety Risks to Children	Navy	The Navy does not anticipate any significant disproportionate health impacts to children caused by aircraft noise, and there no disproportionate environmental health and safety risk to children as a result of possible aircraft mishaps.	Sections 3.3 and 4.3, Public Health and Safety

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Clean Air Act (CAA) (42 U.S.C. section 7401 et seq.)	U.S. Environmental Protection Agency (USEPA)	The air quality analysis in the EIS concludes that proposed emissions contribute to regional emission totals and can affect compliance with National Ambient Air Quality Standards. The region is currently in attainment for all National Ambient Air Quality Standards, and the Northwest Clean Air Agency continues to monitor ambient air emission levels to confirm continued compliance.	3.4 and 4.4, Air Quality
Coastal Zone Management Act (CZMA) (16 U.S.C. section 1451 et seq.)	Washington State Department of Ecology	The Navy has determined that the Proposed Action to the maximum extent practicable is consistent with the enforceable policies of the State of Washington under this act. A Coastal Zone Consistency Determination is being prepared and submitted as part of this EIS. The outcome of the federal consistency process will be presented in the Final EIS.	3.5 and 4.5, Land Use Compatibility; 3.8 and 4.8, Water Resources; and Appendix G.
Town of Coupeville Zoning Ordinance (2016)	Coupeville	This EIS considers the areas outside of the installation fenceline that are impacted by Navy actions. The Navy has no impact on zoning determinations; however, through an AICUZ update process, the Navy would coordinate with local municipalities.	3.5 and 4.5, Land Use Compatibility

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
National Historic Preservation Act (Section 106, 54 U.S.C. 300101 et seq.)	Navy, Washington State Historic Preservation Office (SHPO), American Indian tribes and nations, and interested parties	<p>The Navy anticipates an overall finding of no adverse effect to historic properties.</p> <p>The Navy has initiated consultation with the Washington State Historic Preservation Officer, federally recognized tribes, and other interested parties. Consultation is being conducted in accordance with established operating procedures as noted in the Integrated Cultural Resources Management Plan (ICRMP) (Navy, 2014a).</p> <p>Consultation is ongoing.</p>	3.6 and 4.6, Cultural Resources
Archaeological and Historic Preservation Act (AHPA) of 1974	Navy in coordination with the National Park Service (NPS)	<p>The Navy anticipates that no adverse effect will occur to historic properties and that, overall, minimal to moderate impacts will occur to archaeological and architectural resources located on station and off station.</p> <p>In the event of an inadvertent discovery within NAS Whidbey Island, the Navy would adhere to the measures described in the ICRMP as Standard Operating Procedure No. 4: Accidental Discovery of Archaeological Sites (Navy, 2014a).</p>	3.6 and 4.6, Cultural Resources

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
<p>American Indian Religious Freedom Act of 1978</p>	<p>Navy and American Indian tribes and nations</p>	<p>As part of this EIS, the Navy has considered the potential presence of sacred/religious sites and has evaluated the potential of its action to impact access for members of American Indian tribes and nations.</p> <p>The Navy has initiated consultation with potentially affected American Indian tribes and nations to solicit any concerns they may have so that the Navy can more fully consider the extent of any potentially significant impacts to these resources.</p> <p>Consultation is being conducted consistent with existing policies, including COMNAVREG NW Instruction 11010.14.</p>	<p>3.6 and 4.6, Cultural Resources; 3.7 and 4.7 American Indian Traditional Resources</p>

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
Archaeological Resources Protection Act (ARPA) of 1979	Navy	<p>The Navy anticipates that no adverse effect will occur to historic properties and that, overall, minimal to moderate impacts will occur to archaeological and architectural resources located on station and off station.</p> <p>If further cultural resource investigations are needed, the Navy would adhere to the measures described in the ICRMP as Standard Operating Procedure No. 3: Compliance with the Archaeological Resources Protection Act of 1979 (Navy, 2014a).</p>	3.6 and 4.6, Cultural Resources, Appendix C, Section 106 Documentation

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
<p>Native American Graves Protection and Repatriation Act (NAGPRA) of 1990</p>	<p>Navy and American Indian tribes and nations</p>	<p>As part of this action, no artifacts or remains attributed to American Indian tribes or nations located within NAS Whidbey Island are anticipated to be impacted.</p> <p>The Navy has initiated consultation with American Indian tribes and nations as part of its responsibilities for government-to-government consultation. Consultation also is being conducted as per Section 106.</p> <p>In order to ensure compliance with this act, if items are identified, the Navy would adhere to the measures described in the ICRMP as Standard Operating Procedure No. 6: Compliance with the Native American Graves Protection and Repatriation Act of 1990 (Navy, 2014a).</p>	<p>3.6 and 4.6, Cultural Resources; 3.7 and 4.7 American Indian Traditional Resources</p>

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
Executive Order 13007, Indian Sacred Sites	Navy and American Indian tribes and nations	The Navy has initiated consultation with potentially affected American Indian tribes and nations to solicit any concerns they may have so that the Navy can more fully consider the extent of any potentially significant impacts to these resources. Consultation is being conducted consistent with existing policies, including COMNAVREG NW Instruction 11010.14.	3.6 and 4.6, Cultural Resources; 3.7 and 4.7 American Indian Traditional Resources
Indian Graves and Records (RCW 27.44)	Navy, State of Washington SHPO, and American Indian tribes and nations	No off-station resources of this nature will be directly impacted by the Proposed Action.	3.6 and 4.6, Cultural Resources
Archaeological Sites and Resources (RCW 27.53)	Navy and State of Washington SHPO	No off-station resources of this nature will be directly impacted by the Proposed Action.	3.6 and 4.6, Cultural Resources
Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60)	Navy and State of Washington SHPO	No off-station resources of this nature will be directly impacted by the Proposed Action.	3.6 and 4.6, Cultural Resources
Archaeological Site Public Disclosure Exemption (RCW 42.56.300)	Navy and State of Washington SHPO	Per its ICRMP and in its observance of other cultural resource laws, the Navy has guidance in place to allow for the protection of sensitive information, including for archaeological sites (Navy, 2014a).	3.6 and 4.6, Cultural Resources
Discovery of Human Remains (RCW 27.44)	Navy, State of Washington, and American Indian tribes and nations	No off-station resources of this nature will be directly impacted by the Proposed Action.	3.6 and 4.6, Cultural Resources

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
Executive Order 13175, Consultation and Coordination with Indian Tribal Governments	Navy	The Navy has invited American Indian tribes and nations to government-to-government consultation. Results of the consultation will be provided in the Final EIS.	3.7 and 4.7, American Indian Traditional Resources
Endangered Species Act (16 U.S.C. section 1531 et seq.)	U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)	The Navy has determined that the Proposed Action may affect, but is not likely to adversely affect, the humpback whale or Southern Resident killer whale and all ESA-listed fish species. The Navy has determined that the Proposed Action may affect the marbled murrelet and will consult the USFWS. Results of the consultation will be provided in the Final EIS.	3.8 and 4.8, Biological Resources
Marine Mammal Protection Act (16 U.S.C. section 1361 et seq.)	NMFS	The Navy has determined that the Proposed Action under each of the three alternatives would not result in reasonably foreseeable “takes” of marine mammals by harassment, injury, or mortality as defined under the Marine Mammal Protection Act (MMPA), including the 2004 military readiness amendment.	3.8 and 4.8, Biological Resources

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
Migratory Bird Treaty Act (16 U.S.C. sections 703-712)	USFWS	This EIS considers all impacts on MBTA-protected birds. For military readiness activities, DoD installations are exempt from the MBTA. The Proposed Action would not have significant impacts on MBTA-protected species at the population level. During construction, impacts on birds would be largely avoided and minimized and would not rise to the level of take. The Navy will consult with the USFWS. Results of the consultation will be provided in the Final EIS.	3.8 and 4.8, Biological Resources
Executive Order 13186, Responsibilities of the Federal Agencies to Protect Migratory Birds	Navy	This EIS considers all impacts on migratory birds. The Navy has a current Memorandum of Understanding with the USFWS with respect to this executive order.	3.8 and 4.8, Biological Resources
Bald and Golden Eagle Protection Act (16 U.S.C. section 668-668d)	USFWS	This EIS considers all impacts on eagles protected under this act and found that the Proposed Action is not to have any significant impacts on eagles. The Navy will consult with the USFWS. Results of the consultation will be provided in the Final EIS.	3.8 and 4.8, Biological Resources

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
Washington Administrative Code (WAC) 232-12-297 (WAC 232-12-014 and WAC 232-12-297)	Washington Department of Fish and Wildlife (WDFW), Natural Heritage Program	This EIS considers all impacts to protected species under this code. The WDFW Natural Heritage Program will have an opportunity to comment on this EIS, and responses will be provided in the Final EIS.	3.8 and 4.8, Biological Resources
Island County Critical Areas Ordinance (17.02)	Island County, WA	This EIS considers all habitat protected pursuant to this ordinance. Island County will have an opportunity to comment on this EIS, and responses will be provided in the Final EIS.	3.8 and 4.8, Biological Resources
Clean Water Act (33 U.S.C. section 1251 et seq.)	U.S. Environmental Protection Agency (USEPA); U.S. Army Corps of Engineers (USACE)	The Proposed Action is compliant to the extent practicable with the Clean Water Act.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Executive Order 11988, Floodplain Management	Navy	The Proposed Action would not impact floodplains or floodplain management.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Energy Independence and Security Act (EISA), Section 438	U.S. Department of Energy	Under the EISA, the Navy is following design requirements for development and redevelopment projects.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Safe Drinking Water Act of 1974	USEPA	This EIS considers impacts to groundwater and concludes that there will be no significant impacts to groundwater and aquifers from the Proposed Action.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Executive Order 11990, Protection of Wetlands	Navy	The Proposed Action would not impact wetlands.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Section 10 of the Rivers and Harbors Act	USACE	The Proposed Action would not impact waters of the U.S.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure

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<i>Federal, State, Local, and Regional Land Use Plans, Policies, and Controls</i>	<i>Regulatory Authority</i>	<i>Status of Compliance</i>	<i>Section of the EIS</i>
National Wild and Scenic Rivers Act (16 U.S.C. 12771 et seq.)	U.S. Department of the Interior, Bureau of Land Management; National Park Service; USFWS; and U.S. Forest Service	The Proposed Action would not impact national wild or scenic rivers.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Farmland Protection Policy Act (FPPA) (7 U.S.C. 4201, et seq.)	U.S. Department of Agriculture, Natural Resources Conservation Service	The Proposed Action would not impact prime farmland.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Water Resources Act of 1971 (Chapter 90.54 RCW)	State of Washington, Department of Ecology	The Proposed Action would not impact water resources covered under this act.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Water Code, enacted in 1917 (90.03 RCW),	State of Washington, Department of Ecology	The Proposed Action would not impact water resources covered under this code.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Washington National Pollutant Discharge Elimination System stormwater program	State of Washington, Department of Ecology	The Proposed Action is compliant to the extent practicable with the Clean Water Act (CWA).	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure
Water Pollution Control Act, Model Toxic Control Act, and Puget Sound Water Quality Authority Act; the Sediment Management Standards established standards for the quality of surface sediments	State of Washington	The Proposed Action is compliant to the extent practicable with the CWA.	3.9 and 4.9, Water Resources; 3.12 and 4.12, Infrastructure

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Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations	Navy	Environmental Justice communities exist under the affected area from the Proposed Action. The Navy has concluded that although there are environmental justice communities within the affected area and there are significant impacts outlined within the EIS to populations living within the affected area (noise impacts to those living within the 65 dB DNL noise contours and overcrowding at Oak Harbor School District schools), these impacts do not disproportionately impact environmental justice communities.	3.10 and 4.10, Socioeconomics; 3.11 and 4.11, Environmental Justice
RCW 36.70A: The 1990 Growth Management Act requires that level of service (LOS) standards be established for all arterials and transit routes	Washington State Department of Transportation (WSDOT)	This EIS concludes that there would be no roads that would reach an LOS below the previously identified standard.	3.12 and 4.12, Transportation
Chapter 15.01, Stormwater Management Program	Island County, Washington	The Navy will comply with all local laws and any additional regulations as required during construction.	3.13 and 4.13, Infrastructure
Chapter 15.03, Management of Surface Water Drainage	Island County, Washington	The Navy will comply with all local laws and any additional regulations as required during construction.	3.13 and 4.13, Infrastructure
Defense Environmental Restoration Program (DERP) Installation Restoration Program	Department of Defense	The Navy will continue to comply with the DERP.	3.15 and 4.15, Hazardous Materials and Waste

6.2 Irreversible or Irretrievable Commitments of Resources

Resources that are irreversibly or irretrievably committed to a project are those that are used on a long-term or permanent basis. This includes the use of non-renewable resources such as metal and fuel, and natural or cultural resources. These resources are irretrievable in that they would be used for this project when they could have been used for other purposes. Human labor is also considered an irretrievable resource. Another impact that falls under this category is the unavoidable destruction of natural resources that could limit the range of potential uses of that particular environment.

Implementation of the Proposed Action would involve human labor; the consumption of fuel, oil, and lubricants during construction of facilities and operation of the new aircraft. Implementation of the Proposed Action would not result in significant irreversible or irretrievable commitment of resources.

6.3 Unavoidable Adverse Impacts

This Environmental Impact Statement (EIS) has determined that the alternatives considered may result in significant impacts with respect to noise and education from implementation of the action alternatives. Avoidance and minimization of adverse impacts were integrated into the development of the action alternatives and existing Navy policy to the greatest extent practicable and were successful in many resource areas where there are impacts to the resource, but with compliance with local regulations and/or existing Navy management strategies, these impacts were minimized or not determined to be significant. Significant adverse impacts may not always be completely avoided, as with impacts to education and impacts on the community from noise from implementation of the action alternatives. These impacts are summarized by resource area below. All impacts from the implementation of the action alternatives are described in detail in Chapter 4 of this EIS.

Noise Associated with Aircraft Operations

Implementation of the Proposed Action would increase noise perceived in the region. New areas that were not previously impacted by noise generated by Navy aircraft operations would be under the 65 decibel (dB) day-night average sound level (DNL) noise contour. Although some of these areas are over water, others are over land and would therefore result in additional people living within the 65 dB DNL noise contour.

Additional supplemental metrics were utilized to identify potential impacts from noise exposure that could be realized under the action alternatives. These include additional events of indoor and outdoor speech interference, an increase in the number of events causing classroom/learning interference, an increase in the probability of awakening, and an increase in the population that may be vulnerable to potential hearing loss of 5 dB or more.

With respect to recreation, noise may detract from the experience and enjoyment of visitors to parks and their perception of a landscape. Studies of the effects of aircraft noise on outdoor recreation outside of wilderness areas are limited; however, aircraft noise has been found to be a primary environmental factor causing visitors to parks to become annoyed and may detract from their overall experience of a park or recreational activity. Studies of aircraft noise effects on outdoor recreationists show that reported annoyance by outdoor recreationists or changes in their use of parks and other outdoor recreation areas depend upon multiple factors such as their frequency of use of the recreation area, the recreation activities in which they are engaged, and the degree of change in noise exposure. People who use a park less frequently are more likely to change their patterns of use in response to

changes in noise exposure. The type of activity also plays a role in response to noise, with outdoor recreationists who value natural experiences more likely to change their patterns of use in response to aircraft operations. Overall, implementation of the Proposed Action at Naval Air Station (NAS) Whidbey Island would result in localized significant impacts to recreation at one county park, Driftwood Park, under Scenarios A and B, regardless of alternative selected, as a result of increased noise exposure.

Education

In Oak Harbor by 2021, it is estimated that enrollment of the elementary schools will again exceed the designed capacity by approximately 600 students (Gibbon, 2016). Given this serious overcrowding issue already facing the Oak Harbor School District, the potential increase of between 135 and 242 additional students would further exacerbate the overcrowding problem and have a substantial negative impact on the district. The majority of the additional students would be elementary-school-aged, further skewing the district's enrollment in favor of the younger grades. Additional portable classrooms would have to be purchased, and additional staff would need to be hired to accommodate these students. Because state aid and federal impact aid have been at a static or declining per-pupil level, additional local funding sources would likely be required to finance the additional expenditures, if present programming is to be maintained.

This EIS does not identify any mitigation measures for the implementation of action alternatives but does identify measures that could be taken to develop suggested mitigation techniques. As the National Environmental Policy Act (NEPA) process continues, mitigation measures may be developed and altered based on comments received during public and regulatory agency review of the EIS. If mitigation measures were identified during this process, they would be identified in the Final EIS or Record of Decision. These measures would be funded, and efforts to ensure their successful completion or implementation would be treated as compliance requirements.

6.4 Relationship between Short-Term Use of the Environment and Long-Term Productivity

NEPA requires an analysis of the relationship between a project's short-term impacts on the environment and the effects that these impacts may have on the maintenance and enhancement of the long-term productivity of the affected environment. Impacts that narrow the range of beneficial uses of the environment are of particular concern. This refers to the possibility that choosing one development site reduces future flexibility in pursuing other options or that using a parcel of land or other resources often eliminates the possibility of other uses at that site.

In the short-term, effects to the human environment with implementation of the Proposed Action would primarily relate to the construction activity itself. Construction activities under the action alternatives as well as relocation of personnel and aircraft would temporarily increase air pollution emissions and noise in the immediate vicinity the affected area and would be short term in nature. Depending on their location, humans and animals would experience increased levels of noise during airfield operations. Terrestrial wildlife, including small mammals, reptiles and amphibians, and breeding birds, and marine species are not expected to see changes in long-term productivity from the implementation of the Proposed Action because local wildlife are already exposed to a high level of long-term air operations and other human-made disturbances. The wildlife has presumably habituated to the very high level of noise and visual disturbances at NAS Whidbey Island. There would be minimal habitat and vegetation removal from construction activities because all construction would occur along the existing flight line.

Implementation of any of the action alternatives would increase the flight activity in and around NAS Whidbey Island airspace. Implementation of the action alternatives may require development of Accident Potential Zones at Outlying Landing Field (OLF) Coupeville and would increase noise in the area at both Ault Field and OLF Coupeville during operations. Through implementation of the Air Installation Compatible Use Zone update process, areas may be identified to have future land use restrictions in order to remain compatible with the Navy's mission. These restrictions have the potential to impact future development in the area.

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