

**FINDING OF NO SIGNIFICANT IMPACT FOR ENVIRONMENTAL ASSESSMENT
FOR THE REVISED MANAGEMENT PLAN AND REGULATIONS FOR MONTEREY
BAY NATIONAL MARINE SANCTUARY**

**National Oceanic and Atmospheric Administration
Office of National Marine Sanctuaries**

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I. Introduction

This document comprises the National Oceanic and Atmospheric Administration’s (NOAA’s) Finding of No Significant Impact (FONSI) for the environmental assessment (EA) for revised management plan and regulations for Monterey Bay National Marine Sanctuary (MBNMS). This document includes a brief description of the proposed action, an evaluation of the significance criteria, and the rationale for the finding of no significant impact.

This FONSI is issued pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR Parts 1500-1508 (“CEQ regulations”), and NOAA’s procedures for implementing NEPA set forth in NOAA Administrative Order (NAO) 216-6A and the NOAA NEPA Companion Manual.

NOAA prepared the environmental assessment and FONSI using the 1978 CEQ NEPA Regulations. NEPA reviews initiated prior to the effective date of the 2020 CEQ regulations may be conducted using the 1978 version of the regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020. The review of this action under NEPA began on September 17, 2015 when NOAA issued a Notice of Intent to initiate review of the MBNMS management plan. As such, NOAA decided to proceed with this NEPA review under the 1978 regulations.

The environmental assessment is incorporated by reference here. The environmental assessment evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude).

II. Proposed Action

NOAA’s Office of National Marine Sanctuaries’ (ONMS) proposed action is to update management activities occurring within MBNMS conducted by NOAA staff that are related to research, monitoring, education, outreach, community engagement, and resource protection. The

proposed management activities include adopting and implementing a new sanctuary management plan, as well as updating sanctuary regulations. The objective of NOAA's proposed action is to continue the protection of living marine resources, their habitats, and nationally significant seascapes and shipwrecks in MBNMS, while allowing compatible recreational and commercial uses, as envisioned in the National Marine Sanctuaries Act (NMSA). The proposed action would guide management decision-making and contribute to the attainment of the goals and objectives of the NMSA and the purposes for which MBNMS was established.

NOAA's preferred alternative is Alternative C. Implementing Alternative C will enable NOAA to revise the sanctuary management plan and propose updates to the regulations as necessary to fulfill the purposes and policies of the NMSA, as required by Section 304(e) of the NMSA (16 U.S.C. § 1434(e)). Alternative C specifically includes: (1) implementing a revised sanctuary management plan; (2) continued field activities to manage the sanctuary; and, (3) revising sanctuary regulations to address resource protection concerns at MBNMS and minor technical corrections. The proposed regulatory changes will:

- make available an additional option for addressing shoreline erosion in the sanctuary by clarifying NOAA's ability to review and approve the application of suitable dredged material from four harbors adjacent to MBNMS for habitat protection or restoration projects;
- allow modest and limited increased access for motorized personal watercraft users at the Mavericks surf zone (MPWC Zone 5) by reducing the requirement of High Surf Warning conditions to High Surf Advisory conditions;
- improve buoy station integrity and reduce the likelihood of detached buoys by changing the configuration of four motorized personal watercraft zones; and
- correct the existing regulations, which incorrectly state that the Department of Defense's exempted activities appear in the 2008 final environmental impact statement.

In the environmental assessment, NOAA analyzed in detail two additional alternatives:

- Alternative A: No action with continued implementation of routine field activities, the 2008 sanctuary management plan, and existing sanctuary regulations.
- Alternative B: Continued implementation of routine field activities and existing sanctuary regulations, and adoption of a revised sanctuary management plan.

The proposed action and alternatives are described in further detail in Chapter 3 of the environmental assessment.

III. Evaluation of Significance Criteria

The 1978 CEQ Regulations state the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 C.F.R. § 1508.27). In addition, the NOAA NEPA Companion Manual for NAO 216-6A provides six

additional criteria for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

1. Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?

The proposed action is not expected to cause any impacts that overall may result in a significant effect. NOAA's analysis found all impacts, both beneficial and adverse, to be less than significant. The alternatives analyzed (Chapter 5) are sequentially more protective of the resources in MBNMS, while also providing opportunities for improved recreation and public access to the sanctuary and adjacent shorelines. The continued operation and management of MBNMS (under alternatives A, B, and C), the revision of the sanctuary management plan (under alternatives B and C), and adoption of revised regulations (under Alternative C) would have an overall beneficial effect on resources within the sanctuary. Because the management plan is a broad guidance document, many of these anticipated beneficial effects would be indirect, resulting from MBNMS efforts to 1) improve public understanding of ocean stewardship issues; 2) further scientific understanding of sanctuary ecosystems and cultural and historical resources; 3) implement resource protection and maritime heritage programs; and 4) implement regulations to limit stressors on marine resources.

The beneficial effects of the alternatives analyzed would be less than significant, based on the criteria for significance considered in the environmental assessment, because the sanctuary management actions are relatively small in scope and intensity, and their effects are not likely to result in a substantial, measurable improvement in resource health and protection over the five- to ten- year life of the proposed management plan.

In addition to these beneficial effects, some actions proposed under all alternatives would have adverse effects on resources. These adverse effects include: disturbance of the seafloor and benthic habitat from marker buoy deployment and sampling activities and disturbance of wildlife through research and monitoring of species. In all cases, adverse effects were found to be less than significant because NOAA conducts these activities on a small scale and in a manner that implements best practices to substantially minimize the risks of impacts to resources.

NOAA also found the cumulative effects of the actions proposed under all three alternatives would be less than significant because the effects of MBNMS actions (both beneficial and adverse) are small in scale and localized. Thus, the addition of these minor effects to those of other similar activities occurring in the sanctuary would not significantly alter the cumulative effects of these activities overall.

2. Can the proposed action reasonably be expected to significantly affect public health or safety?

NOAA's analysis on impacts on the Human and Socioeconomic Setting (Section 5.4.3) found that the proposed regulatory change would result in beneficial impacts to the human and socioeconomic setting by reducing the number of buoys deployed and the associated risk of navigational hazards and interactions with ongoing human uses in or adjacent to the zones. These beneficial impacts would be less than significant because of the small footprint of mooring buoys used in MBNMS and the small total number of buoys deployed. NOAA's analysis found implementing the proposed action would not result in significant adverse impacts to public health or safety. Additionally, any contribution to local air pollution from emissions from MBNMS vessels involved in sanctuary management actions would be negligible and would not conflict with nor obstruct implementation of the applicable air quality plans for National Ambient Air Quality Standards for the North Central Coast and South Central Coast air basins. The proposed action will not generate air pollutants or greenhouse gas emissions in an amount that could have a significant impact on the environment.

3. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

The activities proposed in the revised sanctuary management plan would provide NOAA with increased information to inform resource protection decisions, as well as promote ocean literacy and stewardship. These activities would improve the understanding, management, and protection of sanctuary resources and provide less than significant beneficial impacts to the living marine resources and habitats in MBNMS. For example, implementing a new sanctuary management plan will provide benefits to the unique characteristics of MBNMS and the adjacent coastline by improving awareness and protection of important cultural and natural resources, outlining best management practices for farmlands adjacent to the sanctuary's coastal, marine and wetland habitats, and furthering protection of ecologically critical areas within and outside of sanctuary boundaries. NOAA's analysis found implementing the proposed action would not result in significant adverse impacts to the unique characteristics of the geographic area.

4. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

None of the proposed action's effects are likely to be highly controversial. NOAA published a Notice of Proposed Rulemaking, Draft Management Plan, and Draft Environmental Assessment in July 2020 and received comments from members of the public and stakeholders. None of these comments raised concerns that the proposed action's effects are likely to be highly controversial. NOAA has made modifications to the proposed action based on input received and internal agency analysis, as described in Section 3.1.1 of the environmental assessment.

5. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The effects of the proposed action do not involve unique or unknown risks. The proposed action is an update of the existing management plan that has been the basis of sanctuary management since 2008. Many specific activities proposed to implement the new sanctuary management plan are a continuation of or minor modification of existing management activities. Therefore, risks for related activities are well known.

6. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

The proposed action will not establish a precedent for future actions with significant effects. NOAA defined the scope of the environmental analysis in Section 1.5 of the environmental assessment, including the geographic scope of the affected environment, and the specific activities within the scope of the analysis of environmental consequences. The activities within the scope of the proposed action include routine field activities, updating the sanctuary management plan, and updating sanctuary regulations. Section 1.5 of the environmental assessment also describes how, when new activities arise, NOAA will assess whether their effects are adequately addressed in this environmental assessment. If they are not, NOAA will conduct additional environmental reviews, and develop independent environmental compliance and consultation documentation, as needed.

Specifically, this proposed action to modify MBNMS regulations does not authorize or approve the beneficial use of dredged material that has been deemed suitable by the Director for individual habitat protection or restoration projects in the sanctuary. Any proposed beneficial use project would undergo an individual review under NEPA, any other applicable statutes and regulations, and would have to meet NOAA's permitting and/or authorization criteria. At that time, NOAA would prepare additional NEPA documentation as needed, consistent with the expected significance of a proposed project's environmental impacts to the sanctuary.

7. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?

The proposed action will not have cumulatively significant impacts when considered together with other related projects. NOAA's Cumulative Effects Analysis (Section 5.6) assessed past, present, and future foreseeable projects by topic area, and found that actions that could contribute to cumulative impacts were similar in scope and type to the proposed action. These other federal and non-federal actions relate to management and research activities in coastal and offshore environments. The projects expected to contribute to cumulative impacts are likely to have similar types of impacts on the resources within the study area, would affect similar resources to those that are affected by the proposed action, or are large enough to have far-reaching effects on

a resource. NOAA found that the combination of implementation of the alternatives with the other related projects would result in less than significant cumulative beneficial impacts to the physical, biological, historical and cultural, and socioeconomic settings, as well as to existing human uses of the sanctuary. The proposed action's contribution to any adverse cumulative impacts would be minor and therefore not significant.

8. Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

The proposed action would not be expected to adversely affect structures or objects listed or eligible for listing in the National Register of Historic Places nor would it cause the loss or destruction of significant scientific, cultural, or historical resources. In coordination with the California State Historic Preservation Officer, NOAA determined that the proposed action to adopt a new sanctuary management plan and modify sanctuary regulations was not an undertaking with the potential to affect historic properties, per the National Historic Preservation Act.

As described in Section 1.5.4 of the environmental assessment, when individual projects arise out of implementing the new sanctuary management plan, NOAA will evaluate the impacts of any proposed project on historical and cultural resources in detail upon submission of specific project proposals and would conduct a Section 106 consultation under the National Historic Preservation Act, as needed. Specifically, if NOAA were to conduct or authorize activities involving systematic, planned physical disturbance of the seafloor, these activities would require a sanctuary permit and would be evaluated in advance for proximity to locations of properties listed on the National Register of Historic Places.

Regarding the regulatory changes involved in the proposed action, NOAA's analysis of boundary changes to Motorized Personal Watercraft Zone MPWC (Section 5.4.4.1) found that reducing the number of buoy stations marking MPWC zone boundaries would result in beneficial impacts to the historical and cultural setting by reducing the volume and severity of impacts to the seafloor from buoy deployment and incidental damage from mooring station failures. Specifically, this action would reduce the risk of potential disturbance of historical shipwrecks or cultural resources that may be present on the seafloor from buoy failures or chain drag along the seafloor. These beneficial impacts would be less than significant because of the small footprint of mooring buoys used in MBNMS and the small total number of buoys deployed.

NOAA's analysis of the regulatory clarification and new definition related to beneficial use of dredged materials found that temporary disturbance of the seafloor could create the potential for damage to cultural and historic sites during the placement of the sediment for a given project. NOAA expects that these adverse impacts would be negligible or less than significant. However,

as described above, individual beneficial use projects for habitat protection or restoration would be reviewed under all applicable environmental statutes at the time a project is proposed. In implementation of Section 106 of the National Historic Preservation Act, NOAA notified the California State Historic Preservation Officer of this determination upon publication of the proposed rule and draft management plan. The State Historic Preservation Officer reviewed NOAA's determination and notified NOAA by letter on January 15, 2021, that they have no comments for this action. If specific projects do arise out of management plan implementation, NOAA will conduct Section 106 consultation at that time, as needed.

9. Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?

NOAA identified 5 species listed under the Endangered Species Act (ESA) under U.S. Fish and Wildlife Service (USFWS) jurisdiction and 23 ESA-listed species (or distinct population segments/evolutionarily significant units) under NOAA National Marine Fisheries Service (NMFS) jurisdiction that are found in the project action area and could be affected by the proposed action. NOAA's analysis in Section 5.5 of the EA found the proposed action would not adversely affect endangered or threatened species or their critical habitat protected under the ESA because any impacts on these species from implementing Alternative C would be discountable, insignificant, or wholly beneficial.

In general, implementing Alternative C to conduct sanctuary management activities under a revised sanctuary management plan and regulations would have a beneficial impact on listed species in the sanctuary because it would continue to protect important foraging and breeding groups within coastal and shoreline habitats and contribute to improvements in water quality. Some sanctuary operational activities have the potential to generate noise or other disturbances to listed species, however, these activities would be of limited duration, and ONMS staff would implement best management practices to minimize potential disturbance and impacts. Temporary and negligible adverse impacts to sediment and water quality, such as increased turbidity, may occur in implementation of beneficial use habitat protection and restoration projects. However, any future beneficial use project would be subject to sanctuary permit and/or authorization requirements, an assessment by ONMS of the suitability of the sediment to ensure that it matches the physical properties of native sediments at any planned receiving sites and meets sanctuary water quality objectives, a project-specific environmental review, and permitting and review by other federal, state, and local agencies, as appropriate.

As part of informal consultation under Section 7 of the ESA, NOAA NMFS and USFWS concurred with ONMS conclusions that the proposed action is not likely to adversely affect both NMFS ESA-listed species and/or designated critical habitat, and USFWS ESA-listed species and

designated critical habitat. Section 1.8.1 of the EA summarizes the informal consultation process completed.

10. Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?

The proposed action does not threaten a violation of Federal, state, or local law requirements imposed for the protection of the environment. The environmental assessment describes NOAA's compliance with applicable laws and regulations.

11. Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?

NOAA's analysis (Section 5.5) found implementing the proposed action would not adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act. Based on that analysis NOAA ONMS determined that potential impacts to marine mammals did not rise to a level that required consultation under MMPA.

12. Can the proposed action reasonably be expected to adversely affect managed fish species?

NOAA analysis in Sections 5.2.2, 5.3.2, and 5.4.2, found that impacts of sanctuary management actions on fish would be minor, and not significant. Possible impacts could include: staff conducting scuba and snorkel operations may temporarily affect the behavior of fish, or, research vessels transiting the sanctuary and humans conducting sampling or monitoring could cause fish to temporarily flee from the area where activities are occurring. Because of the low intensity and frequency of sanctuary management activities that would occur annually, any such disturbance would be temporary and would not impact the ability of a managed fish species to forage or reproduce.

13. Can the proposed action reasonably be expected to adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?

ONMS's coordination with NOAA NMFS on potential impacts of the proposed action on essential fish habitat (EFH) is outlined in Section 1.8.3. Additionally, Section 5.5.5 describes the potential impacts of the proposed action on designated EFH and the existing General Concurrence for the impacts of routine operational activities on EFH in the West Coast national marine sanctuaries. ONMS's analysis found that any adverse effects on EFH from implementing the proposed action will be no more than minimal. NMFS reviewed this analysis and provided concurrence by letter that the proposed revisions to the MBNMS management plan and regulations would not adversely affect EFH. NMFS also determined that the routine field activities continue to meet the criteria under 50 CFR 600.920(g)(2) and qualify for inclusion in the General Concurrence, except for the removal of large marine debris and the removal or

relocation of grounded vessels. For those two categories of activities, ONMS would conduct individual consultations with NMFS for potential impacts on EFH, as appropriate.

14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?

NOAA analysis (Section 5.7) found that some actions proposed under all alternatives would have less than significant adverse effects on resources. These adverse effects include: disturbance of the seafloor and benthic habitat from marker buoy deployment and sampling activities and disturbance of wildlife through research and monitoring of species, including those of deep coral ecosystems. In all cases, adverse effects were found to be less than significant because NOAA conducts these activities on a small scale and in a manner that implements best practices to substantially minimize the risks of impacts to resources.

15. Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?

The proposed action would not adversely affect biodiversity or ecosystem functioning. The overall goals of sanctuary management, and desired effects of the proposed action, are to protect biodiversity, and ecosystem functioning. NOAA's analysis of field activities and management plan activities (Section 5.2) found that any adverse impacts would be negligible or minor and less than significant.

16. Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

The proposed action would not reasonably be expected to result in the introduction or spread of a nonindigenous species because there are no activities that will introduce nonindigenous species into the project area. The management plan includes an Introduced Species Action Plan, which outlines efforts to prevent introduction of introduced species (i.e., nonindigenous species).

IV. Conclusion

In the EA, NOAA analyzed the effects on the physical, biological, human/socioeconomic, and historical/cultural settings from three alternatives under consideration. Effects were classified as beneficial or adverse, direct or indirect, and significant or less than significant (as defined in Section 5.1.2). Additionally, in Section 5.6, NOAA analyzed the cumulative effects of the actions proposed under all three alternatives within the context of other federal and non-federal activities occurring in the sanctuary. In all cases, the effects of all three alternatives were found to be less than significant, as summarized Table 7.

Based on the information presented in this FONSI and analysis contained in the supporting environmental assessment, NOAA concludes that adopting a revised management plan and regulations for MBNMS **will not significantly impact the quality of the human environment**. Accordingly, preparation of an environmental impact statement for this action is not necessary.

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Date