

Spreadsheet of Potential Authorities (e.g. Statutes, Executive Orders) to Address Ocean Noise Issues*

*Note: This spreadsheet is an initial survey of potential authorities, and the authorities may not be applicable to address all instances of ocean noise.

Authority	Pertinent Language	Citation	Comments
Domestic Authority			
Marine Mammal Protection Act		16 U.S.C. § 1361 et seq.	
Incidental Take Authorizations	The Secretary of Commerce must allow, 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) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review. (Military readiness activities are exempt from the “small numbers” and “specified geographical region” limitation.)	16 U.S.C. § 1371(a)(5)(A) & (D)	NOAA must conduct an analysis to ensure taking 1) will have “negligible impact” on relevant species or stock and 2) will not have an “unmitigable adverse impact” on the availability of those species or stocks for subsistence uses; NOAA authorizations must prescribe “the means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance . . .” (i.e., mitigation). Authorizations must include requirements for monitoring and reporting.
Permits for Incidental Taking or Importation of Marine Mammals in the Course of Commercial Fishing Operations	Permits for the incidental taking or importation of marine mammals in the course of commercial fishing operations shall specify “(D) any other terms or conditions which the Secretary deems appropriate.”	16 U.S.C. § 1374(b)(2)(D)	The Secretary of Commerce can require mitigation of noise impacts during the course of commercial fishing operations as part of granting this permit.
General Rulemaking Authority	The Secretary of Commerce, in consultation with any other affected Federal agency, “shall prescribe such regulations as are necessary and appropriate to carry out the purposes of [Title I of the Act].”	16 U.S.C. § 1382(a)	Previously used as authority to issue the right whale ship-strike rule. This authority is also utilized by the NMFS Office of Sustainable Fisheries, Office of Protected Resources, and Office of Habitat Conservation.
Cooperation by Federal agencies	“Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this subchapter.”	16 U.S.C. § 1382(b)	
Cooperative Agreement	“The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of [title I] or title IV and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.”	16 U.S.C. § 1382(c)	Establishing cooperative agreements with states, Alaska Natives, and other partners regarding marine mammal resources

Authority	Pertinent Language	Citation	Comments
Measures to Alleviate Impacts on Strategic Stocks	"If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment."	16 U.S.C. § 1382(e)	
Conservation Plans; Preparation and Implementation	"(2) Each [conservation] plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under [section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))]."	16 U.S.C. § 1383b(b)(2)	The ESA at 16 USC 1533(f)(1)(B)(i) says recovery plans shall incorporate "a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species." MMPA conservation plans could have similar site-specific management actions to reduce ocean noise as a means to promote the conservation of the species or stock.
Stock Assessments	"Each draft stock assessment, based on the best scientific information available, shall—(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;"	16 U.S.C. § 1386(a)(3)	Can use stock assessments to identify sources of ocean noise that are having effects on marine mammal habitat or prey.
Regional Scientific Review Groups	"The regional scientific review groups shall advise the Secretary on--(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock . . . (D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations; (E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and (F) any other issue which the Secretary or the groups consider appropriate."	16 U.S.C. § 1386(d)(1)	Research ways ocean noise is affecting marine mammals and ways can modify those practices. This includes impacts on habitat, the marine environment, and specific marine mammal species or stocks.

Authority	Pertinent Language	Citation	Comments
Collecting Information on Marine Mammal Health and Stranding	"The Secretary shall, in consultation with the Secretary of the Interior, collect and update periodically, existing information on . . . (2) appropriate scientific literature on marine mammal health, disease, and rehabilitation; (3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and (4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters."	16 U.S.C. §1421a(b)	Collect information on marine mammal health and strandings to determine if ocean noise is the cause of harm.
Stranding Response Agreements	"The Secretary may enter into an agreement under section 1382 (c) of this title with any person to take marine mammals under section 1379 (h)(1) of this title in response to a stranding."	16 U.S.C. § 1421b	Might have some responsibility to do noise assessment as part of entering into such an agreement.
Endangered Species Act		16 U.S.C. § 1531 et seq.	
Purposes and Policy	"(b) Purposes. The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section. (c) Policy. (1) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered and threatened species and shall utilize their authorities in furtherance of the purposes of this Chapter."	16 U.S.C. § 1531(b)-(c)(1)	General statements of purpose and policy. Typically used as background or support in legal arguments.
Determination of Endangered and Threatened Species	"(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors: (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; (E) other natural or manmade factors affecting its continued existence."	16 U.S.C. § 1533(a)(1)	(a)(1)(A) & (E) are particularly applicable to addressing ocean noise

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What Qualifies as Critical Habitat	ESA requires the Federal government to the "maximum extent prudent and determinable" designate "critical habitat" for any species it lists under the ESA. Critical Habitat is defined as: (1) specific areas within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species if the agency determines that the area itself is essential for conservation."	16 U.S.C. § 1533(a)(3)	Note the exceptions specified in 16 U.S.C. § 1533(a)(3)(B) to what the Secretary shall designate as critical habitat. Also designations must be based on the best scientific data available but "after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat." 16 U.S.C. § 1533(b)(2). Once designated, Section 7 of the ESA says all Federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to destroy or adversely modify critical habitat. Critical habitat requirements do not apply to citizens engaged in activities on private land that do not involve a Federal agency.
Review of Listed Species	"The Secretary shall— (A) conduct, at least once every five years, a review of all [listed] species . . . and (B) determine on the basis of such review whether any such species should "be removed from such list [or be changed in status from endangered to threatened or vice versa]."	16 U.S.C. § 1533(c)(2)	
Protective Regulations for Threatened Species	"Whenever any species is listed as a threatened species . . . the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants, with respect to endangered species; except that with respect to the taking of resident species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 6(c) of this Act only to the extent that such regulations have also been adopted by such State."	16 U.S.C. 1533(d)	

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Recovery Plans	"The Secretary shall develop and implement plans (hereinafter in this subsection referred to as "recovery plans") for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable— (A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity; (B) incorporate in each plan— (i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species; (ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and (iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal."	16 U.S.C. § 1533(f)	"Site-specific management actions" can include actions to reduce ocean noise.
Monitoring Recovered Species	(1) The Secretary shall implement a system to monitor effectively for not less than five years the status of all species which have recovered (i.e., been removed from either the threatened or endangered lists) . . . 2) "The Secretary shall make prompt use of the authority under Paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species."	16 U.S.C. § 1533(g)(1)-(2)	Paragraph 7 of subsection (b) refers to emergency regulations that take effect immediately upon the publication of the regulation in the Federal Register. These emergencies pose a significant risk to the well-being of any species of fish or wildlife or plants. If the monitoring of recovered species shows that ocean noise is posing a significant risk to the well being of recovered species, this section could be used to promulgate emergency regulations to address the ocean noise.
Management Agreements with States	"The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species."	16 U.S.C. § 1535(b)	NOAA can provide support to states through cooperative agreements to conduct listed species research and conservation actions. Limited by available funding and priorities.
Cooperative Agreements with States	"[T]he Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species."	16 U.S.C. § 1535(c)	Cooperative agreements between the federal government and any state could be signed that addressed ocean noise for the conservation of endangered species and threatened species.

Authority	Pertinent Language	Citation	Comments
Allocation of Funds to States	"The Secretary is authorized to provide financial assistance to any state . . . To assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species . . . and recovered species"	16 U.S.C. § 1535(d)	Several considerations listed in the Statute as the Secretary decides whether or not to provide financial assistance to a state that has a program addressing ocean noise.
Interagency Cooperation, Federal Agency Actions and Consultations	"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this [Act]. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species"	16 U.S.C. § 1536(a)(1)	Support for using programs and authorities to address ocean noise impacting endangered and threatened species.
Consultation with Federal Agencies	"Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat of such species"	16 U.S.C. § 1536(a)(2)	As discussed below, pursuant to 16 U.S.C. § 1536(b), if jeopardy or adverse modification is found, the Secretary must provide "reasonable and prudent alternatives"; if no jeopardy or adverse modification, the Secretary may include in the incidental take statement "reasonable and prudent measures" as necessary and appropriate, to minimize the impact of the take, and must specify the terms and conditions required to implement the measures.
Biological Opinion	Secretary shall provide a written statement "detailing how the agency action affects the species or its critical habitat." If jeopardy or adverse modification is found, the Secretary shall suggest "reasonable and prudent alternatives" that would not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.	16 U.S.C. § 1536(b)(3)(A)	The biological opinion can be used to identify the impact of ocean noise and can lead to the identification of reasonable and prudent alternatives that minimize this impact.
Incidental Take Statement	If the Secretary determines the proposed action will result in the incidental taking of a listed species but will not cause jeopardy, it must include in its Biological Opinion an "incidental take statement" specifying, among other things, "the impact of such incidental taking on the species affected," "those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact," and "the terms and conditions . . . that must be complied with by the Federal agency or applicant . . . to implement [the reasonable and prudent measures to minimize impact]."	16 U.S.C. § 1536(b)(4)	If the incidental taking of species is due to ocean noise, the Secretary can specify reasonable and prudent measures in the incidental take statement that the applicant must take to minimize that impact.

Authority	Pertinent Language	Citation	Comments
Financial Assistance to Worldwide Efforts	The President may use foreign currencies accruing to the United States government to provide to any foreign country "assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered or threatened species"	16 U.S.C. § 1537(a)	Although the money source is limiting, the President can take unilateral action to provide assistance to conservation programs in other countries, which may include conservation programs addressing ocean noise.
Encouragement of Foreign Programs	"The Secretary, through the Secretary of State, shall encourage—(1) foreign countries to provide for the conservation of fish or wildlife and plants including endangered species and threatened species listed pursuant to section 1533 of this title; (2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and (3) foreign persons who directly or indirectly take fish or wildlife or plants in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife or plants and their habitat."	16 U.S.C. § 1537(b)	Subsection (b)(2) could be used to enter into a bilateral or multilateral agreement with foreign countries to provide for conservation by addressing ocean noise.
Incidental Take Permit	The Secretary may permit the taking of federally listed wildlife or fish if such taking is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." The statute then requires the applicant to submit a Conservation Plan that includes steps the applicant will take to minimize and mitigate such impacts as well as what alternative actions the applicant has considered. Then, among other requirements, if the Secretary finds "the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking," the Secretary shall issue the permit.	16 U.S.C. § 1539(a)(1)(B)-(a)(2)(B)	The Conservation Plan submitted to obtain an incidental take permit can include ways to minimize and mitigate ocean noise.
Direct Take Permit	The Secretary may permit the taking of federally listed wildlife or fish if it is "for scientific purposes or to enhance the propagation or survival of the affected species" The statute has the same requirements in (a)(2) to obtain a direct take permit as it does to obtain an incidental take permit (see directly above).	16 U.S.C. § 1539(a)(1)(A) & (a)(2)(A)-(B)	
Regulations for Enforcement	The Secretary, Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating may issue "such regulations as may be appropriate to enforce this Act."	16 U.S.C. § 1540(f)	Cited (along with 16 U.S.C. 1382(a) of the MMPA) as authority pursuant to which NOAA issued its final rulemaking regarding speed restrictions to reduce the threat of ship collisions with North Atlantic right whales.

Authority	Pertinent Language	Citation	Comments
National Marine Sanctuaries Act		16 U.S.C. § 1431 et seq.	
Consultation Requirement - Secretary's Recommended Alternatives and Failure to Follow the Alternatives	"If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall . . . recommend reasonable and prudent alternatives . . . If . . . a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the . . . loss of, or injury to a sanctuary resource, the . . . agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in the manner approved by the Secretary."	16 U.S.C. § 1434(d)(2) & (4)	Noise that is likely to harm any sanctuary resource is subject to the consultation requirement if it either results from a federal agency action or is authorized by a federal permit. The definition of "sanctuary resource" is broad and includes any living or non-living resource that contributes to the conservation, recreational, ecological, historical research, educational, or aesthetic value of a sanctuary.
Prohibited Activities	"It is unlawful for any person to- (1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;"	16 U.S.C. § 1436(1)	
Regulations	"The Secretary may issue such regulations as may be necessary to carry out this chapter." (However, applicability of this provision would be limited to protection of Sanctuaries, which would vary by Sanctuary; each Sanctuary must specify in its "terms of designation" the types of activities that will be subject to regulation (see 15 C.F.R. Part 922))	16 U.S.C. § 1439	Office of National Marine Sanctuaries' regulations prohibit specific kinds of activities, describe and define the boundaries of the designated national marine sanctuaries, and set up a system of permits to allow the conduct of certain types of activities (that would otherwise not be allowed). While each Sanctuary has its own unique set of regulations, there are some regulatory prohibitions that are typical for many sanctuaries: (1) Discharging material or other matter into the sanctuary, (2) Disturbance of, construction on, or alteration of the seabed, (3) Disturbance of cultural resources, and (4) Exploring for, developing, or producing oil, gas, or minerals (with a grandfather clause for preexisting operations). In addition, some sanctuaries prohibit other activities, such as the disturbance of marine mammals, seabirds, and sea turtles, operation of aircraft in certain zones, use of personal watercraft, mineral mining and anchoring of vessels.
Damage Assessment	"The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title."	16 U.S.C. § 1443(b)(2)	Section 312 of the NMSA is a natural resource damage provision of the statute and allows the Secretary to bring both in rem and actions for damages when there is an injury to sanctuary resources.

Authority	Pertinent Language	Citation	Comments
National Environmental Policy Act	"To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality."	42 U.S.C. § 4321 et seq.	
Declaration of National Environmental Policy	"(a) [I]t is the continuing policy of the Federal Government . . . to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. (b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means . . . to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may--1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations . . . 3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; 4) preserve important historic, cultural, and natural aspects of our natural heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice. . . ."	42 U.S.C. § 4331(a)-(b)	This section of NEPA typically seen as language declaring the will of Congress at the time and not creating any affirmative duties that an agency can be sued under.

Authority	Pertinent Language	Citation	Comments
Responsibilities of Federal Agencies	Federal agencies shall "(A) utilize a systemic, interdisciplinary approach . . . in planning and in decision-making which may have an impact on man's environment; (B) identify and develop methods and procedures . . . [to] insure presently unqualified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations; and (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--i) the environmental impact of the proposed action, ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, iii) alternatives to the proposed action, iv) the relationship between local short-term uses of the man's environment and the maintenance and enhancement of long-term productivity, and v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."	42 U.S.C. § 4332(A)-(C)	Most important part of NEPA is 4332(C) since it requires an analysis of environmental impacts. While this requirement is procedural and agencies can still go forward with the action after complying with this procedural requirement, it still leads to the agency publicly identifying environmental impacts such as high levels of ocean noise. More info on what's required in this analysis can be found in the Council on Environmental Quality's regulations implementing NEPA. See 40 CFR Parts 1500-1508.
Magnuson-Stevens Fishery Management and Conservation Act		16 U.S.C. § 1801 et seq.	
Habitat Protection as a Goal	The MSA identifies the continuing loss of marine habitats as a long-term threat to fisheries and says "habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States," and states as a purpose "[promoting] the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat."	16 U.S.C. § 1801(a)(9) & (b)(7)	

Authority	Pertinent Language	Citation	Comments
Identification of Essential Fish Habitation and Preventing Harm to It	Fishery management plans (FMPs) must "describe and identify essential fish habitat for the fishery based on guidelines established by the Secretary . . . , minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat." Also, after it is identified, "Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act."	16 U.S.C. § 1853(a)(7) & 16 U.S.C. 1855(b)(2)	"The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, or growth to maturity." 16 U.S.C. § 1802(10). Through consultations, NOAA recommends ways federal agencies can avoid or minimize the adverse effects of their actions on the habitat of federally managed commercial and recreational fisheries.
Other Necessary and Appropriate Measures to Conserve Fishery	FMPs may "prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery."	16 U.S.C. § 1853(b)(14)	
Community-based Restoration Program	"(a) The Secretary of Commerce shall establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats. (b) In carrying out the program, the Secretary may-- (7) promote stewardship of fishery and coastal habitats."	16 U.S.C. § 1891a(a) & (b)(7)	The NOAA Restoration Center (RC) implements and supports restoration of priority coastal, marine, and riverine habitats essential for the reproduction, growth, and sustainability of commercial and recreational fisheries. As part of its efforts, The RC provides a full range of restoration expertise and financial support for habitat restoration projects nationwide.
Coastal Zone Management Act		16 U.S.C. § 1451-1464 et seq.	
Consistency of Federal Activities with State Management Programs	"Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless" aforementioned paragraphs apply.	16 U.S.C. § 1456(c)(1)(A)	The federal consistency provision is a major incentive for states to join the national coastal management program and is a powerful tool that states use to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. If a state management program addressed ocean noise, federal activities that this section applies to would have to be consistent with it to the maximum extent practicable. In addition, States may use federal consistency to "object" to or block issuance of federal permits for conduct of activities with acoustic effects on state coastal resources. The Secretary must then conduct an Appeal procedure which may result in the permit being enjoined.

Authority	Pertinent Language	Citation	Comments
Fish and Wildlife Coordination Act		16 U.S.C. § 661 et seq.	
Protection of Wildlife	"Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of said sections."	16 U.S.C. § 661(1)	Provides the basic authority for the Fish and Wildlife Service's involvement in evaluating impacts to fish and wildlife from proposed water resource development projects.
Consultation with Federal Agencies for Water Resource Development Activities	"Whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development."	16 U.S.C. § 662	The Fish and Wildlife Coordination Act requires that all federal agencies consult with NOAA Fisheries, U.S. Fish and Wildlife Service, and state wildlife agencies when proposed actions might result in modification of a natural stream or body of water. Federal agencies must consider effects that these projects would have on fish and wildlife development and provide for improvement of these resources.

Authority	Pertinent Language	Citation	Comments
Federal Power Act		16 U.S.C. § 791-828(c) (1920) as amended (<i>chapters not stated here</i>)	
Licensing Decisions	"In deciding whether to issue any license under this subchapter for any project, the Commission, in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality."	16 U.S.C. § 797 (e)	Directing the Commission to give equal consideration to both the impact on fish and wildlife (e.g., effects ocean noise from the project may have on fish and wildlife) and the additional power generation that would come from the project.
Conditions on Licenses for Water Power and Resources	"All licenses issued under this subchapter shall . . . as in the judgment of the Commission will be best adapted to a comprehensive plan for . . . the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat"	16 U.S.C. § 803(j)(1)	In FERC licensing process, NOAA Fisheries provides the perspective of migratory fish and their habitat, sometimes requiring alternative fish passage at dams to improve fish passage and recommending conditions to the license that will protect or improve habitat and fish populations.
Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act)	The RESTORE Act dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the Deepwater Horizon spill to a Gulf Coast Restoration Trust Fund and outlines a structure by which the funds can be utilized to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region. Most of this money is distributed to 5 Gulf States (AL, FL, LA, MS, TX).	Public Law 112-141, Subtitle F- Gulf Coast Restoration; 126 Stat. 588 (July 2012)	The RESTORE Act established the Gulf Coast Ecosystem Restoration Council that developed a comprehensive plan to restore the ecosystem and the economy of the Gulf Coast region. Most money distributed under the RESTORE Act has to be for activities in this plan or activities consistent with the goals and objectives of the plan and must be approved by the Council.
The Mitchell Act		16 U.S.C. § 755-757	
Investigations, Surveys, and Experiments; Construction and Installation of Conservation Devices, Etc.	"The Secretary of Commerce is further authorized and directed (1) to conduct such investigations, and such engineering and biological surveys and experiments, as may be necessary to direct and facilitate conservation of the fishery resources of the Columbia River and its tributaries; (2) to construct and install devices in the Columbia River Basin for the improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects, and for facilitating free migration of fish over obstructions; and (3) to perform all other activities necessary for the conservation of fish in the Columbia River Basin in accordance with law."	16 U.S.C. § 756	Allows for investigations and experiments to determine if ocean noise is affecting the conservation of fishery resources of the Columbia River and its tributaries and also "all other activities necessary" for the conservation of these fish, which could include addressing ocean noise when the anadromous fish in the Columbia River are out at sea.

Authority	Pertinent Language	Citation	Comments
Anadromous Fish Conservation Act (AFCA)		16 U.S.C. § 757a-757g	
Development And Management with Regards to Anadromous and Great Lakes Fisheries	"The Secretary . . . is authorized . . . to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes and Lake Champlain that ascend streams to spawn."	16 U.S.C. § 757b(5)	Mainly useful for conducting studies and information gathering
Park System Resource Protection Act		54 U.S.C. § 100721-100725	Act specifically allows the Secretary of the Interior to recover response costs and damages from the responsible party causing the destruction, loss of or injury to park system resources. National Park Service is entrusted with managing 11,000 miles of coast and 2.5 million acres of ocean and Great Lakes waters. http://www.nature.nps.gov/water/oceancoastal/ .
Liability In Rem	"Any instrumentality, including a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any System unit resource shall be liable in rem to the United States for response costs and damages resulting from the destruction, loss, or injury to the same extent as a person is liable under subsection (a)."	54 U.S.C. § 100722(b)	This Act only applies to National Park Service units as "System unit resource" means "any living or non-living resource that is located within the boundaries of a System unit"; The term "system" includes "any area of land and water administered by the Secretary [of the Interior], acting through the Director, for park, monument, historic, parkway, recreational, or other purposes." 54 U.S.C. § 100501. This Act provides that any monies recovered by the NPS may be used to reimburse the costs of response and damage assessment and to restore, replace, or acquire the equivalent of the injured resources.
Oil Pollution Act of 1990		33 U.S.C. § 2701 et seq.	
Trustee Plans	Directing the trustees (be they federal, state, Indiana tribe, or foreign) to "develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship."	33 U.S.C. § 2706(c)	It is possible for this plan to include provisions addressing ocean noise to promote the restoration or rehabilitation of the natural resources under their trusteeship.

Authority	Pertinent Language	Citation	Comments
International Organizations			
International Maritime Organization (IMO)	The IMO is the UN specialized agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships. It is the forum at which regulations and standards for the shipping industry are agreed, adopted, and implemented on an international basis.	www.imo.org	The Marine Environment Protection Committee (MEPC) in 2014 in its 66th Session approved guidelines for the reduction of underwater noise from commercial shipping. These non-mandatory guidelines developed by the Sub-Committee on Ship Design and Equipment in 2013 in its 57th Session, address adverse impacts on marine life, recognizing that underwater noise radiating from commercial ships may have both short- and long-term negative consequences on marine life. Also, the Boston Traffic Separation Scheme (TSS) was reconfigured to reduce overlap with large whales. This could be adapted to avoid habitats of other acoustically sensitive marine life.
International Whaling Commission (IWC)	The IWC is the global body charged with the conservation of whales and the management of whaling. The IWC cannot independently enforce its regulations or sanction member nations engaging in activities that undermine the Commission's goals. Also, a member nation in opposition to any amendment instituted by the IWC can file a timely objection and then be considered exempt from that regulation.	www.iwc.int/home	The IWC has been studying the effect of ocean noise on cetaceans and has been working with other international organizations, in particular the IMO, as the IMO works to develop ship quieting technology and reduce ocean noise. In 2004 a mini-symposium was held to consider the issue of anthropogenic noise and a 2006 meeting focused on potential impacts of seismic surveys to various whale populations. More recently, in 2014 the IWC, NOAA, and others co-sponsored a joint workshop entitled "Predicting Soundfields--Global Soundscape Modeling to Inform Management of Cetaceans and Anthropogenic Noise." In 2016 the Environmental Concerns Group of the IWC Scientific Committee will focus on examining concerns related to the "masking" effect of anthropogenic sound on cetaceans.

Authority	Pertinent Language	Citation	Comments
International Organization for Standardization (ISO)	ISO is an independent, non-governmental organization with a membership of 162 national standards bodies. The American National Standards Institute (ANSI) is the sole U.S. representative and dues-paying member of the ISO. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based market relevant international standards that support innovation and provide solutions to global challenges. ISO has published more than 20,500 international standards and related documents covering a wide variety of industries. A panel of experts discusses and negotiates a draft standard. Once the draft standard is completed, ISO's members vote on it and if a consensus is reached, the draft becomes an ISO standard.	http://www.iso.org/iso/home.html	When the IMO's MEPC sought to identify an appropriate method for measuring underwater noise incidentally generated by ships, the ISO began the development of such a method with the objective of ensuring reproducible measurements for the collection of underwater sound generated by commercial ships. The result was ISO 16554.3 that is titled "Ships and marine technology -- Measurement and reporting of underwater sound radiated from merchant ships -- Survey measurement in deep-water" and was published on February 25, 2014.
Relevant Executive Orders (EOs)			
EO 13547: Stewardship of the Ocean, Our Coasts, the Great Lakes	"This order adopts the recommendations of the Interagency Ocean Policy Task Force, except where otherwise provided in this order, and directs executive agencies to implement those recommendations under the guidance of a National Ocean Council. Based on those recommendations, this order establishes a national policy to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interests."	75 Fed. Reg. 43023 (July 22, 2010)	Directs agencies to implement policies including to protect, maintain, and restore the health and biological diversity of ocean, coastal, and Great Lakes ecosystems and resources; and to participate in the process for coastal and marine spatial planning and comply with the National Ocean Council's certified coastal and marine spatial plans. The National Ocean Policy and related EO directs agencies to work with states and tribes develop a comprehensive regional plans for all ocean uses throughout the US EEZ. Fundamental to this effort is an ecosystem-based approach that seeks to sustain ecosystem functions and services (presumably including those related to the acoustic environment), while facilitating multiple, compatible uses. There is much potential for progress on acoustic issues in the accelerating national initiative.
EO 13158: Marine Protected Areas	"Marine protected area" means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein." "Identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;"	65 Fed. Reg. 34909 (May 31, 2000)	Directs agencies whose authorities provide for the establishment or management of Marine Protected Areas (MPAs) to take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Directs all Federal agencies, to the maximum extent practicable, to avoid harm to the natural and cultural resources that are protected by an MPA.

Authority	Pertinent Language	Citation	Comments
<p>Presidential Proclamation 8031: Establishment of the Northwestern Hawaiian Islands Marine National Monument</p>	<p>"Except as otherwise provided in this proclamation, the Secretaries shall prohibit any person from conducting or causing to be conducted within the monument the following activities: 1. Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving monument resource; 2. Drilling into, dredging, or otherwise altering the submerged lands other than by anchoring a vessel; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands;"</p>	<p>http://www.gpo.gov/fdsys/pkg/CFR-2007-title3-vol1/pdf/CFR-2007-title3-vol1-proc8031.pdf (June 15, 2016)</p>	<p>Creates the NWHI monument; requires federal protection and management responsibilities; prohibits entering without federal permission; prohibits various activities, including oil and gas exploration, development, and production; prohibits explosives, drilling, and dredging; requires military activities to be carried out in a manner that avoids to the extent practicable and consistent with operational requirements, adverse impacts on monument resources and qualities; in the event of destruction, loss, or injury, the responsible military component shall take appropriate action to respond to and mitigate the harm and, if possible, restore or replace the monument resource or quality.</p>