National Consistency Determination: Uniform National Discharge Standards (UNDS) Program for Phase II Batch Two Discharges

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Prepared by:

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And

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ACRONYMS AND ABRREVIATIONS

BCDC	Bay Conservation and Development Commission
BE	Biological Evaluation
CFR	Code of Federal Regulations
CPO	Chlorine Produced Oxidants
CPP	Controllable Pitch Propeller
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DoD	Department of Defense
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FR	Federal Register
IMO	International Maritime Organization
ISO	International Organization for Standardization
MPCD	Marine Pollution Control Device
NPDES	National Pollutant Discharge Elimination System
pH	Potential of Hydrogen
ppm	Parts Per Million
TBT	Tributyltin
TPH	Total Petroleum Hydrocarbons
TRC	Total Residual Chlorine
UNDS	Uniform National Discharge Standards
U.S.C.	United States Code
VGP	Vessel General Permit
WQC	Water Quality Criteria

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National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

SCOPE

The purpose of this National Consistency Determination is to provide a detailed analysis of how the proposed performance standards for the 11 Uniform National Discharge Standards (UNDS) Phase II Batch Two discharges are consistent to the maximum extent practicable with the enforceable policies of each of the 35 federally-approved state and territory coastal management programs that were reviewed. This document addresses the proposed UNDS Phase II Batch Two performance standards for the following discharges: catapult water brake tank and post-launch retraction exhaust, controllable pitch propeller hydraulic fluid, deck runoff, firemain systems, graywater, hull coating leachate, motor gasoline and compensating discharge, sonar dome discharge, submarine bilgewater, surface vessel bilgewater/oil-water separator effluent, and underwater ship husbandry.

I. DESCRIPTION OF THE UNIFORM NATIONAL DISCHARGE STANDARDS STATORY REQUIREMENTS

In 1996, Section 312(n) of the Clean Water Act (CWA) was created to establish UNDS. Department of Defense (DoD) and the Environmental Protection Agency (EPA) are developing UNDS to uniformly regulate the incidental discharges occurring from the normal operation of vessels of the Armed Forces. These national uniform standards apply to discharges from vessels of the Navy, Military Sealift Command, Army, Air Force, Marine Corps, and United States Coast Guard when operating within the navigable waters or the contiguous zone (12 nautical miles (nm)) of the United States and territorial seas. The performance standards for the discharges are being developed in phases. In Phase I, the EPA and DoD identified 39 discharges incidental to the normal operation of a vessel of the Armed Forces and characterized each discharge as requiring or not requiring control based on the discharges' potential to cause an adverse environmental impact. Ultimately, the EPA and DoD, in consultation with other federal and state agencies, determined that 25 discharges generated by vessels of the Armed Forces require control by a Marine Pollution Control Device (MPCD).

In Phase II, the EPA and DoD, in consultation with United States Coast Guard, the Secretary of State, the Secretary of Commerce, and other interested federal agencies and states, are jointly promulgating MPCD performance standards for each discharge determined to require control in Phase I. Section 312(a)(13) of the CWA defines a MPCD as any equipment or management practice, for installation or use on a vessel of the Armed Forces, that is designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel, and is determined to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations set forth by UNDS. The EPA and DoD developed a batch rulemaking approach for Phase II so that the 25 discharges could be addressed in smaller groups of discharges. The first batch, Batch One, established final performance standards for 11 discharges that were presented in the Batch One National Consistency Determination that was completed by the EPA and DoD in 2016. The second batch, Batch Two, includes catapult water brake tank and post-launch retraction exhaust, controllable pitch propeller hydraulic fluid, deck runoff, firemain systems, graywater, hull coating leachate, motor gasoline and compensating discharge, sonar dome discharge, submarine bilgewater, surface vessel

bilgewater/oil-water separator effluent, and underwater ship husbandry. This National Consistency Determination addresses the proposed performance standards for these 11 Batch Two discharges.

During the development of the discharge performance standards and as required under CWA § 312(n)(2)(B), the EPA and DoD considered seven statutory factors when developing the discharge performance standards for UNDS (Phase II):

1. The nature of the discharge,
2. Environmental effects of each discharge,
3. Practicability of using an MPCD,
4. The effect that installing or using the MPCD has on the operation or the operational capability of the vessel,
5. Applicable United States laws,
6. Applicable international standards, and
7. Economic costs of installing an MPCD.

Section 312(n)(3)(C) of the CWA further provides that the EPA and DoD shall jointly promulgate discharge standards that may (1) distinguish among classes, types, and sizes of vessels; (2) distinguish between new and existing vessels; and (3) provide for a waiver of applicability of standards as necessary or appropriate to a particular class, type, age, or size of vessel.

A. NATIONAL CONSISTENCY DETERMINATION BACKGROUND

This National Consistency Determination is prepared in compliance with the Federal Coastal Zone Management Act (CZMA) of 1972, Section 307 (Title 16, United State Code (U.S.C.) Section 1456(c)), which states that federal actions must be consistent with approved state coastal management programs to the maximum extent practicable. On December 8, 2000, the National Oceanic and Atmospheric Administration issued revised CZMA Federal Consistency Requirements, Final Rule (15 Code of Federal Regulations (CFR) Part 930), which included a provision for National Consistency Determinations for federal actions that are national or regional in scope. The preamble to the Final Rule (65 Federal Register (FR) 77123-77154) outlines the Federal Consistency regulations and clarifies that Section 930.36(e) of the rulemaking, *National or Regional Consistency Determinations,* is a new method to "efficiently address consistency requirements for a federal activity that is national or regional in scope."

A National Consistency Determination enables federal agencies to provide a single consistency determination for federal actions, such as a rulemaking or planning activity, that encompasses many states and territories, and that affects a coastal use or resource of more than one state or territory. Because UNDS is a national rulemaking that could have an effect on numerous coastal zones, a National Consistency Determination is the appropriate mechanism to address coastal effects and concerns.

In July 2016, the EPA and DoD issued the, *National Consistency Determination: Uniform National Discharge Standards (UNDS) Program for Phase II Batch One Discharges*, to present the conclusions of the EPA and DoD that the proposed UNDS Phase II Batch One performance standards are consistent to

the maximum extent practicable with the enforceable policies of each of the 35 federally-approved state and territory coastal management programs. In September 2016, the, *National Consistency Determination: Uniform National Discharge Standards (UNDS) Program for Phase II Batch One Discharges*, was revised to include additional information that applied only to the California Bay Conservation and Development Commission (BCDC); however, the revision of the document did not change the initial conclusion of the EPA and the DoD that the UNDS Phase II Batch One performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 35 federally-approved state and territory coastal management programs.

B. CONSISTENCY STATEMENT

Based on a review of the applicable sections of the CZMA (Title 16, U.S.C. §1456(c)) and the data presented in this National Consistency Determination, the EPA and DoD have concluded that the proposed UNDS Phase II Batch Two performance standards were developed in a manner consistent to the maximum extent practicable with the enforceable policies of each of the 35 federally-approved state and territories coastal management programs.

The proposed rulemaking included with this UNDS Phase II Batch Two National Consistency Determination provides the basis for this finding.

1. CONSISTENCY DETERMINATION APPROACH

The EPA and DoD thoroughly reviewed 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents to determine their applicability to the UNDS Phase II Batch Two rulemaking. The Federal Consistency rulemaking (65 FR 77123-77154) identifies that a National Consistency Determination should address the "common denominator of these policies, i.e., the common coastal effects and management issues, and thereby address different states' policies with one discussion and one determination." Therefore, based on the review of each coastal management program, the EPA and DoD grouped and addressed relevant enforceable policies as 'themes' within this determination. The EPA and DoD consider that the proposed UNDS Phase II Batch Two discharge performance standards are consistent with each identified theme. These themes are listed and described in *Section F. Relevant Enforceable Policies (State- or Territory- and UNDS- Identified)*.

C. REVIEW PERIOD AND POINTS OF CONTACT

The 35 coastal management programs from states and territories that may be affected by UNDS are given 60 days from the issuance of the National Consistency Determination letter to review this document and provide any questions and/or comments. Questions and comments may be directed to:

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D. PHASE II BATCH TWO PERFORMANCE STANDARDS

The EPA and DoD proposed performance standards for the 11 UNDS Phase II Batch Two discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the United States, the territorial seas, and the contiguous zone. These performance standards would reduce the adverse environmental impacts associated with the discharges from vessels of the Armed Forces, stimulate the development of innovative vessel pollution control, advance the development of environmentally sound vessels, and improve the operational flexibility of vessels both domestically and internationally. These discharge performance standards are designed to be consistent with the effluent limitations included in the National Pollutant Discharge Elimination System (NPDES) general permit for discharges incidental to the normal operation of a commercial vessel. During the development of the 11 proposed UNDS Phase II Batch Two discharge performance standards, the EPA and DoD analyzed the information from the Phase I of UNDS, considered the NPDES Vessel General Permit (VGP) effluent limitations, and incorporated the considerations of the seven statutory factors listed in CWA § 312(n)(2)(B). While UNDS and the NPDES VGP are separate actions, the NPDES VGP informed the UNDS action, due to the similarities in the discharge performance standards.

This section summarizes each of the Batch Two discharges and the corresponding proposed performance standards that were determined to be reasonable and practicable to mitigate the adverse impacts to the marine environment from the UNDS Phase II Batch Two 11 discharges. In selecting these standards, the EPA and DoD considered the information from Phase I of UNDS, the NPDES VGP effluent limitations, and the seven statutory factors listed in CWA § 312(n)(2)(B).

1. CATAPULT WATER BRAKE TANK AND POST-LAUNCH RETRACTION EXHAUST

Catapult water brake tank and post-launch retraction exhaust is the oily water skimmed from the water brake tank and the condensed steam discharged during catapult operations. Catapult water brakes stop the forward motion of an aircraft carrier catapult system used to launch various aircraft from Navy aircraft carriers. In waters subject to UNDS, the catapult water brake is primarily used for testing catapults on recently constructed aircraft carriers, following major drydock overhauls, or after major catapult modifications. The catapult water brake tank serves as the water supply for the catapult water brake system. During each aircraft launch or test, lubricating oil is introduced to the catapult water brake tank by the catapult pistons; as the water is recirculated through the catapult water brake and the water brake tank, oil accumulates in the tank. The proposed performance standard for catapult water brake tank and post-launch retraction exhaust is:

(a) Discharges of catapult water brake tank effluent are prohibited.
(b) The number of post-launch retractions must be limited to the minimum number required to test and validate the system and conduct qualification and operational training.

2. CONTROLLABLE PITCH PROPELLER HYDRAULIC FLUID

Controllable pitch propeller (CPP) hydraulic fluid is the hydraulic fluid that discharges into the receiving waters from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers. CPPs are used to control a vessel's speed or direction while maintaining a

constant propulsion plant output (i.e., varying the pitch or "bite" of the propeller blades without varying the propulsion shaft speed). High-pressure hydraulic oil is used throughout the CPP system of pumps, pistons, crossheads, and crank rings. The hydraulic fluid might be discharged into the surrounding water due to leaks associated with CPP seals and during routine maintenance or replacement of the propellers. The proposed performance standard for CPP hydraulic fluid is:

(a) The protective seals on controllable pitch propellers must be maintained to minimize the leaking of hydraulic fluid.
(b) To the greatest extent practicable, maintenance activities on controllable pitch propellers must be conducted when a vessel is in drydock. If maintenance and repair activities must occur when the vessel is not in drydock, appropriate spill response equipment (e.g., oil booms) must be used to contain and clean any oil leakage.
(c) The discharge of controllable pitch propeller hydraulic fluid must not contain oil in quantities that:
(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or
(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
(4) Otherwise are harmful to the public health or welfare of the United States.

3. DECK RUNOFF

Deck runoff is an intermittent discharge generated from precipitation, freshwater washdowns, wave action, or seawater spray falling on the weather deck or the flight deck that is discharged overboard through deck openings. Deck runoff contains any residues that may be present on the deck surface. Residues and contaminants present on the deck originate from topside equipment components as well as the varied activities that take place on the deck. Some or all of these pollutants can be introduced to the deck from shipboard activities, storage of material on the deck, maintenance activities, and the decking material itself. The proposed performance standard for deck runoff is:

(a) Flight deck washdowns are prohibited.
(b) Minimize deck washdowns while in port and in federally-protected waters.
(c) Prior to performing a deck washdown, exposed decks must be broom cleaned and on-deck debris, garbage, paint chips, residues, and spills must be removed, collected, and disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.
(d) If a deck washdown or above water line hull cleaning will result in a discharge, it must be conducted with minimally-toxic and phosphate free soaps, cleaners, and detergents. The use of soaps that are labeled toxic is prohibited. Furthermore, soaps, cleaners, and detergents should not be caustic and must be biodegradable. All soaps and cleaners must be used as directed by the label.
(e) Where feasible, machinery on deck must have coamings or drip pans, where necessary, to prevent spills and collect any oily discharge that may leak from machinery. The drip pans must be drained to a waste container for disposal onshore in accordance with any applicable oil and

hazardous substance management and disposal requirements. The presence of floating solids, visible foam, halogenated phenol compounds, dispersants, and surfactants in deck washdowns must be minimized.
(f) Topside surfaces and other above water line portions of the vessel must be well maintained to minimize the discharge of rust (and other corrosion by-products), cleaning compounds, paint chips, non-skid material fragments, and other materials associated with exterior topside surface preservation. Residual paint droplets entering the water must be minimized when conducting maintenance painting. The discharge of unused paint is prohibited. Paint chips and unused paint residues must be collected and disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.
(g) When vessels conduct underway fuel replenishment, scuppers must be plugged to prevent the discharge of oil. Any oil spilled must be cleaned, managed, and disposed of onshore in accordance with any applicable oil and hazardous substance management and disposal requirements.

4. FIREMAIN SYSTEMS

Firemain system discharges consist of the surrounding water pumped through the firemain system for testing, maintenance, and training, as well as secondary uses for the operation of certain vessel systems. The proposed performance standard for firemain systems is:

(a) Firemain systems may be discharged for testing and inspections of the firemain system. To the greatest extent practicable, conduct maintenance and training outside of port and as far away from shore as possible. Firemain systems may be discharged in port for certification, maintenance, and training requirements if the intake comes directly from the surrounding waters or potable water supplies and there are no additions (e.g., aqueous film-forming foam) to the discharge.
(b) Firemain systems must not be discharged in federally-protected waters except when needed to washdown the anchor chain to comply with anchor washdown requirements in § 1700.16.
(c) Firemain systems may be used for secondary uses if the intake comes directly from the surrounding waters or potable water supplies.

5. GRAYWATER

Graywater is galley, bath, and shower water, as well as wastewater from lavatory sinks, laundry, interior deck drains, water fountains, and shop sinks. On vessels of the Armed Forces, graywater is distinct from blackwater. Blackwater is the sewage generated by toilets and urinals and is regulated separately from graywater under the CWA. Armed Forces Vessels have graywater collection systems that are separate from the blackwater collection systems. The proposed performance standard for graywater is:

(a) For discharges from vessels that have the capacity to hold graywater:
(1) Graywater must not be discharged in federally-protected waters or the Great Lakes.
(2) Graywater must not be discharged within one mile of shore if an onshore facility is available and disposal at such a facility is reasonable and practicable.
(3) Production and discharge of graywater must be minimized within one mile of shore when an onshore facility is either not available or use of such a facility is not reasonable and practicable.
(b) For discharges from vessels that do not have the capacity to hold graywater:

(1) Production and discharge of graywater must be minimized in federally-protected waters or the Great Lakes.
(2) Graywater must not be discharged within one mile of shore if an onshore facility is available and disposal at such a facility is reasonable and practicable.
(3) Production and discharge of graywater must be minimized within one mile of shore when an onshore facility is either not available or use of such a facility is not reasonable and practicable.

(c) Large quantities of cooking oils (e.g., from a deep fat fryer), including animal fats and vegetable oils, must not be added to the graywater system. Small quantities of cooking oils (e.g., from pot and dish rinsing) must be minimized if added to the graywater system within three miles of shore.
(d) Minimally-toxic soaps, cleaners, and detergents and phosphate free soaps, cleaners, and detergents must be used in the galley, scullery, and laundry. These soaps, cleaners, and detergents should also be free from bioaccumulative compounds and not lead to extreme shifts in the receiving water pH. For purposes of this subparagraph, extreme shifts means causing the receiving water pH to fall below 6.0 or rise above 9.0 as a direct result of the discharge.
(e) The discharge of graywater must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or
(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
(4) Otherwise are harmful to the public health or welfare of the United States.

6. HULL COATING LEACHATE

Hull coating leachate is defined as the constituents that leach, dissolve, ablate, or erode from the paint on the vessel hull into the surrounding seawater. Antifouling hull coatings are often used on vessel hulls to prevent or inhibit the attachment and growth of aquatic life or biofouling and contain biocides which are used to prevent biofouling growth on the hull by continuous leaching of biocides into the surrounding water. The proposed performance standard for hull coating leachate is:

(a) Antifouling hull coatings subject to registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA label.
(b) Antifouling hull coatings not subject to FIFRA registration (i.e., exempt or not produced for sale and distribution in the United States) must not contain any biocides or toxic materials banned for use in the United States (including those on EPA's List of Banned or Severely Restricted Pesticides). This performance standard applies to all vessels, including vessels with a hull coating applied outside the United States.
(c) Antifouling hull coatings must not contain tributyltin (TBT).
(d) Antifouling hull coatings must not contain any organotin compounds when the organotin is used as a biocide. Antifouling hull coatings may contain small quantities of organotin compounds other than TBT (e.g., dibutyltin) when the organotin is acting as a chemical catalyst

and not present above 2,500 milligrams total tin per kilogram of dry paint film. In addition, any such antifouling hull coatings must be designed to not slough or peel from the vessel hull.
(e) Antifouling hull coatings that contain TBT or other organotin compounds that are used as a biocide must be removed or an overcoat must be applied.
(f) Incidental amounts of antifouling hull coating discharged after contact with other hard surfaces (e.g., moorings) are permissible.
(g) To the greatest extent practicable, use non-copper based and less toxic antifouling hull coatings. To the greatest extent practicable, use antifouling hull coatings with the lowest effective biocide release rates, rapidly biodegradable components (once separated from the hull surface), or use non-biocidal alternatives, such as silicone coatings.
(h) To the greatest extent practicable, avoid use of antifouling hull coatings on vessels that are regularly removed from the water and unlikely to accumulate hull growth.

7. MOTOR GASOLINE AND COMPENSATING DISCHARGE

Motor gasoline and compensating discharge is the seawater taken into, and discharged from, motor gasoline tanks to eliminate free space where vapors could accumulate. Seawater, which is less buoyant than gasoline, occupies the free space to prevent potentially explosive gasoline vapors from forming. The retained seawater is then discharged when the vessel refills the tanks with gasoline in port or when performing maintenance. The proposed performance standard for motor gasoline and compensating discharge is:

(a) The discharge of motor gasoline and compensating effluent must not contain oil in quantities that:
(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or
(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
(4) Otherwise are harmful to the public health or welfare of the United States.
(b) The discharge of motor gasoline and compensating effluent must be minimized in port. If an oily sheen is observed, any spill or overflow of oil must be cleaned up, recorded, and reported to the National Response Center immediately.
(c) The discharge of motor gasoline and compensating effluent is prohibited in federally-protected waters.

8. SONAR DOME DISCHARGE

Sonar dome discharge occurs from the leaching of antifouling materials into the surrounding seawater and the release of seawater or freshwater retained within the sonar dome. Sonar domes are structures located on the hull of ships and submarines, used for the housing of electronic equipment for detection, navigation, and ranging. The shape and design pressure in some sonar domes are maintained by filling them with water. Antifouling materials are used on the exterior of the sonar dome to prevent fouling which degrades sonar performance. Navy surface ship domes that are made of rubber have an exterior layer that is impregnated with TBT. On submarines and Military Sealift Command surface ships, the

sonar domes are made of steel or glass reinforced plastic and do not contain TBT but are covered with an antifouling coating. The discharge of the water from the interior of the sonar domes primarily occurs when the vessel is pierside and is intermittent depending on when the dome is emptied for maintenance. The proposed performance standard for sonar dome discharge is:

> (a) The water inside the sonar dome must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible.
> (b) The water inside the sonar dome may be discharged for equalization of pressure between the interior and exterior of the dome.
> (c) A biofouling chemical that is bioaccumulative should not be applied to the exterior of a sonar dome when a non-bioaccumulative alternative is available.

9. SUBMARINE BILGEWATER

Submarine bilgewater is the wastewater from a variety of sources that accumulates in the lowest part of the submarine (i.e., bilge). Submarine bilgewater consists of a mixture of discharges and leakage from a wide variety of sources (e.g., seawater accumulation, normal water leakage from machinery, and fresh water washdowns), and includes all the wastewater collected in the bilge compartment, oily waste holding tank, or any other oily water or holding tank. Consequently, the discharge can contain a variety of constituents including cleaning agents, solvents, fuel, lubricating oils, and hydraulic oils. Submarines have a drain system consisting of a series of oily bilge collecting tanks and a waste oil collecting tank or tank complex to collect oily wastewater. Discharges from these tanks occur from the bottom of the tank after gravity separation. The proposed performance standard for submarine bilgewater is:

> The discharge of submarine bilgewater:
> (a) Must not contain oil in quantities that:
> (1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
> (2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or (3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
> (4) Otherwise are harmful to the public health or welfare of the United States.
> (b) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances added for the purpose of removing the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.
> (c) Must only contain substances that are produced in the normal operation of a vessel. Oil solidifiers, flocculants or other additives (excluding any dispersants or surfactants) may be used to enhance oil-water separation during processing in an oil-water separator only if such solidifiers, flocculants, or other additives are minimized in the discharge and do not alter the chemical make-up of the oils being discharged. Solidifiers, flocculants, or other additives must not be directly added, or otherwise combined with, the water in the bilge.
> (d) Must not occur in port if the port has the capability to collect and transfer the submarine bilgewater to an onshore facility.

(e) Must be minimized and, if technologically feasible, discharged as far from shore as possible.
(f) Must be minimized in federally protected waters.
(g) Must employ management practices that will minimize leakage of oil and other harmful pollutants into the bilge.

10. SURFACE VESSEL BILGEWATER/OIL-WATER SEPARATOR EFFLUENT

Surface vessel bilgewater is the wastewater from a variety of sources that accumulates in the lowest part of the vessel (the bilge) and the oil-water separator effluent is produced when the wastewater is processed by an oil-water separator. Bilgewater consists of water and other residue that accumulates in a compartment of the vessel's hull or is collected in the oily waste holding tank or any other oily water holding tank. The primary sources of drainage into the bilge are the main engine room(s) and auxiliary machinery room(s), which house the vessel's propulsion system and auxiliary systems (i.e., steam boilers and water purification systems), respectively. The proposed performance standard for surface vessel bilgewater/oil-water separator effluent is:

(a) All surface vessels must employ management practices that will minimize leakage of oil and other harmful pollutants into the bilge.
(b) Surface vessels equipped with an oil-water separator must not discharge bilgewater and must only discharge oil water separator effluent through an oil content monitor consistent with paragraph (c) of this section. All surface vessels greater than 400 gross tons must be equipped with an oil-water separator. Surface vessels not equipped with an oil-water separator must only discharge bilgewater consistent with paragraph (d) of this section.
(c) The discharge of oil-water separator effluent:
(1) Must not contain oil in quantities that:
(i) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
(ii) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or
(iii) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
(iv) Otherwise are harmful to the public health or welfare of the United States.
(2) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances added for the purpose of removing the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.
(3) Must only contain substances that are produced in the normal operation of a vessel. Oil solidifiers, flocculants or other additives (excluding any dispersants or surfactants) may be used to enhance oil-water separation during processing in an oil-water separator only if such solidifiers, flocculants, or other additives are minimized in the discharge and do not alter the chemical make-up of the oils being discharged. Solidifiers, flocculants, or other additives must not be directly added, or otherwise combined with, the water in the bilge.

(4) Must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent to an onshore facility.
(5) Must be minimized within one mile of shore.
(6) Must occur while sailing at speeds greater than six knots, if the vessel is underway.
(7) Must be minimized in federally protected waters.

(d) The discharge of bilgewater (i.e., wastewater from the bilge that has not been processed through an oil-water separator):

(1) Must not occur if the vessel has the capability to collect, hold, and transfer bilgewater to an onshore facility.
(2) Notwithstanding the prohibition of the discharge of bilgewater from vessels that have the capability to collect, hold, and transfer bilgewater to an onshore facility; the discharge of bilgewater:
(i) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances to remove the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.
(ii) Must only contain substances that are produced in the normal operation of a vessel. Routine cleaning and maintenance activities associated with vessel equipment and structures are considered to be normal operation of a vessel.
(iii) Must not contain oil in quantities that:
(A) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or
(B) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or
(C) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., ISO Method 9377) or United States Coast Guard; or
(D) Otherwise are harmful to the public health or welfare of the United States.
(iv) Must be suspended immediately if a visible sheen is observed. Any spill or overflow of oil or other engine fluids must be cleaned up, recorded, and reported to the National Response Center immediately.

11. UNDERWATER SHIP HUSBANDRY

Underwater ship husbandry discharges occur during the inspection, maintenance, cleaning, and repair of hulls and hull appendages while a vessel is waterborne. Underwater ship husbandry includes activities such as hull cleaning, fiberglass repair, welding, sonar dome repair, propeller lay-up, non-destructive testing/inspections, masker belt repairs, and painting operations. Underwater ship husbandry operations are normally conducted pierside, and could result in the release of metals (copper or zinc) or the introduction of non-indigenous species. The proposed performance standard for underwater ship husbandry is:

(a) For discharges from vessels that are less than 79 feet in length:

(1) To the greatest extent practicable, vessel hulls with an antifouling hull coating must not be cleaned within 90 days after the antifouling coating application.
(2) Vessel hulls must be inspected, maintained, and cleaned to minimize the removal and discharge of antifouling coatings and the transport of fouling organisms. To the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility where the removed fouling organisms or spent antifouling coatings can be disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.
(3) Prior to the transport of the vessel overland from one body of water to another, vessel hulls must be inspected for any visible attached living organisms. If fouling organisms are found, they must be removed and disposed of onshore in accordance with any applicable solid waste and. hazardous substance management and disposal requirements.
(4) Vessel hull cleanings must be conducted in a manner that minimizes the release of antifouling hull coatings and fouling organisms, including:

(i) Adhere to any applicable cleaning requirements found on the coatings' FIFRA label.
(ii) Use soft brushes or less abrasive cleaning techniques to the greatest extent practicable.
(iii) Use hard brushes only for the removal of hard growth.
(iv) Use a vacuum or other collection/control technology, when available and feasible.

(b) For discharges from vessels that are greater than or equal to 79 feet in length:

(1) To the greatest extent practicable, vessel hulls with an antifouling hull coating must not be cleaned within 90 days after the antifouling coating application. To the greatest extent practicable, vessel hulls with copper based antifouling coatings must not be cleaned within 365 days after coating application.
(2) Vessel hulls must be inspected, maintained, and cleaned to minimize the removal and discharge of antifouling coatings and the transport of fouling organisms. To the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility where the removed fouling organisms or spent antifouling coatings can be disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.
(3) Vessel hull cleanings must be conducted in a manner that minimizes the release of antifouling hull coatings and fouling organisms, including:

(i) Adhere to any applicable cleaning requirements found on the coatings' FIFRA label.
(ii) Use soft brushes or less abrasive cleaning techniques to the greatest extent practicable.
(iii) Use hard brushes only for the removal of hard growth.
(iv) Use a vacuum or other collection/ control technology, when available and feasible.

E. DESCRIPTION OF COASTAL EFFECTS

The proposed UNDS Phase II Batch Two discharge performance standards, once implemented, will require vessels to hold or minimize the discharge of the 11 Batch Two discharges within 12 nautical miles (nm) from the nearest land of the United States, including territories. An analysis of the coastal

effects described in *Section F. Relevant Enforceable Policies (State- or Territory- and UNDS- Identified)* of this National Consistency Determination, indicates that the establishment of the UNDS performance standards will not result in any negative coastal effects.

F. RELEVANT ENFORCEABLE POLICIES (STATE- OR TERRITORY- AND UNDS-IDENTIFIED)

This section details the analysis by which the EPA and DoD have determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 35 state and territory coastal management programs reviewed.

Based on the review of each federally-approved coastal management program, similar enforceable policies were grouped into 11 themes. Each enforceable policy theme is addressed in this National Consistency Determination, providing a description of the policy, and the EPA and DoD's response.

The themes addressed are:

- Water and Air Quality
- Pollution
- Oil/Petroleum Products
- Pesticides
- Coast
- Wetlands
- Aquatic Life and Wildlife (including Endangered and Threatened Species, and Critical Habitats)
- Beneficial or Designated Uses
- Recreational Uses
- Permit Regulations
- Human Health

For each theme, one or more state enforceable policies may be applicable. In addition, a specific enforceable policy may overlap several themes. Table 1 details each theme and the corresponding state and territory enforceable policies. Specific enforceable policies found in the reviewed coastal management programs for each policy theme are provided in *Section II. Specific State and Territory Enforceable Policies by Theme.*

As detailed earlier, in support of the development of the proposed Batch Two discharge performance standards, the EPA and DoD evaluated the environmental impact of implementing various MPCD options for the vessel discharges. The evaluation was conducted by analyzing the information from Phase I of UNDS, considering the NPDES VGP effluent limitations, and incorporating the considerations of the seven statutory factors listed in CWA § 312(n)(2)(B). The EPA and DoD determined that the VGP effluent limitations, which include technology-based and water quality-based effluent limitations,

provide a sound basis for developing performance standards for the 11 discharges promulgated in this rule.

In addition, the EPA and DoD prepared a Biological Evaluation (BE) under the Endangered Species Act (ESA) to assess the potential effects of the proposed Batch Two Armed Forces vessel discharge standards (i.e., the proposed action) on all potentially impacted aquatic and aquatic-dependent threatened and endangered species.

Based on the results of the analysis of the information from Phase I of UNDS, NPDES VGP, the seven statutory factors, and the ESA BE, the cumulative effect of the proposed Batch Two discharge performance standards was determined to have equal or less impact than the present discharges of vessels of the Armed Forces to receiving waters.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

Table 1: Summary of Themes Identifying Relevant State and Territory Enforceable Policies

	Alabama	American Samoa	California	California BCDC	Connecticut	Delaware	Florida	Georgia	Guam	Hawaii	Illinois	Indiana	Louisiana	Maine	Maryland	Massachusetts	Michigan	Minnesota	Mississippi	New Hampshire	New Jersey	New York	North Carolina	Northern Mariana Islands	Ohio	Oregon	Pennsylvania	Puerto Rico	Rhode Island	South Carolina	Texas	Virgin Islands	Virginia	Washington	Wisconsin
A) Water/Air Quality	•		•	•	•	•		•	•	•	•	•	•		•	•	•	•		•		•	•	•	•	•	•		•	•	•	•	•	•	•
B) Pollution			•	•	•	•	•			•			•	•	•	•	•				•	•			•		•		•			•	•	•	•
C) Oil/Petroleum			•	•		•				•	•	•			•		•		•			•			•							•			•
D) Pesticides				•						•															•										•
E) Coast			•	•		•	•	•	•	•						•	•		•	•			•	•		•		•		•				•	
F) Wetlands	•	•		•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	•	•
G) Aquatic Life and Wildlife (Including Endangered and Threatened Species, and Critical Habitats)			•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•
H) Beneficial or Designated Uses			•	•	•	•	•			•						•		•			•		•												
I) Recreational Use				•	•	•				•							•				•	•	•		•				•	•		•			
J) Permit Regulations				•		•		•																											
K) Human Health			•	•	•	•		•		•	•	•						•			•								•		•		•	•

The following subsections provide a general description of the enforceable policy themes. Following the description of each theme, a response from the EPA and DoD on the applicability of the theme to the proposed UNDS Phase II Batch Two discharge performance standards is provided.

G. DESCRIPTION OF IDENTIFIED ENFORCEABLE POLICIES

1. WATER AND AIR QUALITY

The water and air quality theme relates to the implementation and compliance with state and territory water and air quality regulations and standards. States and territories promulgate regulations and standards to protect ocean and coastal water quality affected by point source or non-point source pollution. Air quality regulations are implemented to protect public health and the environment from sources that emit pollutants into the atmosphere. Multiple coastal management plans include provisions to maintain water and air quality and to conform to state water and air quality standards. An analysis of the information from Phase I of UNDS, NPDES VGP, the seven statutory factors (detailed in *Section A. Description of the UNDS Statutory Requirements* of this document), indicates that the Batch Two discharges do not generate air emissions, and the corresponding performance standards do not generate air discharges. Therefore, coastal zone enforceable policies related to air quality policies were not considered.

EPA AND DOD RESPONSE:
The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding coastal water quality. Implementing the UNDS performance standards by employing MPCDs will serve to control impacts to receiving waters from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact to receiving waters.

When developing the proposed Batch Two performance standards the EPA and DoD reviewed relevant and potentially applicable United States environmental laws, including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to coastal water and air quality. Of the 35 coastal management programs reviewed, Table 1 identifies 29 states and territories that have specific enforceable policies applicable to the coastal water and air quality theme. *Section II.A.1* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on water quality in coastal waters from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;
- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility;

however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;

- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect water quality. It is recognized that some CZMA policies have provisions that prohibit or limit the discharge of graywater from large passenger vessels. And, although a few state and territory provisions regarding the prohibition of graywater discharge are not incorporated in their coastal management programs, and are not necessarily applicable to Armed Forces vessels, the Batch Two performance standards have been reviewed in consideration of these requirements. Similar to the Batch Two prohibition of the discharge of graywater in federally-protected waters and the Great Lakes and within one mile of shore, Armed Forces will follow these state and territory limits on near-shore discharge unless it is not reasonable and practicable for vessels to hold for offload to an onshore facility. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

2. POLLUTION

The pollution theme similar to the conformance to water and air quality standards—reiterates the concerns about environmental impacts and pollution to water resources and the need to protect the waters and the public. The pollution policy theme prohibits any actions that throw, drain, run or otherwise discharge into any state or territory waters, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution. Multiple coastal management plans include rules prohibiting pollution into waters.

EPA AND DOD RESPONSE:
The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding pollution of the coastal waters, including those policies covering water quality, discoloration, odor, and thermal pollution. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to receiving waters

from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact to receiving waters.

When developing proposed Batch Two performance standards the EPA and DoD reviewed relevant and potentially applicable United States environmental laws including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations. In addition to reviewing applicable United States environmental laws, the EPA and DoD reviewed Federal and State pollution criteria to assess whether the 11 discharges exceeded Federal and State pollution criteria including thermal pollution. The 11 Batch Two discharges are at ambient temperatures, and the volume or discharge rates are low.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to pollution in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 20 states and territories that have specific enforceable policies applicable to the pollution theme. *Section II.A.2* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

The following UNDS requirements could serve to reduce or mitigate the adverse impacts of pollution of coastal waters from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must

not be discharged in federally-protected waters except when needed to washdown the anchor;

- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;
- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

The EPA and DoD examined pollutant concentration data for Batch Two discharges from vessels of the Armed Forces, considering only those pollutants having levels that potentially could exceed state and/or federal acute ambient water quality criteria (WQC) and impact aquatic and aquatic-dependent species in Navy harbors most heavily populated with Armed Forces vessels. Using the available information, data, and analyses from the ESA Batch Two BE that was

conducted, the EPA and DoD were able to determine that the following pollutants of concern did not exceed federal WQC:

- Cadmium
- Chromium VI, Dissolved
- Copper
- Iron
- Lead
- Mercury
- Nickel
- Silver
- Zinc
- Bis (2-ethylhexyl) phthalate
- TBT
- Chlorine Produced Oxidants (CPO) (saltwater) and Total Residual Chlorine (TRC) (freshwater)
- Oil and Grease
- Total Petroleum Hydrocarbons (TPH)
- Total Phosphorus
- Ammonia as Nitrogen
- Nitrate/Nitrite
- Total Kjeldahl Nitrogen
- Total Nitrogen

The following table indicates the predicted concentrations of the constituents above discharged from Armed Forces vessels. These values are for those harbors with the greatest number of Armed Forces vessels and are not expected to exceed any listed federal water quality chronic and saltwater WQC after the Batch Two performance standards are implemented.

Table 2: Comparison of Predicted Batch Two Pollutant Concentration with Federal Aquatic Life Water Quality, Human Health, and Organoleptic Criteria

Pollutant	Harbor Min EC_{Water} (ug/L) From Hypothetical Harbor Model Calc[1]	Harbor Max EC_{Water} (ug/L) From Hypothetical Harbor Model Calc[1]	River Mean EC_{Water} (ug/L) From Hypothetical Harbor Model Calc[1]	Water Quality Criteria (ug/L)[2]	Human Health (consumption + Water) (ug/L)[3]	Organoleptic (ug/L)[4]
Cadmium	7.40E-08	7.80E-06	3.20E-09	7.9	.005 (drinking)	-
Chromium VI, Dissolved	3.60E-06	3.90E-04	1.60E-07	50	100	-
Copper	1.60E-03	3.00E-01	6.70E-05	3.1	1300	1000
Iron	2.30E-05	3.80E-02	2.30E-06	1000 (Fresh Water)	-	300
Lead	8.30E-06	8.20E-04	3.00E-07	9.1	15 (TT)(D)	-
Mercury	5.70E-10	4.60E-07	9.30E-12	0.94	2 (D)	-
Nickel	5.70E-06	9.70E-03	1.00E-07	8.2	-	-
Silver	1.40E-09	2.80E-06	0.00E+00	1.9 (Criterion Maximum Concentration)	-	-
Zinc	4.00E-03	4.10E-01	2.70E-05	81	-	5000
Bis(2-ethylhexyl)phthalate	1.80E-07	1.40E-02	2.80E-08	-	0.32 (Drinking/ Consumption)	-
TBT	0.00E+00	2.10E-04	0.00E+00	.0074	-	-
CPO (saltwater) and TRC (freshwater)	0.00E+00	3.70E-03	0.00E+00	7.5	-	-
Oil and Grease	7.30E-04	7.40E-02	2.80E-05	-	-	-
TPH	3.70E-08	1.90E-06	2.70E-09	-	-	-
Total Phosphorus	1.30E-05	2.50E-03	3.20E-07	10 (lowest ecoregio)	-	-
Ammonia Nitrogen	1.90E-05	3.60E-02	1.60E-08	0.75 (pH 8@30 C)	-	-
Nitrate/Nitrite	2.40E-06	1.10E-03	4.80E-08	-	-	
Total Kjeldahl Nitrogen	3.50E-05	4.90E-02	2.70E-07	-	-	-
Total Nitrogen	3.70E-05	5.00E-02	3.20E-07	120 (lowest ecoregio)	-	-

Notes:
Numbers are for saltwater criteria unless otherwise identified.
Water Quality Criteria numbers are acute, if chronic was not available.

[1] Draft Uniform National Discharge Standards Batch Two Biological Evaluation, November 2018
[2] https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table
[3] https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table
[4] https://www.epa.gov/wqc/national-recommended-water-quality-criteria-organoleptic-effects

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect water quality and from other pollution impacts such as discoloration, odor, and thermal pollution. It is recognized that some CZMA policies have provisions that prohibit or limit the discharge of graywater from large passenger vessels. And, although a few state and territory provisions regarding the prohibition of graywater discharge are not incorporated in their coastal management programs, and are not necessarily applicable to Armed Forces vessels, the Batch Two performance standards have been reviewed in consideration of these requirements. Similar to the Batch Two prohibition of the discharge of graywater in federally-protected waters and the Great Lakes and within one mile of shore, Armed Forces will follow these state and territory limits on near-shore discharge unless it is not reasonable and practicable for vessels to hold for offload to an onshore facility. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

3. OIL/PETROLEUM PRODUCTS

The oil/petroleum products policy theme restricts the discharge or pollution of oil or petroleum products into waters. The discharge or pollution of oil or petroleum products may cause or pose a threat by making a film on, emulsion in, or sludge beneath the waters of the state and its shoreline. Multiple coastal management plans include guidelines to prohibit pollution of oil or petroleum products.

EPA AND DOD RESPONSE:

The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding minimizing pollution impacts to coastal waters from oil/petroleum products. Oil spills are outside of UNDS in that they are not incidental to the "normal" operation of a vessel; oil spills are addressed elsewhere in the CWA (Section 311). The vessels of the Armed Forces have implemented spill response procedures to address oil spills. Implementation of these UNDS standards would serve to reduce or mitigate the discharge of oil/petroleum products in the coastal waters and will serve to reduce the risk of spills. Nonetheless, oil is a constituent of concern in some of the Batch Two discharges.

Of the 11 UNDS Phase II Batch Two discharges (detailed in *Section D. Phase II Batch Two Performance Standards*, of this document), four discharges (firemain systems, hull coating leachate, sonar dome discharge, and underwater ship husbandry) are deemed to not discharge oil. The remaining seven discharges (catapult water brake tank and post-launch retraction exhaust, controllable pitch propeller hydraulic fluid, deck runoff, graywater, motor gasoline and compensating discharge, submarine bilgewater, and surface vessel bilgewater/oil-water separator effluent) have the potential to discharge oil; however, performance standards are consistent with CWA (Section 311) requirements for oil control. In addition, when developing proposed Batch Two performance standards the EPA and DoD reviewed relevant and potentially applicable United States environmental laws: Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; Title X of the Coast Guard Authorization Act of 2010, and CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to pollution of oil/petroleum products into coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 13 states and territories that have specific enforceable policies applicable to the oil/petroleum products theme. *Section II.A.3* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

The following UNDS requirements could serve to reduce or mitigate the quantity of oil and petroleum product that could be discharged in coastal waters from the seven discharges that may contain oil (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- graywater discharge must not contain oil in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the IMO (e.g., ISO Method 9377) or United States Coast Guard. Large quantities of cooking oils (e.g., from a deep fat fryer), including animal fats and vegetable oils, must not be added to the graywater system. Small quantities of cooking oils (e.g., from pot and dish rinsing) must be minimized if added to the graywater system within three miles of shore. Graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility;

however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen; and

- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen.

When onboard retention or discharge to receiving facilities ashore is not practicable, the oil content of the discharge, without dilution, may not exceed 15 ppm as measured by EPA Method 1664A or other appropriate method for determination of oil content as accepted by the IMO (e.g., ISO Method 9377) or United States Coast Guard, or be otherwise harmful to the public health or welfare of the United States. The proposed UNDS Phase II Batch Two discharge performance standards will reduce the discharge of oil from vessels of the Armed Forces into coastal waters.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect water quality from impacts due to oil and petroleum pollution. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

4. PESTICIDES

The pesticides policy theme stresses the concerns about pesticides that can be injurious to animal and plant life. According to FIFRA, the definition of a pesticide is:

- Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
- Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- Any nitrogen stabilizer.

States promulgating this rule prohibit the use of any pesticide that is a serious hazard to wildlife (other than those it is intended to control) and protect the well-being of the general public. Multiple coastal management plans include guidelines to prohibit pollution by pesticides.

EPA AND DOD RESPONSE:
The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding minimizing pollution impacts to coastal waters from pesticides. Implementing UNDS performance standards by employing MPCDs will only serve to control impacts to receiving waters from discharges generated by vessels of the Armed Forces, and will not increase the quantity of pesticides as a result of implementing the UNDS performance standards.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

When developing proposed Batch Two performance standards the EPA and DoD reviewed relevant and potentially applicable United States environmental laws including FIFRA; Hazardous Materials Transportation Act; Resource Conservation and Recovery Act; and Toxic Substances Control Act. Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to pesticides into coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 4 states and territories that have specific enforceable policies applicable to the pesticides theme. *Section II.A.4* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

Of the 11 UNDS Phase II Batch Two discharges (detailed in *Section D. Phase II Batch Two Performance Standards*, of this document), three discharges (hull coating leachate, sonar dome discharge, and underwater ship husbandry) are likely to discharge some quantity of pesticide; however, performance standards are consistent with FIFRA requirements for pesticide control. Additionally, the EPA and DoD prohibit the use of biocides or toxic materials banned for use in the United States.

The following UNDS requirements could serve to reduce or mitigate the quantity of pesticide product that could be discharged in coastal waters from the three discharges that may contain pesticides (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

During the development of the Batch Two BE, the EPA and DoD closely examined five pollutant concentrations (total copper, dissolved copper, total zinc, dissolved zinc, and TBT) from vessels of the Armed Forces in Navy harbors most heavily populated, for three of the Batch Two discharges (i.e., hull coating leachate, sonar dome discharge, and underwater ship husbandry). The EPA and DoD determined that the five pollutants are not expected to exceed federal WQC (See Table 2) after the standards are implemented.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect coastal waters from impacts due to pesticides. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

5. COAST

The coast policy theme emphasizes the importance of shoreland areas for the protection of water quality, recreational, wildlife, and fisheries resources. This theme includes policies to sustain biological productivity and maintain healthy populations of marine wildlife for continuing commercial, recreational, beneficial, scientific, and educational purposes. Multiple coastal management plans include guidelines to protect the coast from pollution and other environmental impacts.

EPA AND DOD RESPONSE:
The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding coastal protection, including water quality, shore structures, recreational uses, wildlife, and fisheries resources. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to receiving coastal waters from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact to coastal waters.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding coastal protection such as water quality and recreational uses, the EPA and DoD when developing proposed Batch Two performance standards reviewed relevant and potentially applicable United States environmental laws including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations.

In addition to reviewing applicable United States environmental laws, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to coastal water quality, shore structures, recreational uses, wildlife, and fisheries resources in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 17 states and territories that have specific enforceable policies applicable to the coastal theme. *Section II.A.5*

of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding coastal protection such as wildlife and fisheries resources, and as required by the Endangered Species Act for federal agencies, a Batch Two BE was conducted. The EPA and DoD determined that the UNDS Phase II Batch Two discharges as regulated by UNDS are not likely to adversely affect federally listed species, wildlife and aquatic life, and their habitats. For additional information on the Batch Two BE conducted see *Section 7.0 Aquatic Life and Wildlife (Including Endangered and Threatened Species, and Critical Habitats)* of this document.

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on water quality, shore structures, recreational uses, wildlife, and fisheries resources in coastal waters from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;
- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied,

maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;

- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;
- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect the coast. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

6. WETLANDS

The wetlands policy theme covers the programs developed to protect land and water resources in coastal areas such as wetlands. Wetlands support and nourish fishery and marine resources and protect shorelines from storm and wave damage. Wetland areas may include salt marshes, shellfish beds, dunes, beaches, barrier beaches, salt ponds, eelgrass beds, and freshwater wetlands. Multiple coastal management plans include guidelines to protect wetland areas.

EPA AND DOD RESPONSE:
The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and

territory enforceable policies regarding wetlands, including impacts to water quality (such as toxicity of the water), wildlife and shellfish, and their habitats. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to wetlands from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact to wetlands, wildlife, shellfish and their habitat.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding wetlands, the EPA and DoD when developing proposed Batch Two performance standards reviewed relevant and potentially applicable United States environmental laws including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations. In addition, when developing the performance standards many of the 11 Batch Two discharges have a requirement to prohibit or minimize discharge in federally-protected waters. Federally-protected waters means waters within 12 miles of the United States that are also part of any of the following: (1) marine sanctuaries designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or Marine National Monuments designated under the Antiquities Act of 1906; (2) a unit of the National Wildlife Refuge System, including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Areas, and National Fish and Wildlife Refuges; (3) National Wilderness Areas; and (4) any component designated under the National Wild and Scenic Rivers System.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to wetlands, including impacts to water quality (such as toxicity of the water), wildlife and shellfish, and their habitats in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 32 states and territories that have specific enforceable policies applicable to the wetlands theme. *Section II.A.6* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable with those policies.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding protection of wildlife and shellfish and their habitats in wetlands, and as required by the Endangered Species Act for federal agencies, a Batch Two BE was conducted. The EPA and DoD determined that none of the species or their critical habitat had a “may affect, likely to adversely affect” determination under the proposed action, indicating that the proposed action will help mitigate potential environmental impacts of the Batch Two discharges. For additional information on the Batch Two BE conducted see *Section 7.0 Aquatic Life and Wildlife (Including Endangered and Threatened Species, and Critical Habitats)* of this document.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on wetlands from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;
- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized

within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;

- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect wetlands, including water quality (such as toxicity of the water), wildlife and shellfish, and their habitats. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

7. AQUATIC LIFE AND WILDLIFE (INCLUDING ENDANGERED AND THREATENED SPECIES, AND CRITICAL HABITATS)

The aquatic life or wildlife policy theme addresses impacts to biological productivity and water resources, conservation and protection of aquatic life and wildlife (including endangered and threatened species and critical habitats), and the need to protect the waters and the public. This policy theme highlights the importance that uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters; that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes; that will preserve and enhance coastal resources; and that will conserve, manage, enhance, and protect fish, plant life, and wildlife species endangered or threatened with extinction. Multiple coastal management plans include provisions to conserve and protect marine resources and wildlife.

EPA AND DOD RESPONSE:
The EPA and DoD determined that proposed UNDS Phase II Batch Two performance standards for the Batch Two discharges from vessels of the Armed Forces are not likely to adversely affect aquatic life or wildlife including, endangered or federally listed species. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to aquatic life and wildlife from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact. Also, the proposed UNDS Phase II Batch Two discharge performance standards are, to the maximum extent practicable, consistent with state and territory enforceable policies regarding aquatic life and wildlife (including threatened and endangered species and designated critical habitat).

As noted above, EPA and DoD conducted an ESA BE, and the approach used by the EPA and DoD was to (1) identify species and critical habitats where vessels of the Armed Forces are operational, (2) conduct either a quantitative or qualitative risk analysis of chemical and non-chemical stressors in the Batch Two discharges, and (3) determine the likelihood for adverse effects based on the level of risk and the likelihood of exposure. For the quantitative risk analysis, maximum potential receiving water concentrations were modeled based on discharge pollutant loads and compared with minimum toxicity effects threshold concentrations to determine if aquatic life and aquatic-dependent wildlife may be adversely affected by stressors in the Batch Two vessel discharges under the proposed regulations. A qualitative risk analysis was conducted for stressors for exposures cannot be quantified and/or for which effects thresholds are unavailable. The analysis evaluated risk to approximately 111 listed aquatic and aquatic-dependent species and 26 critical habitats that occur within a specific set of representative action areas that the EPA and DoD selected. The species evaluated represent all taxonomic groups of listed aquatic and aquatic-dependent species. The results of the risk analysis were extrapolated to all 674 aquatic and aquatic-dependent species and 278 critical habitats that occur throughout the action area.

Based on the risk of adverse effects to all federally listed aquatic and aquatic-dependent species and the likelihood of exposure to pollutants and stressors in Batch Two discharges from vessels of the Armed Forces, the EPA and DoD determined that the 11 UNDS Phase II Batch Two discharges will have "no effect" on 320 aquatic and aquatic-dependent species because they do not occur in waterbodies where vessels of the Armed Forces discharge. A determination of "may affect, not likely to adversely affect" was made for 356 aquatic-dependent species for the UNDS Batch Two discharges. Individual DPSs and subspecies were evaluated separately, resulting in a total number slightly greater than 674 because some species had DPSs with both "no effect" and "may affect, not likely to adversely affect" determinations. It was determined that UNDS Batch Two discharges will have "no effect" on critical habitat for 174 of the species and DPSs because their primary constituent elements will not have any exposure to UNDS Batch Two discharges. A determination for the action of "may affect, not likely to adversely affect" was made for critical habitat for 138 species and DPSs. None of the species or their critical habitat had a "may affect, likely to adversely affect" determination under the propose action, indicating that the propose action will help mitigate environmental impacts of the Batch Two discharges.

In addition to conducting a Batch Two BE, when developing the Batch Two performance standards many of the 11 Batch Two discharges have a requirement to prohibit or minimize discharge in federally-protected waters. Federally-protected waters means waters within 12 miles of the United States that are also part of any of the following: (1) marine sanctuaries designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or Marine National Monuments designated under the Antiquities Act of 1906; (2) a unit of the National Wildlife Refuge System, including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Areas, and National Fish and Wildlife Refuges; (3) National Wilderness Areas; and (4) any component designated under the National Wild and Scenic Rivers System.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to aquatic life and wildlife, including endangered and threatened species and

critical habitats and their habitats in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 31 states and territories that have specific enforceable policies applicable to the aquatic life and wildlife (including endangered and threatened species and critical habitats) theme. *Section II.A.7* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to conserve and protect aquatic life and wildlife, including endangered and threatened species and critical habitats. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

8. BENEFICIAL OR DESIGNATED USES

The beneficial or designated uses policy theme emphasizes the concerns about impacts to beneficial or designated uses and the need to protect these areas and species within these marine environments. Beneficial and designated uses are typically defined as uses of the ocean including, among others, aesthetic enjoyment of water areas; commercial and sport fishing; mariculture and aquaculture; preservation and enhancement of areas of concern, rare and endangered species, and marine habitats; and fish migration, fish spawning, and shellfish harvesting. Multiple coastal management plans include guidelines to protect coastal waters for beneficial or designated uses.

EPA AND DOD RESPONSE:

The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding beneficial or designated uses. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to beneficial or designated water areas from discharges generated by vessels of the Armed Forces by reducing discharges or properly managing such discharges to limit their impact to receiving waters.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding water quality, aesthetic enjoyment of water areas, mariculture and aquaculture; and preservation and enhancement of areas of concern, the EPA and DoD when developing proposed Batch Two performance standards reviewed relevant and potentially applicable United States environmental laws, including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to beneficial or designated uses in coastal waters. Of the 35 coastal

management programs reviewed, Table 1 identifies 10 states and territories that have specific enforceable policies applicable to the beneficial or designated uses theme. *Section II.A.8* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding protection of wildlife and shellfish and their habitats, and as required by the Endangered Species Act for federal agencies, a Batch Two BE was conducted. The EPA and DoD determined that none of the species or their critical habitat had a "may affect, likely to adversely affect" determination under the proposed action, indicating that the proposed action will help mitigate environmental impacts of the Batch Two discharges. For additional information on the Batch Two BE conducted see *Section 7.0 Aquatic Life and Wildlife (Including Endangered and Threatened Species, and Critical Habitats)* of this document.

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on beneficial and designated water use, including commercial and sport fishing; mariculture and aquaculture, from the 11 discharges (*Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;
- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;

- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;
- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

As described above in *Section 2. Pollution*, the EPA and DoD also predicted high-end concentrations for pollutants found in UNDS Phase II Batch Two discharges in the vicinity of ships in the most heavily populated harbors. Several of the pollutants studied as shown in Table 2, listed organoleptic criteria for taste and odor and human health criteria for fish/water consumption. A comparison of maximum predicted concentrations against aquatic water quality, organoleptic, and human health consumption criteria revealed that none of those criteria are expected to be exceeded. Therefore, there is no evidence that the UNDS Phase II Batch Two performance standards would have any negative impact on the recreational fishing or consumption of those fish.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect beneficial or designated uses. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions

will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

9. RECREATIONAL USES

The recreational uses policy theme stresses the importance to preserve and enhance recreational uses. The public is granted access to coastal waters and shorelines for navigation and recreational use. Recreationally, coastal waters support valuable commercial and sports fisheries, have aesthetic value, and are important resources for economic development. Multiple coastal management plans include guidelines to protect coastal waters for recreational purposes.

EPA AND DOD RESPONSE

The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding recreational uses. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to recreational water areas from discharges generated by vessels of the Armed Forces, and will not increase discharges to recreational areas as a result of implementing the UNDS performance standards. Generally Armed Forces vessels operate from industrial areas and recreational uses areas in these areas are already limited.

To ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding water quality, access to coastal waters, recreational uses, and the aesthetic value of the coastal waters, the EPA and DoD when developing proposed Batch Two performance standards reviewed relevant and potentially applicable United States environmental laws including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to recreational water uses in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 12 states and territories that have specific enforceable policies applicable to the recreational use theme. *Section II.A.9* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on recreational water use from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;
- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;
- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or

bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and

- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

Accordingly, UNDS is consistent to the maximum extent practicable with state and territory CZMA policies to protect recreational uses. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

10. PERMIT REGULATIONS

The permit regulations policy theme stresses the permit requirements for any activity that may cause or contribute to the discharge of a pollutant into surface waters. Of the permit regulations enforced by state and territory coastal management plans, the EPA and DoD determined that California BCDC, Delaware, and Georgia's enforceable policy requiring a permit for any activity that may cause or contribute to the discharge of a pollutant into any surface or ground water is not applicable to the UNDS Program. UNDS discharges are regulated under Section 312(n) of the CWA. UNDS Discharges from Armed Forces vessels are not subject to permits.

California BCDC, Delaware, and Georgia's specific enforceable policy applicable to discharge pollutant permit regulations is provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

11. HUMAN HEALTH

The human health policy theme emphasizes the protection of natural resource areas including coastal waters from pollution to enhance public health. Pollution into waters is unfavorable to the health, safety and welfare of the public. Multiple coastal management plans include guidelines to protect human health.

EPA AND DOD RESPONSE

The EPA and DoD determined that the proposed UNDS Phase II Batch Two discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding human health and public safety and welfare. Implementing UNDS performance standards by employing MPCDs will serve to control impacts to human health and public safety and welfare from discharges generated by vessels of the Armed Forces, and will not increase discharges to waters that could have an effect on human health and public safety and welfare, as a result of implementing the UNDS performance standards. Generally Armed Forces vessels operate from industrial areas and recreational uses in those areas are already limited.

For waters outside of recreational areas, and coastal waters in general, to ensure the performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding water quality and pollution to coastal waters that could harm humans, the EPA and DoD when developing proposed Batch Two performance standards reviewed relevant and potentially applicable United States environmental laws, including the Act to Prevent Pollution from Ships; CWA Section 311, as amended by the Oil Pollution Control Act of 1990; CWA Section 402 and the NPDES Vessel General Permit and small Vessel General Permit; FIFRA; Hazardous Materials Transportation Act; Title X of the Coast Guard Authorization Act of 2010; National Marine Sanctuaries Act; Antiquities Act of 1906; Resource Conservation and Recovery Act; Toxic Substances Control Act; and the St. Lawrence Seaway Regulations.

Furthermore, the EPA and DoD conducted a thorough review of 35 federally-approved state and territory coastal management programs and/or similar coastal policy documents, focusing on language specific to human health and public safety and welfare in coastal waters. Of the 35 coastal management programs reviewed, Table 1 identifies 14 states and territories that have specific enforceable policies applicable to the human health theme. *Section II.A.11* of this document quotes the relevant enforceable policies from each of these coastal management programs. The EPA and DoD compared the Batch Two performance standards in *Section I.D. Phase II Batch Two Performance Standards* with the applicable enforceable polices, and have determined that the Batch Two performance standards are consistent to the maximum extent practicable.

The following UNDS requirements could serve to reduce or mitigate the adverse impacts on human health and public safety and welfare from the 11 discharges (detailed in *Section D. Phase II Batch Two Performance Standards*), to the extent practicable without endangering vessels or impairing operations effectiveness:

- catapult water brake tank discharge must be discharged outside of 12 miles from shore and post-launch retraction exhaust discharge must be minimized within 12 miles from shore;
- controllable pitch propeller hydraulic fluid discharge may be discharged within and outside of 12 miles from shore; however, maintenance activities that could cause discharge must not contain oil in quantities that cause a sheen and should be conducted when a vessel is in drydock;
- deck runoff discharge may be discharged within and outside of 12 miles from shore, however, decks will be maintained to limit debris, prevent spills, and collect oily discharges, flight deck washdowns are prohibited, and deck washdowns will use minimally-toxic, phosphate free, non-caustic, biodegradable soaps, cleaners, and detergents, and must be minimized while in port and in federally-protected waters;
- firemain systems may be discharged for maintenance and training within and outside of 12 miles from shore, but must be conducted outside of port and occur as far away from shore as possible, and if in port, only if the intake comes directly from surrounding waters or potable water supplies and there are not additions to the discharge, but must not be discharged in federally-protected waters except when needed to washdown the anchor;

- graywater discharge for vessels designed with the capacity to hold graywater must not be discharged in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available, and for vessels that do not have the capacity to hold graywater, must be minimized in federally-protected waters or the Great Lakes and is prohibited from discharging graywater within one mile of shore if an onshore facility is available;
- hull coating leachate discharge may be discharged within and outside of 12 miles from shore; antifouling hull coatings subject to FIFRA (7 U.S.C 136 et seq.) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA labels; and the coatings will have the lowest effective biocide release rates or be non-biocidal coatings;
- motor gasoline and compensating discharge may occur within and outside of 12 miles from shore but must not contain oil in quantities that cause a sheen, must be minimized in port, and is prohibited in federally-protected waters;
- sonar dome discharge (water inside the sonar dome) may occur within and outside of 12 miles from shore, but within 12 miles from shore must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible; and discharges from the external surface of sonar domes may occur within and outside of 12 miles from shore but a biofouling chemical that is bioaccumulative will not be applied to the exterior of the sonar dome if a non-bioaccumulative alternative is available;
- submarine bilgewater discharge must not occur while the submarine is in port, when the port has the capability to collect and transfer the bilgewater to an onshore facility; however, if the submarine is not in port, then any such discharge must be minimized within 12 miles from shore and discharged as far from shore as technologically feasible and must not contain oil in quantities that cause a sheen;
- surface vessel bilgewater/oil-water separator effluent discharge must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent or bilgewater to an onshore facility, must be minimized within one mile from shore, and must not contain oil in quantities that cause a sheen; and
- underwater ship husbandry discharge that occurs during the inspection, maintenance, cleaning, and repair of hulls and hull appendages must minimize the removal and discharge of antifouling coatings and the transport of fouling organisms, adhere to applicable cleaning requirements on the coatings' FIFRA label, and to the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility, and hull cleanings for vessels with antifouling hull coatings must not be cleaned within 90 days after application, and for those with copper-based antifouling coatings, within 365 days after application.

Accordingly, UNDS is consistent to the maximum extent practicable with State and territory CZMA policies to protect human health and public safety and welfare. After DoD promulgates the Phase III regulations governing MPCD implementation, states, territories, and their political subdivisions will be precluded from adopting or enforcing their own statutes and regulations with respect to the subject discharges.

II. SPECIFIC STATE AND TERRITORY ENFORCEABLE POLICIES BY THEME

A. DESCRIPTION OF STATE SPECIFIC ENFORCEABLE POLICIES

The following are the specific applicable state and territory enforceable policies identified for each theme previously discussed in *Section F. Relevant Enforceable Policies (State- or Territory- and UNDS-Identified)* and *Section G. Description of Identified Enforceable Policies*. The enforceable policies reviewed in the coastal management programs fit into the 11 themes that have been identified.

1. WATER AND AIR QUALITY

ALABAMA

Alabama Coastal Area Management Plan: "(1) Permit applicants for new continuous or frequent discharges to coastal waters which are greater than 1 million gallons per day, or otherwise classified as a major discharge by the Department or EPA Regional Administrator; (2) Existing permitted NPDES dischargers to coastal waters with a continuous or frequent discharge of greater than 1 million gallons per day, or otherwise classified as a major discharge by the Department, shall, upon request for a permit renewal perform a sediment and benthic community characterization as described in paragraph (a) above prior to applying for permit renewal. If a sediment and benthic characterization has been performed in the past then the renewal characterization shall use the same sampling locations as the original characterization and be conducted during the same season. An analysis of the results shall be provided to the Department with the application for renewal. Such characterization shall be repeated if the discharger fails accelerated toxicity testing and is required to initiate a Toxicity Reduction Evaluation (TRE) pursuant to the applicable NPDES permit; and (3) If the Department determines that the discharge is resulting in significant adverse impact to the benthic community or sediment quality in an area beyond the boundaries of the original characterization or 400 feet if an original characterization was not performed, the discharger shall be required to submit plans to identify corrective actions which will be taken."

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, II. Water Quality Objectives: "A. General Provisions 1. This chapter sets forth limits or levels of water quality characteristics for ocean waters to ensure the reasonable protection of beneficial uses and the prevention of nuisance. The discharge of waste shall not cause violation of these objectives.

B. Physical Characteristics 1. Floating particulates and grease and oil shall not be visible. 2. The discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface. 3. Natural light shall not be significantly reduced at any point outside the initial* dilution zone as the result of the discharge of waste. 4. The rate of deposition of inert solids and the characteristics of inert solids in ocean sediments shall not be changed such that benthic communities are degraded."

CALIFORNIA BCDC

San Francisco Bay Plan: "2. Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's Water Quality Control Plan, San Francisco Bay Basin and should be

protected from all harmful or potentially harmful pollutants. The policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the Regional Board, should be the basis for carrying out the Commission's water quality responsibilities."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 2.1.2 Areas of Special Biological Significance (ASBS): "These include marine life refuges, ecological reserves, and designated areas where the preservation and enhancement of natural resources requires special protection. In these areas, alteration of natural water quality is undesirable…The California Ocean Plan prohibits waste discharges into, and requires wastes to be discharged at a sufficient distance from, these areas to assure maintenance of natural water quality conditions."

CONNECTICUT

Connecticut Coastal Management Manual: "To manage estuarine embayments so as to insure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; to protect, enhance and allow natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational fin fisheries [CGS section 22a-92(c)(2)(A)].

It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of the state, is a public nuisance and is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, and recreational and other legitimate beneficial uses of water, and that the use of public funds and the granting of tax exemptions for the purpose of controlling and eliminating such pollution is a public use and purpose for which moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination [CGS section 22a-422, as referenced by CGS section 22a-92(a)(2)]."

*Reference Guide to Connecticut Coastal Policies and Definitions, Resource Policies, General Resources, Policy 25: "*The commissioner of environmental protection shall adopt, and may thereafter, amend, standards of water quality applicable to the various waters of the state or portions thereof as provided in subdivision (a) of Section 22a-6. Such standards shall be consistent with the federal Water Pollution Control Act and shall be for the purpose of qualifying the state and its municipalities for available federal grants and for the purpose of providing clear and objective public policy statements of a general program to improve the water resources of the state; provided no standard of water quality adopted shall plan for, encourage or permit any wastes to be discharged into any of the waters of the state without having first received the treatment available and necessary for the elimination of pollution. Such standards of quality shall: (1) apply to interstate waters or portions thereof within the state; (2) apply to such other waters within the state as the commissioner may determine is necessary; (3) protect the public health and welfare and promote the economic development of the state; (4) preserve and enhance the quality of state waters for present and prospective future use of public water supplies, propagation of fish and aquatic life, recreational purposes and agricultural, industrial and other legitimate uses; (5) be consistent with health standards as established by the state department of health. CGS Section 22a-426(a), as referenced by CGS Section 22a-92(a)(2)."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.4) It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the propagation and protection of fish and aquatic life, and other beneficial uses of the water…

(5.3.1.6) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. Degradation of water quality in such a manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Degradation shall be defined for the purposes of this section as a statistically significant reduction, accounting for natural variations, in biological, chemical, or habitat quality as measured or predicted using appropriate assessment protocols. [Delaware Surface Water Quality Standards, Section 5.1, amended July 11, 2004].

(5.3.1.10) All surface waters of the State shall meet the following minimum criteria: (a) Waters shall be free from substances that are attributable to wastes of industrial, municipal, agricultural or other human-induced origin. Examples include but are not limited to the following: (1) Floating debris, oil, grease, scum, foam, or other materials on the water surface that may create a nuisance condition, or that may in any water interfere with attainment and maintenance of designated uses of the water. (2) Settable solids, sediments, sludge deposits, or suspended particles that may coat or cover submerged surfaces and create a nuisance condition, or that may in any way interfere with attainment and maintenance of designated uses of the water. (3) Any pollutants, including those of a thermal, toxic, corrosive, bacteriological, radiological, or other nature, that may interfere with attainment and maintenance of designated uses of the water, may impart undesirable odors, tastes, or colors to the water or to aquatic life found therein, may endanger public health, or may result in dominance of nuisance species."

GEORGIA

Georgia Coastal Management Program's Final Environmental Impact Statement, Chapter 5 Policies and Management Authority, Water Quality: "(a) The people of the State of Georgia are dependent upon the rivers, streams, lakes, and subsurface waters of the state for public and private water supply and for agricultural, industrial, and recreational uses. It is therefore declared to be the policy of the State of Georgia that the water resources of the state shall be utilized prudently for the maximum benefit of the people, in order to restore and maintain a reasonable degree of purity in the waters of the state and an adequate supply of such waters, and to require where necessary reasonable usage of the waters of the state and reasonable treatment of sewage, industrial wastes, and other wastes prior to their discharge into such waters. To achieve this end, the government of the state shall assume responsibility for the quality and quantity of such water resources and the establishment and maintenance of the a water quality and water quantity control program adequate for present needs and designed to care for the future needs of the state, provided that nothing contained in this article shall be construed to waive the immunity of the state for any purpose."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

GUAM

Procedures Guide for Achieving Federal Consistency with the Guam Coastal Management Program: "(RP 2. Water Quality): Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuaries, reef and aquifer areas.

(RP 1. Air Quality): All activities and uses shall comply with all local air pollution regulations and all appropriate Federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality."

HAWAII

State of Hawaii Office of Planning Hawaii Coastal Zone Management Program: "Coastal Ecosytems - (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards."

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-1.1 General Policy of Water Quality Antidegradation: "(a) Existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

ILLINOIS

Illinois Coastal Management Program: "Water Quality Standards" - All waters in Illinois, including Lake Michigan and its tributaries, must meet State Water Quality Standards. This means that all waters in the Great Lakes basin must be free from substances, materials, debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices. Also, other discharges must not form objectionable deposits; not be in amounts to be unsightly; not produce color, visible oil sheen, odor, or other objectionable conditions; or not be in concentrations that will contribute to the growth of algae or aquatic plants to a degree of being a nuisance; and should not be in amounts that are toxic to aquatic life, other animals or humans."

INDIANA

Indiana Lake Michigan Coastal Program, Water Quality Policy: "As a general principle, a person may not throw, drain, allow to seep, or otherwise dispose of organic or inorganic matter that contributes to the pollution of streams or waters of Indiana (IC 13-18-4-5)..."

"SECTION 401 WATER QUALITY CERTIFICATION PROGRAM: Certification is required for an activity that may result in any discharge into navigable waters. Activities are reviewed for consistency with state water quality standards. The certification is required before permits sought under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 are approved."

LOUISIANA

Louisiana Title 43 Natural Resources, Chapter 7, Subchapter A §701(B), Guideline Applicable to All Uses, Guideline 1.2: "Conformance with applicable water and air quality laws, standards and regulations, and with those other laws, standards and regulations which have been incorporated into the coastal resources program shall be deemed in conformance with the program except to the extent that these guidelines would impose additional requirements."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

MARYLAND

Maryland Enforceable Coastal Policies: "1. No one may add, introduce, leak, spill, or emit any liquid, gaseous, solid, or other substance that will pollute any waters of the State without State authorization. MDE (A5) Md. Code Ann., Envir. §§ 4-402, 9-101, 9-322.

2. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. MDE (A1) COMAR 26.08.02.02.
3. The discharge of any pollutant which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms is prohibited. MDE (A4) COMAR 26.08.03.01.

5. The use of best available technology is required for all permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment shall be required and based on waste load allocation. MDE (D4) COMAR 26.08.03.01C."

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Water Quality, "Policy 1: Ensure that point-source discharges in or affecting the coastal zone are consistent with federally-approved state effluent limitations and water quality standards.

Policy 2: Ensure that nonpoint pollution controls promote the attainment of state surface water quality standards in the coastal zone."

MICHIGAN

Michigan Coastal Zone Management Program Document: "Support continuing efforts to monitor and control water quality problems. Especially in areas of conflicting use where they may be more sever. Continuous monitoring of water quality will identify problems which can be corrected before they become severe. Efforts to control water quality problems must continue in order to prevent irretrievable loss of resources."

MINNESOTA

Minnesota Statute §115.03, Water Pollution Control: "It is the policy of the State of Minnesota to protect all waters from degradation from point and nonpoint sources and wetland alterations, and to maintain existing water quality uses, aquatic and wetland habitats, and the level of water quality necessary to protect these uses."

NEW HAMPSHIRE

New Hampshire Coastal Program, Managing Coastal Development, Policy 11 Water Quality: "Protect and preserve the chemical, physical, and biological integrity of coastal water resources, both surface water and groundwater."

New Hampshire Coastal Program, Managing Coastal Development, Policy 11 Water Quality: "New Hampshire supports the attainment of the national water quality goals for all waters of the coastal zone

through coordination with existing water quality planning and management agencies. The State is committed to preserving water quality by, at a minimum, ensuring adherence to the Clean Water Act, as amended."

NEW YORK

New York Coastal Management Program, Policy 31: "State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint."

NORTH CAROLINA

*State of North Carolina Coastal Management Program and Final Environmental Impact Statement: "*It is State policy: (4) To manage coastal water bodies according to their best usage, and to regulate discharge into these waters so that they do not exceed assigned water quality standards. As set forth and implemented under authority of the Water Quality Control Statutes (G.S. 143-214.1 and G.S. 143-215.1)."

North Carolina Title 15A, Subchapter 7H Coastal Management, 15A NCAC 07H .0208 USE STANDARDS: "(E) To protect water quality in shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with 33 U.S.C. Section 101(a)(2) of the Clean Water Act and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption."

NORTHERN MARIANA ISLANDS

Commonwealth of the Northern Marina Islands Coastal Resources Management Act, § 1511. Coastal Resources Management Policy: "(10) Maintain or improve coastal water quality through control of erosion, sedimentation, runoff, siltation, sewage and other discharges.

(13) Require compliance with all local air and water quality laws and regulations and any Federal air and water quality standards."

OHIO

Ohio Executive Order 2015-02K: "Section 6111.04 of the Ohio Revised Code prohibits pollution of waters of the state without a valid permit as provided in Sections 6111.01 and 6111.08 of the Ohio Revised Code."

Ohio Coastal Management Program: "Policy 6 Water Quality: It is the policy of the state of Ohio to maintain and improve the quality of the state's coastal waters for the purpose of protecting the public health and welfare and to enable the use of such waters for public water supply, industrial and agricultural needs, and wildlife by: I. Assuring attainment of state water quality standards and other

water quality related requirements (O.A.C. 3745-1) through: A. Controlling discharges into waters of the state by requiring permits to construct facilities and by establishing and enforcing effluent limitations under the National Pollutant Discharge Elimination System (NPDES, Section 402 CWA, O.R.C. 6111.03); B. Regulating discharge of dredge or fill material into surface waters including wetlands in accordance with Section 401 of the Clean Water Act (O.R.C. 6111.03).

Policy 27 Fisheries Management: "It is the policy of the State of Ohio to assure the continual enjoyment of the benefits received from the fisheries of Lake Erie and to maintain and improve these fisheries by: B. Prosecuting persons responsible for stream litter and for water pollution resulting in fish kills (O.R.C. 1531.29 and 1531.02); C. Protecting fish habitat through Ohio EPA's Section 401 Water Quality certification authority (O.R.C. 6111.03(o) and 6111.03(p) and O.A.C. 3745-1 and 3745-32).

Policy 33 Visual and Aesthetic Quality: It is the policy of the State of Ohio to protect the visual and aesthetic amenities of Lake Erie and its shoreline to enhance the recreational, economic, cultural and environmental values inherently associated with the coastal area by: A. Prohibiting the dumping of litter and refuse into or along the waters of Lake Erie and its tributaries, and maintaining law enforcement activities to apprehend violators (O.R.C. 1531.29 and 3767.32); B. Enforcing state water quality standards (O.R.C. chapter 6111, O.A.C. 3745-1-04)."

OREGON

Oregon Administrative Rule (OAR) Chapter 660, Division 15, Goal 17 Coastal Shorelands: "To conserve, protect, where appropriate, develop and where appropriate restore the resource and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

PENNSYLVANIA

Pennsylvania Coastal Management Program, Chapter 2, Policy 9.2: "Policy of the CZMP to adopt the requirements of the Federal Clean Water Act (P.L. 95-217, as amended) and to incorporate these requirements into the Commonwealth's CZMP."

RHODE ISLAND

The State of Rhode Island Coastal Resources Management Plan, Section 100.4 Freshwater Wetlands in the Vicinity of the Coast, C. Findings: "(e) Water Quality Freshwater wetlands, area(s) of land within fifty (50) feet, riverbanks, and flood plains protect and/or maintain important water quality functions and values by nutrient retention or removal; pollution filtration; sediment removal; oxygen production; turbidity reduction; maintenance or modification of stream flow; temperature and oxygen regimes in both flowing and surface water bodies, and providing and maintaining safe drinking water supplies."

"*The State of Rhode Island Coastal Resources Management Plan, Section 200.1 Type 1 Conservation Areas, C. Policies*: "1. The Council's goal is to preserve and protect Type 1 waters from activities and uses that have the potential to degrade scenic, wildlife, and plant habitat values, or which may adversely impact water quality or natural shoreline types."

SOUTH CAROLINA

*Policy and Procedures of the South Carolina Coastal Management Program, CHAPTER III MANAGEMENT OF COASTAL RESOURCES: "*2. To include conditions and stipulations in permits for activities approved for critical areas in order to minimize negative impacts on water quality, marine productivity, beach and shoreline stability, and other environmental aspects."

TEXAS

31 Texas Administrative Code (TAC) §501.14(f), Discharge of Municipal Waste and Industrial Wastewater to Coastal Waters: "(2) Discharges of municipal and industrial wastewater in the coastal zone shall comply with the following policies: *(B)* discharges that increase pollutant loadings to coastal waters shall not impair designated uses of coastal waters and shall not significantly degrade coastal water quality unless necessary for important economic or social development."

UNITED STATES VIRGIN ISLANDS

V.I. Code Title 12 § 906(b)(5): "To assure that existing water quality standards for all point source discharge activities are stringently enforced and that the standards are continually upgraded to achieve the highest possible conformance with federally-promulgated water quality criteria."

Final Environmental Impact Statement Proposed Coastal Zone Management Program for the Virgin Islands: "The Water Pollution Control Act, through a series of amendments, establishes a regulatory program to control pollution of the surface and underground waters of the Virgin Islands. The Act establishes standards of water quality and pollutant discharges throughout the Islands (including the territorial waters in the coastal zone). It also provides the authority to exercise land use controls intended to protect and preserve the islands' water quality. As such, it provides an additional independent basis for exercising territorial police power to achieve certain environmental objectives.

The Act prohibits discharges of pollutants into the waters of the Virgin Islands without treatment to a specified level and authorizes the regulation of both new and existing sources of water pollution.

The policies and objectives of the Act are carried out through a permit system as defined in the Federal Regulations and Guidelines. Discharge of pollutants without a lawful permit is illegal…"

VIRGINIA

Federal Consistency Information Package for Virginia Coastal Zone Management Program: "The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Virginia Code §10.1-1300 through 10.1-1320)."

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, Clean Water Act Policy: "It is declared to be the public policy of the State of Washington to maintain the highest

possible standards to insure the purity of all waters of the state..."(RCW 90.48.010). The Federal Clean Water Act addresses the issue of managing coastal development to improve, safeguard, and restore the quality of the nation's waters, including coastal waters, and to protect the natural resources and existing uses of those waters…The three primary objectives of the Water Quality program are to: 1) protect, preserve, and enhance the quality of the state surface water and underlying sediments, ensuring the wise, environmentally-sound use of the water; 2) prevent generation of pollutants; and 3) achieve a water-quality stewardship ethic and educated public."

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes: "1.2) An interim goal is the protection and propagation of fish and wildlife and the maintenance of water quality to allow recreation in and on the water to be achieved. (See Wis. Stats. § 283.001(1)(b))."

2. POLLUTION

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, III. Program of Implementation: "I. Discharge Prohibitions, 5. Vessels, a. Discharges of hazardous waste (as defined in California Health and Safety Code Section 25117 et seq. [but not including sewage]), oily bilgewater, medical waste (as defined in Section 117600 et seq. of the California Health and Safety Code) dry-cleaning waste, and film-processing waste from large passenger vessels and oceangoing vessels are prohibited.

I. Discharge Prohibitions, 5. Vessels, b. Discharges of graywater and sewage from large passenger vessels are prohibited.

K. Implementation Provisions for Vessel Discharges: 1. Vessel discharges must comply with State Lands Commission (SLC) requirements for ballast water discharges and hull fouling to control and prevent the introduction of non-indigenous species, found in the Public Resources Code Sections 71200 et seq. and title 2, California Code of Regulations, Section 22700 et. seq. 2. Discharges incidental to the normal operation large passenger vessels and ocean- going vessels must be covered and comply with an individual or general NPDES permit. 3. Vessel discharges must not result in violations of water quality objectives in this plan. 4. Vessels subject to the federal NPDES Vessel General Permit (VGP) which are not large passenger vessels must follow the best management practices for graywater* as required in the VGP, including the use of only those cleaning agents (e.g., soaps and detergents) that are phosphate-free, non-toxic, and non-bioaccumulative."

CALIFORNIA BCDC

San Francisco Bay Plan, Part III - The Bay as a Resource: Findings and Policies, Water Quality Policies: "1. Bay water pollution should be prevented to the greatest extent feasible. The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality. Fresh water inflow into the Bay should be maintained at a level adequate to protect Bay resources and beneficial uses."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 4.22 Vessel Waste: "The discharge of wastes from pleasure, commercial, and military vessels has been a water quality concern of

the Water Board since 1968 when Resolution No. 665 was adopted, which suggested that the federal government regulate waste discharges from vessels. In 1970 the Water Board adopted Resolutions 70-1 and 70-65 on vessel wastes. The first urged BCDC to condition marina permits for new or expanded marinas to include pumpout facilities, dockside sewers, and restroom facilities. Resolution 70-65 recommended that vessel wastes be controlled in such a manner through legislative action. Subsequently, the Water Board adopted a prohibition against discharge of any kind into Richardson Bay. A regional agency was formed to implement and enforce this prohibition.

There is an ongoing effort to construct, renovate, and improve pumpout facilities at marinas and ports around the region. The goal of these efforts is to increase the accessibility of these facilities to boaters and reduce pollution from vessel wastes."

*Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, Chapter 5: Plans and Policies, Pollutant Policy for San Francisco Bay and the Delta – Resolution No. 90-67: "*In 1990, the State Water Board adopted the "Pollutant Policy Document," which identifies and characterizes the pollutants of greatest concern in the Bay-Delta Estuary. This policy requires implementation of a mass emission strategy; a monitoring and assessment program; and strategies for discharges from boat yards, drydock facilities, and dredge disposal practices. In 1990, the Water Board passed a resolution directing implementation of the Pollutant Policy."

CONNECTICUT

Connecticut Coastal Management Manual, Reference Guide to Connecticut Coastal Policies and Definitions, General Resources: "Resource Policy 1: To preserve and enhance coastal resources in accordance with the policies established by chapters 439 (Environmental Protection, Department and State Policy), 440 (Wetlands and Watercourses), 446I (Water Resources), 446k (Water Pollution Control), 447 (State Parks and Forests), 474 (Pollution), and 477 (Flood Control and Beach Erosion). CGS Section 22a-92(a)(2).

Resource Policy 3: It is hereby found that there is a public trust in the air, water and other natural resources of the state of Connecticut and that each person is entitled to the protection, preservation and enhancement of the same. CGS Section 22a-15, as referenced by CGS Section 22a-92(a)(2)."

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.2) The water resources of the state shall be protected from pollution which may threaten the safety and health of the general public."

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.2.1.3) Any discharge, by any means, of untreated or inadequately treated vessel sewage into or upon the waters of any marina, boat docking facility or tidal water of the State of Delaware is prohibited."

FLORIDA

*Florida Coastal Management Program Guide: A Guide to the Federally Approved Florida Coastal Management Program: "*Policy 376 Pollutant Discharge Prevention and Removal: The discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state in the manner defined by ss. 376.011-376.21 is prohibited."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

HAWAII

Hawaii Revised Statutes (HRS) Chapter 342D – Water Pollution, 50 Prohibition: "(a) No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters except in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director."

LOUISIANA

Louisiana Title 43 Natural Resources, Chapter 7, Subchapter A §701(B), Guideline Applicable to All Uses: "(G) It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable significant: 13. discharges of pathogens or toxic substances into coastal waters;"

MAINE

Maine Guide to Federal Consistency Review: "State air and water pollution control laws, established pursuant to the federal Clean Air and Clean Water Acts, are incorporated into the Maine Coastal Program pursuant to the CZMA, 16 U.S.C. §1456(f)."

MARYLAND

Maryland Enforceable Coastal Policies: "3. The discharge of any pollutant which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms is prohibited. MDE (A4) COMAR 26.08.03.01."

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Water Quality, Policy 1, Discharge Permits and Standard: "All discharges to surface waters in Massachusetts are governed by permits that are issued jointly by USEPA and MassDEP in accordance with guidelines set forth as part of the National Pollutant Discharge Elimination System. This system establishes levels of effluent quality that must be achieved at all facilities to ensure that water quality standards are met in the receiving waters. In Massachusetts, the majority of point-source activities covered by NPDES permits includes: municipal and industrial wastewater treatment, stormwater discharged from municipal separate storm-sewer systems, oil terminal collection systems, aquaculture, effluent from academic and research institutions, and cooling water. Massachusetts has not been delegated the authority to issue NPDES permits, thus the USEPA drafts the permits and submits them to MassDEP for review and state certification. This process results in a final discharge permit that is valid under both federal and state law, and as such, each permitting agency has the independent right to enforce its terms and conditions. CZM reviews all draft NPDES permits for discharges to coastal waters to ensure consistency with CZM policies.

Under Section 401 of the federal Clean Water Act (33 U.S.C. 1251 et seq.), the state must certify that proposed discharges to waters of the U.S. within the Commonwealth comply with Massachusetts Surface Water Quality Standards and other appropriate requirements of state law. Among other things, state standards at 314 CMR 4.00 et seq. establish requirements, standards, and procedures for the control of activities involving discharges and for the evaluation of alternatives for these activities. Under 401, conditions may be established for discharges and related activities—such as water withdrawals or hydrologic alterations—to ensure compliance with narrative and numerical criteria, protection of existing and designated uses, and maintenance or restoration of hydrologic conditions and flows to

protect existing and designated uses. CZM works with MassDEP to ensure that 401 Water Quality Certifications are consistent with its coastal program policies."

MICHIGAN

Michigan Coastal Zone Management Program Document: "Chapter III- Program Policies and Action Programs: It is the policy of the State of Michigan to protect the air, water and other natural resources and the public trust therein from pollution. impairment or destruction unless it can be· demonstrated that there is no feasible and prudent alternative to the polluting, impairing or destroying conduct and that such conduct is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources: and to provide for declaratory and equitable relief for the protection of such resources, (Act No. 127 of the Public Acts of 1970; and Highway Comm. v. Vanderkloot. 392 Mich 159)."

Michigan Coastal Zone Management Program Document: "Chapter III- Program Policies and Action Programs: It is state policy to regulate the disposal of oil and sewage from water craft and to prohibit the littering of waterways, (Act No. 167 of the Public Acts of 1970}…to prohibit the pollution of any waters of the state and the Great lakes, (Act No. 245 of the Public Acts of 1 929);"

NEW JERSEY

New Jersey Coastal Management Program Bay and Ocean Shore Segment: "Policy 3.2.5.2 Finfish Migratory Pathways: Development, such as dams, dikes and spillways or chemical water quality barriers, that block movement of anadromous species is discouraged, unless acceptable mitigation measures, such as fish ladders, erosion control, and oxygenations are used. Mitigating measures are required for any development which would result in: lowering dissolved oxygen levels, releasing toxic chemicals, raising ambient water temperature, impinging or suffocating species, causing siltation, or raising turbidity levels during spring migration periods. Water's edge development which incorporates migration access structures, such as functioning fish ladders, will be encouraged, provided that NJDEP, Division of Fish, Game and Shellfisheries approves the design of the access structure."

NEW YORK

New York Coastal Management Program, Vessel Wastes: "Commercial and recreation boat discharges of shipboard wastes (e.g., sewage, garbage, bilge and cleaning wastes) degrade surface water quality, particularly in enclosed embayment and estuaries where diluting water volumes are low and vessel usage may be high. Serious public health hazards may result when untreated vessel wastes are discharged near shell fishing areas, bathing areas or public water supply intakes. The Coast Guard enforces Federal regulations established by the Environmental Protection Agency in waters of the United States, including territorial seas. Federal sanitary vessel waste treatment standards, however, are less stringent than New York's standards. Present technological constraints for treating sanitary wastes, particularly on smaller recreational craft, make statewide enforcement of the State's stricter effluent standards impractical. However, the prohibition of all vessel waste discharge is feasible on an area-specific basis, i.e., near shell fishing and bathing areas, and where adequate pumpout and treatment facilities are available. Federal law now prohibits discharges near public water supply intakes."

New York Coastal Management Program, Policy 34: "A. Explanation of Policy78:

All untreated sanitary waste from vessels is prohibited from being discharged into the State's coastal waters. Where coastal resources or activities require greater protection than afforded by this requirement the State may designate vessel waste no discharge zones. Within these no discharge zones the discharge of all vessel waste whether treated or not is prohibited."

OHIO

Ohio Coastal Management Program: "Policy 27 Fisheries Management: It is the policy of the State of Ohio to assure the continual enjoyment of the benefits received from the fisheries of Lake Erie and to maintain and improve these fisheries by: (B) Prosecuting persons responsible for stream litter and for water pollution resulting in fish kills (O.R.C. 1531.29 and 1531.02)."

PENNSYLVANIA

*Pennsylvania Coastal Management Program, Policy 2 IC/Water Quality: "*By adopting the goals of the Clean Water Act (which incorporates the Federal National Pollution Discharge Elimination System Program delegated to the Commonwealth), the Commonwealth agrees to monitor present stream, river, and coastal water quality, and set standards and objectives for future water quality… and establish a process to identify and control nonpoint sources of pollution, disposal of wastes, and the salt water intrusion of groundwater and fresh surface water. The Commonwealth is actively promoting pollution prevention and green technology to improve both water and air quality."

RHODE ISLAND

The State of Rhode Island Coastal Resources Management Plan, Section 100.4 Freshwater Wetlands in the Vicinity of the Coast, C. Findings: "(e) Water Quality Freshwater wetlands, area(s) of land within fifty (50) feet, riverbanks, and flood plains protect and/or maintain important water quality functions and values by nutrient retention or removal; pollution filtration; sediment removal; oxygen production; turbidity reduction; maintenance or modification of stream flow; temperature and oxygen regimes in both flowing and surface water bodies, and providing and maintaining safe drinking water supplies."

UNITED STATES VIRGIN ISLANDS

Final Environmental Impact Statement Proposed Coastal Zone Management Program for the Virgin Islands: "The Water Pollution Control Act, through a series of amendments, establishes a regulatory program to control pollution of the surface and underground waters of the Virgin Islands. The Act establishes standards of water quality and pollutant discharges throughout the Islands (including the territorial waters in the coastal zone). It also provides the authority to exercise land use controls intended to protect and preserve the islands' water quality. As such, it provides an additional independent basis for exercising territorial police power to achieve certain environmental objectives.

The Act prohibits discharges of pollutants into the waters of the Virgin Islands without treatment to a specified level and authorizes the regulation of both new and existing sources of water pollution.

The policies and objectives of the Act are carried out through a permit system as defined in the Federal Regulations and Guidelines. Discharge of pollutants without a lawful permit is illegal…"

VIRGINIA

Federal Consistency Information Package for Virginia Coastal Zone Management Program: "Point Source Pollution Control - The point source program is administered by the State Water Control Board (DEQ) pursuant to Virginia Code §62.1- 44.15. Point source pollution control is accomplished through the implementation of: (1) The National Pollutant Discharge Elimination System (NPDES) permit program established pursuant to Section 402 of the federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System (VPDES) permit program."

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, Clean Water Act Policy RCW 90.48.080: "Permits are also required for certain non-point discharges. Ecology requires public notice for water pollution control permit applications. Further, members of the public can request a public hearing on an application.

For most permits, the discharge limits in the permit are based on three sets of standards. First, the State Water Pollution Control Act requires that discharges be treated with all known and reasonable methods. At a minimum, this requires that federal technology-based treatment standards be met. Second, discharges must not result in a violation of state water quality criteria and standards. This may result in requirements for higher levels of treatment."

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes: "1.1) The elimination of the discharge of pollutants to water is the long range goal of the state. (See Federal Clean Water Act, 33 U.S.C. 1251and Wis. Stats. § 283.001(1)(a))."

3. OIL/PETROLEUM PRODUCTS

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, III. Program of Implementation: "I Discharge Prohibitions, 5. Vessels: a. Discharges of hazardous waste (as defined in California Health and Safety Code Section 25117 et seq. [but not including sewage]), oily bilgewater, medical waste (as defined in Section 117600 et seq. of the California Health and Safety Code) dry-cleaning waste, and film-processing waste from large passenger vessels and oceangoing vessels are prohibited."

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 3.3.7 Oil and Grease: "Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses."

*Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 4.24 Oil Spills: "*The Water Board considered adopting a policy requiring specific improvements in oil transfer operations, but due to the industry's improved performance, the Water Board is holding the adoption of such a policy in abeyance while continuing to monitor the industry's performance. The Water Board recognizes that additional regulation is unnecessary if the petroleum industry maintains its improved record."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.10) All surface waters of the State shall be free from substances that are attributable to wastes of industrial, municipal, agricultural or other human-induced origin. Examples include but are not limited to the following: (1) Floating debris, oil, grease, scum, foam, or other materials on the water surface that may create a nuisance condition, or that may in any water [way?] interfere with attainment and maintenance of designated uses of the water…

(5.3.1.15) The discharge of oil from a vessel, truck, pipeline, storage, tank or tank car which causes or poses a threat of making a film on, emulsion in or sludge beneath the waters of the state or its shoreline shall be prohibited."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-4 Basic Water Quality Criteria Applicable To All Waters: "(a) All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including: (2) Floating debris, oil, grease, scum, or other floating materials;"

ILLINOIS

Illinois Coastal Management Program: "Water Quality Standards - All waters in Illinois, including Lake Michigan and its tributaries, must meet State Water Quality Standards. This means that all waters in the Great Lakes basin must be free from substances, materials, debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices. Also, other discharges must not form objectionable deposits; not be in amounts to be unsightly; not produce color, visible oil sheen, odor, or other objectionable conditions; or not be in concentrations that will contribute to the growth of algae or aquatic plants to a degree of being a nuisance; and should not be in amounts that are toxic to aquatic life, other animals or humans."

INDIANA

Indiana Lake Michigan Coastal Program, Water Quality Policy: "WATER QUALITY STANDARDS: Specific standards indicating water quality are determined through rule adoption by the Water Pollution Control Board. All waters in the Great Lakes basin must at a minimum be free from substances, materials, floating debris, oil, or scum attributable to municipal, industrial, agricultural, and other land use practices, or other discharges that: (1) will settle to form objectionable deposits; (2) are in amounts to be unsightly; (3) produce color, visible oil sheen, odor, or other conditions to the degree of being a nuisance; (4) are in concentration that will contribute to the growth of algae or aquatic plants to a degree of being a nuisance; and, (5) are in amounts that are toxic to or may kill aquatic life, other animals, or humans.

MARYLAND

Maryland Enforceable Coastal Policies: "4. No person may discharge oil in any manner, including through bilge and ballast water, or deposit it in an area where it may enter waters of the State. MDE (A2) Md. Code Ann., Envir. § 4-410(a); COMAR 26.10.01.02B.

9. Unless otherwise permitted, used oil may not be dumped into sewers, drainage systems, or any waters of the State or onto any public or private land. MDE (D4) Md. Code Ann., Envir. § 5- 1001(f)."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

MICHIGAN

Michigan Coastal Zone Management Program Document: "Chapter III- Program Policies and Action Programs: It is state policy to regulate the disposal of oil and sewage from watercraft and to prohibit the littering of waterways. (Act No. 167 of the Public Acts of 1970)."

MISSISSIPPI

*Mississippi Coastal Program, Chapter 8 Rules, Regulations, Guidelines and Procedures, Section 2 Wetlands Management: "*C. No discharge into coastal waters of cutting, drilling fluids, produced waters, sanitary wastes, contaminated deck drainage, or any other materials that are associated with oil and gas operations in the Coastal waters of Mississippi, except for noncontact cooling waters when permitted for discharge under the National Pollutant Discharge Elimination System (NPDES) program shall be allowed."

NEW YORK

New York Coastal Management Program, Section 6 Coastal Policies and Implementation, Policy 8: "9. Oil Spill Prevention, Control and Compensation, Navigation Law, (Article 12) Unregulated discharge of petroleum or oil spills associated with the transport and storage of such products can damage the State's coastal fish, shellfish, wildlife and other biotic resources. This law authorizes the Department of Transportation and the Department of Environmental Conservation to control the methods of petroleum storage and transfer and to require prompt cleanup and compensation to damaged parties when spills or discharges occur."

OHIO

Ohio Coastal Management Program, Policy 7 Environmental Contaminants: "It is the policy of the state of Ohio to prevent and/or minimize to the greatest extent possible, damages to the public health, safety and welfare, and to the environment from contaminants by: A. Requiring owners of facilities subject to O.R.C. Chapter 3750, Emergency Planning, to comply with the state's right to know and spill prevention laws; and B. Providing for emergency response to all spills with a coordinated and planned effort maximizing resources and minimizing environmental damage (O.R.C. Chapters 6111 and 3750)."

UNITED STATES VIRGIN ISLANDS

Final Environmental Impact Statement Proposed Coastal Zone Management Program for the Virgin Islands: "The Oil Spill Prevention and Pollution Control Act of 1974 seeks to protect the marine and coastal environments from damages caused by industrial or commercial discharges of petroleum products or other equally harmful substances. The primary objective of this Act is to preserve the waters and shorelines of the Virgin Islands as a source of public and private recreation."

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes: "1.4) Disposal in the waters of the state of the following defined pollutants shall be restricted: dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water. (See Wis. Stats. §§ 283.01(13), 283.31(1) and 29.601."

4. PESTICIDES

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 4.26.3 Emerging Toxic Pollutants of Concern: "As noted in Section 4.1.2.1 Numeric Water Quality Objectives, Wasteload Allocations, there are pollutants of local concern for which water quality objectives have not been developed and adopted. Both regulatory and research surveillance programs periodically detect pollutants that are persisting in the aquatic environment, which may or may not have published guidelines for protecting beneficial uses…It is through such efforts that the potential pollutant problems of the future can be identified and addressed before they become environmentally and economically costly "legacy" pollutants, such as mercury, PCBs, and chlorinated pesticides such as dichloro-diphenyl-trichloroethane (DDT)."

*Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 7.1.1.6 Implementation: "*U.S. EPA is responsible for implementing the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Water Act. U.S. EPA is therefore responsible for ensuring that both federal pesticide laws and water quality laws are implemented. U.S. EPA should exercise its authorities to ensure that foreseeable pesticide applications do not cause or contribute to water column or sediment toxicity in the Region's waters. Because some pesticides pose water quality risks, U.S. EPA should implement the following actions:

- Continue internal coordination efforts to ensure that pesticide applications and resulting discharges comply with water quality standards and avoid water quality impairment (i.e., restrict uses or application practices to manage risks);

Continue and enhance education and outreach programs to encourage integrated pest management and less toxic pest control…"

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-4 Basic Water Quality Criteria Applicable To All Waters: "(2) Pesticide applications may be made to State waters if the pesticide applications are: (A) Registered by the U.S. Environmental Protection Agency and licensed by the state department of agriculture or other state agency regulating pesticides…(C) Applied in a manner consistent with the labeling of the pesticide under FIFRA:"

OHIO

Ohio Coastal Management Program: "Policy 7 Environmental Contaminants: Prevention and Emergency Response: It is the policy of the state of Ohio to prevent and/or minimize to the greatest extent possible, damages to the public health, safety and welfare, and to the environment from contaminants by: A. Requiring owners of facilities subject to O.R.C. Chapter 3750, Emergency Planning, to comply with the state's right to know and spill prevention laws; and B. Providing for emergency response to all spills with a coordinated and planned effort maximizing resources and minimizing environmental damage (O.R.C. Chapters 6111 and 3750)."

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes: "No person may sell, distribute, use or dispose of any pesticide without obtaining any required licenses and following requirements of the Wisconsin Statutes, the Wisconsin Administrative Code, and local regulations. (See Wis. Stats. §§ 94.67-.70 and 29.601(4)."

5. COAST

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, II. Water Quality Objectives: "B. Bacterial Characteristics: 1. Water-Contact Standards: Both the State Water Board and the California Department of Public Health (CDPH) have established standards to protect water contact recreation in coastal waters from bacterial contamination. Subsection of this section contains bacterial objectives adopted by the State Water Board for ocean waters used for water contact recreation. Subsection b describes the bacteriological standards adopted by CDPH for coastal waters adjacent to public beaches and public water contact sports areas in ocean waters.

b. CDPH Standards: CDPH has established minimum protective bacteriological standards for coastal waters adjacent to public beaches and for public water-contact sports areas in ocean waters. These standards are found in the California Code of Regulations, title 17, Section 7958, and they are identical to the objectives contained in subsection a. above. When a public beach or public water-contact sports area fails to meet these standards, CDPH or the local public health officer may post with warning signs or otherwise restrict use of the public beach or public water-contact sports area until the standards are met. The CDPH regulations impose more frequent monitoring and more stringent posting and closure requirements on certain high-use public beaches that are located adjacent to a storm drain that flows in the summer."

CALIFORNIA BCDC

San Francisco Bay Plan: "Part IV - Development of the Bay and Shoreline: Findings and Policies; Other Uses of the Bay and Shoreline: 1. Shore areas not proposed to be reserved for a priority use should be used for any purpose (acceptable to the local government having jurisdiction) that uses the Bay as an asset and in no way affects the Bay adversely. This means any use that does not adversely affect enjoyment of the Bay and its shoreline by residents, employees, and visitors within the site area itself or within adjacent areas of the Bay or shoreline."

DELAWARE

Delaware Coastal Management Program, 5.4 Subaqueous Lands and Coastal Strip Management: "(5.4.2) The natural environment of the coastal strip shall be protected for recreation, tourism, fishing, crabbing, and gathering other marine life useful in food protection."

FLORIDA

Florida Coastal Management Program Guide: A Guide to the Federally Approved Florida Coastal Management Program: "Chapter 376, F.S., Pollutant Discharge Prevention and Removal: The discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state in the manner defined by ss. 376.011-376.21 is prohibited."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

GEORGIA

Georgia Coastal Management Program, Program Goal, Policy 9: "*(9)* Protect and, where possible, restore or enhance the resources of the State's coastal area for this and succeeding generations."

Georgia Coastal Management Program, Resource Goal, Policies 2, 3, and 5: "(2) Provide a coastal zone that maintains diverse indigenous wildlife populations at viable and sustainable levels*. (3)* Provide a coastal zone in which wildlife species listed as special concern, threatened, or endangered are recovered to healthy, viable populations. … *(5)* Provide a coastal zone in which diverse indigenous plant populations are maintained at viable and ecologically balanced levels."

Georgia Coastal Management Program, Resource Goal, Policies 13 and 15: "(13) Provide a coastal zone in which the scenic quality and biological productivity of tidal resources is maintained. … (*15)* Provide a coastal zone in which the natural systems of barrier islands are preserved and protected."

GUAM

Procedures Guide for Achieving Federal Consistency with the Guam Coastal Management Program: "(RP 3. Fragile Areas): Development in the following types of fragile areas including Guam's Marine Protected Areas (MPA) shall be regulated to protect their unique character: historical and archeological sites; wildlife habitats; pristine marine and terrestrial communities; limestone forests; mangrove stands and other wetlands; and coral reefs."

HAWAII

State of Hawaii Office of Planning Hawaii Coastal Zone Management Program: "Coastal Ecosytems - (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources; (C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance.

Marine Resources: (A) Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial … *(C)* Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone… *(E)* Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources."

LOUISIANA

Louisiana Title 43 Natural Resources, Chapter 7, Subchapter A §701(B), Guideline Applicable to All Uses: "(G) It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable significant: 3.detrimental discharges of inorganic nutrient compounds into coastal waters; 4.alterations in the natural concentration of oxygen in coastal waters; 7.alterations of the natural temperature regime of coastal waters;"

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Water Quality, "Policy 1: Ensure that point-source discharges in or affecting the coastal zone are consistent with federally-approved state effluent limitations and water quality standards.

Policy 2: Ensure that nonpoint pollution controls promote the attainment of state surface water quality standards in the coastal zone."

MICHIGAN

Michigan Coastal Zone Management Program Document: "Chapter III- Program Policies and Action Programs - Provide for the conservation, management, enhancement and protection of fish, plant life, and wildlife species endangered or threatened with extinction."

MISSISSIPPI

Mississippi Coastal Program, Chapter 8 - Rules, Regulations, Guidelines and Procedures, Section 6 Guidelines for the Perseveration of Natural Scenic Qualities, C Shorelines: "4. The natural appearance and visual attractiveness of the shoreline should be maintained. The upland vegetation against which wetlands are generally viewed should be maintained in the natural state, and structures built at the edge of coastal wetlands in predominantly undeveloped areas should be designed to blend with the surrounding area."

NEW HAMPSHIRE

New Hampshire Coastal Program, Protection of Natural Resources, *Coastal Resource Protection, Policy 1*: "Protect and preserve and, where appropriate, restore the water and related land resources of the coastal and estuarine environments. The resources of primary concern are: coastal and estuarine waters, tidal and freshwater wetlands, beaches, sand dunes, and rocky areas."

NORTH CAROLINA

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200 – The Estuarine and Ocean Systems, Policy .0203 – Management Objective of the Estuarine and Ocean System: "It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources."

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200 – The Estuarine and Ocean Systems, Policy .0206 – Estuarine Waters : "(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and sea. (c) Management Objective. To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and

ocean system. (d) Use Standards. Suitable land/water uses shall be those consistent with the management objectives in this Rule."

North Carolina Title 15A, Subchapter 7M General Policy Guidelines for the Coastal Area, Section .0100, Policy .0102: " The purpose of these rules is to establish generally applicable objectives and policies to be followed in the public and private use of land and water areas within the coastal area of North Carolina. "

NORTHERN MARIANA ISLANDS

Commonwealth of the Northern Marina Islands Coastal Resources Management Act, § 1511. Coastal Resources Management Policy: "(4) Plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Significant adverse impacts shall be mitigated to the extent practicable;"

OREGON

Oregon Administrative Rule (OAR) Chapter 660, Division 15, Goal 17 Coastal Shorelands: "To conserve, protect, where appropriate, develop and where appropriate restore the resource and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

Oregon Administrative Rule (OAR) Chapter 660, Division 15, Goal 19 Ocean Resources: "To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed, and conducted to maintain, where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources."

PUERTO RICO

Puerto Rico Coastal Management Program, General Objectives, Natural Areas Objective 18.03: "To avoid activities and land subdivision which could cause the deterioration or destruction of those natural systems essential for preserving the environment, such as mangroves, forests, reefs, dunes, ecological systems, and habitats of endangered species."

SOUTH CAROLINA

Policy and Procedures of the South Carolina Coastal Management Program, CHAPTER III MANAGEMENT OF COASTAL RESOURCES, A. Goals and Objectives: "1. To protect and conserve coastal land and water

areas of a significant resource value, including those of scientific, geologic, hydrologic and biologic importance.

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, The Shoreline Management Act: "The Shoreline Management Act emphasizes a balance between shoreline conservation and shoreline use…The policy aims at "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state" while protecting public rights of navigation."

6. WETLANDS

ALABAMA

Alabama Coastal Area Management Plan, 335-8-2-.02 Dredging and/or Filling: (5) Any fill material placed on State water bottoms or in wetlands shall be free of toxic pollutants in toxic amounts and shall be devoid of sludge and/or solid waste."

AMERICAN SAMOA

Chapter 05 - Coastal Management Program, 24.0504 Program purpose and responsibilities: "The general purpose of ASCMP is to provide effective resource management by protecting, maintaining, restoring, and enhancing the resources of the coastal zone. This shall be accomplished through: (1) protection of unique areas and resources, including wetlands, mangrove swamps, aquifer recharge areas, critical habitat areas, streams, coral reefs, watersheds, near shore waters, and designated or potential historic, cultural or archaeological sites, from destructive or inappropriate development."

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 2.2.3 Wetlands: "The Water Board will, in general, rely on the federal manual for wetland delineation in the Region when issuing Clean Water Act Section 401 water quality certifications (U.S. Army Corps of Engineers (Corps) Wetlands Delineation Manual, 1987). In the rare cases where the U.S. EPA and Corps guidelines disagree on the boundaries for federal jurisdictional wetlands, the Water Board will rely on the wetlands delineation made by the U.S. EPA or the California Department of Fish and Game (CDFG)."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 4.23 Wetland Protection and Management: "The Water Board will refer to the following for guidance when permitting or otherwise acting on wetland issues:

- Governor's Executive Order W-59-93 (signed August 23, 1993; also known as the California Wetlands Conservation Policy, or the "No Net Loss" policy);
- Senate Concurrent Resolution No. 28; and
- Water Code Section 13142.5 (applies to coastal marine wetlands).

The goals of the California Wetlands Conservation Policy include ensuring "no overall net loss," achieve a "long-term net gain in the quantity, quality, and permanence of wetlands acreage and values ...", and reducing "procedural complexity in the administration of state and federal wetlands conservation programs."

Senate Concurrent Resolution No. 28 states, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the state."

Water Code Section 13142.5 states, "Highest priority shall be given to improving or eliminating discharges that adversely affect ... wetlands, estuaries, and other biologically sensitive sites."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 5.2.11 Wetlands, Use of Wastewater to Create, Restore, and Enhance Marshlands – Resolution 94-086: "This resolution describes the Water Board's policy regarding the use of wastewater to create, restore, maintain, and enhance marshlands. In general, the policy supports the use of wastewater to support new wetland habitat, under the condition that beneficial uses established are fully protected."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 5.2.11 Wetlands, Use of Constructed Wetlands for Urban Runoff Pollution Control – Resolution No. 94-102: "In this resolution, the Water Board expressed support for the construction of new wetland areas for the purpose of reducing pollutant loading from urban runoff, under certain conditions."

CONNECTICUT

*Reference Guide to Connecticut Coastal Policies and Definitions, General Resources, Resource Policy 1: "*To preserve and enhance coastal resources in accordance with the policies established by chapters 439 (Environmental Protection, Department and State Policy), 440 (Wetlands and Watercourses), 446I (Water Resources), 446k (Water Pollution Control), 447 (State Parks and Forests), 474 (Pollution), and 477 (Flood Control and Beach Erosion). CGS Section 22a-92(a)(2)."

Connecticut Water Quality Standard, Sec. 22a-426-4. Surface waters, (a) General Standards of Surface Water Quality: (C) Evaluation of a discharge or discharge of dredged or fill material to wetlands shall include consideration of the manner in which such wetlands support existing and designated uses and protect and maintain downstream water quality."

DELAWARE

Delaware Coastal Management Program, 5.0 Delaware Coastal Management Program Policies, 5.1 Wetlands Management: "(5.1.1) The productive public and private wetlands in the state shall be preserved and protected to prevent their despoliation and destruction consistent with the historic right of private ownership of lands. [7 Del. C. §6602]."

FLORIDA

Florida Coastal Management Program, Title XXVIII, Policy 380.0552(7) Florida Keys area; protection and designation as area of critical state concern: " (*b)* To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat. *(c)* To protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

GEORGIA

Georgia Coastal Management Program, Resource Goal, Policy 14: "(14) Provide a coastal zone in which the area and functional integrity of wetlands that impact the coastal region of Georgia are maintained."

GUAM

Procedures Guide for Achieving Federal Consistency with the Guam Coastal Management Program: "(RP 3. Fragile Areas): Development in the following types of fragile areas including Guam's Marine Protected Areas (MPA) shall be regulated to protect their unique character: historical and archeological sites; wildlife habitats; pristine marine and terrestrial communities; limestone forests; mangrove stands and other wetlands; and coral reefs."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards: "11-54-5.1 Inland water areas to be protected, (3) Elevated wetlands and low wetlands, (iv) All elevated and low wetlands which have been identified as a unique or critical habitat for threatened or endangered species by the U.S. Fish and Wildlife Service."

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards: "11-54-5.2 Inland Water Criteria…Only the basic criteria set forth in section 11-54-4 apply to springs and seeps, ditches and flumes, natural freshwater lakes, reservoirs, low wetlands, coastal wetlands, saline lakes, and anchialine pools…Waste discharge into these waters is prohibited…"

ILLINOIS

Illinois Coastal Management Program, Category 4 Habitats, Wetlands, and Wildlife: "The Illinois Legislature passed the Interagency Wetlands Policy Act of 1989 (IWPA) [20 ILCS 830] in recognition of the significant loss in wetlands and the corresponding loss in functional values they provide; such as reducing flooding and shoreline erosion, improving water quality, providing groundwater recharge, and providing critical habitat for many threatened and endangered plants and animals. IWPA directs state agencies to preserve, enhance, and create wetlands where possible, and avoid adverse impacts from state and state pass-through funded activities, such as construction, land management, or technical assistance… IEPA regulates activities resulting in a discharge of any pollutant into a wetland."

INDIANA

*Indiana Lake Michigan Coastal Program, Water Quality Policy: "*Activities involving the filling, dredging, and alteration of wetlands and special aquatic sites are regulated broadly under the federal Clean Water Act. Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States.46 Section 404 is typically administered in conjunction with Section 401. Section 401 requires certification from the state in which a discharge originates that the discharge will comply with water quality standards."

LOUISIANA

Louisiana Title 43 Natural Resources, Chapter 7, Subchapter A §701(B), Guideline Applicable to All Uses: "(G) It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable significant: (12) destruction or adverse alterations of streams,

wetland, tidal passes, inshore waters and waterbottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features;"

MARYLAND

Maryland Enforceable Coastal Policies, 3 Non-Tidal Wetlands: "Mitigation measures are required to replace the ecological values associated with non-tidal wetlands that are impaired by activities described above. MDE (C3) COMAR 26.23.01.01; COMAR 26.23.02.04, .06; COMAR 26.23.04.02."

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Habitat, Policy 1: "Protect coastal, estuarine, and marine habitats—including salt marshes, shellfish beds, submerged aquatic vegetation, dunes, beaches, barrier beaches, banks, salt ponds, eelgrass beds, tidal flats, rocky shores, bays, sounds, and other ocean habitats—and coastal freshwater streams, ponds, and wetlands to preserve critical wildlife habitat and other important functions and services including nutrient and sediment attenuation, wave and storm damage protection, and landform movement and processes."

MICHIGAN

Michigan Coastal Zone Management Program Document: "To properly manage coastal wetlands, regulatory programs at the state and local levels, including permitting authorities and zoning ordinances must be thoroughly administered and developed."

MINNESOTA

Minnesota Statute §103A.202, Wetland Policy: "The legislature finds that it is in the public interest to preserve the wetlands of the state, to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, enhance the natural beauty of the landscape, and promote comprehensive and total water management planning."

Minnesota Statute §115.03, Water Pollution Control: "It is the policy of the State of Minnesota to protect all waters from degradation from point and nonpoint sources and wetland alterations, and to maintain existing water quality uses, aquatic and wetland habitats, and the level of water quality necessary to protect these uses."

MISSISSIPPI

Mississippi Coastal Program, Chapter 8 Rules, Regulations, Guidelines and Procedures, Section 2 Wetlands Management: "1. Mississippi Code Section 49-27-3 reads as follows: It is declared to be the public policy of this state to favor the preservation of the natural state of the coastal wetlands and their ecosystems and to prevent the despoliation and destruction of them, except where a specific alteration of specific coastal wetlands would serve a higher public interest in compliance with the public purposes of the public trust in which coastal wetlands are held.."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

NEW HAMPSHIRE

*New Hampshire Coastal Program, Managing Coastal Development, Chapter 3 Coastal Policies and Authorities: "*Freshwater wetlands which are now or were formerly connected to tidal waters are protected since they function to contain and filter upland run-off which can affect the tidal waters. Policy guidelines mandate the "maximum degree of protection and preservation of our natural environment" (RSA 483-A:1-b)."

NEW JERSEY

New Jersey Coastal Management Program Bay and Final Impact Statement: "(2) In particular, dumping solid or liquid wastes and applying or storing certain pesticides on wetlands are prohibited."

NEW YORK

New York Coastal Management Program, Policy 44: "Preserve and protect tidal and freshwater wetlands; preserve the benefits derived from these areas."

NORTH CAROLINA

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200, Policy .0205 Coastal Wetlands: "(c) Management Objective. It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources."

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200, Policy .0206 Estuarine Waters: "(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and sea. (c) Management Objective. To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system. (d) Use Standards. Suitable land/water uses shall be those consistent with the management objectives in this Rule."

OHIO

Ohio Coastal Management Program, Wetlands and other Ecologically Sensitive Resources: "The ODNR and Ohio EPA share authority for protecting Ohio's coastal wetlands and other ecologically sensitive resources. The Ohio EPA regulates certain activities in wetlands through its state water quality laws, particularly through certification of federally-permitted and licensed activities pursuant to section 401 of the Clean Water Act. Ohio EPA's certification process includes a sequenced review which requires projects to avoid, minimize, and mitigate for any loss of wetlands. The ODNR also has authority to acquire, manage, and restore coastal wetlands.

The programs require the state to:

- Regulate wetland development activities through section 401 certification of compliance with the State's water quality standards, including the antidegradation policy;

- Develop and maintain a statewide wetlands inventory and data base;
- Acquire, protect and restore coastal wetlands;
- Protect habitat of rare and endangered species;
- Restrict the taking and possession of threatened native animal species; and
- Restrict the taking, removal, transportation and sale of endangered or threatened native plant species."

OREGON

Oregon Administrative Rule (OAR) Chapter 660, Division 15, Goal 16 Estuarine Resources: "To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity, and benefits of Oregon's estuaries."

PENNSYLVANIA

*Pennsylvania Coastal Zone Management Program, Chapter 2 Coastal Zone Policy Framework, Policy 4.1: "*To preserve, protect, enhance, and restore the remaining wetlands within the commonwealth's coastal areas by regulating through permit: draining, dredging, filling, and other activities that affect water quality as well as the course, current or cross section of any watercourse, floodway, wetland or other body of water. This will ensure the protection of wetlands' functions and values as such: native plant, fish, and wildlife habitat including threatened and endangered species as identified in the Federal Endangered Species Act of 1973, Pennsylvania's Species of Special Concern classified under the authority of the Wild Resource Conservation Act, the Fish and Boat Code or the Game and Wildlife Code; storage areas for flood waters; buffers against shoreline erosion; groundwater recharge; and water purification areas. Any wetland which is impacted in a coastal zone area will be replaced and/or mitigated within the coastal zone area in a manner consistent with the regulations of the department."

PUERTO RICO

Puerto Rico Coastal Management Program, General Objectives, Natural Areas Objective 18.03: "To avoid activities and land subdivision which could cause the deterioration or destruction of those natural systems essential for preserving the environment, such as mangroves, forests, reefs, dunes, ecological systems, and habitats of endangered species."

RHODE ISLAND

The State of Rhode Island Coastal Resources Management Plan, Section 100.4 Freshwater Wetlands in the Vicinity of the Coast, D. Policies: "1. It is the policy of the Council to prohibit the alteration, filling, removing or grading of any tributary or tributary wetland. In all cases the precise boundary of the freshwater wetland shall be determined through a field inspection."

SOUTH CAROLINA

Policy and Procedures of the South Carolina Coastal Management, Program XII Activities in Areas of Special Resource Significance, Policy E. Wetlands: "OCRM will apply the following policies in review and certification of permit applications in freshwater wetland areas: 1) Project proposals which would require fill or other significant permanent alteration of a productive freshwater marsh will not be

approved unless no feasible alternative exists or an overriding public interest can be demonstrated, and any substantial environmental impact can be minimized."

TEXAS

Texas Coastal Management Program Final Environmental Impact Statement, Part II-38: "Effective July 13, 1995, the TNRCC amended its 401 certification rules to incorporate the basic components of the 404(b)(1) Guidelines in a manner consistent with the TCMP critical areas policy. Among other things, the rule now requires avoidance of, minimization of, and compensation for water quality impacts, including the functions and values of wetlands. TNRCC rules expressly affirm the goal of "no net loss" of wetlands."

UNITED STATES VIRGIN ISLANDS

Coastal Management Program and Final Environmental Impact Statement, Air and Water Quality: "Goal (8) of Section 903(b) mandates consideration of wetland and endangered species habitat interests which are national concern."

VIRGINIA

Federal Consistency Information Package for Virginia Coastal Zone Management Program: "Wetlands Management - The purpose of the wetlands management program is to preserve tidal wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation. (i) The tidal wetlands program is administered by the MRC (Virginia Code §28.2-1301 through §28.2-1320). (ii) The Virginia Water Protection Permit program administered by the DEQ includes protection of wetlands --both tidal and non-tidal. This program is authorized by Virginia Code § 62.1-44.15:5 and the Water Quality Certification requirements of §401 of the Clean Water Act of 1972."

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, Chapter 1-The Coastal Zone Management Act, A. National Policies: "These programs would be aimed at the "wise use" of the land and water resources of the coastal zone, while fully considering ecological, cultural, historic, and aesthetic values as well as the need for compatible economic development. The states' coastal programs should at least:

• Protect wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife habitat;"

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes, 2. Coastal natural areas, wildlife habitat and fisheries, b. General Policy Statement: "3) Ensuring that the following activities that are engaged in or are subject to regulation by state agencies are conducted so as to minimize the destruction or degradation of coastal wetlands and to preserve the natural and beneficial values of coastal wetlands and the public interest therein. These activities include: 1) the acquisition, management and disposition of state lands and facilities; 2) construction activities assisted by or directly undertaken by state agencies; and 3) regulation of land and water uses in coastal wetland areas."

7. AQUATIC LIFE AND WILDLIFE (INCLUDING ENDANGERED AND THREATENED SPECIES, AND CRITICAL HABITATS)

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, II. Water Quality Objectives, E. Biological Characteristics: "1. Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded."

CALIFORNIA BCDC

San Francisco Bay Plan, Part III - The Bay as a Resource: Findings and Policies; Fish, Other Aquatic Organisms and Wildlife: 1. To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased. 2. Specific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected, whether in the Bay or behind dikes. 3. In reviewing or approving habitat restoration programs the Commission should be guided by the recommendations in the Baylands Ecosystem Habitat Goals report and should, where appropriate, provide for a diversity of habitats to enhance opportunities for a variety of associated native aquatic and terrestrial plant and animal species."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 2.1.14 Preservation of Rare and Endangered Species (Rare): "The water quality criteria to be achieved that would encourage development and protection of rare and endangered species should be the same as those for protection of fish and wildlife habitats generally. However, where rare or endangered species exist, special control requirements may be necessary to assure attainment and maintenance of particular quality criteria, which may vary slightly with the environmental needs of each particular species."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, *2.1.20 Wildlife Habitat (Wild):* "The two most important types of wildlife habitat are riparian and wetland habitats. These habitats can be threatened by development, erosion, and sedimentation, as well as by poor water quality.

The water quality requirements of wildlife pertain to the water directly ingested, the aquatic habitat itself, and the effect of water quality on the production of food materials. Waterfowl habitat is particularly sensitive to changes in water quality. Dissolved oxygen, pH, alkalinity, salinity, turbidity, settleable matter, oil, toxicants, and specific disease organisms are water quality characteristics particularly important to waterfowl habitat. Dissolved oxygen is needed in waterfowl habitats to suppress development of botulism organisms; botulism has killed millions of waterfowl. It is particularly important to maintain adequate circulation and aerobic conditions in shallow fringe areas of ponds or reservoirs where botulism has caused problems."

CONNECTICUT

Connecticut Coastal Management Manual, Sec. 22a-92. Legislative goals and policies: "To preserve and enhance coastal resources in accordance with the policies established by chapters 439 (Environmental Protection, Department and State Policy), 440 (Wetlands and Watercourses), 446I (Water Resources),

446k (Water Pollution Control), 447 (State Parks and Forests), 474 (Pollution), and 477 (Flood Control and Beach Erosion). CGS Section 22a-92(a)(2)."

Connecticut Coastal Management Manual, Coastal Waters & Estuarine Embayment Policy 22: "It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of state, is a public nuisance and is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and that the use of public funds and the granting of tax exemptions for the purpose of controlling and eliminating such pollution is a public use and purpose for which public moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination. CGS Section 422, as referenced by CGS Section 22a-92(a)(2)."

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.3) The coastal water resources of the state shall be protected and conserved to assure continued availability for public recreational purposes and for the conservation of aquatic life and wildlife. (4) It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the propagation and protection of fish and aquatic life, and other beneficial uses of the water.

5.4 Subaqueous Lands and Coastal Strip Management: (5.4.2) The natural environment of the coastal strip shall be protected from the impacts of heavy industry and oil pollution for the purpose of recreation, tourism, fishing, crabbing, and gathering other marine life useful in food production. [7 Del. C. §§7001, 6201]."

5.11 Living Resources: (5.11.2.1) All forms of protected wildlife shall be managed and protected from negative impacts. [7 Del. C. §102(a)]

(5.11.4) Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife."

FLORIDA

Florida Coastal Management Program, Title XXVIII, Policy 379.2431: "d) Except as authorized in this paragraph, or unless otherwise provided by the Federal Endangered Species Act or its implementing regulations, a person, firm, or corporation may not: 1. Knowingly possess the eggs of any marine turtle species described in this subsection. 2. Knowingly take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any marine turtles or the eggs or nest of any marine turtles described in this subsection"

Florida Coastal Management Program, Title XXVIII, Policy 379.29 Contaminating fresh waters: "(1) It shall be unlawful for any person or persons, firm or corporation to cause any dyestuff, coal tar, oil, sawdust, poison, or deleterious substances to be thrown, run, or drained into any of the fresh running

waters of this state in quantities sufficient to injure, stupefy, or kill fish which may inhabit the same at or below the point where any such substances are discharged, or caused to flow or be thrown into such waters; provided, that it shall not be a violation of this section for any person, firm, or corporation engaged in any mining industry to cause any water handled or used in any branch of such industry to be discharged on the surface of land where such industry or branch thereof is being carried on under such precautionary measures as shall be approved by the Fish and Wildlife Conservation Commission."

GEORGIA

Georgia Coastal Management Program, Resource Goal, Policies 2, 3, and 5: "(2) Provide a coastal zone that maintains diverse indigenous wildlife populations at viable and sustainable levels. (3) Provide a coastal zone in which wildlife species listed as special concern, threatened, or endangered are recovered to healthy, viable populations. … (5) Provide a coastal zone in which diverse indigenous plant populations are maintained at viable and ecologically balanced levels."

GUAM

Procedures Guide for Achieving Federal Consistency with the Guam Coastal Management Program: "(RP 3. Fragile Areas): Development in the following types of fragile areas including Guam's Marine Protected Areas (MPA) shall be regulated to protect their unique character: historical and archeological sites; wildlife habitats; pristine marine and terrestrial communities; limestone forests; mangrove stands and other wetlands; and coral reefs."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-1.1 General Policy of Water Quality Antidegradation: "(b) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected…"

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-4 Basic Water Quality Criteria Applicable To All Waters: "(a) All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including: (4) High or low temperatures, biocides, pathogenic organisms, toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human, animal, plant, aquatic life, or in amounts sufficient to interfere with any beneficial use of the water;"

ILLINOIS

Illinois Coastal Management Program, Category 3 Water Quality and Water Supply: "IDNR is responsible for implementing the Fish and Aquatic Life Code (Code) [515 ILCS 5]. The Code applies to "aquatic life or parts of aquatic life (i) in or from any of the lakes, rivers, creeks, sloughs, bayous, or other waters or watercourses or lands wholly within the boundaries of the State of Illinois or over which the State of Illinois has concurrent jurisdiction with any other State or (ii) which may be brought into the State of Illinois...IDNR takes all measures necessary to conserve, distribute, introduce, and restore aquatic life… ,and bring or cause to be brought actions and proceedings to enforce this Code, and to recover any and all fines and penalties provided for…. Under the Wildlife Code [520 ILCS 5], IDNR is authorized to manage and regulate the taking of all wildlife for the purposes of providing public recreation and controlling wildlife populations… Under the Illinois Endangered Species Protection Act [520 ILCS 10], "it

is unlawful for any person to possess, take, transport, sell, offer for sale, give or otherwise dispose of any animal or the product thereof of any animal species which occurs on the Illinois List; to deliver, receive, carry, transport or ship in interstate or foreign commerce plants listed as endangered by the federal government without a permit therefor issued by the IDNR as provided in Section 4 of this Act; to take plants on the Illinois List without the express written permission of the landowner; or to sell or offer for sale plants or plant products of endangered species on the Illinois List."

INDIANA

Indiana Lake Michigan Coastal Program, Water Quality Policy: "Water Quality Standards: Specific standards indicating water quality are determined through rule adoption by the Water Pollution Control Board. All waters in the Great Lakes basin must at a minimum be free from substances, materials, floating debris, oil, or scum attributable to municipal, industrial, agricultural, and other land use practices, or other discharges that: (1) will settle to form objectionable deposits; (2) are in amounts to be unsightly; (3) produce color, visible oil sheen, odor, or other conditions to the degree of being a nuisance; (4) are in concentration that will contribute to the growth of algae or aquatic plants to a degree of being a nuisance; and, (5) are in amounts that are toxic to or may kill aquatic life, other animals, or humans."

LOUISIANA

A Coastal Users Guide to the Louisiana Coastal Resources Program: "Public use of Marsh Island is not permitted. It is a trespass and a criminal offense for any member of the public to go upon the refuge without the State's consent. A one mile buffer zone, designed to prevent trespassing from nearby recreation areas into the wildlife refuge, exists around Marsh Island."

Louisiana Title 43 Natural Resources, Chapter 7, Subchapter A §701(B), Guideline Applicable to All Uses: "(G) It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable significant: 16.adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forestlands; 18.adverse disruptions of coastal wildlife and fishery migratory patterns;"

MARYLAND

Maryland Enforceable Coastal Policies,2 Water Quality: "2. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. MDE (A1) COMAR 26.08.02.02.

3. The discharge of any pollutant which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms is prohibited. MDE (A4) COMAR 26.08.03.01.

30. The following policies apply in those areas of the Critical Area that are determined to be areas of intense development.

- To the extent possible, fish, wildlife, and plant habitats, should be conserved.

6. Living Aquatic Resources
1. Unless authorized by an Incidental Take Permit, no one may take a State listed endangered or threatened species of fish or wildlife. DNR (A4) Md. Code Ann., Nat. Res. §§ 4-2A-01 to -09; Md. Code Ann., Nat. Res. §§ 10-2A-01 to -09."

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Habitat, Policy 1: "Protect coastal, estuarine, and marine habitats—including salt marshes, shellfish beds, submerged aquatic vegetation, dunes, beaches, barrier beaches, banks, salt ponds, eelgrass beds, tidal flats, rocky shores, bays, sounds, and other ocean habitats—and coastal freshwater streams, ponds, and wetlands to preserve critical wildlife habitat and other important functions and services including nutrient and sediment attenuation, wave and storm damage protection, and landform movement and processes."

MICHIGAN

Michigan Coastal Zone Management Program Document, *Chapter III- Program Policies and Action Programs:* "Protect and enhance Michigan's coastal ecosystem and its diverse array of plants, fish and wildlife. It is state policy to provide for the conservation, management, enhancement and protection of fish, plant life, and wildlife species endangered or threatened with extinction; and to provide for enforcement authority.

It is policy of Michigan to provide for the protection and management of undeveloped and unplatted shorelands which on the basis of studies and surveys, are areas determined to be necessary for the preservation and maintenance of fish and wildlife."

MINNESOTA

Minnesota Statute §84.941, Fish and Wildlife Management: "It is the policy of the state that fish and wildlife are renewable natural resources to be conserved and enhanced through planned scientific management, protection, and utilization."

MISSISSIPPI

Mississippi Coastal Program, Chapter 8, Section 3: "This section is reserved for the future codification of fisheries management ordinances for the Mississippi plan."

NEW HAMPSHIRE

New Hampshire Coastal Program, Protection of Natural Resources, *Coastal Resource Protection, Policy 2*: "Manage, conserve and, where appropriate, undertake measures to maintain, restore and enhance the fish and wildlife resources of the state."

New Hampshire Coastal Program, Protection of Natural Resources, *Coastal Resource Protection, Policy 5*: "Encourage investigations of the distribution, habitat needs, and limiting factors of rare and endangered animal species and undertake conservation programs to ensure their continued perpetuation."

NEW JERSEY

New Jersey Coastal Management Program Bay and Ocean Shore Segment, Policy 3.2.5.2 Finfish Migratory Pathways: "Development, such as dams, dikes and spillways or chemical water quality

barriers, that block movement of anadromous species is discouraged, unless acceptable mitigation measures, such as fish ladders, erosion control, and oxygenations are used. Mitigating measures are required for any development which would result in: lowering dissolved oxygen levels, releasing toxic chemicals, raising ambient water temperature, impinging or suffocating species, causing siltation, or raising turbidity levels during spring migration periods. Water's edge development which incorporates migration access structures, such as functioning fish ladders, will be encouraged, provided that NJDEP, Division of Fish, Game and Shellfisheries approves the design of the access structure."

New Jersey Coastal Management Program Bay and Ocean Shore Segment, Policy 5.2.1 Marine Fish and Fisheries: "Coastal actions are conditionally acceptable to the extent that minimal feasible interference is caused to the natural functioning of marine fish and fisheries, including the reproductive and migratory patterns of estuarine and marine estuarine dependent species of finfish and shellfish."

NEW YORK

New York Coastal Management Program, Policy 7: "Significant coastal fish and wildlife habitats will be protected, preserved, and restored so as to maintain their viability as habitats."

New York Coastal Management Program, Policy 8: "Protect fish and wildlife resources in the coastal areas from the introduction of hazardous wastes and other pollutants which bioaccumulate in the food chain or which cause significant sublethal or lethal effect on those resources."

New York Coastal Management Program, Policy 9: "Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources."

New York Coastal Management Program, Policy 10: "Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities."

NORTH CAROLINA

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0505 Coastal Areas that Sustain Remnant Species: "(c) Management Objective. To protect unique habitat conditions that are necessary to the continued survival of threatened and endangered native plants and animals and to minimize land use impacts that might jeopardize these conditions."

NORTHERN MARIANA ISLANDS

Commonwealth of the Northern Marina Islands Coastal Resources Management Act, § 1511. Coastal Resources Management Policy: "15. Manage ecologically significant resource areas for their contribution to marine productivity and value as wildlife habitats, and preserve the functions and integrity of reefs, marine meadows, salt ponds, mangroves and other significant natural areas;

17. Protect all coastal resources, particularly sand, coral and fish from taking beyond sustainable levels and in the case of marine mammals and any species on the Commonwealth endangered species list, from any taking whatsoever;"

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

OHIO

Ohio Coastal Management Program, Policy 14 Rare and Endangered Species: "It is the policy of the State of Ohio to preserve and protect rare, threatened and endangered plant and animal species to prevent their possible extinction by: A. Restricting the taking or possession of native animal species, or their eggs or offspring, that are threatened with statewide extinction (O.R.C. 1531.25 and O.R.C. 1531.99); B. Regulating the taking, possession, removal, transportation or sale of native plant species listed as endangered or threatened with extirpation (O.R.C. 1518.03); and C. Protecting the waters that provide a habitat for rare and endangered species (O.R.C. 6111.03(o), O.R.C. 6111.03(r), O.A.C. 3745-1-05(c))."

Ohio Coastal Management Program, Policy 27 Fisheries Management: "It is the policy of the State of Ohio to assure the continual enjoyment of the benefits received from the fisheries of Lake Erie and to maintain and improve these fisheries by: A. Regulating the taking of fish (O.R.C. 1531.08 and O.A.C. 1501:31); B. Prosecuting persons responsible for stream litter and for water pollution resulting in fish kills (O.R.C. 1531.29 and 1531.02); C. Protecting fish habitat through Ohio EPA's section 401 Water Quality certification authority (O.R.C. 6111.03(o) and 6111.03(p) and O.A.C. 3745-1 and 3745-32)."

Ohio Coastal Management Program, Policy 29 Wildlife Management: "It is the policy of the State of Ohio to provide for the management of wildlife in the coastal area to assure the continued enjoyment of benefits received from wildlife by: A. Protecting all wildlife including nongame and endangered species (O.R.C. 1531.02, 1531.08 and 1531.25); B. Regulating the taking of wildlife (O.R.C. chapter 1533 and O.A.C. 1501:31)."

OREGON

Oregon Administrative Rule (OAR) Chapter 660, Division 15, Goal 17 Coastal Shorelands: "To conserve, protect, where appropriate, develop and where appropriate restore the resource and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

PENNSYLVANIA

Commonwealth of Pennsylvania Coastal Resources Management Program, Policy 3.1 Enforcement/Regulations: "It is the policy of the coastal resources management program to ensure that, to the extent of intrastate control, coastal waters shall not contain substances attributable to point or nonpoint source waste discharge in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant, or aquatic life including cold-water fish, water-water fish, or migratory fish. (Also see Policies 1.2, 2.1, 4, 9.2)."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

PUERTO RICO

Puerto Rico Coastal Management Program, General Objectives, Natural Areas Objective 18.03: "To avoid activities and land subdivision which could cause the deterioration or destruction of those natural systems essential for preserving the environment, such as mangroves, forests, reefs, dunes, ecological systems, and habitats of endangered species."

RHODE ISLAND

The State of Rhode Island Coastal Resources Management Plan, Section 200.1 Type 1 Conservation Areas, D. Policies: "1 The Council's goal is to preserve and protect Type 1 waters from activities and uses that have the potential to degrade scenic, wildlife, and plant habitat values, or which may adversely impact water quality or natural shoreline types."

SOUTH CAROLINA

South Carolina Coastal Management Program, Section VII Wildlife and Fisheries Management, Policy A.1: "In the coastal zone, including critical areas, OCRM issuance or review and certification of permit applications which would impact wildlife and fisheries resources will be based on the following policies: (1) Activities deemed, by OCRM in consultation with the South Carolina Department of Natural Resources, to have a significant negative impact on wildlife and fisheries resources, whether it be on the stocks themselves or their habitat, will not be approved unless overriding socio-economic considerations are involved. In reviewing permit applications relative to wildlife and fisheries resources, social and economic impacts as well as biological impacts will be considered. (b) Wildlife and fisheries stocks and populations should be maintained in a healthy and viable condition and these resources should be enhanced to the maximum extent practicable. (c) Critical wildlife and fisheries habitat should be protected and enhanced the extent possible."

UNITED STATES VIRGIN ISLANDS

Coastal Management Program and Final Environmental Impact Statement, V.I. Code Title 12 § 906(b)(2): "To protect complexes of marine resource systems of unique productivity, including reefs, marine meadows, salt ponds, mangroves and other natural systems, and assure that activities in or adjacent to such complexes are designed and carried out so as to minimize adverse effects on marine productivity, habitat value, storm buffering capabilities, and water quality of the entire complex."

VIRGINIA

Federal Consistency Information Package for Virginia Coastal Zone Management Program: "a. Fisheries Management - The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (MRC) (Virginia Code §28.2-200 through §28.2- 713) and the Department of Game and Inland Fisheries (DGIF) (Virginia Code §29.1-100 through §29.1-570)."

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, Chapter 1-The Coastal Zone Management Act, A. National Policies: "These programs would be aimed at the "wise use" of the land and water resources of the coastal zone, while fully considering ecological, cultural, historic,

and aesthetic values as well as the need for compatible economic development. The states' coastal programs should at least:

- Protect wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife habitat;"

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes, 2. Coastal natural areas, wildlife habitat and fisheries, b. General Policy Statement: "The policy of the state is to conserve and enhance the natural land and water resources of the state by: 1) Designating and managing special areas of the state, including scientific areas, state parks, state forests, and state wildlife areas, so as to protect and enhance fish and wildlife habitat, forest resources, lakes and streams, recreation resources, and endangered plant and animal species.

2) Providing special management attention to the conservation and enhancement of Great Lakes fisheries resources, by conducting fish rearing, fish stocking, and fisheries research programs; by regulating sport and commercial fishing; by designating certain portions of the Great Lakes as fish habitat protection areas.

8. BENEFICIAL OR DESIGNATED USES

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, I Beneficial Uses: " A. The beneficial uses of the ocean* waters of the State that shall be protected include industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture*; preservation and enhancement of designated Areas* of Special Biological Significance (ASBS); rare and endangered species; marine habitat; fish migration; fish spawning and shellfish* harvesting."

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, Chapter 4: Implementation Plans: "The San Francisco Bay Regional Water Quality Control Board (Water Board)'s overall mission is to protect the beneficial uses supported by the quality of the San Francisco Bay Region (Region)'s surface water and groundwater. Together, the beneficial uses described in detail in Chapter 2 define the resources, services, and qualities of aquatic ecosystems that are the ultimate goals of protecting and achieving water quality."

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.1) The development and utilization of the land and water resources of the state shall be regulated to ensure that water resources are employed for beneficial uses and not wasted, to protect beneficial uses of water resources, and to assure adequate water resources for the future. [7 Del. C. §6001 (a)(2)(3)].

(5.3.1.2) The water resources of the state shall be protected from pollution which may threaten the safety and health of the general public. [7 Del. C. §§6001 (a)(5), 6001 (c)(2)].

(5.3.1.4) It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the propagation and protection of fish and aquatic life, and other beneficial uses of the water. [DNREC Regulations, Delaware Surface Water Quality Standards, Section 1.1, amended July 11, 2004]."

FLORIDA

Florida Coastal Management Program, Title XXVIII, Policy 376.041 Pollution of waters and lands of the state prohibited: "The discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state in the manner defined by ss. 376.011-376.21 is prohibited."

Florida Coastal Management Program, Title XXVIII, Policy 380.0552(7) Florida Keys area; protection and designation as area of critical state concern: "(*b)* To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat. *(c)* To protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-4 Basic Water Quality Criteria Applicable To All Waters: "(4) High or low temperatures, biocides, pathogenic organisms, toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human, animal, plant, aquatic life, or in amounts sufficient to interfere with any beneficial use of the water;"

MASSACHUSETTS

Massachusetts Office of Coastal Zone Management Policy Guide, Protected Areas, Policy 1: "Preserve, restore, and enhance coastal Areas of Critical Environmental Concern, which are complexes of natural and cultural resources of regional or statewide significance."

MINNESOTA

Minnesota Statute §115.03, Water Pollution Control: "It is the policy of the State of Minnesota to protect all waters from degradation from point and nonpoint sources and wetland alterations, and to maintain existing water quality uses, aquatic and wetland habitats, and the level of water quality necessary to protect these uses."

NEW JERSEY

New Jersey Coastal Management Program Bay and Ocean Shore Segment, Policy 3.2.9.2 Marine Sanctuary: "Management principles in the selected areas will serve to preserve and protect the areas, as well as indicate what actions are not permissible in the area. Non-permissible uses will be dependent on the five basic purposes for the designation: habitat areas, species areas, research areas, recreational and aesthetic areas, and unique or exceptional areas. After designation, activities not compatible with the basic purposes will be prohibited or restricted, but in general all other uses area allowed. Final policy in

marine sanctuaries must be approved jointly by the Governor of New Jersey and the U.S. Secretary of Commerce."

NORTH CAROLINA

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200, Policy .0207: "(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support valuable commercial and sports fisheries, have aesthetic value, and are important resources for economic development. (c) Management Objective. To protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value."

9. RECREATIONAL USES

CALIFORNIA BCDC

San Francisco Bay Plan, Part IV - Development of the Bay and Shoreline: Findings and Policies, Recreation Policies: (1) Marinas should be allowed at any suitable site on the Bay. Unsuitable sites are those that tend to fill up rapidly with sediment and require frequent dredging; have insufficient upland; contain valuable tidal marsh, or tidal flat, or important subtidal areas; or are needed for other water-oriented priority uses. At suitable sites, the Commission should encourage new marinas, particularly those that result in the creation of new open water through the excavation of areas not part of the Bay and not containing valuable wetlands. (2) Fill should be permitted for marina facilities that must be in or over the Bay, such as breakwaters, shoreline protection, boat berths, ramps, launching facilities, pumpout and fuel docks, and short-term unloading areas. Fill for marina support facilities may be permitted at sites with difficult land configurations provided that the fill in the Bay is the minimum necessary and any unavoidable loss of Bay habitat, surface area, or volume is offset to the maximum amount feasible, preferably at or near the site."

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 2.1.15 Water Contact Recreation (REC1): "Uses of water for recreational activities involving body contact with water where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, whitewater activities, fishing, and uses of natural hot springs. Water contact implies a risk of waterborne disease transmission and involves human health; accordingly, criteria required to protect this use are more stringent than those for more casual water-oriented recreation."

CONNECTICUT

Reference Guide to Connecticut Coastal Policies and Definitions, General Resources, Resource Policy 1: "To preserve and enhance coastal resources in accordance with the policies established by chapters 439 (Environmental Protection, Department and State Policy), 440 (Wetlands and Watercourses), 446I (Water Resources), 446k (Water Pollution Control), 447 (State Parks and Forests), 474 (Pollution), and 477 (Flood Control and Beach Erosion). CGS Section 22a-92(a)(2)."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.3) The coastal water resources of the state shall be protected and conserved to assure continued availability for public recreational purposes and for the conservation of aquatic life and wildlife. [7 Del. C. §6001(a)(4)].

(5.3.1.4) It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the propagation and protection of fish and aquatic life, and other beneficial uses of the water. [DNREC Regulations, Delaware Surface Water Quality Standards, Section 1.1, amended July 11, 2004]."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-1.1 General Policy of Water Quality Antidegradation: "(b) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the director finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located."

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-8 Recreational Criteria for All State Waters: "(a) These criteria are designed to protect the public from exposure to harmful levels of pathogens while participating in water-contact activities. The specific criteria for enterococcus shall be expressed in colony forming units (CFU) per one hundred milliliters or as a most probable number (MPN) per on hundred milliliters, as specific by the analytical method used."

MICHIGAN

Michigan Coastal Zone Management Program Document, Chapter III- Program Policies and Action Programs, Michigan Policy for Recreational Areas: "…to protect and preserve public right –of way which lead to frontage on lakes, streams, or 1he Great Lakes. (Natural Resources Commission Policy No. 3201);"

NEW JERSEY

New Jersey Coastal Management Program Bay and Ocean Shore Segment, Policy 3.2.9.2 Marine Sanctuary: "Management principles in the selected areas will serve to preserve and protect the areas, as well as indicate what actions are not permissible in the area. Non-permissible uses will be dependent on the five basic purposes for the designation: habitat areas, species areas, research areas, recreational and aesthetic areas, and unique or exceptional areas. After designation, activities not compatible with the basic purposes will be prohibited or restricted, but in general all other uses area allowed. Final policy in marine sanctuaries must be approved jointly by the Governor of New Jersey and the U.S. Secretary of Commerce."

NEW YORK

New York Coastal Management Program, Policy 9: "Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources."

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch Two Discharges

NORTH CAROLINA

North Carolina Title 15A, Subchapter 7H Coastal Management, Section .0200, Policy .0207: "(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support valuable commercial and sports fisheries, have aesthetic value, and are important resources for economic development. (c) Management Objective. To protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value."

OHIO

Ohio Coastal Management Program, Policy 33 Visual and Aesthetic Quality: "It is the policy of the State of Ohio to protect the visual and aesthetic amenities of Lake Erie and its shoreline to enhance the recreational, economic, cultural and environmental values inherently associated with the coastal area by: A. Prohibiting the dumping of litter and refuse into or along the waters of Lake Erie and its tributaries, and maintaining law enforcement activities to apprehend violators (O.R.C. 1531.29 and 3767.32); B. Enforcing state water quality standards (O.R.C. chapter 6111, O.A.C. 3745-1-04)."

RHODE ISLAND

The State of Rhode Island Coastal Resources Management Plan, Section 300.4 Recreational Boating Facilities, D. Prohibition: "5. Rhode Island is an EPA designated a No Discharge State; all vessel discharges within State Waters are prohibited."

SOUTH CAROLINA

Policy and Procedures of the South Carolina Coastal Management Program, V. Recreation and Tourism: 1) In the coastal zone, OCRM review and certification of permits for parks and related facilities will be based on the following policies: a) Water-dependent recreational uses will be given priority consideration over other types of recreational development in locations immediately adjacent to shoreline, wetlands or open water. For example, boating or swimming oriented parks would be considered water-dependent and receive priority over golf courses and tennis courts. b) Parks and open spaces are preferred uses in wetland areas, flood prone areas, beaches, and other environmentally significant or sensitive natural areas, with due consideration for types and intensity of development which reflect the "carrying capacity" of the area to accommodate influxes of large numbers of people without distraction or disruption of natural systems. d) Park proposals which include filling or other permanent alteration of productive salt, brackish or freshwater marshes will be denied, unless no feasible alternatives exist. e) Cooperative local, State and Federal efforts to maintain or enhance existing air and water quality in and near valuable recreational resource areas.

UNITED STATES VIRGIN ISLANDS

Final Environmental Impact Statement Proposed Coastal Zone Management Program for the Virgin Islands: "* Public coastal recreational uses, areas and facilities and access to such areas will be protected and enhanced."

WISCONSIN

Wisconsin Coastal Management Program – A Strategic Vision for the Great Lakes: "1.2) An interim goal is the protection and propagation of fish and wildlife and the maintenance of water quality to allow recreation in and on the water to be achieved. (See Wis. Stats. § 283.001(1)(b))."

10. PERMIT REGULATIONS

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 4.4 Waste Discharge Permitting Program: "Point source discharges to surface waters are generally controlled through waste discharge requirements issued under the federal National Pollutant Discharge Elimination System (NPDES) permits. Although the NPDES program was established by the federal Clean Water Act, the permits are prepared and enforced by the Water Boards per California's delegated authority for the act.

Issued in five-year terms, an NPDES permit usually contains components such as discharge prohibitions, effluent limitations, and necessary specifications and provisions to ensure proper treatment, storage, and disposal of the waste. The permit often contains a monitoring program that establishes monitoring stations at effluent outfall and receiving waters.

Under the state's Porter-Cologne Water Quality Control Act, any person discharging or proposing to discharge waste within the region (except discharges into a community sewer system) that could affect the quality of the waters of the state is required to file a Report Of Waste Discharge (ROWD). The Water Board reviews the nature of the proposed discharge and adopts Waste Discharge Requirements (WDRs) to protect the beneficial uses of waters of the state. Waste discharge requirements could be adopted for an individual discharge, or a specific type of discharges in the form of a general permit. The Water Board may waive the requirements for filing a ROWD or issuing WDRs for a specific discharge where such a waiver is not against the public interest. NPDES requirements may not be waived."

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.19) No person shall, without first having obtained a permit from the DNR, undertake any activity: (5.3.1.19.2) In a way which may cause or contribute to the discharge of a pollutant into any surface or ground water.

(5.3.1.20) No person shall, without first having obtained a permit from the DNREC, construct, install, replace, modify or use any equipment or device or other article: (5.3.1.20.3). Which is intended to prevent or control the emission of air contaminants into the atmosphere or pollutants into surface or ground waters.

(5.3.1.21) Regulatory variances for the activities identified in the preceding policy statement may be granted pursuant to 7 Delaware Code, Section 6011 if all of the following conditions exist in the opinion of the Secretary of the DNREC: (5.3.1.21.1) good faith efforts have been made to comply with these policies; (5.3.1.21.2) the cost of compliance is disproportionately high with respect to the benefits which would be bestowed by compliance, or the necessary technology is unavailable; (5.3.1.21.3) available alternative operating procedures or interim control measures are being or will be used to reduce adverse impacts; and (5.3.1.21.4) the activities are necessary to the national security or to the lives, health, or welfare of the occupants of Delaware.

(5.3.1.22) No permit for the activities identified above shall be granted unless the activities are consistent with county and municipal zoning regulations."

GEORGIA

Georgia Coastal Management Program's Final Environmental Impact Statement, Chapter 5 Policies and Management Authority, Water Quality: "The authority to regulate the rivers, streams, lakes, and subsurface waters throughout the State for public and private water supply and agricultural, industrial, and recreational uses is provided to the Environmental Protection Division. The Act makes it unlawful for any person to dispose of sewage, industrial wastes, or other wastes, or to withdraw, divert, or impound any surface waters of the State without a permit. Tourism and recreational entities, manufacturing and transportation facilities, and other activities found in the coastal zone covered under the policies of the Georgia Coastal Management Program are responsible for compliance with the regulations implementing the Georgia Water Quality Control Act."

11. HUMAN HEALTH

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, II. Water Quality Objectives, E. Biological Characteristics: "2. The natural taste, odor, and color of fish, shellfish*, or other marine resources used for human consumption shall not be altered. 3. The concentration of organic materials in fish, shellfish* or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health."

CALIFORNIA BCDC

Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, 2.1.11 Municipal and Domestic Supply (MUN): "The principal issues involving municipal water supply quality are (1) protection of public health; (2) aesthetic acceptability of the water; and (3) the economic impacts associated with treatment- or quality-related damages.

The health aspects broadly relate to: direct disease transmission, such as the possibility of contracting typhoid fever or cholera from contaminated water; toxic effects, such as links between nitrate and methemoglobinemia (blue babies); and increased susceptibility to disease, such as links between halogenated organic compounds and cancer…Published water quality objectives give limits for known health-related constituents and most properties affecting public acceptance."

CONNECTICUT

Reference Guide to Connecticut Coastal Policies and Definitions, Resource Policies, General Resources Policy 2: "The general assembly hereby declares that the policy of the state of Connecticut is to conserve, improve and protect its natural resources and environment and to control air, land and water pollution in order to enhance the health, safety and welfare of the people of the state. CGS Section 22a-1, as referenced by CGS Section 22a-92(a)(2)."

Reference Guide to Connecticut Coastal Policies and Definitions, Resource Policies, Coastal Waters & Estuarine Embayments Policy 22: "It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of state, is a public nuisance and is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and that the use of public funds and the granting of tax

exemptions for the purpose of controlling and eliminating such pollution is a public use and purpose for which public moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination. CGS Section 422, as referenced by CGS Section 22a-92(a)(2)."

DELAWARE

Delaware Coastal Management Program, 5.3 Coastal Waters Management: "(5.3.1.2)
The water resources of the state shall be protected from pollution which may threaten the safety and health of the general public. [7 Del. C. §§6001 (a)(5), 6001 (c)(2)]

(5.3.1.4) It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the propagation and protection of fish and aquatic life, and other beneficial uses of the water. [DNREC Regulations, Delaware Surface Water Quality Standards, Section 1.1, amended July 11, 2004]."

GEORGIA

Georgia Coastal Management Program's Final Environmental Impact Statement, Chapter 5 Policies and Management Authority, Environmental Policy: "(1) The protection and preservation of Georgia's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority."

HAWAII

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-4 Basic Water Quality Criteria Applicable to All Waters: "(c) To ensure compliance with paragraph (a) (4), all State waters are subject to monitoring and to the following standards for acute and chronic toxicity and the protection of human health."

Hawaii Administrative Rules, Chapter 11-54 Water Quality Standards, 11-54-8 Recreational Criteria for All State Waters: "(a) These criteria are designed to protect the public from exposure to harmful levels of pathogens while participating in water-contact activities. The specific criteria for enterococcus shall be expressed in colony forming units (CFU) per one hundred milliliters or as a most probable number (MPN) per on hundred milliliters, as specific by the analytical method used."

ILLINOIS

Illinois Coastal Management Program: "Part 352 "Procedures for Determining Water Quality Based Permit Limitations for NPDES Dischargers to the Lake Michigan Basin" contains IEPA rules for the application of the IPCB rules (for the Lake Michigan Basin at 35 IAC 302. Subparts A and E) of the NPDES permit program regulates discharges to the Lake Michigan Basin. Subpart E under Part 302 "Water Quality Standards" contains Sections 302.501 through 302.595. These sections cover "Lake Michigan Water Quality Standards." These rules are required pursuant to Final Guidance for the Great Lakes System, 60 FR 15366 adopted on March 23, 1995 by USEPA to implement Section 118(c)(2) of the Clean Water Act (33 USC 1268) as amended by the Great Lakes Critical Programs Act of 1990 (P. L. 101-596, 104 Stat. 3000). This guidance identifies minimum water quality standards, antidegradation policies and implementation procedures states must establish for the Great Lakes System to protect human health, aquatic life and wildlife."

INDIANA

Indiana Lake Michigan Coastal Program, Water Quality Policy: "WATER QUALITY STANDARDS: Specific standards indicating water quality are determined through rule adoption by the Water Pollution Control Board. All waters in the Great Lakes basin must at a minimum be free from substances, materials, floating debris, oil, or scum attributable to municipal, industrial, agricultural, and other land use practices, or other discharges that: (1) will settle to form objectionable deposits; (2) are in amounts to be unsightly; (3) produce color, visible oil sheen, odor, or other conditions to the degree of being a nuisance; (4) are in concentration that will contribute to the growth of algae or aquatic plants to a degree of being a nuisance; and, (5) are in amounts that are toxic to or may kill aquatic life, other animals, or humans."

MINNESOTA

Minnesota Statute §103A.201 Regulatory Policy: "To conserve and use water resources of the state in the best interests of its people, and to promote the public health, safety and welfare."

NEW JERSEY

New Jersey Coastal Management Program Bay and Final Environmental Impact Statement: "4. Protect the health, safety and welfare of people who reside, work and visit in the coastal zone."

SOUTH CAROLINA

Policy and Procedures of the South Carolina Coastal Management Program, CHAPTER III MANAGEMENT OF COASTAL RESOURCES, A. Goals and Objectives: "4. To promote increased recreational opportunities in coastal areas and increased public access to tidal waters in a manner which protects the quality of coastal resources and public health and safety."

UNITED STATES VIRGIN ISLANDS

Final Environmental Impact Statement Proposed Coastal Zone Management Program for the Virgin Islands: "(a) The Legislature hereby finds and declares that: (5) to promote the public safety, health and welfare, and to protect public and private property, wildlife, ocean resources and the natural environment, it is necessary to preserve the ecological balance of the coastal zone, and to prevent its deterioration and destruction;"

WASHINGTON

Managing Washington's Coast – Washington State's Coastal Zone Management Program, The Shoreline Management Act: "The Shoreline Management Act emphasizes a balance between shoreline conservation and shoreline use…The policy aims at "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state" while protecting public rights of navigation."

III. CONCLUSION OF CONSISTENCY DETERMINATION

A. CONCLUSION

In conclusion, based on the data presented in this National Consistency Determination, the EPA and DoD have determined that the proposed UNDS Phase II Batch Two performance standards are consistent to

the maximum extent practicable with the enforceable policies of each of the 35 federally-approved state and territories coastal management programs. As previously discussed, the proposed Batch Two performance standards were carefully developed as the EPA and DoD analyzed the information from Phase I of UNDS, considered the language in the NPDES 2013 VGP effluent limitations, and incorporated the considerations of the seven statutory factors listed in CWA § 312(n)(2)(B).