

FEDERAL AGENCY COASTAL ZONE MANAGEMENT ACT (CZMA) NEGATIVE DETERMINATION FOR NEW JERSEY

INTRODUCTION

This document provides the State of New Jersey with the Department of the Navy's (DON) Negative Determination under CZMA 16 United States Code (U.S.C.) § 1451 *et seq.* and 15 Code of Federal Regulations (CFR.) § 930.35. The information in this Negative Determination is provided pursuant to 15 CFR § 930.35.

This CZMA Negative Determination addresses the Proposed Action of the Environmental Impact Statement (EIS)/Overseas EIS (OEIS) for the Atlantic Fleet Active Sonar Training (AFAST) activities for the United States (U.S.) Atlantic East Coast and the Gulf of Mexico.

NEGATIVE DETERMINATION

In accordance with 15 CFR § 930.35, the Department of the Navy has reviewed New Jersey's coastal management program and associated enforceable policies and has determined that the Navy's Proposed Action will have no effects on any coastal use or resource.

The Navy does not propose to conduct active sonar activities, as described in the AFAST EIS/OEIS, in the State's coastal zone.

PROPOSED FEDERAL AGENCY ACTION

The Proposed Action is for the Navy to designate areas where mid- and high-frequency active sonar and improved extended echo ranging (IEER) system training; maintenance; and research, development, test, and evaluation (RDT&E) activities will occur within, and adjacent to, existing operating areas (OPAREAs), and to conduct these activities. These areas are located in the ocean along the East Coast of the U.S. and within the Gulf of Mexico (refer to Chapter (2) of the AFAST DEIS/OEIS for specific locations of Navy OPAREAs website at: <http://afasteis.gcsaic.com/>). Navy OPAREAs include designated ocean areas near fleet concentration areas (i.e., homeports). OPAREAs are where the majority of routine Navy training and RDT&E takes place. However, Navy training exercises are not confined to the OPAREAs. Some training exercises or portions of exercises are conducted seaward of the OPAREAs and a limited amount of active sonar use is conducted in water areas shoreward of the OPAREAs.

The purpose of the Proposed Action is to provide mid- and high-frequency active sonar and IEER training for U.S. Navy Atlantic Fleet ship, submarine, and aircraft crews; support the requirements of the Fleet Readiness Training Plan (FRTP); and maintain proficiency in Anti-Submarine Warfare (ASW) and Mine Warfare (MIW) skills. The FRTP is the Navy's training cycle requiring naval forces to build up in preparation for

operational deployment and to maintain a high level of proficiency and readiness while deployed. Basic combat skills are learned and practiced during Independent Unit Level Training (ULT) activities. These basic skills are then refined at the coordinated ULT and strike group training activities as progressively more difficult, complex, and larger-scale “integrated training” exercises are conducted at an increasing tempo.

Surface ships and submarines participating in the training also must conduct active sonar maintenance pier side and during transit to the training exercise location. Active sonar maintenance is required to ensure that the sonar system is operating properly before engaging in the training exercise or when the sonar systems are suspected of operating at levels below optimal performance. Active sonar maintenance includes both pier side and at-sea activities

RDT&E activities included in this action are those coincident and substantially similar to Atlantic Fleet training activities, using existing sonar systems or systems with similar operating parameters to existing systems. Separate environmental analyses and determinations will be prepared for new systems that do not have parameters similar to systems addressed in the AFAST EIS/OEIS.

The activities involving active sonar described herein are not new and do not involve significant changes in systems, tempo, or intensity from past activities.

Under the Navy’s Preferred Alternative described in the DEIS/OEIS No Action Alternative, the Navy would continue conducting active sonar activities year-round within and adjacent to existing OPAREAs, rather than designate active sonar areas or areas of increased awareness. Types of AFAST activities and their typical locations are summarized below. Please refer to the AFAST EIS/OEIS for greater detail on specific events and systems used during sonar activities.

ASW Activities and Training Areas

ASW activities include independent ULT, coordinated ULT, and strike group activities involving ships, submarines, and aircraft. Systems employed include hull-mounted systems (vessels), sonobuoys (aircraft), and dipping sonar (helicopters). Throughout the AFAST EIS/OEIS study area, most ASW activities would occur beyond 22.2 kilometers (km) (12 nautical miles [NM]) from shore within and seaward of existing OPAREAs with the exception of some helicopter sonar dipping activities. Although ASW activities could occur throughout the study area, some ASW activities have specific requirements or typical locations. These are discussed below.

ASW ULT Areas

Independent ASW ULT events are individual unit training events conducted beyond 12 NM from shore by all platforms (ships, submarines, aircraft). Shore-based helicopters based in Jacksonville, FL are the only units that would conduct ASW activities within 12 NM shore in designated areas off Jacksonville. Most ship and helicopter ASW ULT

would occur off the southeastern and mid-Atlantic coast. Submarine ASW ULT and fixed-wing aircraft ULT (deploying sonobuoys) would also occur in these areas as well as off the northeastern coast. Only a limited amount of ASW ULT would occur in the Gulf of Mexico.

Coordinated ULT

Coordinated ASW ULT events involve multiple units engaging in a single, coordinated event lasting two to five days. These events may involve several types of platforms. These events typically occur off the southeast coast, although a portion of the Submarine Command Course could occur off the northeast coast. Coordinated ASW ULT would not occur in the Gulf of Mexico.

Torpedo Exercise Areas

A limited number of torpedo firing exercises could occur anywhere within existing OPAREAs along the Atlantic Coast and Gulf of Mexico, although these events would typically occur near torpedo recovery facilities in the Northeast and eastern Gulf of Mexico. Torpedo activities in the Northeast North Atlantic right whale critical habitat are seasonally limited to specific areas near recovery facilities identified during previous Endangered Species Act (ESA) consultations.

Strike Group Training

The Navy currently conducts two types of strike group events: Composite Training Unit Exercise (COMPTUEX) and Joint Task Force Exercise (JTFEX). The sonar activities occur off the southeastern and mid-Atlantic coast, although most activities occur off the Florida coast. Up to five COMPTUEXes and two JTFEXes could occur annually. Both involve multiple platforms engaging in more complex training events designed to integrate operations and prepare for deployment. An entire COMPTUEX event lasts approximately three weeks and an entire JTFEX event lasts approximately ten days, although ASW training with active sonar is only a portion of the event duration.

MIW Training Areas

Independent and coordinated MIW ULT activities would be conducted within, and adjacent to, the Pensacola and Panama City OPAREAs in the northern Gulf of Mexico and off the east coast of Texas in the Corpus Christi OPAREA. Coordinated ULT scenarios are 10 to 15 days in length and occur up to four times per year.

Object Detection/Navigational Training Areas

Surface ship object detection/navigational active sonar training would be conducted primarily in the shallow water port entrance and exit lanes for Norfolk, Virginia and Mayport, Florida.

Submarine object detection/navigational active sonar training would occur primarily in the established submarine transit lanes entering/exiting Groton, Connecticut; Norfolk, Virginia; and Kings Bay, Georgia.

Maintenance Areas

Although sonar maintenance could occur as needed while at sea, maintenance activities typically occur in homeports. Surface ships would operate their active sonar systems for maintenance while in shallow water near their homeport, located in either Norfolk, Virginia or Mayport, Florida. Submarines would conduct maintenance to their sonar systems in shallow water near their homeport of either Groton, Connecticut; Norfolk, Virginia; or Kings Bay, Georgia.

RDT&E Areas

For RDT&E activities included in this analysis, active sonar activities occur in similar locations as representative ULT events.

NEW JERSEY'S COASTAL MANAGEMENT PROGRAM

The State of New Jersey's coastal zone includes four different inland regions and extends seaward to 5.6 km (3 NM) miles into the Atlantic Ocean. The following information is based on a review of the New Jersey Coastal Management Program enforceable policies:

- **Coastal Zone Management Rules (New Jersey Administrative Code [N.J.A.C.] 7:7E)**
 - Represent the State's substantive standards for the use and development of resources in New Jersey's coastal zone. These rules are used to review permit applications submitted under the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 "*et seq.*", the Wetlands Act of 1970, N.J.S.A. 13:9A-1 "*et seq.*", and the Waterfront Development Law, N.J.S.A. 12:5-3. The rules are also a basis for making recommendations to the Tidelands Resource Council on applications for Tidelands Instruments, and are applied in other Department decision-making pursuant to N.J.A.C. 7:7E-1.2.
- **Coastal Permit Program Rules (N.J.A.C. 7:7)**
 - Establish the procedures by which the Department reviews permit applications and appeals from permit decisions under the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 "*et seq.*", the Wetlands Act of 1970, N.J.S.A. 13:9A-1 "*et seq.*", and the Waterfront Development Law, N.J.S.A. 12:5-3. The Coastal Permit Program rules contain the coastal general permits, permits-by-rule and the Long Branch Redevelopment Zone Permit.

- **Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A)**
 - Implement the New Jersey Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 “*et seq.*” These rules provide stringent standards for activities that disturb freshwater wetlands, transition areas surrounding wetlands and open waters.

- **Stormwater Management Rules (N.J.A.C. 7:8)**
 - Implement certain requirements of the Federal NPDES Phase II Stormwater Permit rules and NJPDES stormwater rules, and also establish design and performance standards for stormwater management measures.

- **New Jersey Pollutant Discharge Elimination Systems Rules (N.J.A.C. 7:14A, Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25)**
 - Establish the regulatory framework within which the Department regulates the discharge of pollutants to the waters of the State. Effective April 13, 1982, the following rules pertinent to discharges to surface waters are enforceable policies of the NJCMP: Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25.

- **Waterfront Development Law, N.J.S.A. 12:5-3**
 - Authorizes the Department to regulate the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable or other similar development on or adjacent to tidal waterways throughout the State.

- **Wetlands Act of 1970, N.J.A.C. 13:9A**
 - Authorizes the Department to regulate activities on coastal wetlands that have been delineated and mapped by the Department. Examples of regulated activities include excavation, dredging, fill or placement of a structure on a mapped coastal wetland.

- **Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19**
 - Applies to projects near coastal waters in the southern part of the State. The law divides the CAFRA area into zones, and regulates different types of development in each zone. Regulated activities within the CAFRA area include a wide variety of residential, commercial or industrial development such as construction, relocation, and enlargement of buildings and structures; and associated work such as excavation, grading, site preparation and the installation of shore protection structures.

- **The Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17**
 - Enacted to regulate the development of 21,000 acres of Hackensack River Meadowlands in 14 municipalities. The Act created the New Jersey Meadowlands Commission (formerly the Hackensack Meadowlands Development Commission) and set forth three mandates for the Commission (1) oversee the growth and development of the region; (2)

protect the delicate balance of nature; and (3) continue to use the Meadowlands to meet the region's solid waste disposal needs.

- **Freshwater Wetlands Protection Act, N.J.S.A. 13:9B**
 - Enacted to preserve the purity and integrity of wetlands from random, unnecessary or undesirable alteration or disturbance. The Act regulates most development within freshwater wetlands and their associated transition or buffer areas.
- **Law concerning the transportation of dredged materials containing polychlorinated biphenyls (PCBs), N.J.S.A. 13:19-33**
 - Provides that the Department cannot permit or authorize the transport of dredge material for the purpose of disposing it in the state waters of the Atlantic Ocean if the dredged material exceeds an effects level of PCB of 113 parts per billion in worm tissue or a level subsequently determined by the Department to be more protective of human health or the environment.
- **Department's dredging technical manual titled, "The Management and Regulation of Dredging Activities and Dredged Material Disposal in New Jersey's Tidal Waters."**
 - Intended to provide clear and comprehensive policies and procedures for reviewing proposed dredging activities, and the management of dredged material disposal.

FEDERAL REVIEW

The Navy does not propose to conduct active sonar activities within 22.2 km (12 NM) of the Atlantic East Coast, with the exception of pier side maintenance and navigational activities that would occur within the States of Connecticut, Florida, Georgia, and Virginia at designated homeports and along designated navigational routes. Active sonar activities would not occur within 22.2 km (12 NM) of the coast of the Gulf of Mexico, with the exception of MIW activities that would occur within 16.7 km (9 NM) of the Gulf Coasts of Texas and Florida. Consistency Determinations have been submitted to the States of Connecticut, Florida, Georgia, Texas and Virginia pursuant to 15 CFR § 930.39. Separate environmental analyses and determinations would be prepared as required for systems that do not have parameters similar to systems addressed in the AFAST EIS/OEIS, as well as for sonar use associated with new systems (e.g., sea trials) that occurs within 22.2 km (12 NM).

Based upon the description of all sonar activities and their locations enumerated above, along with the discussion of the affected environment and the potential environmental consequences discussed in Chapters (3) and (4) respectively of the AFAST DEIS/OEIS, the Navy has determined that the AFAST Proposed Action would not produce any direct or indirect effects to any of New Jersey's coastal zone uses or resources which are included in New Jersey's coastal management program and associated enforceable policies which have been approved by National Oceanic Atmospheric Administration

(NOAA). A CD-Rom of the AFAST DEIS/OEIS and appendices, which was published and released to the public for comment on February 15, 2008¹, in compliance with the National Environmental Policy Act (NEPA) and Executive Order 12114, was included with the cover letter that accompanied this Negative Determination to assist the State's review of the Navy's Proposed Action. Additional copies of the AFAST DEIS/OEIS can be downloaded via the internet at the project's website: <http://afasteis.gcsaic.com>.

In accordance with 15 CFR § 930.35(c), the State of New Jersey has 60 days from the receipt of this document in which to concur with or object to this Negative Determination, or to request an extension under 15 CFR § 930.41(b). Given the critical nature of this training, we are seeking your concurrence with our Negative Determination. As a possible means to expedite this process, my staff is prepared to discuss this proposal in more detail and answer any questions you or your staff may have. Our point of contact is Ms. Sarah Kotecki, Naval Facilities Engineering Command, Atlantic, (757) 322-4769.

New Jersey's concurrence will be presumed if its response is not received by the U.S. Navy (Atlantic Fleet) within 60 days from receipt of this Determination. New Jersey's response or other inquiries should be sent to: Naval Facilities Engineering Command, Atlantic, Attn: Code EV22 (AFAST Project Manager), 6506 Hampton Blvd., Norfolk, Virginia 23508-1278; or Facsimile (757) 322-4805. If additional information should be required, requests for such information should be requested within ten days of receipt of this Negative Determination.

¹ Federal Register, Vol. 73, No. 32, Friday, February 15, 2008, pages 8856 to 8858.