ENCLOSURE

COASTAL CONSISTENCY DETERMINATION

SUPPORTED BY

ATLANTIC FLEET TRAINING AND TESTING DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT

Prepared for

The State of Delaware

INTRODUCTION

This document provides the State of Delaware with the United States (U.S.) Department of the Navy (including both the U.S. Navy and the U.S. Marine Corps) in cooperation with the U.S. Coast Guard as Joint Lead Agency (hereinafter jointly referred to as the Action Proponents) Coastal Consistency Determination under section 307(c)(1) of the Coastal Zone Management Act (CZMA) of 1972, as amended, and 15 Code of Federal Regulations [C.F.R.] part 930, subpart C, for the proposed activities in the Atlantic Fleet Training and Testing (AFTT) Study Area.

The Action Proponents analyzed the environmental impacts of proposed training and testing activities along the East Coast of the United States, the Gulf of Mexico, and portions of the Caribbean Sea. This includes activities occurring at Navy and Coast Guard pierside locations; port transit channels, bays, harbors, inshore waterways (e.g., Delaware Bay), and civilian ports; during transits between homeports and operating areas; and on the high seas

This Coastal Consistency Determination updates the 2018 Coastal Consistency Determination to reflect changes in the proposed training and testing activities needed to meet mission requirements. The 2018 Final AFTT EIS/OEIS was used as the foundation for the original Coastal Consistency Determination. The activities in that document were similar to what was described in the 2013 Final AFTT EIS/OEIS. The 2024 Draft AFTT Supplemental EIS/OEIS analyzes new activities and those that have increased or decreased since the 2018 analysis. Activities that were not included in the 2018 Coastal Consistency Determination, activities that have changed location, and activities that have increased in tempo or number of expended materials are included in the analysis for this Coastal Consistency Determination, even if the increase in activities or expended materials would be considered minor. In addition, some training activities have been proposed in selected inshore locations that were not included in the scope of the 2018 Coastal Consistency Determination. All U.S. Coast Guard activities are new to this analysis since the 2018 Coastal Consistency Determination.

CONSULTATION HISTORY

In 2018, the Navy consulted with the Delaware Department of Natural Resources and Environmental Control on these activities and received concurrence with the Navy's Coastal Consistency Determination (FC 2018.0030 of May 15, 2018). This consultation includes those activities that are new to the proposed action, did not previously occur in or near Delaware state waters, or have changed in frequency, intensity, or potential effects since 2018.

DESCRIPTION OF THE PROPOSED FEDERAL AGENCY ACTION

The Action Proponents prepared the 2024 Draft AFTT Supplemental EIS/OEIS to assess the environmental impacts associated with conducting training and testing activities in the AFTT Study Area. These training and testing activities are generally consistent with those analyzed in the 2018 Final AFTT EIS/OEIS and are representative of essential training and testing that has been conducted in the AFTT Study Area for decades. The Preferred Alternative in the 2024 Draft AFTT Supplemental EIS/OEIS, and the alternative evaluated in this Coastal Consistency Determination is Alternative 1. The Action Proponents propose to continue the majority of activities without substantial changes, and the effects of these activities are expected to be similar to those addressed in the 2018 Consistency Determination. The Action Proponents recognize that under 15 C.F.R. section 930.31(e), re-consultation is required when the potential effects to coastal resources may be substantially different than what was reviewed in past consultations. Although the potential effects are expected to remain the same or differ only slightly, the Action Proponents are initiating consultation with the state regarding activities that are either new to the area or have increased since the 2018 Final AFTT EIS/OEIS.

PROJECT LOCATION

The AFTT Study Area begins at the mean high water mark and extends seaward, including airspace, sea, and undersea space. The locations of training and testing activities proposed to occur off the coast of Delaware (Figure 1) include the following:

- Virginia Capes (VACAPES) Range Complex
- Delaware Bay

Proposed training and testing activities are typically identified at the range complex or testing range level because activities are not tied to specific locations and must adhere to operation requirements (e.g., certain depths) and safety considerations. Depending on the mission, some activities are conducted within or near the coastal zone and may have reasonably foreseeable effects on coastal use or resources, while other activities occur outside of 12 nautical miles and are not expected to affect any coastal use or resource. These activities and their locations are identified in Tables 2.2-1 through 2.2-5 in Chapter 2 (Description of Proposed Action and Alternatives) of the 2024 Draft AFTT Supplemental EIS/OEIS. In the 2024 Draft AFTT Supplemental EIS/OEIS, the category "Other AFTT Areas" refer to activities that generally occur outside of 12 nautical miles and therefore would not be expected to adversely impact coastal resources.

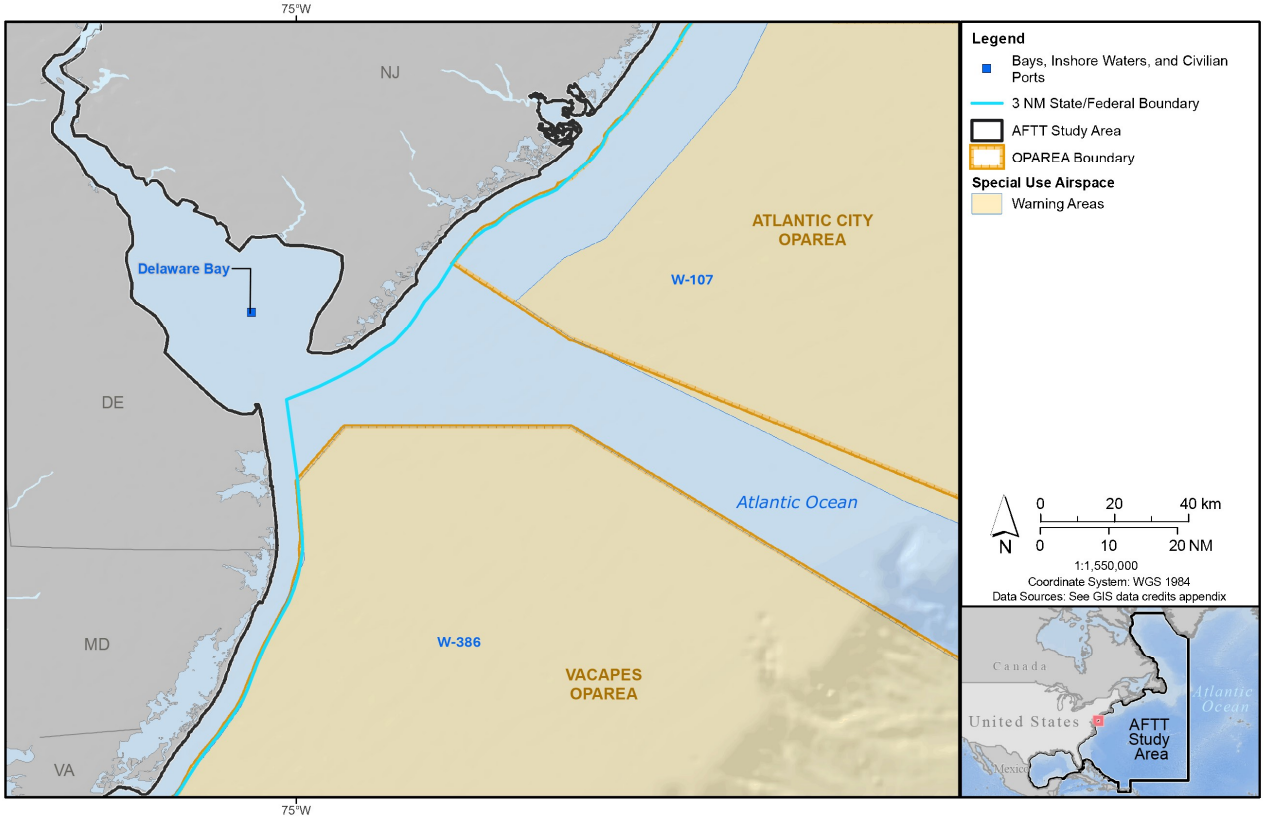

Figure 1: Atlantic Fleet Training and Testing Study Area near Delaware's Coastal Zone

DETERMINATION OF POTENTIAL EFFECTS

In accordance with 15 C.F.R. part 930, subpart C, the Action Proponents have determined that certain activities that may be conducted as part of the Proposed Action may have an effect on a coastal use or resource of the State of Delaware. The Action Proponents reviewed the proposed activities to determine if they had previously been analyzed in the 2018 Final AFTT EIS/OEIS and the previous Coastal Consistency Determination, where they would typically occur in relation to the coastal zone, as well as whether the activities may result in impacts to coastal uses or resources even in cases where the activities may occur outside of three nautical miles.

The Action Proponents used a screening process to identify stressors[1] to environmental resources found in the AFTT Study Area. Subject matter experts then evaluated the training and testing activities to identify specific stressors associated with each activity that could have direct or indirect impacts on the environment. Not all stressors affect every resource, nor do all proposed activities produce all stressors. Since the activities proposed are similar to the activities analyzed previously, the stressors considered are also similar. The analyses in Appendix B (Activity Stressor Matrices) of the 2024 Draft AFTT Supplemental EIS/OEIS were then used to determine if there would be effects to coastal zone resources.

The resources that were evaluated fall into three broad categories Physical Resources (including air quality and sediment and water quality), Biological Resources (including threatened and endangered species of vegetation, invertebrates, fishes, marine mammals, reptiles, and birds and bats), and Human Resources (including national register eligible cultural resources, socioeconomic resources, and public health and safety).

Table 1 lists the broad categories of environmental resources analyzed in the 2024 Draft AFTT Supplemental EIS/OEIS and the stressors and sub stressors that could affect them. Details of the stressors associated with each of the proposed activities can be reviewed further in Appendix B (Activity Stressor Matrices)[1] of the 2024 Draft AFTT Supplemental EIS/OEIS.

Table 1: Stressors Analyzed in the AFTT Environmental Impact Statement/ Overseas Environmental Impact Statement

Stressors and Sub stressors that may affect Physical Resources		
Resources	***Stressors***	
Sediments and Water Quality	• Explosives • Metals • Chemicals • Other materials	
Air Quality	• Criteria air pollutants	
Stressors and Sub stressors that may affect Biological Resources		
Resources	***Stressors***	***Sub stressors***
Habitats	**Explosive Stressors**	• Explosions in water
	Physical Disturbance and Strike Stressors	• Vessels and in-water device strike • Military expended materials • Seafloor devices • Pile driving
Vegetation	**Explosive Stressors**	• Explosions in water

[1] Stressors are components of naval activities that could serve as stimuli or pose an opportunity to stress or otherwise affect different biological, physical, or human resources evaluated in the 2024 Draft AFTT Supplemental EIS/OEIS.

Table 1: Stressors Analyzed in the AFTT Environmental Impact Statement/ Overseas Environmental Impact Statement

Stressors and Sub stressors that may affect Physical Resources		
	Physical Disturbance and Strike Stressors	• Vessels and in-water device strike • Military expended materials • Seafloor devices • Pile driving
Invertebrates	**Acoustic Stressors**	• Sonar and other transducers • Pile driving • Weapons noise • Vessel noise • Aircraft noise
	Explosive Stressors	• Explosions in water
	Energy Stressors	• In-water electromagnetic devices
	Physical Disturbance and Strike Stressors	• Vessels and in-water device strike • Military expended materials • Seafloor devices • Pile Driving
	Entanglement Stressors	• Wires and cables • Decelerators/parachutes • Biodegradable polymer
	Ingestion Stressors	• Military expended materials
Resources	***Stressors***	***Sub stressors***
Fishes	**Acoustic Stressors**	• Sonar and other transducers • Air guns • Pile driving • Vessel noise • Aircraft noise • Weapons noise
	Explosive Stressors	• Explosions in water • Explosions in air
	Energy Stressors	• In-water electromagnetic devices
	Physical Disturbance and Strike Stressors	• Vessels and in-water devices • Military expended materials • Seafloor devices • Pile Driving
	Entanglement Stressors	• Wires and cables • Decelerators/parachutes • Biodegradable polymer
	Ingestion Stressors	• Military expended materials
Marine Mammals	**Acoustic Stressors**	• Sonar and other transducers • Air guns • Pile driving • Vessel noise • Aircraft noise • Weapons noise
	Explosive Stressors	• Explosions in water • Explosions in air
	Energy Stressors	• In-water electromagnetic devices • High-energy lasers

Table 1: Stressors Analyzed in the AFTT Environmental Impact Statement/ Overseas Environmental Impact Statement

Stressors and Sub stressors that may affect Physical Resources		
	Physical Disturbance and Strike Stressors	• Vessels and in-water devices • Military expended materials • Seafloor devices • Pile Driving
	Entanglement Stressors	• Wires and cables • Decelerators/parachutes • Biodegradable polymer
	Ingestion Stressors	• Military expended materials
Reptiles	**Acoustic Stressors**	• Sonar and other transducers • Air guns • Pile driving • Vessel noise • Aircraft noise • Weapons noise
	Explosive Stressors	• Explosions in water
	Energy Stressors	• In-water electromagnetic devices • High-energy lasers
Resources	***Stressors***	***Sub stressors***
Reptiles	**Physical Disturbance and Strike Stressors**	• Vessels and in-water devices • Military expended materials • Seafloor devices • Pile Driving
	Entanglement Stressors	• Wires and cables • Decelerators/parachutes • Biodegradable polymer
	Ingestion Stressors	• Military expended materials
Birds & Bats	**Acoustic Stressors**	• Sonar and other transducers • Air guns • Pile driving • Vessel noise • Aircraft noise • Weapons noise
	Explosive Stressors	• Explosions in water • Explosions in air
	Energy Stressors	• In-water electromagnetic devices • In-air electromagnetic devices • High-energy lasers
	Physical Disturbance and Strike Stressors	• Vessels and in-water devices • Aircraft and aerial targets • Military expended materials
	Entanglement Stressors	• Wires and cables • Decelerators/parachutes
	Ingestion Stressors	• Military expended materials
Stressors and Sub stressors that may affect Human Resources*		
Resource	***Stressor***	
Cultural Resources	• Explosives • Physical disturbance and strikes	
Socioeconomic	• Accessibility • Airborne acoustics	

Table 1: Stressors Analyzed in the AFTT Environmental Impact Statement/ Overseas Environmental Impact Statement

Stressors and Sub stressors that may affect Physical Resources	
	• Physical disturbance and strikes
Public Health and Safety	• Underwater energy • In-air energy • Physical interactions

*Resources were fully analyzed in the 2018 Final AFTT EIS/OEIS

Table 2 includes activities from the Preferred Alternative (Alternative 1) of the Proposed Action as detailed in Chapter 2 (Description of Proposed Action and Alternatives) of the 2024 Draft AFTT Supplemental EIS/OEIS to include activities new to the Proposed Action or new to state waters. These activities were not included in the 2018 Final AFTT EIS/OEIS consultation and have the potential to affect coastal zone uses and resources as defined by the Delaware Coastal Management Program. For more information on individual activities see Appendix A (Activity Descriptions) of the 2024 Draft AFTT Supplemental EIS/OEIS. While some activities described in Appendix A could have an effect on coastal waters generally, further analysis has shown that those activities do not occur in the vicinity of Delaware state waters.

Table 2. New Training and Testing Activities to Occur off the Coast of Delaware with the Potential to Affect Delaware's Coastal Resources

Activity	*Description*	*Typical Location*[a]	*Annual Activities in Phase IV*[b]	*Coastal Resources Potentially Affected*[c]
New Navy and Marine Corps Training Actives Occurring Inside or Outside State Waters				
Gunnery Exercise Air-to-Air Small-Caliber	Helicopter aircrew fire small-caliber guns at threat air targets.	VACAPES RC	5	Biological and physical resources
Amphibious Vehicle Maneuvers	Small boat crews practice the employment of amphibious vehicles.	VACAPES RC	256	Biological, physical, and human resources
Amphibious Operations in a Contested Environment	Navy and Marine Corps forces conduct operations in coastal and offshore waterways against air, surface, and subsurface threats.	VACAPES RC	12	Biological, physical, and human resources
Underwater Construction Team Training	Navy and Coast Guard divers conduct underwater repair and construction.	VACAPES RC	1,000	Biological, physical, and human resources
Installation and Maintenance of Mine Training Areas	Vessels and associated aircraft conduct mine countermeasure operations.	VACAPES RC	1	Biological, physical, and human resources
Underwater Mine Countermeasure Raise, Tow, Beach and Exploitation	Personnel locate mines, perform mine neutralization, raise and tow mines to the beach, and conduct exploitation operations for intelligence gathering.	VACAPES RC	100	Biological, physical, and human resources
Long Range Unmanned Surface Vessel Training	Amphibious ships employ unmanned surface vessel to engage surface targets.	VACAPES RC	10	Biological, physical, and human resources

Table 2. New Training and Testing Activities to Occur off the Coast of Delaware with the Potential to Affect Delaware's Coastal Resources

Activity	*Description*	*Typical Location*[a]	*Annual Activities in Phase IV*[b]	*Coastal Resources Potentially Affected*[c]
Ship-to-Shore Fuel Transfer System Training	This activity trains personnel in the transfer of petroleum (though only sea water is used during training) from ship to shore.	VACAPES RC*	1	Biological, physical, and human resources
Unmanned Underwater Vehicle Training - Certification and Development	Unmanned underwater vehicle certification involves training with unmanned platforms to ensure submarine crew proficiency. Tactical development involves training with various payloads, for multiple purposes to ensure that the systems can be employed effectively in an operational environment.	VACAPES RC	53	Biological, physical, and human resources
New U.S Coast Guard Training Activities Occurring Inside or Outside State Waters				
Maritime Security Operations	Helicopter, surface ship, and small boat crews conduct a suite of maritime security operations.	VACAPES RC	498	Biological, physical, and human resources
Precision Anchoring	Anchors are released in designated locations or moored to a buoy.	VACAPES RC	500	Biological, physical, and human resources
Search and Rescue	Surface ships, small boats, and helicopter rescue personnel at sea.	VACAPES RC	100	Biological, physical, and human resources
New NAVSEA Testing Activities Occurring Inside or Outside State Waters				
Intelligence, Surveillance, Reconnaissance	Aircrew use all available sensors to collect data on threat vessels.	VACAPES RC	1	Biological, physical, and human resources
Non-Acoustic Component Testing	Testing of towed or floating buoys for communications through radio-frequencies or two-way optical communications between an aircraft and underwater system(s). Also, includes testing of non-acoustic and de minimis sources.	VACAPES RC*	0-3	Biological, physical, and human resources
Unmanned Surface Vehicle System Testing	Unmanned aerial systems are launched from a platform (e.g., fixed platform, surface ship, or submerged submarine) to test the capability to extend the surveillance and communications range of unmanned underwater vehicles, manned and unmanned surface vehicles, and submarines.	Other AFTT Areas VACAPES RC*	8-14	Biological, physical, and human resources

Notes: [a] Locations given are areas where activities are proposed to occur. However, activities could be conducted in other locations within the AFTT Study Area.

[b] For activities where the maximum number of events varies between years, a range is provided to indicate the "representative–maximum" number of events. For activities where no variation is anticipated, only the maximum number of events within a single year is provided.

[c] Refer to Appendix B of the 2024 Draft AFTT Supplemental EIS/OEIS for full details regarding the stressors associated with each activity.

*This activity could be conducted in several locations within the AFTT Study Area, with the VACAPES Range Complex being one of the locations. This total represents the maximum number of activities that could occur in the VACAPES Range Complex, assuming no other location is used. More information is provided in the 2024 Draft AFTT Supplemental EIS/OEIS. Activity numbers without an asterisk are planned to occur only in the VACAPES Range Complex

Legend: AFTT: Atlantic Fleet Training and Testing; RC: Range Complex; VACAPES: Virginia Capes; NAVAIR: Naval Air Systems Command; NAVSEA: Naval Sea Systems Command; ONR: Office of Naval Research

Table 3 includes activities that are ongoing and were consulted on in the 2018 Coastal Consistency Determination that have increased in tempo, or increased in the amount of military expended material and have the potential to affect resources and uses of the coastal zone. For activities occurring outside the coastal zone, the likelihood that there will be an effect on resources of the coastal zone decreases with the distance of the activity from the coastal zone. An effect on a coastal resource has to be more than merely speculative, it must be reasonably foreseeable. Thus, even if certain activities have an effect on certain species, the distance of the activity from the coastal zone makes any effect to resources of the coastal zone highly speculative. The activities and locations where the activities typically occur are listed and grouped according to where they could occur in relation to the coastal zone. Activities that only occur in the coastal zone are listed first. Next are activities that could occur either inside or outside the coastal zone but have the potential to affect coastal zone resources. Listed last are activities that only occur outside of the coastal zone but have reasonably foreseeable potential to affect coastal zone resources. Training and testing activities would typically occur in portions of the range complexes where they have historically occurred. Appendix A (Activity Descriptions) of the 2024 Draft AFTT Supplemental EIS/OEIS should be reviewed for further details on each activity. Pursuant to guidance issued by the National Oceanographic and Atmospheric Administration, activities that temporarily affect a coastal resource while that resource is outside of the coastal zone such that resource impacts are not felt within the coastal zone are not included.

Table 3. Ongoing Training and Testing Activities Increasing in Tempo or Military Expended Materials Potentially Affecting Delaware's Coastal Resources

Activity	*Description*	*Typical Location*[a]	*Annual Activities in Phase III*[b]	*Annual Activities in Phase IV*[b]	*Coastal Resources Potentially Affected*[c]
Ongoing Navy and Marine Corps Training Actives Occurring Inside or Outside State Waters					
Small Boat Attack	Afloat units defend against small boat or personal watercraft attack.	VACAPES RC	25	30	Biological, physical, and human resources
Waterborne Training	Personnel launch, operate, and recover a variety of small boats to achieve certifications such as coxswain, crewman, and safety observer.	VACAPES RC	110	182	Biological, physical, and human resources
Search and Rescue	Helicopter and ship crews rescue military personnel at sea.	VACAPES RC	1176	1358	Biological, physical, and human resources
Personnel Insertion/Extraction –	Personnel are inserted into and extracted from an objective area by small boats or sub-surface platforms.	VACAPES RC	360	391	Biological, physical,

Table 3. Ongoing Training and Testing Activities Increasing in Tempo or Military Expended Materials Potentially Affecting Delaware's Coastal Resources

Activity	*Description*	*Typical Location*[a]	*Annual Activities in Phase III*[b]	*Annual Activities in Phase IV*[b]	*Coastal Resources Potentially Affected*[c]
Surface and Subsurface					and human resources
Ongoing NAVAIR Activities Occurring Inside or Outside of State Waters					
Airborne Dipping Sonar Mine-hunting Test	A mine-hunting dipping sonar system that is deployed from a helicopter and uses high-frequency sonar for the detection and classification of bottom and moored mines.	VACAPES RC	6-18	40	Biological, physical, and human resources
Dive and Salvage Operations	Navy divers will conduct a variety of salvage training to include debeaching operations, underwater repairs to ships, underwater survey operations, and other underwater training as required.	VACAPES RC	30	145	Biological, physical, and human resources
Air Platform Shipboard Integration Test	Aircraft are tested to determine operability from shipboard platforms, performance of shipboard physical operations, and to verify and evaluate communications and tactical data links.	VACAPES RC	126	152	Biological, physical, and human resources
Mine Countermeasure and Neutralization Testing	Air, surface, and subsurface vessels neutralize threat mines and mine-like objects.	VACAPES RC	6	24-48	Biological, physical, and human resources
Ongoing NAVSEA Activities Occurring Inside or Outside of State Waters					
Surface Ship Sonar Testing/Maintenance	Pierside and at-sea testing of ship systems occurs periodically following major maintenance periods and for routine maintenance.	VACAPES RC	3	4	Biological, physical, and human resources
Radar and Other Systems Test	Test may include use of military or commercial radar, communication systems (or simulators), passive and active EW systems, electro-optical / infrared systems, or high and low-energy lasers. Testing may occur aboard a ship against drones, small boats, rockets, missiles, or other targets.	VACAPES RC	21-45	33-65	Biological, physical, and human resources
Air Defense Testing	Tests the ship's capability to detect, identify, track, and successfully engage live and simulated targets. Gun systems are tested using non-explosive and explosive rounds.	VACAPES RC	5	18-31	Biological, physical, and human resources
Countermeasure Testing	Countermeasure testing involves the testing of systems that will detect, localize, track, and engage incoming weapons, including marine vessel targets and airborne missiles. Testing includes surface ship torpedo defense systems, marine vessel stopping payloads, and airborne decoys against air targets.	VACAPES RC*	7-9	16-20	Biological, physical, and human resources
		VACAPES RC	0	6-10	

Table 3. Ongoing Training and Testing Activities Increasing in Tempo or Military Expended Materials Potentially Affecting Delaware's Coastal Resources

Activity	*Description*	*Typical Location*[a]	*Annual Activities in Phase III*[b]	*Annual Activities in Phase IV*[b]	*Coastal Resources Potentially Affected*[c]
Submarine Sea Trials – Weapons System Testing	Submarine weapons and sonar systems are tested at-sea to meet the integrated combat system certification requirements.	VACAPES RC*	6	3-7	Biological, physical, and human resources
Undersea Warfare Testing	Ships demonstrate capability countermeasure systems, underwater surveillance, weapons engagement, and communications systems. This tests ships' ability to detect, track, and engage undersea targets. Testing also includes assessing equipment vulnerability and ordnance lethality.	VACAPES RC*	4-6	6-24	Biological, physical, and human resources
Ongoing ONR Testing Activities Occurring Inside or Outside State Waters					
Acoustic and Oceanographic Research	Research involving passive acoustic and oceanographic sensing, as well as active transmissions from sources deployed from ships, aircraft, and unmanned underwater vehicles. Research sources serve as proxies for current and future Navy systems.	VACAPES RC*	2	12-15	Biological, physical, and human resources
Mine Countermeasure Technology Research	Test involves the use of broadband acoustic sources on unmanned underwater vehicles.	VACAPES RC*	1	4-5	Biological, physical, and human resources

Notes: [a] Locations given are areas where activities are proposed to occur. However, activities could be conducted in other locations within the AFTT Study Area.
[b] For activities where the maximum number of events varies between years, a range is provided to indicate the "representative–maximum" number of events. For activities where no variation is anticipated, only the maximum number of events within a single year is provided.
[c] Refer to Appendix B of the 2024 Draft AFTT Supplemental EIS/OEIS for full details regarding the stressors associated with each activity.
*This activity could be conducted in several locations within the AFTT Study Area, with the VACAPES Range Complex being one of the locations. This total represents the maximum number of activities that could occur in the VACAPES Range Complex, assuming no other location is used. More information is provided in the 2024 Draft AFTT Supplemental EIS/OEIS. Activity numbers without an asterisk are planned to occur only in the VACAPES Range Complex
Legend: RC: Range Complex; VACAPES: Virginia Capes; NAVAIR: Naval Air Systems Command; NAVSEA: Naval Sea Systems Command; ONR: Office of Naval Research; EW: Electronic Warfare

ANALYSIS OF APPLICABILITY OF POLICIES OF THE DELAWARE COASTAL MANAGEMENT PROGRAM

The Action Proponents reviewed each of Delaware's enforceable policies and determined that only six of the policies are applicable to the Proposed Action. Table 4 represents each of the policies the Actions Proponents deemed not applicable to the Proposed Action with a rationale for dismissing them from further analysis.

Table 4: Enforceable Policies of Delaware's Coastal Management Program Not Applicable to the Proposed Action

Enforceable Policy	Reason Policy is Not Applicable
5.1 Wetlands Management	The proposed activities will not occur on land and will not impact wetlands.
5.2 Beach Management	The proposed activities will not occur on land and will not impact beaches.
5.5 "Public Lands" Management	The proposed activities will not occur on land.
5.6 Natural Areas Management	The policy provides direction to a state agency for managing activities in these areas.
5.7 Flood Hazard Areas Management	The proposed activities do not involve activities that would impact flood hazard areas.
5.8 Port of Wilmington	The proposed activities do not involve activities that would impact the Port of Wilmington.
5.9 Woodlands and Agricultural Lands Management	The proposed activities do not involve activities that would impact woodlands or agricultural lands management.
5.12 Mineral Resource Management	The proposed activities do not involve leases for the extraction and production of minerals.
5.14 Public Trust Doctrine	The policy provides direction to a state agency for managing activities in public areas.
5.15 Energy Facilities	The proposed activities do not involve energy facilities.
5.16 Public Investment	The policy provides direction to a state agency for managing the Delaware Water Pollution Control Revolving Fund.
5.17 Recreation and Tourism	The policy provides direction to a state agency for managing recreation and tourism.
5.18 National Defense And Aerospace Facilities	The policy recognizes the importance in coastal states in the siting of national defense and aerospace.
5.19 Transportation Facilities	The policy provides direction to a state agency for managing activities associated with transportation facilities.
5.21 Water Supply Management	The policy provides direction to a state agency for managing water supply.
5.22 Waste Disposal Management	The policy provides direction to a state agency for managing activities associated with waste disposal management.
5.23 Development	The proposed activities do not involve development.
5.24 Pollution Prevention	The proposed activities do not involve generation of wastes.
5.25 Coastal Management Coordination	The policy provides direction to state agencies for coordinating and managing activities under the program.

DELAWARE ENFORCEABLE POLICIES APPLICABLE TO THE PROPOSED ACTION

The following six policies of the Delaware Coastal Management Program are applicable to the Proposed Action. The analysis of the policies below is only for those parts of the policies that are relevant to the Proposed Action.

5.3 Coastal Waters Management

A review of the policy found that the following sections are applicable to the Proposed Action:

- *5.3.1 – General*
  - *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.*

- *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.*
- *5.3.1.8 – Where high quality waters constitute an outstanding national resource, such as waters of national parks and wildlife refuges, existing quality shall be maintained and protected.*
- *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.*
    - *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.*
- *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 will be prohibited.*
- *5.3.1.19 – No person shall, without first having obtained a permit from the Delaware Department of Natural Resources, undertake any activity*
    - *5.3.1.19.1 – in a way which may cause or contribute to the discharge of an air contaminant.*
    - *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.*
    - *5.3.1.19.4 – in a way which may cause or contribute to the collection, transportation, storage, processing, or disposal of solid wastes, regardless of the geographic origin or source of such solid wastes.*

Consistency Analysis

The proposed activities have the potential to impact water quality through the introduction of military materials into the aquatic environment. Contaminants from the use and deposition of these materials in aquatic areas would remain near the release site and dilute within a short period of time, having no long-term effects on water quality. Analysis in Sections 3.2.3.3 (Sediments and Water Quality – Chemicals Other Than Explosives) and Section 3.2.3.2 (Sediments and Water Quality – Metals) of the 2024 Draft AFTT Supplemental EIS/OEIS concluded that the chemical, physical, or biological changes in sediments or water quality would not be detectable as a result of the use of military materials. The proposed activities would not violate water quality standards.

The proposed activities do not include the analysis of general ship operational aspects, such as the potential for spills of oil and other materials. That said, the Action Proponents are addressing 5.3.1.15 as a matter of courtesy and to inform the state of compliance of all ships with comprehensive Shipboard Oil Spill Contingency Plans. These plans detail measures to be undertaken when accidental spills occur aboard Navy ships.

While military expended materials are not wastes, the Action Proponents are addressing 5.3.1.10 due to the fact that some expended materials might float on the water's surface for a short period of time before sinking to the seafloor. No military expended material is expected to create a nuisance condition or to interfere with attainment and maintenance of designated uses of the water.

While ships generate and, ultimately, transport solid wastes, those liquid or solid wastes are not discharged from naval vessels within state waters. The Action Proponents follow the standards for incidental discharges from vessels of the Armed Forces, effective February 10, 2017.

The Action Proponents will be fully consistent with this policy.

5.4 Subaqueous Lands and Coastal Strip Management

Section 5.4.17 is applicable to the proposed activities. It states that subaqueous lands within the boundaries of Delaware constitute an important resource of the state and shall be protected against uses or changes which may impair the public interest in the use of tidal or nontidal waters.

Consistency Analysis

Physical disturbances to marine substrates were analyzed in the 2024 Draft AFTT Supplemental EIS/OEIS. Sections 3.3.3 (Habitats – Environmental Consequences of the 2024 Draft AFTT Supplemental EIS/OEIS show that the combined impact areas of explosive stressors (which are not expected to be used in Delaware's coastal zone) and physical disturbance and strike stressors for training and testing activities would have no substantial impact on the ability of natural areas or artificial substrates to serve their function as habitat. The majority of expended materials are expected to sink rapidly to the bottom and be covered by sediments, resulting in a minimal effect on benthic habitat.

Activities occurring in the coastal zone would be of short duration (hours) and would only temporarily limit access to localized areas of the coastal zone to ensure public safety. Potential effects on recreation, tourism, commercial, and industrial activities would be mitigated by issuing Notices to Mariners and Notices to Airmen prior to any activity anticipated to pose a substantial interference with the public (Section 3.11 of the 2018 Final AFTT EIS/OEIS, Socioeconomic Resources). These advance notifications allow for planning and help to ensure safety. Most activities would not occur in the vicinity of commercial or recreational vessels.

The Action Proponents will be fully consistent with this policy.

5.10 Historic and Cultural Areas Management

Two parts of this policy are applicable to the proposed activities. Part 5.10.1.2 declares that "no person" shall excavate, collect, deface, injure, disturb, or destroy any archaeological resource or artifact or its surrounding location in the coastal zone. Archaeological resources and artifacts shall be defined to include any remains of past human life or activity that are at least 50 years old. Part 5.10.1.4 declares that all "activities that may impact historic and cultural areas shall be coordinated, to the maximum extent possible, with the Delaware Division of Historical and Cultural Affairs.

Consistency Analysis

The Action Proponents routinely avoid locations of known obstructions, including submerged historic and cultural resources such as historic shipwrecks. Analysis in Section 3.10 (Cultural Resources) of the 2018 Final AFTT EIS/OEIS concluded that activities with physical disturbance and strike and explosive stressors could inadvertently impact submerged prehistoric sites and unrecorded submerged historic resources by disrupting the bottom and sub-bottom structure near submerged prehistoric sites and snagging, damaging, or destroying unrecorded submerged historic resources. The Action Proponents will consult with Delaware's State Historic Preservation Office to ensure compliance with Section 106 of the National Historic Preservation Act. If unrecorded submerged historic resources are discovered later, the Navy will reopen consultation.

The Action Proponents will be fully consistent with this policy.

5.11 Living Resources

A review of the policy determined that the following sections are applicable to the Navy's Proposed Action:

- *5.11.1 – General*
  - *5.11.1.1 – No activity shall have an adverse environmental effect on living resources and shall include consideration of the effect of site preparation and the proposed activity on the following wetland values:*
    - *5.11.1.1.1 – Value of tidal ebb and flow*
    - *5.11.1.1.2 – Habitat value*
- *5.11.2 – Fish and Wildlife*
  - *5.11.2.1 – All forms of protected wildlife shall be managed and protected from negative impacts.*
  - *5.11.2.2 – State shellfish resources shall be protected from further impairment and improved when possible.*
- *5.11.3 – Nongame and Endangered Species*
  - *5.11.3.1 – "Nongame" is that fauna, including rate and endangered species, which are not commonly trapped, killed, captured or consumed, either for sport or profit.*
  - *5.11.3.2 – Rare and endangered species are in need of active, protective management to preserve and enhance such species. The diversity and abundance of the native flora and fauna of Delaware, particularly those deemed rare or endangered, shall be preserved and enhanced through the protection of the habitat, natural areas, and areas of unusual scientific significance or having unusual important to their survival.*

Consistency Analysis

Activities are conducted in accordance with permits and authorizations granted under the federal Endangered Species Act (ESA) (16 U.S.C. section 1536) and Marine Mammal Protection Act (MMPA) (16 U.S.C. section 1371). Thus, the Action Proponents are consistent with this policy with respect to species also regulated by the ESA and MMPA. To the extent that state policies attempt to regulate the take of marine mammals protected by the MMPA, those policies are preempted by MMPA section 9(a), which explicitly prohibits any state from enforcing any law or regulation regarding the take of marine mammals. Additionally, the ESA does not contain a waiver of sovereign immunity, so states may not directly regulate federal activity via state laws protecting certain species. Furthermore, CZMA does not in and of itself authorize the application of state permit requirements to federal agencies. Based on the foregoing, the discussions below are provided for resources other than marine mammals.

Marine species (e.g., terrapins and fishes) may be affected by sound at the water's surface or below the surface in the vicinity of explosions or other sound-producing activities. Analyses in Sections 3.8 (Reptiles) and 3.6 (Fishes) of the 2024 Draft AFTT Supplemental EIS/OEIS concluded that the majority of effects would be temporary and minor behavioral reactions. For sea turtles, specific mitigation measures are employed to reduce the potential for impacts (Chapter 5 [Mitigation] of the 2024 Draft AFTT Supplemental EIS/OEIS). There is a remote possibility that marine species (e.g., terrapins and fishes) could be injured through physical contact with military expended material such as munitions, exercise targets, parachutes, etc. Analyses in Sections 3.8 (Reptiles) and 3.6 (Fishes) of the 2024 Draft AFTT Supplemental EIS/OEIS concluded that this is highly unlikely. No population-level impacts are anticipated for any analyzed marine species.

Sections 3.3.3 (Habitats– Environmental Consequences) of the 2024 Draft AFTT Supplemental EIS/OEIS show that water column habitat may be affected by acoustic activities. The analysis concluded that any effects would be temporary, and the proposed training and testing activities would have no substantial impact on the ability for the water column to serve its function as habitat.

The Action Proponents would reduce impacts on coastal zone uses and resources through adherence to standard operating procedures (Section 2.3.3 [Standard Operating Procedures] of the 2018 Final AFTT EIS/OEIS) and implementation of environmental mitigation measures (Chapter 5 [Mitigation] of the 2024

Draft AFTT Supplemental EIS/OEIS). Direct or indirect effects on coastal zone uses and resources would be localized and temporary and are not expected to measurably impact the environment.

Based on the principles of sovereign immunity and preemption discussed earlier, the Action Proponents will be consistent to the maximum extent practicable with the Fish and Wildlife Conservation policy.

5.13 State Owned Coastal Recreation and Conservation

A review of the policy determined Section 5.13.1 is applicable to the proposed activities. It states that state owned lands whose natural condition or present state of use would maintain important recreational areas and wildlife habitat, or would maintain or enhance the conservation of natural, cultural, or historic resources shall be managed, preserved, and protected, for conservation and recreational use.

Consistency Analysis

The proposed activities have the potential to impact marine substrates and other habitats. Physical disturbances to marine substrates were analyzed in the 2024 Draft AFTT Supplemental EIS/OEIS. Sections 3.3.3 (Habitats – Environmental Consequences) show that the combined impact areas of explosive stressors (which are not expected to be used in Delaware's coastal zone) and physical disturbance and strike stressors for training and testing activities would have no substantial impact on the ability of natural areas or artificial substrates to serve their function as habitat. The majority of expended materials are expected to sink rapidly to the bottom and be covered by sediments, resulting in a minimal effect on benthic habitat.

The proposed activities have the potential to impact marine species themselves. Marine species (e.g., terrapins and fishes) may be affected by sound at the water's surface or below the surface in the vicinity of sound-producing activities. Analyses in 3.8 (Reptiles), and 3.6 (Fishes) of the 2024 Draft AFTT Supplemental EIS/OEIS concluded that the majority of effects would be temporary. There is a remote possibility that marine species could be injured through physical contact with military expended material such as exercise targets, parachutes, etc. Analyses in Sections 3.8 (Reptiles) and 3.6 (Fishes) of the 2024 Draft AFTT Supplemental EIS/OEIS concluded that this is highly unlikely.

Based on the analyses and conclusions in Sections 3.5 (Invertebrates) and 3.6 (Fishes) of the 2024 Draft AFTT Supplemental EIS/OEIS, there will be no decreased populations of invertebrates or fishes in the AFTT Study Area. Section 3.11 (Socioeconomics) in the 2018 Final AFTT EIS/OEIS concluded that no loss of revenue or employment associated with recreational fishing would occur. On the occasions when the Action Proponents plan activities that could conflict with public uses, such as the Civilian Port Defense – Homeland Security Anti-Terrorism/Force Protection Exercise in Delaware Bay, the Action Proponents provide advance notice of these activities through Notices to Mariners and Notices to Airmen. These advance notifications allow for planning and help to ensure safety. No long-term impacts on fisheries or recreational activities are anticipated. Because the proposed activities would not lead to a noticeable change in presence and the proposed locations for these activities do not differ much from historical use, it is unlikely that recreational activities would be noticeably affected by activities.

The Action Proponents will be fully consistent with this policy.

5.20 Air Quality Management

A review of the policy determined that Section 5.20.1 is applicable to the proposed activities. It states that the air resources of the state must be protected, conserved, and controlled to assure their reasonable and beneficial use in the interest of the people of the State.

Consistency Analysis

The proposed activities have the potential to temporarily impact air quality in localized areas of the coastal zone. Effects could result from the use of explosive munitions and ship and aircraft activity, all of which entail the combustion of fossil fuels. Emissions from aircraft and surface vessels and byproducts from explosive munitions could introduce contaminants into the air, temporarily degrading air quality.

Section 3.1.2.3 (Existing Air Quality) of the 2024 Draft AFTT Supplemental EIS/OEIS notes that the Philadelphia (Pennsylvania)-Wilmington (Delaware)-Atlantic City (New Jersey)-Maryland and Seaford (Delaware) areas are in nonattainment for ozone standards. While pollutants emitted in the AFTT Study Area may at times be carried ashore by prevailing winds, most training and testing activities would occur beyond state water boundaries and natural mixing would substantially disperse pollutants before they reach the boundaries of the adjacent air quality control regions. Additionally, the primary wind pattern moves from shore to offshore. The emissions of air pollutants from activities in the AFTT Study Area are unlikely to measurably add to existing onshore pollutant concentrations because of the distances these offshore pollutants would be transported and their substantial dispersion during transport. Therefore, no substantial impacts on air quality as a result of emissions of criteria pollutants over state waters would occur.

The Action Proponents will be fully consistent with this policy.

CONCLUSION

The Action Proponents have reviewed Delaware's Coastal Management Program and determined that six policies are applicable to the Proposed Action, as analyzed above. As described in Table 4, all other policies do not apply to the proposed activities.

The Action Proponents reviewed its proposed activities for how and to what degree the activities in or near the coastal zone could affect Delaware's coastal uses and resources. Potential impacts could result from activities occurring in the VACAPES Range Complex, Delaware Bay, and "Other AFTT" Areas. Generally, these impacts would either not be felt in the coastal zone or would be minor and temporary and have no measurable impact on coastal zone resources. The Action Proponents would reduce the impacts from proposed activities on coastal zone uses and resources by adhering to standard operating procedures (Section 2.3.3 [Standard Operating Procedures] of the 2018 Final AFTT EIS/OEIS) and implementing environmental mitigation measures (Chapter 5 [Mitigation] of the 2024 Draft AFTT Supplemental EIS/OEIS). Analysis in Chapter 3 (Affected Environment and Environmental Consequences) of the 2024 Draft AFTT Supplemental EIS/OEIS addresses potential impacts on environmental resources in greater detail.

The Action Proponents will be consistent to the maximum extent practicable with the applicable policies of the Delaware Coastal Management Program.