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

September 2016 Rev. 1

Prepared by:

U.S. Environmental Protection Agency

And

Office of the Chief of Naval Operations

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

RECORD OF REVISIONS

REV NO.	DATE	TITLE AND/OR BRIEF DESCRIPTION/PREPARING ACTIVITY
0	**July 2016**	Original issue
1	**September 2016**	Revision. Revisions to this National Consistency Determination have been captured in red font in Table 1.1, Section I.G, and Section II.A, in response to the EPA and DoD's review of the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin. The information that was added to this document is related to 6 of the 11 themes and only applies to California BCDC. This additional review did not change the conclusion of this document. The EPA and DoD conclude that the proposed Phase II Batch One performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 34 federally-approved state and territories coastal management programs.

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ACRONYMS AND ABRREVIATIONS

AFFF	Aqueous Film-Forming Foam
CFR	Code of Federal Regulations
COC	Constituents of Concern
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DoD	Department of Defense
EPA	Environmental Protection Agency
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FR	Federal Register
IMO	International Maritime Organization
ISO	International Organization for Standardization
MPCD	Marine Pollution Control Device
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
ppm	Parts-Per Million
UNDS	Uniform National Discharge Standards
U.S.	United States
U.S.C.	United States Code
VGP	Vessel General Permit

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

I. GENERAL 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 (NOAA) 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 Uniform National Discharge Standards (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.

A. DESCRIPTION OF THE UNDS STATUTORY REQUIREMENTS

In 1996, Section 312(n) of the Clean Water Act (CWA) was created to establish UNDS. The 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 Coast Guard into the into the navigable waters of the United States (U.S.), the territorial seas, and the contiguous zone. The UNDS discharge performance standards 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 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,

includes aqueous film-forming foam (AFFF), chain locker effluent, distillation and reverse osmosis brine, elevator pit effluent, gas turbine water wash, non-oily machinery wastewater, photographic laboratory drains, seawater cooling overboard discharge, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck 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 U.S. 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 (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.

This National Consistency Determination addresses the proposed performance standards for the 11 Batch One discharges.

1. TECHNICAL APPROACH TO DEVELOPING PERFORMANCE STANDARDS

The EPA and DoD proposed performance standards for the 11 Batch One discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the U.S., 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 Batch One 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 should help inform about the UNDS action, due to the similarities in the discharge performance standards.

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 Phase II Batch One performance standards were developed in a manner consistent to the maximum extent practicable with the enforceable policies of each of the 34 federally-approved state and territories coastal management programs.

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

1. CONSISTENCY DETERMINATION APPROACH

The EPA and DoD thoroughly reviewed 34 federally-approved state and territory coastal management programs and/or similar coastal policy documents to determine their applicability to the UNDS Phase II Batch One 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 ensure that the UNDS Phase II Batch One 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 34 coastal 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:

Katherine Weiler, Marine Pollution Control Branch (4504T), U.S. EPA, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; (202) 566-1280; weiler.katherine@epa.gov

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D. PHASE II BATCH ONE PERFORMANCE STANDARDS

This section describes the MPCDs determined to be reasonable and practicable to mitigate the adverse impacts to the marine environment from the Batch One 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. AQUEOUS FILM FORMING FOAM (AFFF)

AFFF is the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations. The performance standard for AFFF is:

The UNDS standard will prohibit the discharge of AFFF (i.e., AFFF used during training, testing, or maintenance operations); however, AFFF can be collected and stored for onshore disposal or discharged when the vessel is located seaward of waters subject to UNDS.

2. CHAIN LOCKER EFFLUENT

Chain locker effluent is the accumulated sediments and any potential accompanying pollutants that are emptied from the compartment used to store the vessel's anchor chain. The performance standard for chain locker effluent is:

The UNDS standard will require that all anchor chains from surface vessels (submarines are not subject to this requirement) must be carefully and thoroughly washed down (i.e., more than a cursory rinse) as they are being hauled out of the water to remove sediment and organisms. The EPA and DoD also require that all chain lockers must be cleaned periodically to eliminate accumulated sediments and any potential accompanying pollutants. The dates of all chain locker inspections must be recorded in the ship's log or other vessel recordkeeping documentation.

In addition, the UNDS standard will require that for vessels that sail seaward of waters subject to UNDS at least once per month, chain lockers shall not be rinsed or pumped out within waters subject to UNDS to eliminate any potential impact to nearshore waters. If technically feasible, the chain locker shall be periodically cleaned, rinsed, and/or the accumulated water and sediment (i.e., chain locker effluent) shall be pumped out prior to entering waters subject to UNDS (preferably in mid-ocean). For vessels that do not sail seaward of waters subject to UNDS at least once per month, if a discharge of chain locker effluent occurs within waters subject to UNDS it shall occur at the greatest distance practicable from shore and, if technically feasible, shall not be discharged in federally-protected waters.

3. DISTILLATION AND REVERSE OSMOSIS BRINE

Distillation and reverse osmosis brine is the concentrated seawater (brine) produced as a by-product of the processes used to generate freshwater from seawater. The performance standard for distillation and reverse osmosis brine is:

The UNDS standard will prohibit the discharge of the distillation and reverse osmosis brine if it comes in contact with machinery or industrial equipment (other than distillation or reverse osmosis machinery), toxic or hazardous materials, or wastes.

4. ELEVATOR PIT EFFLUENT

Elevator pit effluent is the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels. The performance standard for elevator pit effluent is:

The UNDS standard will prohibit the direct discharge of elevator pit effluent. Elevator pit effluent can be discharged when commingled with another discharge for the purposes of treatment prior to discharge; under no circumstances may oils, including oily mixtures, be discharged from that combined discharge in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or contain an oil content above 15 parts-per million (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., International Organization for Standardization (ISO) Method 9377) or U.S. Coast Guard, or are otherwise harmful to the public health or welfare of the U.S.

5. GAS TURBINE WATER WASH

Gas turbine water wash is the water released from washing gas turbine components. The performance standard for gas turbine water wash is:

> The UNDS standard will prohibit the direct discharge of gas turbine water wash. Gas turbine water wash should be collected separately and disposed of at an onshore facility. If gas turbine water wash is commingled with any other discharge for the purposes of treatment prior to discharge, then under no circumstances may oils, including oily mixtures, be discharged from that combined discharge in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon 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 U.S. Coast Guard, or are otherwise harmful to the public health or welfare of the U.S.

6. NON-OILY MACHINERY WASTEWATER

Non-oily machinery wastewater is the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, propulsion engine jacket coolers, fire pumps, and seawater and potable water pumps. The performance standard for non-oily machinery wastewater is:

> The UNDS standard will require that direct discharges of non-oily machinery wastewater or the discharge of non-oily machinery wastewater that is commingled with another discharge for the purposes of treatment prior to discharge be free from any additives that are toxic or bioaccumulative in nature. In addition, under no circumstances may oils, including oily mixtures contained in non-oily machinery wastewater be discharged in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon 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 U.S. Coast Guard, or otherwise are harmful to the public health or welfare of the U.S.

7. PHOTOGRAPHIC LABORATORY DRAINS

Photographic laboratory drainage is the laboratory wastewater resulting from the processing of photographic film. The performance standard for photographic laboratory drains is:

> The UNDS standard will prohibit the discharge of photographic laboratory drain overboard.

8. SEAWATER COOLING OVERBOARD DISCHARGE

Seawater cooling overboard discharge is the discharge of seawater from a dedicated system that provides noncontact cooling water for other vessel systems. The seawater cooling overboard discharge performance standard requires:

> The UNDS standard will require that the discharge of seawater cooling should occur only when the vessel is underway. In addition, the standard provides for the reduction in production and discharge of seawater cooling overboard by urging the use of shore power in port if: (1) shore power is readily available; (2) shore-based power supply systems are capable of providing the needed electricity; and (3) the vessel is equipped to connect to shore-based power. Specifically, the EPA and DoD require that, for vessels that are less than 79 feet in length, fouling organisms be removed from seawater piping on a regular basis and the discharge of such removed organisms be prohibited within waters subject to UNDS. For vessels that are greater than or equal to 79 feet in length, maintenance of all piping and seawater cooling systems needs to meet the requirements of 40 CFR 1700.32 (Seawater Piping Biofouling Prevention) and fouling organisms removed from seawater piping shall not be discharged. Submarines have suction clearing procedures, which must be performed for vessel safety purposes; therefore, submarines are not required to meet these operational removal requirements.

9. SEAWATER PIPPING BIOFOULING PREVENTION

Seawater pipping biofouling prevention is the discharge of seawater containing chemicals used to prevent the growth and attachment of fouling organisms in dedicated seawater cooling systems on selected vessels. The seawater pipping biofouling prevention performance standard requires:

> The UNDS standard will require a performance standard for seawater piping biofouling prevention that minimizes the amount of chemicals (e.g., chlorine) used to keep fouling under control. Fouling organisms need to be removed from seawater piping via a cleaning event on a regular basis to minimize the impact to the receiving waters. Fouling organisms removed during a cleaning event are prohibited from being discharged. This prohibition does not apply to the discharge of organisms resulting from the routine chemical biofouling control system nor does it apply to submarines. Lastly, this performance standard requires practices consistent with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registration requirements for chemicals used to control biofouling of seawater piping, and prohibits discharges of pesticides or chemicals banned for use in the U.S.

10. SMALL BOAT ENGINE WET EXHAUST

Small boat engine wet exhaust is the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine. The small boat engine wet exhaust performance standard requires:

> The UNDS standard will require that alternative fuels be used. In addition, the performance standard requires that four-stroke engines be considered instead of two-stroke engines. Vessels using two-stroke engines are required to use environmentally acceptable lubricants (found in the definitions for this term at 40 CFR 1700.3) unless such use would be technologically infeasible. Additionally, the standard urges the use of low sulfur alternative fuels.

11. WELLDECK DISCHARGES

Welldeck discharges is the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck. The welldeck discharges performance standard requires:

> The UNDS standard will prohibit welldeck discharges containing graywater and prohibit the washdown of gas turbine engines within three nautical miles of the U.S. Welldeck discharges from equipment and vehicle washdowns need to be free from garbage, and not contain oil in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon 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 U.S. Coast Guard, or otherwise are harmful to the public health or welfare of the U.S.

E. DESCRIPTION OF COASTAL EFFECTS

The UNDS standards govern the discharges incidental to the normal operation of a vessel of the Armed Forces. As the majority of the 11 discharges in Batch One are no discharge or discharge further from shore, it is anticipated that the proposed standards will protect the coastal environment. The EPA and DoD do not expect the 11 Batch One discharges to have physical effects on the coast, the shoreline, marine species, or the coastal floor. 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 One discharge performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 34 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 1.1 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*, of this document.

As detailed earlier, in support of the Batch One discharge performance standards development, the EPA and DoD evaluated the environmental impact of implementing all feasible MPCD options for the vessel discharges. Included in the environmental analysis was a comparison of discharge constituent concentrations to ambient water quality criteria and other regulatory limits. Analytical results were compiled into an Environmental Effects Analysis Report for each Batch One discharge. This analysis evaluated cumulative impacts using narrative water quality criteria (e.g., pathogens, nutrients, aesthetic conditions, and temperature), as well as impacts from constituents of concern (COC) that were compared to relevant federal guidance values and state water quality standards. Based on the results, the Batch One discharge performance standards were determined to be effective and the cumulative effect of implementing the standards was determined to have equal or less impact than the present discharge to receiving waters.

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Table 1.1—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 UNDS Phase II Batch One discharges is provided.

G. DESCRIPTION OF IDENTIFIED ENFORCEABLE POLICIES

A. 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 promulgated 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.

EPA AND DOD RESPONSE:
Based upon the following information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding water quality. The EPA and DoD are not aware of any exceedances of water quality criteria that would be caused by any of the 11 discharges. Upon implementation of UNDS, management practices and pollution control devices will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges (detailed in Section A. Description of the UNDS Statutory Requirements), five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. The remaining six discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected to negatively impact water quality.

The Phase II Batch One discharge performance standards are not expected to have any effect on air quality and therefore air quality standards were not considered.

Accordingly, UNDS is consistent with state and territory CZMA policies to protect water quality. 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. This preemption includes water quality standards, and, as such, those sections of state or territory CZMA policies that require compliance with water quality standards will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to maintaining and conforming to water and air quality standards are provided in *Section II. Specific State and Territory Enforceable Policies by Theme,* of this document.

B. 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:

Based upon the following information, data, and analysis, the EPA and DoD find that the UNDS Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding minimizing pollution impacts to the coastal zone.

Upon implementation of UNDS, management practices and pollution control devices will be used to control impacts to receiving water quality from vessel discharges and to help protect water resources and public use of those resources. Batch One discharge performance standards are consistent with state policies to control pollution impacts on coastal resources. Of the 11 Phase II Batch One discharges (detailed in Section A. Description of the UNDS Statutory Requirements, of this document), five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. The remaining six discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) will are not expected to negatively impact water quality.

Accordingly, UNDS is consistent with state and territory CZMA policies to protect water quality from pollution impacts. 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. This preemption includes pollution prevention, and, as such, those sections of state or territory CZMA policies that require compliance with prohibition of pollution will not have an impact on the Phase II Batch One discharges.

Specific state and territory enforceable policies applicable to the prohibition of pollution into waters are provided in *Section II. Specific State and Territory Enforceable Policies by Theme,* of this document.

C. OIL/PETROLEUM PRODUCTS

The oil/petroleum products policy theme prohibits 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:
Based upon the following information, data, and analysis, the EPA and DoD find that the UNDS Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding minimizing pollution impacts to the coastal zone from oil or petroleum products. Oil spills are outside of UNDS in that they are not incident 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. Nonetheless, oil is a COC in some of the Batch One discharges.

Similar to the water quality and pollution impact themes, upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Batch One discharge performance standards are consistent with state policies to reduce pollution impacts from oil or petroleum products on coastal resources. Of the 11 Phase II Batch One discharges (detailed in Section A. Description of the UNDS Statutory Requirements, of this document), eight discharges (AFFF, chain locker effluent, distillation and reverse osmosis brine, non-oily machinery wastewater, photographic laboratory drains, seawater cooling overboard, seawater piping biofouling prevention, and small boat engine wet exhaust) are deemed to not discharge oil. The remaining three discharges (elevator pit effluent, gas turbine water wash, and welldeck) are likely to discharge oil; however, performance standards are consistent with CWA (Section 311) requirements for oil control. Furthermore, elevator pit effluent will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. When onboard retention or discharge to receiving facilities ashore is not practicable, the oil content of the discharge, without dilution, may not exceed 15 parts per million 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 U.S. Coast Guard, or be otherwise harmful to the public health or welfare of the U.S. The Phase II Batch One discharge performance standards will help to reduce the discharge of oil from vessels of the Armed Forces.

Accordingly, UNDS is consistent with state and territory CZMA policies to protect water and air 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. This preemption includes control measures for the discharge or release of oil or petroleum products, and, as such, those sections of state or territory CZMA policies that require compliance for the pollution of oil and petroleum into waters will not have an impact on the Phase II Batch One discharges.

Specific state and territory enforceable policies applicable to the prohibition of oil or petroleum products discharged into waters are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

D. PESTICIDES

The pesticides policy theme stresses the concerns about contaminants, such as pesticides, that can be injurious to animal and plant life. State's promulgating this rule prohibits the use of any pesticide which 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:
Based upon the following information, data, and analysis, the EPA and DoD find that the UNDS Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding minimizing pollution impacts to the coastal zone from pesticides.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Batch One discharge performance standards are consistent with state policies to reduce pollution impacts from pesticides on coastal resources. Of the 11 Phase II Batch One discharges (detailed in Section A. Description of the UNDS Statutory Requirements, of this document), five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects state coastal resources from pollution by pesticides. Five additional Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, small boat engine wet exhaust, and welldeck) are unlikely to contain pesticides. The remaining Phase II Batch One discharge (seawater piping biofouling prevention discharge), is likely to discharge a minimal amount of chemicals (primarily chlorine) used to keep fouling under control; however, the discharge performance standard requires practices consistent with FIFRA registration requirements for chemicals used to control biofouling of seawater piping, and prohibits the discharge of pesticides or chemicals banned for use in the U.S.

Accordingly, UNDS is consistent with state and territory CZMA policies to protect water quality 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. This preemption includes pesticide control, and, as such, those sections of state or territory CZMA policies that require compliance for the pollution of pesticides into waters will not have an impact on the Phase II Batch One discharge.

Specific state and territory enforceable policies applicable to the prohibition of pesticides into waters are provided in *Section II. Specific State and Territory Enforceable Policies by Theme,* of this document.

E. COAST

The coast policy theme emphasizes the importance of shoreland areas for the protection of water quality and 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:
Similar to the water and air quality theme, using the available information, data, and analyses, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding coastal protection.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects state coastal resources. The remaining six Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected to result in any direct physical impact on any shoreline structure or resources.

Accordingly, UNDS is consistent 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. This preemption includes coastal protection, and, as such, those sections of state or territory CZMA policies that require compliance with coastal protection will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to maintaining and conforming to coastal protection are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

F. 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:
Similar to the coastal theme, using the available information, data, and analyses, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding wetlands protection.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the seven Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This

discharge prohibition protects state wetlands resources. The remaining six Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected result in any direct physical impact on any wetlands.

Accordingly, UNDS is consistent with state and territory CZMA policies to protect wetlands. 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. This preemption includes wetlands protection, and, as such, those sections of state or territory CZMA policies that require compliance with wetlands protection will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to maintaining and conforming to protection of wetlands are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

G. 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:
Using the available information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding aquatic life and wildlife.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects state marine resources and wildlife. The remaining six Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected to result in any direct physical impact on aquatic life and wildlife, including endangered or threatened species and critical habitats.

Accordingly, UNDS is consistent 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. This preemption includes regulations to protect aquatic life and wildlife, and, as such, those sections of state or territory CZMA policies that require compliance with conservation and protection of aquatic life and wildlife, including endangered and threatened species, will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to the conservation and protection of aquatic life or wildlife, including endangered and threatened species and critical habitats are provided in *Section II. Specific State and Territory Enforceable Policies by Theme,* of this document.

H. 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:
Using the available information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding beneficial or designated uses.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects against impacts to beneficial or designated uses. The remaining six Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected to result in any direct physical impact on beneficial or designated use.

Accordingly, UNDS is consistent 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. This preemption includes regulations to protect beneficial or designated uses, and, as such, those sections of state or territory CZMA policies that require compliance with protection of beneficial or designated uses will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to beneficial or designated uses are provided in *Section II. Specific State and Territory Enforceable Policies by Theme,* of this document.

I. 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:
Using the available information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding recreational uses.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects against impacts to recreational uses. Five additional Phase II Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, and small boat engine wet exhaust) are not expected to result in any direct physical impact on recreational uses. The remaining Phase II Batch One discharge (welldeck) will not be released within 3 miles; however, this discharge performance standard protects recreational uses to the extent practicable and is consistent with the effluent limitations of the 2013 NPDES VGP.

Accordingly, UNDS is consistent 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. This preemption includes regulations to protect recreational uses, and, as such, those sections of state or territory CZMA policies that require compliance with protection of recreational uses will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to recreational uses are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

J. PERMIT REGULATIONS

The permit regulations policy theme discusses the permit requirements for any activity that may cause or contribute 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 and the State of Delaware'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 relevant to the UNDS Program.

EPA AND DOD RESPONSE:
Using the available information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with California BCDC and the State of Delaware's enforceable policy regarding water permit regulations for the discharge of a pollutant.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects state surface and ground waters. The other six Batch One discharge performance standards (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) will also protect against impacts to surface and ground waters. The Phase II Batch One discharge performance standards are expected to be consistent with local water permits and regulations for similar vessel discharges.

Accordingly, UNDS is consistent with California BCDC and the state of Delaware's CZMA policy requiring permit regulations for the discharge of pollutants. 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. This preemption includes permit regulations, and, as such, California BCDC and the state of Delaware's CZMA policies that require compliance with permit regulations will not have an impact on the Phase II Batch One discharges.

California BCDC and the state of Delaware'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.

K. 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:
Using the available information, data, and analysis, the EPA and DoD determined that the UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with state and territory enforceable policies regarding human health.

Upon implementation of UNDS, management practices and MPCDs will be used to control impacts to receiving water quality from vessel discharges. Of the 11 Phase II Batch One discharges, five discharges (AFFF, chain locker effluent, elevator pit effluent, gas turbine water wash, and photographic laboratory drains) will not be released within 12 miles of shore to the extent practicable without endangering vessels or impairing operational effectiveness. This discharge prohibition protects against impacts to human health. The remaining six Phase II

Batch One discharges (distillation and reverse osmosis brine, non-oily machinery wastewater, seawater cooling overboard, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck) are not expected to result in any direct impact on human health.

Accordingly, UNDS is consistent with State and territory CZMA policies to protect human health. 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. This preemption includes regulations to protect human health, and, as such, those sections of state or territory CZMA policies that require compliance with the protection of human health will not have an impact on the Phase II Batch One discharges.

Specific enforceable policies applicable to human health are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

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.

A. 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.

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

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)."

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."

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."

ILLINOIS

Illinois Coastal Management Program, Category 3 Water Quality and Water Supply: "Under the Rivers, Lakes and Streams Act [615 ILCS 5/18], "no permit shall be issued or renewed authorizing any fill or deposit of rock, earth, sand, or other material, or any refuse matter of any kind or description in Lake Michigan unless the IEPA makes a final determination, that the proposed dredging or deposit of material will not cause a violation of the Environmental Protection Act or IPCB regulations." Authorization of the discharge or other disposition of materials of any kind into Lake Michigan requires a joint permit from IDNR and IEPA."

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."

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."

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 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."

NORTHERN MARIANA ISLANDS

Commonwealth of the Northern Marina Islands Coastal Resources Management Act, § 1511. Coastal Resources Management Policy: "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."

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."

U.S. 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."

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)."

B. POLLUTION

CALIFORNIA

Water Quality Control Plan Ocean Waters of California – California Ocean Plan, III. Program of Implementation: "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."

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."

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)."

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

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)."

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."

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."

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."

C. 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."

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."

MARYLAND

Maryland Enforceable Coastal Policies: "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).

10. If material being dumped into Maryland waters or waters off Maryland's coastline has demonstrated actual toxicity or potential for being toxic, the discharger must perform biological or chemical monitoring to test for toxicity in the water. MDE (A5) COMAR 26.08.03.07(D); COMAR 26.08.04.01."

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)."

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)."

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."

D. 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…"

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)."

E. 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."

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."

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

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;"

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. "

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."

F. 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)."

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."

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."

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."

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."

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 One Discharges

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."

U.S. 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."

G. 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."

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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."

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."

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."

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

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;"

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."

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

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)."

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."

U.S. 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.

H. 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."

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."

I. 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)."

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]."

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."

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)."

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.

J. 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."

K. 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]."

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."

III. CONCLUSION OF CONSISTENCY DETERMINATION

A. CONCLUSION

In conclusion, based on the data presented in this National Consistency Determination, the EPA and DoD have concluded that the proposed Phase II Batch One performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 34 federally-approved state and territories coastal management programs. As previously discussed, the proposed Batch One performance standards were carefully developed as the EPA and DoD analyzed the information from the 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).