

(c) An amicus curiae brief submitted before the Court's consideration of a petition for grant of review, petition for extraordinary relief, writ-appeal petition, or petition for new trial may be filed under subparagraphs (a)(1) or (a)(2), or if the Court grants leave to file under subparagraph (a)(3) of this rule.

(d) Unless otherwise ordered by the Court, a brief of an amicus curiae in support of a party shall be filed no later than 10 days after that party has filed its brief, supplement to the petition for grant of review, petition for extraordinary relief, writ-appeal petition, or answer. If neither party is supported, the brief of an amicus curiae shall be filed no later than 10 days after the first brief, supplement to the petition for grant of review, petition for extraordinary relief, or writ-appeal petition is filed. In the case of a petition for new trial, the brief of an amicus curiae shall be filed no later than 10 days after the petitioner's brief in support of the petition has been filed with the Court. Motions for leave to file an amicus curiae brief under Rule 26(a)(3) must be filed within the time allowed for the filing of the brief and contemporaneously with the amicus curiae brief itself. Requests for extensions of time to file an amicus curiae brief will not be granted. A party may file a motion under Rule 30 for leave to reply to the brief of an amicus curiae.

(e) Neither the hearing nor the disposition of a case will be delayed pending action on a motion for leave to file an amicus curiae brief or a motion of an amicus curiae to participate in a hearing, or to await the filing of a brief of an amicus curiae under this rule.

(f) Except by the Court's permission, a brief of an amicus curiae may be no more than one-half the maximum length authorized by Rule 24 for a brief for an appellant/petitioner. If the Court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(g) A member of the Bar of the Court who represents an amicus curiae and is authorized to file a brief under paragraph (a) of this rule may file a motion for leave to have a law student enter an appearance on behalf of the amicus curiae. To be eligible to participate under this rule, a law student must be acting under the attorney's supervision and the attorney and the law student must substantially comply with the requirements of Rule 13A(b)(1)–(5) and (c)(1)–(11). Argument by a law student granted permission to appear on behalf of an amicus curiae may be requested by motion filed under Rule 30.

*Comment:* The first part of new paragraph (b) tracks similar language in Supreme Court Rule 37. It advises that “me too” briefs are not favored, and this is generally the view of all appellate courts. The proposal goes on to require that motions for leave to file, as well as the amicus briefs themselves, contain a statement of the movant's interest and explain why the matters asserted in the brief are relevant to the disposition of the case. The proposal operates differently from the practice in the Article III courts of appeal in that even with the consent of the parties, an amicus filer must still ask for leave of the Court to file an amicus curiae brief. In this way, the Court retains the authority to decide all requests to file amicus briefs based on its own determination that the brief will be helpful. It is believed that party consent may not be an adequate filter that ensures that amicus briefs are helpful to the Court. While party consent is not a guarantee that the brief will be accepted, lack of consent is not a guarantee that it will be rejected. Rather, the Court oversees all filings to be sure that amicus participation is warranted. Paragraph (b) also includes a requirement that only members of the Court's Bar or attorneys appearing pro hac vice may file motions for leave to file amicus curiae briefs.

Paragraph (c) proposes a new rule to clarify that motions to file amicus curiae briefs can be filed in support of petitions for grant of review, petitions for extraordinary relief, writ-appeal petitions, petitions for new trial, and answers to such pleadings.

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Notice of Intent To Prepare an Environmental Impact Statement/ Overseas Environmental Impact Statement for Navy Atlantic Fleet Training and Testing

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508), and Executive Order (EO) 12114, the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS)/

Overseas EIS (OEIS) to evaluate the potential environmental effects associated with continuing to conduct military readiness activities, which consist of training activities and research, development, testing, and evaluation (hereinafter referred to as “testing”) activities in the Atlantic Fleet Training and Testing (AFTT) Study Area. The Study Area consists of sea space in and airspace over the Atlantic Ocean along the eastern coast of North America, portions of the Caribbean Sea, and the Gulf of Mexico. The AFTT Study Area begins seaward from the mean high water line and moves east to the 45 degree longitude line. The Study Area covers approximately 2.6 million square nautical miles of ocean area, including designated Navy operating areas, warning areas, select Navy pier-side locations, and associated port transit channels.

In order to both achieve and maintain military readiness, the Navy proposes to:

- Conduct training and testing activities at levels required to support Navy military readiness requirements beginning in 2018 into the reasonably foreseeable future; and
- Accommodate evolving mission requirements associated with force structure changes, including those resulting from the development, testing, and ultimate introduction of new platforms (vessels, aircraft, and weapon systems) into the fleet; thereby ensuring critical Navy requirements are met.

As part of this process the Navy will seek to obtain authorization and permitting, as required under the Marine Mammal Protection Act and Endangered Species Act, respectively.

The Navy invites comments on the scope and content of the EIS/OEIS from all interested parties. Comments may be provided by mail and through the EIS/OEIS Web site at: <http://www.AFTTEIS.com>. Mailed comments must be postmarked no later than January 16, 2016 and mailed to the address below to ensure they are considered.

#### FOR FURTHER INFORMATION CONTACT:

Lesley Dobbins-Noble, Naval Facilities Engineering Command, Code EV22LDN (AFTT EIS/OEIS Project Manager), 6506 Hampton Boulevard, Norfolk, Virginia 23508–1278. 703–322–4625.

**SUPPLEMENTARY INFORMATION:** The Navy's lead action proponent is Commander, U.S. Fleet Forces Command. Additional action proponents include Naval Sea Systems Command (NAVSEA), Naval Air Systems Command (NAVAIR), and the Office of Naval Research (ONR). The

Proposed Action is to conduct military readiness activities in the AFTT Study Area. These training and testing activities are generally consistent with those analyzed in the AFTT EIS/OEIS completed in August 2013 and are representative of training and testing that the Navy has been conducting in the AFTT Study Area for decades.

The following range complexes fall within the AFTT Study Area: Northeast Range Complexes, Virginia Capes Range Complex, Navy Cherry Point Range Complex, Jacksonville Range Complex, Key West Range Complex, and Gulf of Mexico Range Complex. The testing ranges in the AFTT Study Area include: Naval Undersea Warfare Center Division Newport, Newport, Rhode Island; Naval Surface Warfare Center (NSWC) Panama City Division, Panama City, Florida; and NSWC Carderock Division South Florida Ocean Measurement Facility, Dania, Florida. While most Navy military readiness activities take place in operating and warning areas in the AFTT Study Area, some activities, such as sonar maintenance and gunnery exercises, are conducted concurrent with normal transits and occur outside of these areas, but still within the Study Area. The pierside testing locations and associated port transit channels are located at the following Navy ports and naval shipyards: Portsmouth Naval Shipyard, Kittery, Maine; Naval Submarine Base New London, Groton, Connecticut; Naval Station Norfolk, Norfolk, Virginia; Joint Expeditionary Base Little Creek-Fort Story, Virginia Beach, Virginia; Naval Submarine Base Kings Bay, Kings Bay, Georgia; Naval Station Mayport, Jacksonville, Florida; Norfolk Naval Shipyard, Portsmouth, Virginia; and Port Canaveral, Cape Canaveral, Florida. Additional AFTT Study Area pierside testing locations and associated port transit channels are located in Bath, Maine; Groton, Connecticut; Newport News, Virginia; and Pascagoula, Mississippi.

Pursuant to 40 CFR 1501.6, the Navy will invite the National Marine Fisheries Service to be a cooperating agency in preparation of the EIS/OEIS.

The purpose of the Proposed Action is to maintain a ready force, which is needed to ensure that the Navy can meet its mission to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas, as consistent with Congressional direction Section 5062, of Title 10 U.S. Code.

The AFTT Phase III EIS/OEIS will consider a No Action Alternative and action alternatives that account for types and tempo of training and testing

activities beginning in 2018 as necessary to meet future readiness requirements.

Resource areas that will be addressed include, but are not limited to: Biological resources (including marine mammals and threatened and endangered species), sediments and water quality, air quality, noise, cultural resources, socioeconomic resources, and public health and safety.

The scoping process will be used to identify community concerns and local issues to be addressed in the EIS/OEIS. Federal agencies, state agencies, local agencies, Native American Indian Tribes and Nations, the public, and interested persons are encouraged to identify specific issues or topics of environmental concern that the Navy should consider. Written comments must be postmarked no later than January 12, 2016 to ensure they are considered in the development of the EIS/OEIS and mailed to: Naval Facilities Engineering Command, Atlantic, Code: EV22LDN (AFTT EIS/OEIS Project Manager), 6506 Hampton Boulevard, Norfolk, Virginia, 23508-1278. Comments also can be submitted electronically by January 12, 2016 via the project Web site at <http://www.AFTTEIS.com>.

Dated: November 5, 2015.

**N.A. Hagerty-Ford,**

*Commander, Judge Advocate General's Corps, U.S. Navy, Administrative Law Division, Federal Register Liaison Officer.*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### **Notice of Intent To Prepare an Environmental Impact Statement/ Overseas Environmental Impact Statement for Hawaii-Southern California Training and Testing and Notice of Public Scoping Meetings**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 Code of Federal Regulations [CFR] parts 1500-1508), and Executive Order (EO) 12114, the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS)/ Overseas EIS (OEIS) to evaluate the potential environmental effects associated with continuing to conduct military readiness activities, which

consist of training activities and research, development, testing, and evaluation (hereinafter referred to as "testing") activities in the Hawaii-Southern California Training and Testing (HSTT) Study Area. The Study Area consists of the in-water areas of the Southern California (SOCAL) Range Complex (including San Diego Bay); in-water areas of Silver Strand Training Complex (SSTC); the Hawaii Range Complex (HRC); areas on the high seas where training and sonar testing and maintenance may occur during vessel transit between the Hawaii and Southern California Range Complexes; the Temporary Operating Area north and west of the Hawaii Range Complex; and specific Navy pierside, port, and harbor locations.

In order to achieve and maintain military readiness, the Navy proposes to:

- Conduct training and testing activities at levels required to support Navy military readiness requirements beginning in December 2018 into the reasonably foreseeable future; and
- Accommodate evolving mission requirements associated with force structure changes, including those resulting from the development, testing, and ultimate introduction of new platforms (vessels, aircraft, and weapon systems) into the fleet; thereby ensuring critical Navy requirements are met.

As part of this process the Navy will seek to obtain authorization and permitting, as required under the Marine Mammal Protection Act and Endangered Species Act, respectively.

The Navy invites comments on the scope and content of the EIS/OEIS from all interested parties. Comments may be provided by mail and through the EIS/OEIS Web site at: <http://www.hstteis.com>. Mailed comments must be postmarked no later than January 16, 2016 and mailed to the address below to ensure they are considered.

In addition, the Navy will conduct public scoping meetings to obtain comments on the scope of the EIS/OEIS and to identify specific environmental concerns or topics for consideration in the document.

- DATES:** *Dates and Addresses:* Three public scoping meetings will be held on:
1. Tuesday, December 1, 2015, 5:00-8:00 p.m., Marina Village Conference Center Starboard Room, 1936 Quivira Way, San Diego, CA 92109
  2. Thursday, December 3, 2015, 5:00-8:00 p.m., Island School Main Hall, 3-1901 Kaunualii Highway Lihue, Kauai, HI 96766
  3. Saturday, December 5, 2015, 11:00-2:00 p.m., Ke'ehi Lagoon Memorial,