

entitlement to, educational assistance under chapter 33, Post-9/11 GI Bill.

(2) *Reelection of subsistence allowance under § 21.260(b)*. Reelection of payment of benefits at the chapter 31 subsistence allowance rate under § 21.260(b) may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(i) Chapter 33 eligibility or entitlement ends earlier; or
(ii) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program.

(3) *Services under chapter 31*. A veteran who elects payment of the *Post-9/11 subsistence allowance* remains entitled to all other services and assistance under chapter 31.

(Authority: 38 U.S.C. 3108(b))

■ 5. Amend § 21.270 by:

■ a. Revising the section heading.

■ b. Removing paragraph (b).

■ c. Redesignating paragraph (c) as paragraph (b).

■ d. In newly redesignated paragraph (b), removing “Weeekend” and adding, in its place, “Weekend”.

■ e. Adding an authority citation at the end of the section.

The revision and addition read as follows:

§ 21.270 Payment of subsistence allowance during leave and other periods.

* * * * *

(Authority: 38 U.S.C. 3680(a))

■ 6. Revise § 21.274 (d)(1)(iii) to read as follows:

§ 21.274 Revolving fund loan.

* * * * *

(d) * * *

(1) * * *

(iii) The advance does not exceed either the amount needed, or twice the monthly subsistence allowance for a veteran without dependents in full-time institutional training specified in § 21.260(b); and

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[FR Doc. 2011-19473 Filed 7-29-11; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0471; FRL-9445-9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Diesel-Powered Motor Vehicle Idling Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP). The revision consists of the Commonwealth’s Diesel-Powered Motor Vehicle Idling Act (hereafter referred to as the Diesel-Powered Motor Vehicle Idling Act or as Act 124 of 2008, or simply Act 124). Act 124, passed by the Pennsylvania General Assembly and signed into state law by Governor Rendell in October 2008 (and effective at the state level in February 2009), reduces the allowable time that heavy-duty, commercial highway diesel vehicles of over 10,000 pounds gross vehicle weight can idle their main propulsion engines. The law restricts idling of these commercial diesel vehicles (mostly heavy trucks and buses) to a period of 5 minutes per continuous 60 minute period (with certain allowable exemptions and exclusions). Act 124 applies statewide in the Commonwealth, and is estimated by Pennsylvania to significantly reduce emissions of nitrogen oxides, volatile organic compounds, and fine particulate matter. While idle time emissions limits are not mandatory under the Clean Air Act (CAA), incorporation of Act 124 into the SIP does strengthen the SIP, makes the state law federally enforceable by EPA, and allows the Commonwealth to take credit for emissions benefits from the rule as part of future Pennsylvania SIP revisions to demonstrate compliance with CAA National Ambient Air Quality Standards (NAAQS). EPA is approving this revision governing idling time limits on commercial heavy duty vehicles into the Pennsylvania SIP. This action is not a federal mandate required by the CAA, but provides emission reductions that aid Pennsylvania in complying with CAA NAAQS. EPA’s approval of this SIP revision is being done in accordance with the requirements of the CAA.

DATES: This rule is effective on September 30, 2011 without further notice, unless EPA receives adverse written comment by August 31, 2011. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0471 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: fernandez.cristina@epa.gov

C. Mail: EPA-R03-OAR-2011-0471, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Number EPA-R03-OAR-2011-0471. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air

Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this rulemaking action, whenever “we,” “us,” or “our” is used, we are referring to EPA. The following outline is provided to aid in locating information in this preamble.

- I. Summary of the SIP Revision
 - A. Applicability
 - B. Penalties for Violations
 - C. Idle Restriction Signage Requirements
 - D. Preemption of Local Ordinances and Rules
- II. What action is EPA taking?
- III. Why is EPA approving Pennsylvania's SIP revision?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. Summary of the SIP Revision

On January 21, 2010, Pennsylvania submitted a SIP revision to incorporate its Diesel-Powered Motor Vehicle Idling Act. Act 124, as this statute became known, was effective at the state level on February 6, 2009, and is codified in Title 35, Chapter 23B of the Pennsylvania Statute. Act 124 restricts unnecessary idling of the main propulsion engine of in-use diesel-powered commercial, heavy duty motor vehicles of over 10,000 pounds gross vehicle weight rating. With certain exceptions and exemptions, idling of subject trucks and buses is restricted to 5 minutes in any continuous 60-minute period. The purpose of Act 124 is to reduce emissions of air pollutants, including nitrogen oxides and volatile organic compounds, both of which are precursors to the formation of ground level ozone, and which are governed by a NAAQS under authority of the CAA. Act 124 also addresses fine particulate matter, another group of pollutants which is regulated by a NAAQS under the Clean Air Act.

A. Applicability

Act 124 restricts extended idling of diesel-powered highway vehicles that are used for commercial purposes and have a gross vehicle weight rating (GVWR) of over 10,000 pounds while operating in the Commonwealth of Pennsylvania. The regulation sets a time limit of five minutes of idling (*i.e.*, defined as operation of vehicle's main

propulsion engine while the vehicle is stationary) per continuous 60 minute period. Section 3 of Pennsylvania's Act 124 specifically excludes certain types of highway vehicles from these idling restrictions, including motor homes, implements of husbandry, and farm vehicles and equipment.

These idling restrictions do not apply to a diesel-powered motor vehicle with a label from the California Air Resources Board showing that the vehicle's engine meets California's optional idling emission standard for nitrogen oxide emissions (per applicable California law as it relates to 1985 and newer heavy-duty vehicles and engines (13 CCR 1956.8(a)(6)(C)).

For vehicles that are subject to Pennsylvania's Act 124, exemptions that allow idling beyond the five-minute per hour time limit are specified therein, including:

- (1) Idling caused by traffic conditions, traffic control devices or signals, or law enforcement officials;
- (2) idling necessary to operate defrosters, heaters, air conditioners, or cargo refrigeration equipment, or idling necessary to install equipment, or idling related to a safety or health emergency (not for purposes of a rest period), or to comply with manufacturers' operating requirements or operating specifications or warranties in accordance with federal or state motor carrier safety regulations;
- (3) idling of a police, fire, ambulance, public safety, military, utility service, or other law enforcement vehicle or vehicle being used in an emergency capacity and not for the convenience of the driver;
- (4) idling of the main propulsion engine for maintenance, particulate matter trap regeneration, servicing, or repair of the vehicle or for vehicle diagnostic purposes, if idling is required for that activity;
- (5) idling performed as part of a state inspection to verify the equipment is in good working order, if necessary as part of the inspection;
- (6) idling of a primary propulsion engine to power work-related mechanical, safety, or electrical operations other than propulsion (not done for cabin comfort or to operation nonessential onboard equipment);
- (7) idling of a primary propulsion engine necessary as part of a security inspection, such as entering or exiting a facility;
- (8) idling of an armored vehicle when a person remains inside to guard the contents or during loading or unloading;
- (9) idling due to mechanical difficulties in which the driver has no control (if the owner submits repair documentation to the Pennsylvania

Department of Environmental Protection within 30 days) verifying that the mechanical problem has been remedied;

(10) idling of a bus, school bus, or school vehicle to provide heat or air conditioning when non-driver passengers are onboard (up to a maximum of 15 minutes per continuous 60 minute period);

(11) idling necessary for sampling, weighing, active loading or unloading for an attended motor vehicle waiting for sampling, weighing, loading, or unloading (up to 15 minutes per continuous 60 minute period);

(12) idling by a school bus or school vehicle off school property during queuing for the sequential discharge or pickup of students where the physical configuration of the school or surrounding location does not allow for stopping;

(13) idling where necessary for maintaining safe operating conditions while waiting for a police escort when transporting a load requiring issuance of a special permit for excessive size and weight;

(14) idling when actively engaged in solid waste collection or the collection of source-separated recyclable materials (not to apply when a vehicle is not actively engaged in solid waste or source separated recyclables collection);

B. Penalties for Violations

Pennsylvania Act 124 lists penalties that may result from violations of the idling limits in Section 5 of Act 124. Violations constitute a summary offense, punishable by a fine of not less than \$150 and not more than \$300 and court costs. In addition, the Commonwealth may issue enforcement orders and civil penalties to aid in the enforcement of Act 124.

C. Idling Restriction Signage Requirements

Pennsylvania Act 124 requires that an owner or operator of a location where vehicles subject to the act load or unload that provide 15 or more parking spaces for vehicles subject to Act 124 shall erect and maintain permanent signs that inform drivers that idling of heavy, commercial diesel-powered vehicles is restricted in Pennsylvania.

D. Preemption of Local Ordinances or Rules

Section 9 of Act 124 preempts and supersedes local ordinance or rules concerning idling restrictions on vehicles subject to Act 124, except where the local rule is more restrictive than the provisions of Act 124 (if the local ordinance or rule was in effect prior to January 1, 2007).

II. What rulemaking action is EPA taking?

EPA is approving a formal revision to the Pennsylvania SIP submitted by the Commonwealth on January 21, 2010. This SIP revision consists of the Diesel-Powered Motor Vehicle Idling Act of 2008 (codified in the Pennsylvania Statute, Title 35, chapter 23B 4601–4610), which was signed into law by Governor Rendell on October 9, 2008 and became effective as state law on February 6, 2009. EPA is taking direct final rulemaking action to approve this SIP revision, and is acting to incorporate by reference Pennsylvania Act 124 of 2008 entitled, “The Diesel Powered Motor Vehicle Idling Act” (codified at Title 35, chapter 23B, 4601–4610 of the Pennsylvania Statute).

III. Why is EPA approving Pennsylvania’s SIP revision?

Pennsylvania’s Diesel-Powered Motor Vehicle Idling Act SIP results in reduced emissions of pollutants that contribute to nonattainment of NAAQS for ozone and fine particulate matter. Specifically, Pennsylvania Act 124 leads to elimination of such pollutants resulting from unnecessary extended idling of heavy-duty, diesel-powered commercial vehicles. The reduction in vehicle idling resulting from this statute decreases emissions of volatile organic compounds and nitrogen oxides, both of which are ground level ozone pollution precursors. Pennsylvania’s Act 124 also reduces emissions of fine particulate matter, in addition to carbon monoxide and carbon dioxide.

The approval of Pennsylvania’s Act 124 will strengthen the Pennsylvania SIP and will assist the Commonwealth in complying with federal ambient air quality standards, including the NAAQS for ground level ozone and fine particulate matter. Act 124 is consistent with EPA’s “Model State Idling Law” (EPA420–S–06–001, April 2006). This model rule was developed with input from the states and affected industry to address extended idling issues in a consistent manner from state to state and to aid those being regulated in compliance with compliance with idling limits.

IV. Final Action

EPA is approving Pennsylvania’s Diesel-Powered Motor Vehicle Idling SIP and incorporating Pennsylvania Act 124 of 2008 into the Pennsylvania SIP. Act 124 is intended to reduce emissions caused by unnecessary idling of heavy-duty, diesel-powered, commercial motor vehicles within the boundaries of the Commonwealth of Pennsylvania.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and we anticipate we will receive no adverse comment. Act 124 has been in effect at the state level in Pennsylvania since February 6, 2009. Therefore, the regulated community should be accustomed to the idling restrictions imposed by this state statute.

Similar provisions for reduced idling have been adopted in many other states, including the neighboring states of Delaware, Maryland, New York, New Jersey, Ohio, and West Virginia. We anticipate the regulated parties will understand Pennsylvania’s requirements as they relate to other nearby states and localities with similar vehicle idling restrictions. Pennsylvania Act 124 complies with EPA’s idling guidance and model rule. For these reasons, EPA anticipates that this direct final action to approve Pennsylvania’s Diesel-Powered Vehicle Idling Act SIP revision will not be controversial. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 30, 2011 without further notice unless EPA receives adverse comment by August 31, 2011. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial

review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action to approve the Pennsylvania Diesel-Powered Vehicle Idling Act SIP revision may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 18, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by revising the paragraph title and adding Title 35 Pennsylvania Statute, Chapter 23B, Sections 4601 to 4610, at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
Title 35 Pennsylvania Statute—Health and Safety				
Chapter 23B—Diesel-Powered Motor Vehicle Idling Act				
Section 4601	Short title	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4602	Definitions	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4603	Restrictions on idling	2/6/09	8/1/11 [Insert]	
Section 4604	Increase of weight limit	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4605	Penalties	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4606	Disposition of fines	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4607	Enforcement	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4608	Permanent idling restriction signs	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4609	Preemption	2/6/09	8/1/11 [Insert page number where the document begins].	
Section 4610	Applicability	2/6/09	8/1/11 [Insert page number where the document begins].	

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[FR Doc. 2011-19276 Filed 7-29-11; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 101126522-0640-02]

DEPARTMENT OF ENERGY

RIN 0648-XA610

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2011 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 27, 2011, through 2400 hrs, A.l.t., December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2011 TAC of Pacific ocean perch in the West Yakutat District of the GOA is 1,937 metric tons (mt) as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2011 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,837 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 26, 2011.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2011.

Margo Schulze-Haugen,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011-19394 Filed 7-27-11; 4:15 pm]

BILLING CODE 3510-22-P