

(c)(6)(v) of this section. The software was intended to be innovative because it would provide a reduction in cost or improvement in speed that is substantial and economically significant. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty that because of technical risk, such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the system, software meeting X's requirements was not commercially available for use by X.

Example 13. Internal use software; application of the high threshold of innovation test—(i) Facts. X, a multinational manufacturer, wants to install enterprise resource planning (ERP) system that runs off a single database. However, to implement the ERP system, X determines that it must integrate part of its old system with the new because the ERP system does not have a particular function that X requires for its business. The two systems are general and administrative software systems. The systems have mutual incompatibilities. The integration, if successful, would provide a reduction in cost and improvement in speed that is substantial and economically significant. At the time X undertook this project, there was no commercial application available with such a capability. X is uncertain regarding the appropriate design of the interface software. However, X knows that given a reasonable period of time to experiment with various designs, X would be able to determine the appropriate design necessary to meet X's technical requirements and would recover the substantial resources that X commits to the development of the system within a reasonable period. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion.* The software is internal use software because it is developed primarily for use in a general and administrative function. X's activities do not satisfy the high threshold of innovation test of paragraph (c)(6)(v) of this section. Although the software meets the requirements of paragraphs (c)(6)(v)(A)(1) and (3) of this section, X's development activities did not involve significant economic risk under paragraph (c)(6)(v)(A)(2) of this section. X did not have substantial uncertainty, because of technical risk, that the resources committed to the project would be recovered within a reasonable period.

* * * * *

(e) *Effective/applicability dates.* Other than paragraph (c)(6) of this section, this section is applicable for taxable years ending on or after December 31, 2003. Paragraph (c)(6) of this section is applicable for taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Notwithstanding the prospective effective date, the IRS will not challenge return positions

consistent with these proposed regulations for taxable years ending on or after the date these proposed regulations are published. For taxable years ending before the date these proposed regulations are published in the **Federal Register**, taxpayers may choose to follow either all of the internal use software provisions of § 1.41–4(c)(6) in TD 8930 or all of the internal use software provisions in the 2001 proposed regulations.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0781; FRL–9920–53–Region 9]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) and the Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from delayed coking units used in petroleum refining, and sulfur dioxide primary emissions from fossil fuel combustion. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by February 19, 2015.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0781 by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. *Email:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without

change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or email. www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

James Shears, EPA Region IX, (213) 244–1810, shears.james@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SCAQMD Rule 1114, Petroleum Refinery Coking Operations, and VCAPCD Rule 54, Sulfur Compounds. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 2, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015-00642 Filed 1-16-15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 140909771-4771-01]

RIN 0648-BE51

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Joint Logistics Over-the-Shore Training Activities in Virginia and North Carolina

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

ACTION: Notice of proposed rule; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the Joint Logistics Over-the-Shore (JLOTS) training activities conducted in Virginia and North Carolina, from June 2015 through June 2020. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue regulations and a five-year Letter of Authorization (LOA) to the Navy to incidentally harass marine mammals.

DATES: Comments and information must be received no later than February 19, 2015.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2015-0004, by either of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Hand delivery of mailing of paper, disk, or CD-ROM comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-

West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. The Navy's Draft Environmental Assessment for Joint Logistics Over-the-Shore Training (EA) will be made available to the public on January 6, 2015, during the comment period for this proposed rule. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "... an impact resulting

from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108-136) removed the "small numbers" and "specified geographic region" limitations indicated above and amended the definition of "harassment" as applied to "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA: "(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment]."

Summary of Request

On August 20, 2014, NMFS received an application from the Navy requesting a letter of authorization (LOA) for the take of bottlenose and Atlantic spotted dolphins incidental to the Navy's JLOTS training activities in nearshore waters at the Joint Expeditionary Base (JEB) Little Creek-Fort Story in Virginia and at Camp Lejeune in North Carolina. The Navy is requesting regulations that would establish a process for authorizing take, via a 5-year LOA, of marine mammals incidental to training activities. These activities are classified as military readiness activities. The Navy states that these activities may result in take of marine mammals from noise from temporary pier construction associated with the JLOTS training activities. The Navy requests to take bottlenose and Atlantic spotted dolphins by Level B harassment.

Description of the Specified Activity

JLOTS training is the movement of cargo and personnel from ships to shore in areas that do not have existing fixed port facilities. Among the several coordinated exercises of the JLOTS training, the only activity that has the potential to harass marine mammals is the construction of the Elevated Causeway System, Modular [ELCAS (M)] by introducing noise into the water.

The ELCAS (M) is a temporary pier constructed from the beach into the water past the surf zone. It provides a means of delivering containers, vehicles, and bulk cargo ashore without lighterage craft having to enter the surf