

difference in average monthly seal counts since 1993 and harbor seals continue to use the haulout site as a nursery. There is also no data demonstrating stampedes occur at the Jenner haulout, thus the potential for injury, serious injury or mortality to pups from this action is unlikely. Finally, the fact that harbor seals pups are precocious at birth and form strong bonds with mom immediately after birth further supports the finding that mom/pup bonds will not be jeopardized due to Agency activities. Monitoring data suggest that previous breaching events have not been the cause of pup abandonment. For these reasons, and the mitigation measures set forth in the IHA, NMFS has determined that no Level A harassment (injury), serious injury or mortality will occur due to Agency activities.

NMFS compared the Agency's previously documented action of breaching the sandbar during one day events intermittently since 1995 to the possible impacts from limited 2-days events. As described above, under the IHA, the Agency would be required to maintain a one-week recovery period between management events, something that had not been implemented before. Although the management event may last 2 days instead of one, NMFS has determined that because seals reoccupy the beach soon after equipment leaves the beach, seals show short- and long-term resilience to chronic disturbance (e.g., daily exposure to non-Agency related human disturbance, the case of the northern elephant seal occupation), and the mitigation and monitoring measures set forth in the IHA, the short-term Level B harassment caused by the Agency's water level management activities will have a negligible impact on harbor seals. California sea lions and northern elephant seals are only occasionally sighted at the haulout, are usually solitary, and do not use the haulout for significant behaviors (e.g., mating); therefore, the short-term Level B harassment caused by the Agency's water level management activities will also have a negligible impact on these species.

Based on the analysis contained herein on the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the Agency's water level management events will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking will have a negligible impact on the affected species or stocks. There are

no relevant subsistence uses of marine mammals implicated by this action; therefore, no impacts to subsistence use will occur.

Endangered Species Act

No ESA-listed marine mammals are known to be present within the action area; therefore, ESA consultation is not required to issue an MMPA authorization for the proposed action. However, as described above and in the proposed IHA notice, the purpose of the modified outlet channel design during the lagoon management period is an RPA in NMFS' BiOp on the Agency's Estuary Management Activities for ESA-listed salmonids.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS has prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to pinnipeds and other applicable environmental resources resulting from issuance of a one-year IHA and the potential issuance of additional authorization for incidental harassment for the ongoing project. NMFS' EA is separate from but relies upon and incorporates the Corps' 2005 EA prepared for permitting the Agency's breaching activities.

Determination

Based on the description of the specified activity, review of monitoring data, and the required mitigation and monitoring measures described herein, NMFS has determined that the Agency's artificial breaching activities will have a negligible impact on affected pinniped species or stocks and will not have an adverse impact on their habitat. Subsistence use of marine mammals in California does not occur; therefore use of marine mammals for subsistence will not be affected.

As such, NMFS has issued the Agency a one-year IHA. The issuance of this IHA is contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: March 30, 2010.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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CONSUMER PRODUCT SAFETY COMMISSION

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Follow-Up Activities for Product-Related Injuries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by May 6, 2010.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202-395-6974, or e-mailed to oir_submission@omb.eop.gov. Written comments should be captioned "Product-Related Injuries." All comments should be identified with the OMB control number 3041-0029. In addition, written comments should also be submitted by mail/hand delivery/courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

FOR FURTHER INFORMATION CONTACT: Linda L. Glatz, Division of Policy and Planning, Office of Information Technology, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504-7671. lglatz@cpsc.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the CPSC has submitted the following proposed collection of information to OMB for review and clearance. Follow-up Activities for Product-Related Injuries (OMB Control Number 3041-0029—Extension).

Section 5(a) of the Consumer Product Safety Act, 15 U.S.C. 2054(a), requires the Commission to collect information related to the causes and prevention of death, injury, and illness associated with consumer products. That section also requires the Commission to conduct continuing studies and investigations of deaths, injuries, diseases, other health impairments, and

economic losses resulting from accidents involving consumer products. The Commission obtains information about product-related deaths, injuries, and illnesses from a variety of sources, including newspapers, death certificates, consumer complaints, and medical facilities. In addition, the Commission receives information through its internet Web site through forms reporting on product-related injuries or incidents.

From these sources, the Commission staff selects cases of interest for further investigation by face-to-face or telephone interviews with persons who witnessed or were injured in incidents involving consumer products. On-site investigations are usually made in cases where the Commission staff needs photographs of the incident site, the product involved, or detailed information about the incident. This information can come from face-to-face interviews with persons who were injured or who witnessed the incident, as well as contact with state and local officials, including police, coroners and fire investigators, and others with knowledge of the incident.

The Commission uses this information to support development and improvement of voluntary standards, rulemaking proceedings, information and education campaigns, and administrative and judicial proceedings for enforcement of the statutes, standards, and regulations administered by the Commission. These safety efforts are vitally important to help make consumer products safer and to remove unsafe products from the channels of distribution and from consumers' homes.

The Office of Management and Budget (OMB) approved the collection of information concerning product-related injuries under control number 3041-0029. OMB's most recent extension of approval will expire on April 30, 2010. The Commission has submitted its request for an extension of approval of this collection of information to OMB.

The Commission also operates a surveillance system known as the National Electronic Injury Surveillance System (NEISS) that provides timely data on consumer product-related injuries treated in a statistically valid sample from approximately 100 hospital emergency departments, as well as childhood poisonings in the United States. The NEISS system has been in operation since 1971. The Commission previously has not included NEISS reports under the product-related injuries collection of information because the information obtained from hospital databases are obtained directly

through CPSC employees and/or CPSC contractors, and does not involve the solicitation of any information from any individuals. The CPSC employee or contractor collects emergency department records for review which are then coded. The PRA exempts facts or opinions obtained through direct observation by an employee or agent of the sponsoring agency. 5 CFR 1320.3(h)(3). However, because in addition to the reports themselves, further information may need to be obtained which may result in telephone and/or face-to-face communications with individuals, the proposed collection of information under the follow-up activities for product-related injuries now includes the burden hours per year for the NEISS system in addition to the other follow-up activities conducted by the Commission.

In the **Federal Register** of December 1, 2009 (74 FR 62753), the CPSC published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

Burden Estimates: The NEISS system collects information on consumer-product related injuries from approximately 100 hospitals in the United States. Respondents to NEISS include hospitals that directly report information to NEISS, and hospitals that allow access to a CPSC contractor who collects the data. In FY2008, there were 157 NEISS respondents (total hospitals and CPSC contractors). These NEISS respondents reviewed an estimated 3.4 million emergency department records and reported 371,507 consumer product-related injuries and 5,030 childhood poisoning-related injuries. Based on FY2008 data, the total burden hours to respondents are estimated to be 41,497 hours. The average burden hour per hospital is 415 hours. However, the total burden hour on each hospital varies by the size (small or large) and location (rural or metropolitan) of the hospital. The smallest hospital reported less than 200 cases with a burden of approximately 100 hours, while the largest hospital reported over 16,000 cases with a burden of about 1,300 hours.

The total costs to NEISS respondents based on FY2008 data are estimated to be \$1.5 million per year. NEISS respondents enter into contracts with CPSC and are compensated for these costs. The average cost per respondent is estimated to be about \$15,000. The average cost per burden hour is estimated to be \$36 per hour (including wages and overhead) (Bureau of Labor Statistics, June 2009, Total Compensation Civilian workers,

Hospitals). However, the actual cost to each respondent varies due to the type of respondent (hospital versus CPSC contractor), size of hospital, and regional differences in wages and overhead. Therefore, the actual annual cost for any given respondent may vary between \$2,600 at a small rural hospital and \$75,000 at a large metropolitan hospital which are compensated by the CPSC.

The Commission staff also obtains information about incidents involving consumer products from approximately 17,415 persons annually. The staff conducts face-to-face interviews at incident sites with approximately 915 persons each year. On average, an on-site interview takes approximately 5 hours. The staff will also conduct approximately 3,500 in-depth investigations by telephone. Each in-depth telephone investigation requires approximately 20 minutes. Additionally, the Commission's hotline staff interviews approximately 4,000 persons each year about incidents involving selected consumer products. These interviews take an average of 10 minutes each. Each year, the Commission also receives information from about 9,000 persons who complete forms requesting information about product-related incidents or injuries. These forms appear on the Commission's internet Web site, <http://www.cpsc.gov>, and are printed in the *Consumer Product Safety Review* and other Commission publications. The staff estimates that completion of a form takes about 12 minutes.

The Commission staff estimates that this collection of information imposes a total annual burden of 7,724 hours on all respondents: 4,118 hours for face-to-face interviews; 1,155 hours for in-depth telephone interviews; 661 hours for responses to Hotline interviews; and 1,790 hours for completion of written forms.

The Commission staff estimates the value of the time of respondents to this collection of information at \$29.31 per hour (Bureau of Labor Statistics, June 2009, Total Compensation, All workers). At this valuation, the estimated annual cost to the public of this information collection will be approximately \$226,390.

The annual cost to the federal government for this collection of information is estimated to be approximately \$6.4 million per year. This estimate includes \$1.5 million in compensation to NEISS respondents. The estimate also includes approximately \$4.9 million for 354 professional staff months to oversee NEISS operation, prepare

questionnaires, interviewer guidelines, and other instruments and instructions used to collect the information, conduct face-to-face and telephone interviews; and evaluate responses obtained from interviews and completed forms. Each staff month is estimated to cost the Commission approximately \$13,859. This is based on an average wage rate of \$55.97 (the equivalent of a GS-14 Step 5 employee) with an addition 30 percent added for benefits (Bureau of Labor Statistics, June 2009, percentage total benefits for all civilian management, professional, and related employees).

Dated: March 31, 2010.

Todd A. Stevenson,
Secretary, Consumer Product Safety
Commission.

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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the "Flood Control, Mississippi River & Tributaries, St. Johns Bayou and New Madrid Floodway, Missouri, First Phase" (SJNM) Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: The U.S. Army Corps of Engineers is announcing its intent to prepare a Draft Environmental Impact Statement (DEIS) for the Mississippi River and Tributaries, St. Johns Bayou and New Madrid Floodway, MO Project. The DEIS is being prepared to address and evaluate the environmental, economic and social impacts of alternative plans to provide flood control and develop and discuss locations and methodologies of potential compensatory mitigation. This DEIS will address previous project history, independent external peer reviews, State/Federal agency concerns and will formulate alternatives that manage flood risks in the project area.

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Williams, telephone (901) 544-3852, CEMVM-PB-E, 167 North Main Street B-202, Memphis, TN 38103-1894, e-mail—Gregg.W.Williams@usace.army.mil.

SUPPLEMENTARY INFORMATION: The St. Johns Bayou Basin and New Madrid Floodway are located in the Bootheel region of southeast Missouri and

include all or portions of the New Madrid, Scott and Mississippi Counties. The basin and floodway are adjacent to the Mississippi River, extending from the vicinity of Commerce, Missouri to New Madrid, Missouri. The basin and floodway are subject to both backwater and interior headwater flooding. Congress authorized the Mississippi River and Tributaries (MR&T) Project to construct the mainline Mississippi River levees. The Birds Point-New Madrid Floodway was part of the 1928 Flood Control Act. A levee closure and outlet structure at New Madrid, Missouri were authorized in the Flood Control Act of 1954 (Pub. L. 780-83) but not constructed. The St. Johns Bayou Basin levee closure, with drainage structure, was authorized in the Flood Control Act of 1946, and subsequently constructed. An EIS for the MR&T and Channel Improvement was filed with the Council on Environmental Quality in July 1976, which addressed the New Madrid Floodway levee closure. The St. Johns Bayou/New Madrid Floodway Project Final Supplemental Environmental Impact Statement (SEIS) was filed with the EPA in July 1982. The current project was authorized for construction by the Water Resources Development Act of 1986 (Pub. L. 99-662), section 401(a). The authorized project is based on the Report of the Chief of Engineers, dated January 4, 1983, which is part of the Phase I General Design Memorandum (GDM) documents prepared in response to section 101(a) of the Water Resources Development Act of 1976 (Pub. L. 94-587). A Revised Supplemental Environmental Impact Statement (RSEIS) was filed in June 2002. The Revised Supplemental Environmental Impact Statement 2 (RSEIS2) was prepared to clarify the record and address concerns related to the calculation of compensatory mitigation for mid-season fishery impacts, hypoxia, cost-benefit analysis, Swampbuster and the applicable discount rate in the economics analysis. The RSEIS2 was filed in March 2006.

The Corps has determined that a new EIS is required to incorporate additional scientific and engineering data; include the results of intensive independent external peer review of the previous project document, plans and studies; clarify project objectives and plans; and address points raised in the course of legal action.

1. *Proposed Action:* The authorized project for the St. Johns Bayou and New Madrid Floodway Project consists of channel enlargement and improvement in the St. Johns Bayou Basin along the lower 4.5 miles of the St. Johns Bayou, beginning at New Madrid, Missouri,

then continuing 8.1 miles along the Birds Point-New Madrid Setback Levee Ditch and ending with 10.8 miles along the St. James Ditch. The first item of work, consisting of selective clearing and snagging, has already been completed along a 4.3-mile reach of the Setback Levee Ditch beginning at the confluence with the St. James Ditch.

The authorized project also includes a 1,000-cubic-foot-per-second (CFS) pumping station for the St. Johns Bayou Basin area, a 1,500-CFS pumping station for the New Madrid Floodway area and a 1,500-foot-closure levee at the southern end of the New Madrid Floodway. The channel enlargement work and both pumping stations are features of the St. Johns Bayou and New Madrid Floodway Project and the levee closure is a feature of the Mississippi River Levee Project.

2. *Alternatives:* Alternatives to manage flood risks in the project area will be considered. Comparisons will be made among the alternative plans, including the "no action" alternative.

3. *Scoping Process:* An intensive public involvement program has been set up to (1) solicit input from individuals and interested parties so that problems, needs and opportunities within the project area can be properly identified and addressed and (2) provide status updates to concerned organizations and the public. Significant issues being analyzed include potential project impacts (negative and positive) to fisheries, water quality, wetlands, waterfowl, shorebirds, endangered species and cultural resources.

Meetings with the local sponsor, public coordination meetings, interagency environmental meetings and public project briefings/presentations will be conducted throughout this process. This notice is being circulated to Federal, State and local environmental resource and regulatory agencies; Indian Tribes; non-governmental organizations; and the general public. This notice of intent (NOI) will serve as a request for scoping input. All interested parties are encouraged to participate in the scoping process. A public scoping meeting will be held on May 11, 2010, at 7 p.m. in the East Prairie Church of God, 322 N. Washington St., East Prairie, MO 63845. It is anticipated that the DEIS will be available for public review during spring 2012. A public meeting will be held during the review period to receive