

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648-XA309

**Whaling Provisions; Aboriginal Subsistence Whaling Quotas**

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

**ACTION:** Notice; notification of quota for bowhead whales.

**SUMMARY:** NMFS provides notification of the aboriginal subsistence whaling quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (AEWC), and other limitations deriving from regulations adopted at the 59th Annual Meeting of the International Whaling Commission (IWC). For 2011, the quota is 75 bowhead whales struck. This quota and other limitations govern the harvest of bowhead whales by members of the AEW.

**DATES:** Effective March 23, 2011.

**ADDRESSES:** Office of International Affairs, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Ryan Wulff, (202) 482-3689.

**SUPPLEMENTARY INFORMATION:** Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*). Regulations that implement the Act, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 59th Annual Meeting of the IWC, the Commission set catch limits for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead catch limits were based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of two Native groups: Alaska Eskimos and Chukotka Natives in the Russian Far East.

This action by the IWC thus authorized aboriginal subsistence whaling by the AEW for bowhead whales. This aboriginal subsistence harvest is conducted in accordance with a cooperative agreement between NOAA and the AEW.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each of the years 2008 through 2012, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any year, including 15 unused strikes from the 2003 through 2007 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any one year. At the end of the 2010 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota for 2011 is 82 (67 + 15).

This arrangement ensures that the total quota of bowhead whales landed and struck in 2011 will not exceed the catch limits set by the IWC. Under an arrangement between the United States and the Russian Federation, the Russian natives may use no more than seven strikes, and the Alaska Eskimos may use no more than 75 strikes.

Through its cooperative agreement with the AEW, NOAA has assigned 75 strikes to the Alaska Eskimos. The AEW will allocate these strikes among the 11 villages whose cultural and subsistence needs have been documented, and will ensure that its hunters use no more than 75 strikes.

**Other Limitations**

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here. For example:

- Only licensed whaling captains or crew under the control of those captains may engage in whaling.
- They must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization.
- The aboriginal hunters must have adequate crew, supplies, and equipment.
- They may not receive money for participating in the hunt.
- No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native handicrafts.
- Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: March 18, 2011.

**Jean Pierre-Ple,**

*Acting Director, Office of International Affairs, National Marine Fisheries Service.*

[FR Doc. 2011-6889 Filed 3-22-11; 8:45 am]

**BILLING CODE 3510-22-P**

**COMMODITY FUTURES TRADING COMMISSION****Fees for Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** FY 2008 and 2009 schedule of fees; establish the FY 2010 schedule of fees revision.

**SUMMARY:** The Commission charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization (SRO) rule enforcement programs (National Futures Association (NFA), a registered futures association, and the contract markets are referred to as SROs). The calculation of the fee amounts to be charged for FY 2010 is based upon an average of actual program costs incurred during FY 2007, 2008, and 2009, as explained below. The FY 2010 fee includes adjustments to program costs incurred in FY 2008 and 2009, which are being revised as a result of an internal review of program costs. The FY 2010 fee schedule and the revision of FY 2008 and 2009 fees are set forth in the **SUPPLEMENTARY INFORMATION** section. Electronic payment of fees is required.

**DATES:** The FY 2010 fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than May 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mark Carney, Chief Financial Officer, Commodity Futures Trading Commission, (202) 418-5477, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. For information on electronic payment, contact Jennifer Fleming, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, (202) 418-5034.

**SUPPLEMENTARY INFORMATION:****I. General**

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered

futures associations<sup>1</sup> and designated contract markets (DCM), which are collectively referred to herein as SROs, regulated by the Commission.

## II. Background Information

### A. General

The Commission recalculates the fees charged each year with the intention of recovering the costs of operating this Commission program. Fees are calculated by extracting direct labor costs for rule enforcement reviews from the agency's Budget Programming Accounting Codes (BPAC), which captures each employee's time by project, for a three-year period. The agency then adds an overhead factor for benefits and general administrative costs. The agency uses a three-year rolling average to cover fluctuations in the number of hours spent reviewing each SRO over time. In recognition of the fact that the cost of conducting a review may not correlate directly with the size of a particular SRO, the agency also calculates an alternate fee that takes the volume into account. The agency charges the SRO the lesser of the two fees.

Subsequent to an internal review, the Commission found that in FY 2008 and 2009 not all direct program labor costs were captured and that some direct costs were misapplied to SRO reviews. As the formula for calculating the FY 2010 fee to be charged to the SROs includes actual costs incurred in FY 2008 and 2009, the fees for those years are being revised, and the FY 2010 fee is being adjusted to account for the revisions. In addition, the FY 2009 fee that was assessed on USFE is being rescinded,<sup>2</sup> as USFE ceased operations on December 31, 2008. All adjustments are shown in the tables that follow.

### B. Overhead Rate

Once the agency determines the direct costs for rule enforcement review of each SRO, it applies an overhead rate to cover employee benefits and other administrative costs. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs consist generally of the following Commission-wide costs: indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 140 percent for fiscal year 2007, and 144 percent for fiscal year 2008, and 147 percent for 2009.

### C. Calculation of FY 2010 Fees

Under the formula adopted in 1993 (58 FR 42643, Aug. 11, 1993), which appears at 17 CFR part 1 Appendix B, the Commission calculates the fee to recover the costs of its rule enforcement reviews and examinations based on the three-year average of the actual cost of performing such reviews and examinations at each SRO. The cost of operation of the Commission's SRO oversight program varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging computation method is intended to smooth out year-to-year variations in cost. Timing of the Commission's reviews and examinations may affect costs—a review or examination may span two fiscal

years and reviews and examinations are not conducted at each SRO each year. To provide relief to SROs who may bear a disproportionately large share of program costs, the Commission's alternate formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that, as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation is made as follows: The fee required to be paid to the Commission by each SRO is equal to the lesser of actual costs based on the three-year historical average of costs for that SRO or one-half of average costs incurred by the Commission for each SRO for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all SROs for the most recent three years. The formula for calculating the second factor is:  $0.5a + 0.5vt =$  current fee. In this formula, "a" equals the average annual costs, "v" equals the percentage of total volume across SROs over the last three years, and "t" equals the average annual costs for all SROs. NFA has no contracts traded; hence, its fee is based simply on costs for the most recent three fiscal years. The following table summarizes the data used in the calculations and the resulting fee for each entity for FY 2010. The 3-year average actual cost calculations were derived using the FY 2008 and 2009 fees as they are revised elsewhere in this notice:

### FY 2010 FEES

	3-year average actual costs	3-year % of volume	2010 Fee (lesser of actual or calculated fee)
Chicago Board of Trade .....	\$188,085	0.291273	\$188,085
Chicago Mercantile Exchange .....	145,952	55.5839	145,952
New York Mercantile Exchange .....	572,494	12.5373	363,321
Kansas City Board of Trade .....	27,303	0.1351	14,482
ICE Futures U.S .....	144,847	2.3324	86,762
Minneapolis Grain Exchange .....	104,706	0.0488	52,653
HedgeStreet .....	23,272	0.002	11,636
Chicago Climate Futures Exchange .....	21,705	0.0205	10,853
US Futures Exchange .....	0	0.0001	0
OneChicago .....	1,157	0.1791	1,157
Subtotal .....	1,229,521	.....	847,901
National Futures Association .....	561,531	.....	561,531

<sup>1</sup> NFA is the only registered futures association.

<sup>2</sup> See generally 74 FR 46115 (Sep. 8, 2009).

FY 2010 FEES—Continued

	3-year average actual costs	3-year % of volume	2010 Fee (lesser of actual or calculated fee)
Total .....	1,791,052	.....	1,436,432

An example of how the fee is calculated for one exchange, the Chicago Board of Trade, is set forth here:

- a. Actual three-year average costs equal \$188,085
  - b. The alternative computation is: (.5) (\$188,085) + (.5) (.291273) (\$1,229,521) = \$273,105
  - c. The fee is the lesser of a or b; in this case \$188,085
- As noted above, the alternative calculation based on contracts traded is

not applicable to NFA because it is not a DCM and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2008 through 2010 was \$561,531 (one-third of \$1,684,592.85). The fee to be paid by the NFA for the current fiscal year is \$561,531, plus the adjustment to the fees that were published for FY 2008 and 2009 in the **Federal Register**.<sup>3</sup>

D. Revision of FY 2008 and 2009 Fees

This year, Commission conducted an internal review of its SRO fee process that has resulted in adjustments to the fees owed by several SROs and NFA. As a result of the internal review FY 2008 and FY 2009 fees for the Commission's review of the rule enforcement programs at the registered futures associations and SROs regulated by the Commission are accordingly revised as follows:

FY 2009 FEE ADJUSTMENTS

Entity	2009 Assessment	Adjustment	2009 Revision
Chicago Board of Trade .....	\$77,371	\$6,522	\$83,893
Chicago Mercantile Exchange .....	121,071	0	121,071
New York Mercantile Exchange .....	197,535	141,670	339,205
Kansas City Board of Trade .....	10,127	13,210	23,337
ICE Futures U.S .....	32,683	1,815	34,498
Minneapolis Grain Exchange .....	62,449	(30,420)	32,029
HedgeStreet .....	14,375	8	14,383
Chicago Climate Futures Exchange .....	12,259	7	12,266
US Futures Exchange .....	18,601	(18,601)	0
OneChicago .....	1,157	0	1,157
National Futures Association .....	179,641	347,243	526,884
Total .....	727,270	461,453	1,188,723

FY 2008 FEE ADJUSTMENTS

Entity	2008 Assessment	Adjustment	2008 Revision
Chicago Board of Trade .....	\$146,077	\$56,971	\$203,048
Chicago Mercantile Exchange .....	124,734	0	124,734
New York Mercantile Exchange .....	144,893	104,026	248,919
Kansas City Board of Trade .....	11,119	174	11,293
ICE Futures U.S .....	37,662	1,678	39,340
Minneapolis Grain Exchange .....	28,181	(27,413)	768
HedgeStreet .....	10,194	13	10,207
Chicago Climate Futures Exchange .....	8,306	3	8,309
US Futures Exchange .....	14,602	68	14,670
OneChicago .....	15,836	262	16,098
National Futures Association .....	450,419	(3,045)	447,374
Total .....	992,022	132,737	1,124,760

E. Final Amounts Due

To determine the final amount due from each SRO, the adjustments for FY 2008 and 2009 must be added to or

subtracted from FY 2010 fee. For example: Chicago Board of Trade (CBOT) will owe \$251,578 which is computed as follows, \$188,085 (2010

fee) + \$6,522 (2009 adjustment amount) + \$56,971 (2008 adjustment amount) = \$251,578. The following chart provides the calculation for each SRO:

Entity	2008 Adjustment	2009 Adjustment	2010 Fee	Due
Chicago Board of Trade .....	\$56,971	\$6,522	\$188,085	\$251,578

<sup>3</sup> See 73 FR 44707 (Sep. 29, 2008) and 74 FR 46115 (Sep. 8, 2009).

Entity	2008 Adjustment	2009 Adjustment	2010 Fee	Due
Chicago Mercantile Exchange .....	0	0	145,952	145,952
New York Mercantile Exchange .....	104,026	141,670	363,321	609,017
Kansas City Board of Trade .....	174	13,210	14,482	27,866
ICE Futures U.S .....	1,678	1,815	86,762	90,255
Minneapolis Grain Exchange .....	(27,413)	(30,420)	52,653	(5,180)
HedgeStreet .....	13	8	11,636	11,657
Chicago Climate Futures Exchange .....	3	7	10,853	10,863
OneChicago .....	262	0	1,157	1,419
National Futures Association .....	(3,045)	347,243	561,531	905,729

### III. Payment Method

The Debt Collection Improvement Act (DCIA) requires deposits of fees owed to the government by electronic transfer of funds (See 31 USC 3720). For information about electronic payments, please contact Jennifer Fleming at (202) 418-5034 or [jfleming@cftc.gov](mailto:jfleming@cftc.gov), or see the CFTC Web site at <http://www.cftc.gov>, specifically, <http://www.cftc.gov/cftc/cftcelectronicpayments.htm>.

Issued in Washington, DC, on March 14, 2011 by the Commission.

**David Stawick,**

*Secretary of the Commission.*

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**BILLING CODE 6351-01-P**

## COUNCIL ON ENVIRONMENTAL QUALITY

### Call for Innovative National Environmental Policy Act (NEPA) Pilot Project Proposals

**AGENCY:** Council On Environmental Quality.

**ACTION:** Notice of Availability, Call for Innovative National Environmental Policy Act (NEPA) Pilot Project Proposals.

**SUMMARY:** The Chair of the Council on Environmental Quality (CEQ) invites the public and federal agencies to nominate innovative pilot projects that accomplish the NEPA goals of transparency and informed decisionmaking in a more timely and effective manner. Nominations will be accepted via online submission until June 15, 2011. CEQ will track and publicize the progress of selected pilot projects as part of its NEPA Pilot Program, to identify and promote more efficient ways to do effective environmental reviews that can be replicated across the Federal Government. The NEPA Pilot Project Program is part of CEQ's broad effort to modernize and reinvigorate federal agency implementation of NEPA through innovation, public engagement, and transparency. The NEPA Pilot

Program will also facilitate a review under section 6 of Executive Order 13563, "Improving Regulation and Regulatory Review," of provisions of CEQ's NEPA Regulations that may be outmoded, ineffective, insufficient, or excessively burdensome. 76 FR 3821, Jan. 21, 2011; 40 CFR 1500-1508.

**DATES:** The Call for Innovative National Environmental Policy Act (NEPA) Pilot Project Proposals is available as of March 17, 2011. Nominations may be submitted online until June 15, 2011, and will not be considered after that date.

**ADDRESSES:** The Call for Innovative National Environmental Policy Act (NEPA) Pilot Project Proposals and online nomination submission form is available at <http://whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project>.

**FOR FURTHER INFORMATION CONTACT:**

Katie Scharf, Deputy General Counsel, Council on Environmental Quality, 202-456-2464.

**SUPPLEMENTARY INFORMATION:** On March 17, 2011, the Council on Environmental Quality (CEQ) issued a Call for Innovative National Environmental Policy Act (NEPA) Pilot Project Proposals, inviting the public and federal agencies, to nominate innovative pilot projects that accomplish the NEPA goals of transparency and informed decisionmaking in a more timely and effective manner. Nominations may be submitted online at <http://whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project>. Nominations will be accepted until June 15, 2011, and will be publicly posted on the CEQ Web site, <http://www.whitehouse.gov/ceq>. CEQ will not consider nominations submitted after June 15, 2011.

In consultation with a panel of agency NEPA experts, CEQ will select up to five (5) nominated pilot projects for further study and trial implementation, based on their potential to: (1) Reduce the costs and/or time needed to complete the NEPA process; (2) ensure environmental protection; (3) improve the quality and transparency of Federal

agency decision-making; and (4) yield replicable best practices or procedural innovations that can be replicated by other agencies or applied to other Federal actions or programs so as to improve NEPA implementation beyond a specific project. CEQ will coordinate with relevant agencies to track project implementation for the purpose of evaluating and publicizing the efficiencies realized. These outcomes will be published on the CEQ Web site and on the NEPA Web site, [nepa.gov](http://nepa.gov). Where appropriate, CEQ will advocate that agencies incorporate these best practices into new or revised NEPA procedures. Accordingly, the NEPA Pilot Program will facilitate a review under section 6 of Executive Order 13563, "Improving Regulation and Regulatory Review," of provisions of CEQ's NEPA Regulations that may be outmoded, ineffective, insufficient, or excessively burdensome. 76 FR 3821, Jan. 21, 2011; 40 CFR 1500-1508.

(Authority: 42 U.S.C. 4342, 4344)

Dated: March 17, 2011.

**Nancy H. Sutley,**  
*Chair.*

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**BILLING CODE 3125-W0-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Ocean Research and Resources Advisory Panel

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

**ACTION:** Notice of open meeting.

**SUMMARY:** The Ocean Research and Resources Advisory Panel (ORRAP) will hold a meeting. The meeting will be open to the public.

**DATES:** The meeting will be held on Monday, April 25, 2011, from 8:30 a.m. to 5:30 p.m. and Tuesday, April 26, 2011, from 8:30 a.m. to 2 p.m. Members of the public should submit their comments in advance of the meeting to the meeting Point of Contact.

**ADDRESSES:** The meeting will be held at the Consortium for Ocean Leadership,