

proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

We have determined, provided that ULA carries out the previously described mitigation and monitoring measures, that the impact of conducting harbor activities related to the Delta IV/ Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA, September 2012, through September 2013, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals.

Based on the analysis contained here of 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, have determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses Section 101(a)(5)(D) of the Marine Mammal Protection Act also requires us to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the Marine Mammal Protection Act.

Endangered Species Act (ESA)

This action will not affect species listed under the Endangered Species Act that are under our jurisdiction. The U.S. Fish and Wildlife Service issued a Biological Opinion in August 2001, which concluded that the program was not likely to jeopardize the continued existence of the southern sea otter. The activities covered by our Incidental Harassment Authorization are analyzed in that Biological Opinion, and this Authorization does not modify the action in a manner not previously analyzed.

National Environmental Policy Act (NEPA)

In 2001, the U.S. Air Force (Air Force) prepared an Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, we prepared an

Environmental Assessment augmenting the information contained in the Air Force's EA and issued a Finding of No Significant Impact on the issuance of an Incidental Harassment Authorization for United Launch Alliance's harbor activities in accordance with section 6.01 of the NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). United Launch Alliance's proposed activities and impacts for 2012-2013 are within the scope of our 2005 Environmental Assessment and Finding of No Significant Impact. We have again reviewed the 2005 Environmental Assessment and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the Incidental Harassment Authorization requiring evaluation in a supplemental Environmental Assessment and we, therefore, we reaffirm the 2005 Finding of No Significant Impact.

Authorization

As a result of these determinations, NMFS has issued an IHA to ULA to take marine mammals, by Level B harassment only, incidental to conducting *Delta Mariner* operations, cargo unloading activities, and harbor maintenance activities at south VAFB, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 26, 2012.

Helen M. Golde,

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

[FR Doc. 2012-24204 Filed 10-1-12; 8:45 am]

BILLING CODE 3510-22-P

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67927; File No. S7-32-11]

Acceptance of Public Submissions Regarding the Study of Stable Value Contracts

AGENCY: Commodity Futures Trading Commission; Securities and Exchange Commission.

ACTION: Request for comment; reopening of comment period.

SUMMARY: The Commodity Futures Trading Commission (the "CFTC") and the Securities and Exchange Commission (the "SEC" and, together

with the CFTC, the "Commissions") are reopening the comment period for a study to determine whether stable value contracts ("SVCs") fall within the definition of a swap. The study is required by Section 719(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The original comment period for the study closed on September 26, 2011. The Commissions did not complete the study pending adoption of final rules further defining the terms "swap" and "security-based swap." The Commissions are considering the study in light of the recent adoption of these final rules. Accordingly, the Commissions are reopening for 30 days the time period in which to provide the Commissions with comments.

DATES: Comments should be received on or before November 1, 2012.

ADDRESSES: Comments may be submitted by any of the following methods:

CFTC

- *Agency Web site*, via its Comments Online process: <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Web site.

- *Mail:* Sauntia S. Warfield, Assistant Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- *Hand Delivery/Courier:* Same as mail above.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Please submit your comments using only one method. "*Stable Value Contract Study*" must be in the subject field of responses submitted via email, and clearly indicated on written submissions. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to www.cftc.gov. You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in section 145.9 of the CFTC's regulations.¹

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from www.cftc.gov that it may deem to be

¹ 17 CFR 145.9.

inappropriate for publication, including obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under applicable laws, and may be accessible under the Freedom of Information Act.

SEC

Electronic Comments

- Use the SEC's Internet comment form (<http://www.sec.gov/rules/other>);
- Send an email to rule-comments@sec.gov. Please include File Number S7-32-11 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number S7-32-11. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The SEC will post all comments on the SEC's Internet web site (<http://www.sec.gov/rules/other>). Comments will also be available for Web site viewing and printing in the SEC's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; the SEC does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

CFTC: Stephen A. Kane, Research Economist, Office of the Chief Economist, (202) 418-5911, skane@cftc.gov; or David E. Aron, Counsel, Office of the General Counsel, (202) 418-6621, daron@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; SEC: Donna Chambers, Senior Special Counsel, (202) 551-5870, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-8010.

SUPPLEMENTARY INFORMATION: Pursuant to section 719(d)(1)(A) of the Dodd-Frank Act, the Commissions jointly must conduct a study to determine whether SVCs fall within the definition

of a swap.² Section 719(d)(1)(A) of the Dodd-Frank Act also requires the Commissions, in making such determination, jointly to consult with the Department of Labor, the Department of the Treasury, and the State entities that regulate the issuers of SVCs.

If the Commissions determine that SVCs fall within the definition of a swap, they jointly must determine if an exemption for SVCs from the definition of a swap is appropriate and in the public interest and issue regulations implementing such determination.³ Until the effective date of any such regulations, and notwithstanding any other provision of Title VII of the Dodd-Frank Act, the Title VII requirements will not apply to SVCs.⁴

On August 18, 2011, the Commissions requested comment regarding the study of SVCs required by Section 719(d) of the Dodd-Frank Act.⁵ Specifically, the request for comment included 29 questions and encouraged commenters to provide additional relevant information beyond that specified in the questions. The Commissions originally requested that comments be received by September 26, 2011.⁶

Given the regulatory developments since the initial request for comment was issued, specifically the adoption of final rules further defining the terms "swap" and "security-based swap,"⁷ the Commissions believe that it would be appropriate to solicit additional public comments on the study of SVCs required by Section 719(d) of the Dodd-Frank Act. Accordingly, the Commissions are reopening the public comment period for 30 days. The Commissions are reopening the comment period for the limited purpose of soliciting additional or updated comments regarding the impact of the final rules further defining the terms

² The term "swap" is defined in Commodity Exchange Act ("CEA") section 1a(47), 7 U.S.C. 1a(47). The term "security-based swap" is defined as an agreement, contract, or transaction that is a "swap" (without regard to the exclusion from that definition for security-based swaps) and that also has certain characteristics specified in the Dodd-Frank Act. See section 3(a)(68) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(68). Thus, a determination regarding whether SVCs fall within the definition of a swap also is relevant to a determination of whether SVCs fall within the definition of the term "security-based swap."

³ See section 719(d)(1)(B) of the Dodd-Frank Act.

⁴ See section 719(d)(1)(C) of the Dodd-Frank Act.

⁵ See Acceptance of Public Submissions Regarding the Study of Stable Value, 76 FR 53162 (Aug. 25, 2011).

⁶ *Id.*

⁷ The Commission and the CFTC have approved the final rules further defining the terms "swap" and "security-based swap" but did not address therein whether SVCs are swaps or SBSs. See 77 FR 48208 (Aug. 13, 2012).

"swap" and "security-based swap" on the SVC study.⁸ The Commissions have received and reviewed the comments previously submitted in response to the initial request for comment. Commenters do not need to resubmit comments that have already been provided.

By the Commodity Futures Trading Commission.

Dated: September 26, 2012.

Sauntia S. Warfield,
Assistant Secretary.

By the Securities and Exchange Commission.

Dated: September 26, 2012.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012-24179 Filed 10-1-12; 8:45 am]

BILLING CODE 6351-01-P; 8011-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on collections of information provided for by the Disclosure and Retention of Certain Information Related to Cleared Swaps, Customer Collateral.

DATES: Comments must be submitted on or before December 3, 2012.

⁸ Question 4 in the request for comment related to the applicability and usefulness of the proposed rules further defining the terms "swap" and "security-based swap" ("Proposed Definitions"):

Are the proposed rules and the interpretive guidance set forth in the [Proposed Definitions] useful, appropriate, and sufficient for persons to consider when evaluating whether SVCs fall within the definition of a swap? If not, why not? Would SVCs satisfy the test for insurance provided in the [Proposed Definitions]? Why or why not? Is additional guidance necessary with regard to SVCs in this context? If so, what further guidance would be appropriate? Please explain.

See Acceptance of Public Submissions Regarding the Study of Stable Value Contracts, *supra* note 5, at 53163.