

pinnipeds can be considered small relative to the population size. As described in the species description section above, the latest stock assessments estimate there are 34,233 harbor seals (which may have reached OSP levels), 238,000 California sea lions (increasing at approximately 6.5 percent per year), and 124,000 northern elephant seals (also increasing in number in the U.S.). The applicant has requested, based on numerous monitoring data specific to the affected haulout, that approximately 2,861 harbor seals (approximately 8 percent of the population), 16 California sea lions (approximately 0.006 percent of the population), and 11 northern elephant seals (0.008 percent of the population) may be taken each year. However, because it is not possible to identify individual animals over the course of the year from the proposed monitoring (seals would have to be tagged and observed closely to do so), these numbers represents the total number of seals observed harassed during monitoring, not individuals. Therefore, an even smaller percentage of individuals from each population are likely to be taken from the proposed activities.

Based on the analysis contained herein 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, NMFS preliminarily finds that Estuary management activities will result in the incidental take of small numbers of marine mammals and that the total taking from will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action as none are present within the action area.

Endangered Species Act (ESA)

There are no ESA listed marine mammals found in the action area; however, there are listed salmon and steelhead species present. The Agency and the U.S. Army Corps of Engineers (Corps) consulted with NMFS under Section 7 of the Endangered Species Act (ESA) regarding the potential effects of their operations and maintenance activities, including the Agency's estuary management program, on federally-listed steelhead, coho salmon, and Chinook salmon that resulted in the likelihood of jeopardy and adverse modification of critical habitat. As a result of this consultation, the NMFS

issued the Russian River Biological Opinion (NMFS, 2008) finding that artificially elevated inflows to the Estuary during the low flow season (May through October) and historic artificial breaching practices have significant adverse effects on the Russian River's estuarine rearing habitat for steelhead, coho salmon, and Chinook salmon. The BiOp's RPA 2 requires the Agency to collaborate with NMFS and to modify Estuary water level management in order to reduce marine influence (high salinity and tidal inflow) and promote a higher water surface elevation in the estuary (i.e., formation of a fresh or brackish lagoon) for purposes of enhancing the quality of rearing habitat for juvenile (age 0+ and 1+) steelhead from May 15th to October 15th (lagoon management period), hence the need for the proposed action. The BiOp fully considered the effects to listed species in the action area in drawing the conclusion that Estuary management activities conducted in accordance with RPAs would not result in jeopardy to any species or cause the modification or destruction of designated critical habitat. Any potential take of listed species associated with Estuary management activities is permissible if conducted in accordance with the Incidental Take Statement in the BiOp. Again, no listed marine mammals would be affected by the action.

National Environmental Policy Act (NEPA)

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 is preparing 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. Upon completion, this EA will be available on the NMFS website listed in the beginning of this document.

Preliminary Determination

The applicant has submitted a complete application for incidental take of pinnipeds for specified activities in a specified geographic region for a period not to exceed one year. NMFS has preliminarily determined that the specified activities would result in short-term, Level B harassment to pinnipeds located within the action area

during construction and maintenance of the lagoon outlet channel and during sandbar breaching events. Reactions are anticipated to be limited to alertness, movement, or flushing in response to crew or equipment presence. Seals are expected to return to the beach within one day, as shown in the Agency's five years of monitoring data. Due to the proposed mitigation measures (e.g., crews approaching on foot slowly and cautiously), stampeding is unlikely and therefore mortality, a concern during the pupping season, is not expected. All Estuary management activities will be monitored by NMFS approved MMOs; thereby, documenting the number of pinnipeds, nature of disturbance, and number of level of take during each event. For these reasons, NMFS has preliminarily determined that the specified activity would result in the take of small numbers of marine mammal species or stocks, would result in a negligible impact on the affected species and stocks, and would not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses as there are no such uses for these pinniped species in California.

Dated: November 2, 2009.

James H. Lecky,

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

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BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Notice of Intent To Undertake a Determination Whether the Mid-C Financial Peak Contract; Mid-C Financial Peak Daily Contract; Mid-C Financial Off-Peak Contract; and Mid-C Financial Off-Peak Daily Contract, Offered for Trading on the IntercontinentalExchange, Inc., Perform a Significant Price Discovery Function

AGENCY: Commodity Futures Trading Commission.

ACTION: Reopening comment period.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is reopening the comment period for interested parties to comment on the Commission's Notice of Intent to consider whether the Mid-C Financial Peak Contract, Mid-C Financial Peak Daily Contract, Mid-C Financial Off-Peak Contract, and Mid-C Financial Off-Peak Daily Contract offered for trading on the IntercontinentalExchange, Inc.

("ICE") perform a significant price discovery function.

DATES: Written comments must be received by November 27, 2009.

ADDRESSES: Interested persons should submit their views and comments to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418-5521, or by electronic mail to secretary@cftc.gov. Include the subject contracts by name in the subject or reference line of the comment.

FOR FURTHER INFORMATION CONTACT: Martin Murray, Assistant Associate Director for Product Review, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581. Telephone: (202) 418-5276. E-mail: mmurray@cftc.gov; Susan Nathan, Senior Special Counsel, Division of Market Oversight, same address. Telephone: (202) 418-5122. E-mail: snathan@cftc.gov.

SUPPLEMENTARY INFORMATION: On October 6, 2009, the Commission published for public comment a notice of intent to undertake a determination, pursuant to section 2(h)(7) of the Commodity Exchange Act and Commission rule 36.3(c), whether the above-referenced contracts perform a significant price discovery function.¹ The Commission established a 15-day period for submitting public comment; the comment period closed on October 21, 2009. The notice of intent has generated substantial interest, and a number of commenters and potential commenters have informally requested that the Commission provide them additional time in which to submit their views. In response to these requests, and in order to ensure that an adequate opportunity is provided for submission of meaningful comments, the Commission has determined to reopen the comment period for an additional 15 days.

Issued in Washington, DC, on November 5, 2009 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9-27160 Filed 11-10-09; 8:45 am]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Notice of Intent To Undertake a Determination Whether Various SP-15 Financial Day-Ahead Contracts Offered for Trading on the IntercontinentalExchange, Inc. Perform a Significant Price Discovery Function

AGENCY: Commodity Futures Trading Commission.

ACTION: Reopening comment period.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is reopening the comment period for interest persons to comment on the Commission's October 6, 2009 Notice of Intent to consider whether the following contracts offered for trading on the IntercontinentalExchange, Inc. perform a significant price discovery function: SP-15 Financial Day-Ahead LMP Peak Contract; SP-15 Financial Day-Ahead LMP Peak Daily Contract; SP-15 Financial Day-Ahead LMP Off-Peak Daily Contract; SP-15 Financial Swap Real Time LMP—Peak Daily Contract; SP-15 Financial Day-Ahead LMP Off-Peak Contract; NP-15 Financial Day-Ahead LMP Peak Daily Contract; and NP-15 Financial Day-Ahead LMP Off-Peak Daily Contract.

DATES: Written comments must be received by November 27, 2009.

ADDRESSES: Interested persons should submit their views and comments to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418-5521, or by electronic mail to secretary@cftc.gov. Include the subject contracts by name in the subject or reference line of the comment.

FOR FURTHER INFORMATION CONTACT: Martin Murray, Assistant Associate Director for Product Review, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, Washington, DC 20581. Telephone: (202) 418-5276. E-mail: mmurray@cftc.gov. Susan Nathan, Senior Special Counsel, Division of Market Oversight, same address. Telephone: (202) 418-5133. E-mail: snathan@cftc.gov.

SUPPLEMENTARY INFORMATION: On October 6, 2009, the Commission published for comment a notice of intent to undertake a determination, pursuant to section 2(h)(7) of the Commodity Exchange Act and Commission rule 36.3(c), whether the above-referenced contracts perform a

significant price discovery function.¹ The Commission established a 15-day period for submitting public comment; the comment period closed on October 21, 2009. The notice of intent has generated substantial interest, and a number of commenters and potential commenters have informally requested that the Commission provide additional time in which to submit their views. In response to these requests, and in order to ensure that an adequate opportunity is provided for submission of meaningful comments, the Commission has determined to reopen the comment period for an additional 15 days.

Issued in Washington, DC, on November 5, 2009 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9-27162 Filed 11-10-09; 8:45 am]

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DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 14, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395-5806 or send e-mail to oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its

¹ 74 FR 51261.

¹ 74 FR 51264.