

as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), titled, "Fire Protection for Nuclear Power Plants," is temporarily identified by its task number, DG-1214, which should be mentioned in all related correspondence. DG-1214 is proposed Revision 2 of Regulatory Guide 1.189.

The primary objectives of fire protection programs (FPPs) at U.S. nuclear plants are to minimize both the probability of occurrence and the consequences of fire. To meet these objectives, the FPPs for operating nuclear power plants are designed to provide reasonable assurance, through defense in depth, that a fire will not prevent the necessary safe-shutdown functions from being performed and that radioactive releases to the environment in the event of a fire will be minimized.

The regulatory framework that the NRC has established for nuclear plant FPPs consists of a number of regulations and supporting guidelines, including, but not limited to, Title 10 of the *Code of Federal Regulations*, Part 50, "Domestic Licensing of Production and Utilization Facilities," (10 CFR Part 50), Appendix A, "General Design Criteria for Nuclear Power Plants," General Design Criterion (GDC) 3, "Fire Protection;" 10 CFR 50.48, "Fire Protection;" Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to 10 CFR Part 50; regulatory guides; generic communications (e.g., generic letters [GLs], regulatory issue summaries [RISs], bulletins, and information notices [INs]); NUREG-series reports, including NUREG-0800, "Standard Review Plan [SRP] for the Review of Safety Analysis Reports for Nuclear Power Plants;" and industry standards. Since not all of the fire protection regulations promulgated by the NRC apply to all plants, this guide does not categorize them as regulations. Licensees should refer to their plant-specific licensing bases to determine the applicability of a specific regulation to a specific plant.

The NRC staff developed this guide to provide a comprehensive fire protection guidance document and to identify the scope and depth of fire protection that the staff would consider acceptable for nuclear power plants. The original issue of this guide addressed only plants operating as of January 1, 2001. Revision 1 of the document added guidance for

new reactor designs and incorporated the guidance previously included in Branch Technical Position (BTP) SPLB 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants (formerly BTP CMEB 9.5-1)." DG-1214 incorporates guidance related to analysis of safe-shutdown capabilities as found in regulatory position 5.3.

## II. Further Information

The NRC staff is soliciting comments on DG-1214. Comments may be accompanied by relevant information or supporting data and should mention DG-1214 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. Mail comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. E-mail comments to: [nrcprep.resource@nrc.gov](mailto:nrcprep.resource@nrc.gov).

Requests for technical information about DG-1214 may be directed to the NRC contact, Dan Frumkin at (301) 415-2280 or e-mail to [Dan.Frumkin@nrc.gov](mailto:Dan.Frumkin@nrc.gov).

Comments would be most helpful if received by May 29, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG-1214 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession No. ML090070453.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

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Dated at Rockville, Maryland, this 7th day of April 2009.

For the Nuclear Regulatory Commission.

**Andrea D. Valentin,**

*Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. E9-9099 Filed 4-20-09; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on May 7-9, 2009, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 6, 2008 (73 FR 58268-58269).

#### Thursday, May 7, 2009, Conference Room T-2b3, Two White Flint North, Rockville, Maryland

*8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)*—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.-10:30 a.m.: Proposed Rule on Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed rule on a voluntary risk-informed alternative to the current requirements of emergency core cooling systems, and related matters.

*10:45 a.m.-12:15 p.m.: Proposed Resolution of Generic Safety Issue (GSI)-163, "Multiple Steam Generator Tube Leakage" (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of GSI-163 regarding multiple steam generator tube leakage, and related matters.

*1:15 p.m.-2:45 p.m.: Draft Final Regulatory Guide 1.214, "Response Procedures for Potential or Actual Aircraft Attacks" (Open/Closed)*—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Regulatory Guide 1.214 and related matters. [**Note:**

A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

*3 p.m.–4:30 p.m.: Status and Update Concerning Revisions to the AP1000 Design Control Document (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC staff on the current status of the activities associated with the revisions to the AP1000 Design Control Document and related matters.

*4:45 p.m.–5 p.m.: Subcommittee Report (Open)*—The Committee will hear a report by and hold discussions with the Chairman of the Safety Research Program Subcommittee regarding several-seismic related issues that were discussed during the meeting on April 16–17, 2009.

*5 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [Note: A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

**Friday, May 8, 2009, Conference Room T-2b3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)*—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–10 a.m.: Preparation for Meeting with the Commission on June 4, 2009 (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the following topics scheduled for the meeting with the Commission on June 4, 2009:

Containment Overpressure Credit Issue, Pressurized Thermal Shock Rule, Digital Instrumentation and Control Matters, and Options to Revise NRC Regulations Based on the International Commission on Radiation Protection (ICRP) Recommendations/Progress on Recommendations of the Independent External Review Panel on Materials Licensing Program.

*10:15 a.m.–11:15 a.m.: Quality Assessment of Selected Research Projects (Open)*—The Committee will hear reports by and hold discussions with the members of the ACRS Panels regarding the quality assessment of the NRC research projects on: NUREG–6964, “Crack Growth Rates and Metallographic Examinations of Alloy 600 and Alloy 82/182 from Field and Laboratory Materials Testing in PWR Environments,” and Draft NUREG–xxxx, “Diversity Strategies for Nuclear

Power Plant Instrumentation and Control Systems.”

*11:15 a.m.–12 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)*—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future ACRS meetings and other matters related to the conduct of the ACRS business.

[Note: A portion of this Session may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

*12 p.m.–12:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)*—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

*1:15 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will discuss proposed ACRS reports. [Note: A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

**Saturday, May 9, 2009, Conference Room T-2b3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will continue its discussion of proposed ACRS reports. [Note: A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

*12:30 p.m.–1 p.m.: Miscellaneous (Open)*—The Committee will discuss matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that

appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman.

Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close a portion of this meeting noted above to discuss security and safeguards information pursuant to 5 U.S.C. 552b(c)(3) and organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(2) and (6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman’s ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Girija Shukla, Cognizant ACRS staff (301–415–6855), between 7:15 a.m. and 5 p.m. (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov), or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC’s document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/ACRS/>.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing

link. The availability of video teleconferencing services is not guaranteed.

Dated: April 15, 2009.

**Annette L. Vietti Cook**,  
Secretary of the Commission.

[FR Doc. E9-9101 Filed 4-20-09; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Sunshine Federal Register Notice

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATES:** Weeks of April 20, 27, May 4, 11, 18, 25, 2009.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### Week of April 20, 2009

Thursday, April 23, 2009

2 p.m. Briefing on Radioactive Source Security (Public Meeting) (Contact: Kim Lukes, 301-415-6701).

This meeting will be webcast live at the Web address—[www.nrc.gov](http://www.nrc.gov).

#### Week of April 27, 2009—Tentative

There are no meetings scheduled for the week of April 27, 2009.

#### Week of May 4, 2009—Tentative

There are no meetings scheduled for the week of May 4, 2009.

#### Week of May 11, 2009—Tentative

Thursday, May 14, 2009

9 a.m. Briefing on the Results of the Agency Action Review Meeting (Public Meeting) (Contact: Shaun Anderson, 301-415-2039).

This meeting will be webcast live at the Web address—[www.nrc.gov](http://www.nrc.gov).

#### Week of May 18, 2009—Tentative

There are no meetings scheduled for the week of May 18, 2009.

#### Week of May 25, 2009—Tentative

Wednesday, May 27, 2009

9:30 a.m. Briefing on External Safety Culture (Public Meeting) (Contact: Stewart Magruder, 301-415-8730).

This meeting will be webcast live at the Web address—[www.nrc.gov](http://www.nrc.gov).

Wednesday, May 27, 2009:

1:30 p.m. Briefing on Internal Safety Culture (Public Meeting) (Contact: June Cai, 301-415-5192).

This meeting will be webcast live at the Web address—[www.nrc.gov](http://www.nrc.gov).

Thursday, May 28, 2009

9:30 a.m. Briefing on Fire Protection Closure Plan (Public Meeting) (Contact: Alex Klein, 301-415-2822).

This meeting will be webcast live at the Web address—[www.nrc.gov](http://www.nrc.gov).

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\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: [www.nrc.gov/about-nrc/policy-making/schedule.html](http://www.nrc.gov/about-nrc/policy-making/schedule.html).

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at [rohn.brown@nrc.gov](mailto:rohn.brown@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

\* \* \* \* \*

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969), or send an e-mail to [darlene.wright@nrc.gov](mailto:darlene.wright@nrc.gov).

Dated: April 16, 2009.

**Rochelle C. Baval**,

Office of the Secretary.

[FR Doc. E9-9196 Filed 4-17-09; 4:15 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28696; 812-13400]

### ProShares Trust, et al.; Notice of Application

April 14, 2009.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 ("Act") granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the

Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

**APPLICANTS:** ProShares Trust ("Trust") and ProShare Advisors LLC ("Adviser").

**SUMMARY OF APPLICATION:** Applicants request an order to amend a prior order that permits: (a) Series of an open-end management investment company ("Initial Funds") to issue shares redeemable in large aggregations only ("Creation Unit Aggregations"); (b) secondary market transactions in the shares to occur at negotiated prices; (c) dealers to sell the shares to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 ("Securities Act"); and (d) certain affiliated persons of the Initial Funds to deposit securities into, and receive securities from, the Initial Funds in connection with the purchase and redemption of Creation Unit Aggregations ("Prior Order").<sup>1</sup> Applicants seek to amend the Prior Order to: (a) Provide greater operational flexibility to the Funds (defined below); (b) expand the category of Funds designed to correspond to the return of an Underlying Index (defined below) ("Matching Funds") to include Funds that seek to match the performance of an Underlying Index primarily focused on United States equity securities that applies a strategy referred to as 130/30 ("130/30 Funds"); (c) permit Funds that are based on foreign equity securities indices ("Foreign Equity Funds") to pay redemption proceeds under certain circumstances more than seven days after the tender of a Creation Unit Aggregation for redemption, but in any event within a period not to exceed 14 calendar days; (d) delete a condition related to future relief in the Prior Order and permit applicants to offer additional series using underlying securities indices (collectively, "Underlying Indices" or individually, "Underlying Index") different than those permitted under the Prior Order; (e) delete the relief granted in the Prior Order from section 24(d) of the Act and revise the applications on which the Prior Order was issued ("Prior Applications") accordingly; and (f) amend the terms and conditions of the Prior Applications with respect to certain disclosure requirements.

<sup>1</sup> ProShares Trust, et al., Investment Company Act Release Nos. 27323 (May 18, 2006) (notice) and 27394 (June 13, 2006) (order), amended by Investment Company Act Release Nos. 27609 (Dec. 22, 2006) (notice) and 27666 (Jan. 18, 2007) (order) and further amended by Investment Company Act Release Nos. 27975 (Sep. 21, 2007) (notice) and 28014 (Oct. 17, 2007) (order).