

transporting hazmat. If the individual asserts that the results of the name-based background check are not accurate, the individual will submit fingerprints and/or relevant court documents so that the record may be corrected or the disqualifying offense may be verified.

B. Drivers whose name-based background checks do not indicate a disqualifying offense or incarceration within the time periods specified in the Interim Final Rule will be required to submit fingerprints in the period between 180 days and 5 (five) years from the effective date of the Interim Final Rule, or when applying for a new or renewed hazmat endorsement of their Commercial Driver's License (CDL), whichever occurs first.

C. If a name-based background check discloses that a driver is the subject of an outstanding felony want or warrant, TSA will ensure that the appropriate law enforcement agency is notified.

Such criminal history records checks are to include the review of available law enforcement databases and records as determined necessary by the Administrator of the Transportation Security Administration. In addition, TSA will be accessing other data sources as part of its effort to conduct background checks on commercial truck drivers who are authorized to carry hazardous materials.

TSA makes this request for the following reasons:

- In accordance with the USA PATRIOT Act, TSA must process criminal history records checks on more than three million commercial truck drivers who transport hazardous materials.

- Congress has determined that conducting background checks on commercial truck drivers transporting hazardous materials is a national priority. Given this urgency and the enormous volume of drivers to be checked, it is vital that TSA be given some latitude in conducting the background checks by first utilizing name-based checks while the infrastructure for fingerprint-based checks is put in place.

- TSA believes there are considerable gains in security to be made by using name-based background checks followed by fingerprint-based checks.

TSA proposes to carry out name-based background checks within the following parameters:

A. At the first Compact Council meeting following the conduct of name-based background checks for at least 180 days ("180-day test period"), TSA shall report back to the Compact Council. During a period of 180 days, TSA will work with the following entities to develop a comprehensive infrastructure for capturing and processing fingerprints of hazmat CDL holders:

- a. The Compact Council;
- b. State central repositories;
- c. State Departments of Motor Vehicles (DMVs);
- d. The CJIS Division of the FBI, including its Advisory Policy Council;
- e. SEARCH;
- f. The International Association of Chiefs of Police (IACP); and
- g. The American Association of Motor Vehicle Administrators.

B. The public will be notified in advance that drivers will be subject to a name-based background check. The mechanisms for notification will include the **Federal Register** and communications with the States, the trucking industry, and the driver corps.

C. In no more than 180 days, TSA will have the infrastructure in place to begin fingerprinting all current HAZMAT drivers.

D. All fees for fingerprint collection and processing will be borne by the individual subject to the background check, or by his or her employer.

TSA proposes use of NCIC (including III) to determine whether applicants present a potential terrorist threat or may otherwise be a threat to transportation security. Given the terrorist threat level in transportation, existing statutory mandates, and the lack of adequate infrastructure to conduct fingerprint-based checks, TSA proposes to draw on the ability of NCIC (including III) to provide criminal history data on hazmat drivers.

Approved: March 13, 2003.

Francine J. Kerner,  
Transportation Security Administration.

Agreed to: March 13, 2003.

Wilbur W. Rehmann  
Compact Council.

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Revised Notice of Meeting

For the 145th meeting of the Advisory Committee on Nuclear Waste (ACNW) which has now been rescheduled for September 23-24, 2003, instead of September 16-18, 11545 Rockville Pike, Rockville, Maryland.

Notice of this meeting was published in the **Federal Register** on Monday, September 8, 2003 (68 FR 52972). Following is the information for this meeting.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

#### Tuesday, September 23, 2003

*10:30 A.M.-10:40 A.M.: Opening Statement (Open)*—The Chairman will open the meeting with brief opening remarks, outline the topics to be discussed, and indicate items of interest.

*10:40 A.M.-12 Noon.: Commission Presentations (Open)*—The Committee will discuss its presentation for the October 23, 2003 public meeting with the NRC Commissioners. Topics proposed for discussion:

- Chairman's Report
- High-Level Waste Risk Insights

- TSPA/TPA Working Group
- Performance Confirmation Working Group
- Status and Pathway to Closure on KTIs

*1 P.M.-6 P.M.: Committee Retreat (Open)*—The focus of the September 2003 retreat is to identify the suite of topics that the Committee intends to examine over the next 12 to 18 months. The topics to be proposed would be consistent with the priorities defined in Action Plan as well as earlier Committee discussions with the Commission and NMSS management.

#### Wednesday, September 24, 2003

*8:30 A.M.-8:35 A.M.: Opening Statement (Open)*—The Chairman will make opening remarks regarding the conduct of today's sessions.

*8:35 A.M.-1 P.M.: Committee Retreat (Continued) (Open)*—The Committee will identify specific topics and its plans for review of the relevant High-Level Waste issues from the present to the submission by DOE of a license application for the Yucca Mountain repository.

*1 P.M.-1:15 P.M.: Miscellaneous (Open)*—The Committee will discuss matters related to the conduct of Committee activities and matters 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 ACNW meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63459). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415-6805), between 7:30 A.M. and 4 P.M. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@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 & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual 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: September 15, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.  
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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48491; File No. SR-CSE-2003-10]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. To Eliminate Market Order Exposure Requirements**

September 12, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2003, The Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

proposed rule change as described in Items I, II and III below, which Items have been prepared by the CSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The CSE is proposing to amend CSE Rule 11.9(u) to eliminate Interpretation .01, concerning market order exposure requirements ("Market Order Exposure Requirement").<sup>3</sup> The CSE is also proposing to amend CSE Rule 8.15 to remove a reference to Interpretation .01 of Rule 11.9(u). The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>4</sup>

**Rule 8.15. Imposition of Fines for Minor Violation(s) of Rules**

\* \* \* \* \*

**Interpretations and Policies**

.01 List of Exchange Rule Violations and Fines Applicable thereto Pursuant to Rule 8.15:

(a)-(g) No Change to Text.

[(h) Rule 11.9(u) and Interpretation .01 related to the requirement to immediately execute market orders at an improved price or expose the market order on the Exchange for a minimum of fifteen seconds in an attempt to improve the price.

Recommended Fine Amount

\$1,000 first violation of the 2% quarterly threshold

\$2,500 second violation

Third violation Business Conduct Committee Hearing]

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**Rule 11.9(u), Interpretations and Policies**

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[.01 Market Order Exposure Requirement

(a) Consistent with his or her agency responsibility to exercise due diligence,

<sup>3</sup> As a result of the amendment, the relevant interpretations and policies contained in CSE Regulatory Circulars 01-07, 99-03, 98-06, 97-07, 96-04 will also be repealed.

<sup>4</sup> At the request of the Exchange, the Commission has revised the proposed rule text (i) to insert the word "wide" at the end of clauses (a)1, (a)2 and (a)3; (ii) to reflect that the proposed rule change would not change the text of paragraph (g) of CSE Rule 8.15, Interpretation .01; and (iii) to correct a typographical error in paragraph (b)1.i. of Rule 11.9(u), Interpretation .01. Telephone conversation between Jeffrey T. Brown, Senior Vice President, Regulation and General Counsel, Exchange and Ann E. Leddy, Attorney, Division of Market Regulation, Commission (September 12, 2003).

a member must comply with the following procedures which provide the opportunity for public agency buy/sell market orders in securities other than Nasdaq/NM securities to receive a price lower/higher than the disseminated national best offer/bid.

Except under unusual market conditions or if it is not in the best interests of the customer, Preferencing Dealers must immediately price improve or expose for a minimum of five seconds in an attempt to improve the price:

1. market orders with sizes less than or equal to 1000 shares when the NBBO at time of order receipt is more than 5 cents (\$.05) wide;

2. market orders with sizes between 1001 shares and 5000 shares when the NBBO at time of order receipt is more than 10 cents (\$.10) wide; and

3. market orders with sizes above 5000 shares when the NBBO at time of order receipt is more than 15 cents (\$.15) wide.

(b) to assist Preferencing Dealers in satisfying their obligations under the rule, the following exceptions apply:

**1. Unusual Market Conditions**

Unusual market conditions include the following conditions:

i. the NBBO is more than 1 dollar (\$1.00) wide at receipt;

ii. the market is locked or crossed at receipt or becomes that way during exposure;

iii. when circuit breakers have been activated;

iv. during and immediately after the opening (a period not to exceed 5 minutes);

v. immediately prior to the close (a period not to exceed 5 minutes);

vi. when the Exchange has declared a fast market; and

vii. when non-firm markets exist.

**2. Best Interests of the Customer**

In order to protect the best interests of the customer, the following orders may require unique handling subject to the application of a member's brokerage judgment and experience as required by CSE Rule 12.10, Best Execution:

i. block size market orders as defined in the Intermarket Trading System Plan;

ii. odd-lot orders;

iii. contingent orders;

iv. a market order for a quantity that exceeds the existing NBBO size;

v. NBBO moves in direction of market order stop price; and

vi. Primary market trades at market order stop price.]

[.02].01 Limit Order Protection

No Change to Text.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.