

*Environmental Impacts of the Proposed Action:* The potential environmental impact of using the NUHOMS®-24P storage system was initially presented in the Environmental Assessment (EA) for the Final Rule to add the NUHOMS®-24P to the list of approved spent fuel storage casks in 10 CFR 72.214 (59 FR 65898 (1994)). Furthermore, each general licensee must assess the environmental impacts of the specific ISFSI in accordance with the requirements of 10 CFR 72.212(b)(2). This section also requires the general licensee to perform written evaluations to demonstrate compliance with the environmental requirements of 10 CFR 72.104, "Criteria for radioactive materials in effluents and direct radiation from an ISFSI or MRS [Monitored Retrievable Storage Installation]."

The NUHOMS®-24P storage system is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI include tornado winds and tornado generated missiles, design basis earthquake, design basis flood, accidental cask drop, lightning effects, fire, explosions, and other incidents.

Special cask design features of the NUHOMS®-24P storage system include a horizontal canister system composed of a steel dry shielded canister (DSC), a reinforced concrete horizontal storage module (HSM) and a transfer cask (TC). The welded DSC provides confinement and criticality control for the storage and transfer of spent nuclear fuel. The concrete module provides radiation shielding and allows cooling of the DSC and fuel by natural convection during storage. The TC is used for transferring the DSC between the spent fuel pool building and the HSM.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. Without the loss of either containment, shielding, or criticality control, the risk to public health and safety is not compromised.

The staff performed a review of the proposed exemption request and found that the loading of B&W 15x15 spent fuel assemblies with a nominal width as previously specified in the TS does not reduce the safety margin. In addition, the staff has determined that the storage of B&W 15x15 spent fuel assemblies in the NUHOMS®-24P storage system as requested does not pose any increased risk to public health and safety.

Furthermore, the proposed action now under consideration would not change the potential environmental effects assessed in the initial rulemaking (59 FR 65898 (1994)).

Therefore, the staff has determined that there is no reduction in the safety margin nor significant environmental impact as a result of storing B&W 15x15 spent fuel assemblies with a nominal width of 8.536 inches in the NUHOMS®-24P storage system at the Oconee Independent Spent Fuel Storage Installation.

*Alternative to the Proposed Action:* The staff evaluated other alternatives to the transfer of additional B&W 15x15 spent fuel assemblies from the spent fuel pool to the ISFSI and found that these alternatives produced a greater occupational exposure, increased handling and storage costs, and an increased environmental impact as a result of generating additional low-level radioactive waste. The alternative to the proposed action would be to deny approval of the exemption and, therefore, require Duke to conduct refueling activities and subsequent plant operations with limited space available in the spent fuel pool. This lack of space would limit Duke's ability to implement contingency actions, if needed, such as fuel inspection, movement of refueling equipment and full core offload (the temporary removal of all fuel assemblies from the reactor vessel).

*Agencies and Persons Consulted:* On June 21, 2001, Mr. Henry Porter, Assistant Director of the Division of Waste Management, South Carolina Department of Health and Environmental Control, was contacted about the EA for the proposed action and had no concerns.

#### **Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.212(a)(2) and 72.214 so that Duke may store B&W 15x15 spent nuclear fuel in the NUHOMS®-24P storage system at the Oconee ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this exemption request, see the Duke exemption request dated June 8, 2001, which is docketed under 10 CFR part 72, Docket No. 72-40.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 29th day of June 2001.

For the Nuclear Regulatory Commission.

**E. William Brach,**

*Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

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#### **OFFICE OF PERSONNEL MANAGEMENT**

#### **Submission for OMB Review; Comment Request for Review of a Revised Information Collection: RI 94-7**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a revised information collection. RI 94-7, Death Benefit Payment Rollover Election for Federal Employees Retirement System (FERS), provides FERS surviving spouses and former spouses with the means to elect payment of the FERS rollover-eligible benefits directly or to an Individual Retirement Arrangement.

Approximately 1,850 RI 94-7 forms will be completed annually. We estimate it takes approximately 60 minutes to complete the form. The annual estimated burden is 1,850 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, FAX (202) 418-3251 or E-mail to [mbtoomey@opm.gov](mailto:mbtoomey@opm.gov). Please provide a mailing address with your request.

**DATES:** Comments on this proposal should be received on or before August 6, 2001.

**ADDRESSES:** Send or deliver comments to:

John C. Crawford, Chief, FERS Division, Retirement and Insurance

Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415; and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination Contact: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606-0623, Office of Personnel Management.

**Steven R. Cohen,**

*Acting Director.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44482; File No. 4-429]

### Joint Industry Plan; Order Approving Amendment to the Options Intermarket Linkage Plan to Conform the Options Intermarket Linkage Plan to the Requirements of Securities Exchange Act Rule 11Ac1-7

June 27, 2001.

#### I. Introduction

On March 13, 2001, the American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), International Securities Exchange LLC ("ISE"), Pacific Exchange, Inc. ("PCX"), and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "Participants") submitted to the Securities and Exchange Commission ("SEC" or "Commission") in accordance with Section 11A(a)930 of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> a proposed amendment to the options intermarket linkage plan ("Linkage Plan").<sup>3</sup> The amendment proposes to conform the Linkage Plan to the requirements of recently adopted Exchange Act Rule 11Ac1-7, the Trade-

Through Disclosure Rule.<sup>4</sup> The proposed amendment to the Linkage Plan was published in the **Federal Register** on April 4, 2001.<sup>5</sup> Three comment letters were received in response to the notice.<sup>6</sup> This order approves the proposed amendment to the Linkage Plan.

#### II. Description of the Proposed Amendment

On November 17, 2000, the Commission adopted Exchange Act Rule 11Ac1-7 to require a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price interior to a better quote displayed by another market ("intermarket trade-through"), and to disclose the better published quote available at that time. Under the rules, however, a broker-dealer is not required to disclose to its customer an intermarket trade-through if the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan that includes provisions reasonably designed to limit intermarket trade-throughs.

In the Adopting Release, the Commission noted that to conform to the requirements of the Trade Through Disclosure Rule, a linkage plan must, at a minimum, contain provisions to: (1) Limit participants from trading through, not only the quotes of other linkage plan participants, but also, the quotes of exchanges that are not participants in an approved linkage plan; (2) require plan participants to actively surveil their markets for trades executed at prices inferior to those publicly quoted on other exchanges; and (3) make clear that the failure of a market with a better quote to complain within a specified period of time that its quote was traded-through may affect potential liability, but does not signify that a trade-through has not occurred.<sup>7</sup> The proposed amendment to the Linkage Plan was intended to add such provisions to the Linkage Plan.

<sup>4</sup> 17 CFR 240.11Ac1-7. See Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000) ("Adopting Release").

<sup>5</sup> See Securities Exchange Act Release No. 44106 (March 27, 2001), 66 FR 17977 (April 4, 2001) ("Notice").

<sup>6</sup> See Letter to Jonathan G. Katz, Secretary, Commission, from Joseph B. Stefanelli, Executive Vice president, Derivative Securities, Amex, dated May 7, 2001 ("Amex letter"); Letter to Jonathan G. Katz, Secretary, Commission, from Charles Rogers, Executive Vice President, Phlx, dated May 1, 2001 ("Phlx Letter"); and Letter to Jonathan G. Katz, Secretary, Commission, from Edward J. Joyce, President and Chief Operating Officer, CBOE, dated April 26, 2001 ("CBOE Letter").

<sup>7</sup> See Adopting Release, *supra* note 4, at n.2 and accompanying text.

First, the proposed Amendment would change the definitions of "National Best Bid or Offer" ("NBBO") and "Trade-Throughs" so that the terms would apply to unlinked, as well as linked, exchanges. Second, the proposed amendment would require Participants to establish procedures for conducting surveillance for trade-throughs, both respect to trading through linked and unlinked markets. Third, it would require that Participants adopt uniform rules that make it a violation of a participant's rules for a member to engage in a pattern or practice of trading through bids and offers in other linked markets, unless one of the enumerated exceptions to the Linkage Plan's Trade-Through provisions applies and, in the case of a Block Trade, where the initiating member has satisfied aggrieved parties at the block price. Lastly, the proposed amendment would add a provision to the Linkage Plan that states that a failure to lodge a Trade-Through complaint will not signify that a Trade-Through has not occurred, but instead, affects only liability.

#### III. Summary of Comments

The Commission received comment letters from three participants in response to the notice published in the **Federal Register**.<sup>8</sup> In these letters, the Participants expressed concerns regarding the reference in the Notice to footnote 62 of the Adopting Release. The Notice states "[n]otwithstanding the more limited language in the proposed amendment to the Linkage Plan, each exchange's rules must address trade-throughs of better quotes displayed by both linked and unlinked markets."<sup>9</sup>

The commenters stated that they believe that the proposed amendment to the Linkage Plan fully complies with the requirements of the Trade-Through Disclosure Rule, and that it is not necessary for the exchanges to adopt rules to address trade-throughs in addition to complying with the requirements of the Linkage Plan, as amended.<sup>10</sup> The commenters argued that the proposed amendment clearly provides that members should not effect trade-throughs, and that participants to the Linkage Plan should conduct surveillance to detect any violations of this mandate.<sup>11</sup> One commenter further noted that Section 4(b) of the Linkage Plan specifically requires that all

<sup>8</sup> See Amex Letter; CBOE Letter; and Phlx Letter, *supra* note 6.

<sup>9</sup> See Notice, *supra* note 5, at n.5.

<sup>10</sup> See Amex Letter; CBOE Letter; and Phlx Letter, *supra* note 6.

<sup>11</sup> *Id.*

<sup>1</sup> 15 U.S.C. 78k-1(a)(3).

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage Plan") proposed by the Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, the Phlx and PCX agreed to participate in the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000) and 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000).