§ 1115.28 Multiple products or models.

For each product or model covered by a recall notice, the notice must meet the requirements of this subpart.

§ 1115.29 Final determination regarding form and content.

(a) *Commission or court discretion.* The recall notice content required by this subpart must be included in a recall notice whether or not the firm admits the existence of a defect or of an actual or potential hazard, and whether or not the firm concedes the accuracy or applicability of all of the information contained in the recall notice. The Commission will make the final determination as to the form and content of the recall notice for purposes of an order under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), and a United States district court will make the final determination as to the form and content of a recall notice for purposes of an order under section 12 of the CPSA (15 U.S.C. 2061).

(b) *Recall notice exceptions.* The Commission for purposes of an order under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), or a United States district court for purposes of an order under section 12 of the CPSA (15 U.S.C. 2061), may determine that one or more of the recall notice requirements set forth in this subpart is not required, and will not be included, in a recall notice.

(c) *Commission approval.* Before a firm may publish, broadcast, or otherwise disseminate a recall notice to be issued pursuant to an order under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), the Commission must review and agree in writing to all aspects of the notice.

Dated: January 13, 2010.

Todd A. Stevenson,

Secretary, United States Consumer Product Safety Commission.

[FR Doc. 2010–873 Filed 1–20–10; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Commission Guidance Concerning the Rules of Practice Relating to Reparations

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of policy.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is issuing this policy statement to clarify and provide guidance to Commission staff and affected parties that Commission Rule 12.1(a), 17 CFR 12.1(a), requires that all rules of practice relating to reparation proceedings under 17 CFR part 12 "shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties."

DATES: *Effective Date:* This Statement of Policy is effective January 21, 2010.

FOR FURTHER INFORMATION CONTACT: Edwin J. Yoshimura, Office of General Counsel, Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, IL 60661. Telephone: (312) 596–0562. E-mail: *eyoshimura@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 14(a) of the Commodity Exchange Act, as amended, ("Act"), 7 U.S.C. 18(a), any person complaining of a violation of the Act or any rule, regulation, or order thereunder, by any person registered or required to be registered with the Commission, may file a complaint with the Commission seeking an award of damages.[1]

On January 22, 1976, the Commission issued its original "Rules Relating to Reparation Proceedings."[2] 17 CFR part 12. These rules originally were intended to conform to the procedural requirements of the Administrative Procedure Act ("APA"), as well as the guidelines established by section 14 of the Act.[3]

On January 11, 1983, Section 14(b) of the Act, 7 U.S.C. 18(b) was amended, effective May 11, 1983, to authorize the Commission to "promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient administration of this section." Congress conferred this broad discretion upon the Commission "[t]o enable the Commission to simplify its rules of procedure regarding reparations and streamline the process," H.R. Rep. No. 565, 97th Cong., 2d Sess. 55 (1982). In addition, the amendments to Section 14(b) were intended to authorize the Commission "to use its best judgment in fashioning appropriate procedures that will be both fair and efficient." *Id.*

II. Statement of Policy

Currently, Rule 12.1(a), 17 CFR 12.1(a), provides that "[t]he rules in [17 CFR Part 12] shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties."

The Commission generally has maintained a longstanding policy of liberally construing its Part 12 Reparation Rules. We have restated that policy in several decisions:

As we said in *Wade* v. *Chevalier*, [2007–2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,781 at 61,680 (CFTC Feb. 27, 2008), "Congress created the reparation forum as an informal venue and decreed that parties are not to be subjected to strict rules found in the courts." In *Sommer* v. *Conticommodity Services, Inc.*, [1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,244 at 35,106 (CFTC May 20, 1988), we also said, that "Congress[] inten[ded] that the reparations program provide a more flexible and informal forum than that available in court * * *." Further, in *Cook* v. *Monex International, Ltd.*, [1984–1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,532 at 30,295 (CFTC Mar. 19, 1985) (citations to legislative history omitted), we held that "[a]s remedial legislation, the reparations procedure should be liberally interpreted to effectuate that congressional purpose."

We stated elsewhere that the complexities and formalities of district court litigation are not involved in the reparation program. *Nelson* v. *Chilcott Commodities Corp.*, [1982–1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,934 at 28,033 (CFTC Dec. 12, 1983). Furthermore, "[t]o remain inexpensive, the reparations forum must, at a minimum, remain hospitable to the participation of pro se parties." *Hall* v. *Diversified Trading Systems, Inc.*, [1992–1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,131 at 41,751 (CFTC July 7, 1994). "As a result, we have recognized that allowances must be made for pro se status in interpreting and applying procedural requirements." *Id.*

Recently, we said in *Moss-Thomas* v. *East Coast Commodities*:

[1] Section 14 of the Act establishes the Commission's reparations program, which provides an "expeditious, inexpensive, and easy to use dispute resolution process, available to as many customers as possible." Marianne K. Smythe, *The Reparations Program of the Commodity Futures Trading Commission: Reducing Formality in Agency Adjudication*, 2 Admin. L.J. 39, 40 (1988) (*quoting* Government Accounting Office Report, *Reparations and Other Presently Available Forums for Resolution of Customer Claims, reprinted in CFTC Oversight:* Hearings before the Subcomm. on Commerce, Consumer, and Monetary Affairs on the House Comm. on Government Operations, 97th Cong., 2d Sess. 861 app. 5 (1982)).

[2] Kenneth M. Raisler & Edward S. Geldermann, *The CFTC's New Reparation Rules: In Search of a Fair, Responsive, and Practical Forum for Resolving Commodity-Related Disputes,* 40 Bus. Law 537, 540 (1985).

[3] *Id.*

[A] presiding officer's exercise of his authority under the reparation rules must "be guided by his general responsibility for the 'fair and orderly conduct of a formal decisional proceeding.' " *Jenne* v. *Paine Webber, Inc.*, [1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,329 at 35,424 (CFTC Aug. 31, 1988) (*quoting* Commission Regulation 12.304(a)). * * * The principles of fairness and orderliness must be understood in light of Congress's intent that our procedures provide an "inexpensive" and expeditious alternative to the courts and arbitration. *Anderson* v. *Beach*, [2007–2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,763 at 61,607 (CFTC Feb. 14, 2008).

[Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 31,322 at 62,685 (CFTC Mar. 3, 2009).

Notwithstanding this guidance, we have noticed that parties in some matters have been held to an unusually strict interpretation of the rules of practice, including nonsubstantive rules relating to document formatting. As a result, it is necessary and appropriate to issue this policy statement to clarify and provide further guidance to Commission staff and affected parties.

Rule 12.1(a), 17 CFR 12.1(a), requires that rules of practice relating to reparation proceedings under 17 CFR part 12 "shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties."

For example, the requirement in Rule 12.11, 17 CFR12.11, for documents filed with the Proceedings Clerk to be signed in ink should not be applied literally to documents filed by e-mail or facsimile. The formatting requirements need not be strictly enforced, as long as pleadings are legible. This policy statement does not affect the existing right of pro se parties to file handwritten pleadings. 17 CFR 12.11(c).

In another example, the forum does not require claimants to cite specific provisions of the Act, despite language in Rule 12.13(b)(iv)(A) requiring complainants to allege "each and every act or omission which it is claimed constitutes a violation of the Act." 17 CFR 12.13(b)(iv)(A). The discussion of these rules is meant to be illustrative, not exhaustive. We expect the Commission's presiding officers, all of whom have extensive experience in this forum, to apply the Part 12 Rules generally in accordance with Rule 12.1(a).

III. Related Matters

A. No Notice Required Under 5 U.S.C. 553

The Commission has determined that this policy statement is exempt from the provisions of the APA, 5 U.S.C. 553, which generally requires notice of proposed rulemaking and provides opportunity for public participation. In accord with the exemptive language of 5 U.S.C. 553, this policy statement gives guidance to staff members and affected parties pertaining to the administration of reparation proceedings under 17 CFR part 12. In addition, this policy statement relates solely to "rules of agency * * * practice." Therefore, the notice requirements under 5 U.S.C. 553 are not applicable.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies with rulemaking authority to consider the impact those rules will have on small businesses. With respect to persons involved in reparations proceedings, the interpretive rule imposes no additional burden, and in fact provides greater flexibility in complying with Part 12. Thus, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this policy statement will not have a significant economic impact on a substantial number of small businesses.

C. Paperwork Reduction Act

This policy statement concerning Part 12 does not impose a burden within the meaning and intent of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

D. Cost-Benefit Analysis

Section 15(a) of the Act, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its actions before issuing a new regulation. The Commission understands that by its terms, Section 15(a) does not require it to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh its costs. Nor does it require that each rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission can, in its discretion, give greater weight to any one of the five enumerated areas of concern, and can, in its discretion determine that notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest, or to effectuate any of the provisions, or accomplish any of the purposes, of the Commodity Exchange Act.

This policy statement will not create any significant change in the Commission's reparation proceedings. This statement will enhance the protection of market participants and the public by providing greater flexibility in complying with Part 12. This statement will make it easier for parties to participate in reparations proceedings, either as complainants or respondents. The cost-benefit factors are not influenced by this policy statement, which simply articulates and clarifies applicable law and precedent in reparation proceedings.

Issued in Washington, DC, on January 14, 2010, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2010–1101 Filed 1–20–10; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–1072]

RIN 1625–AA00

Safety Zone: Congress Street Bridge, Pequonnock River, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Congress Street Bridge over the Pequonnock River in Bridgeport, Connecticut. This zone is necessary to protect vessels transiting in the area from hazards imposed by construction barges and equipment that are being utilized for partial demolition of the Congress Street Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 11:59 p.m. on January 31, 2010, through 11:59 p.m. on April 16, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–1072 and are available online by going