

For the Nuclear Regulatory Commission.

Bruce A. Watson,

*Chief, Reactor Decommissioning Branch,
Division of Decommissioning, Uranium
Recovery and Waste Programs, Office of
Nuclear Material Safety and Safeguards.*

**Attachment—Order Extending the
Effectiveness of the Approval of the Transfer
of License and Conforming Amendment**

**In the Matter of LaCrosseSolutions, LLC; La
Crosse Boiling Water Reactor**

**EA-19-077; Docket Nos. 50-409 and 72-046;
License No. DPR-45**

**Order Extending the Effectiveness of the
Approval of the Transfer of License and
Conforming Amendment**

I.

LaCrosseSolutions, LLC is the holder of the U.S. Nuclear Regulatory Commission (NRC, the Commission) Possession Only License No. DPR-45, with respect to the possession, maintenance, and decommissioning of the La Crosse Boiling Water Reactor (LACBWR). Operation of the LACBWR is no longer authorized under this license. The LACBWR facility is located in Vernon County, Wisconsin.

II.

By Order dated September 24, 2019 (Transfer Order), the Commission consented to the transfer of the LACBWR license to Dairyland Power Cooperative and approved a conforming license amendment in accordance with Section 50.80, “Transfer of licenses,” and Section 50.90, “Application for amendment of license, construction permit, or early site permit,” of Title 10 of the *Code of Federal Regulations* (10 CFR). By its terms, the Transfer Order becomes null and void if the license transfer is not completed within one year unless, upon application and for good cause shown, the Commission extends the Transfer Order’s September 24, 2020, expiration date. By letter dated June 24, 2020, LaCrosseSolutions, LLC submitted a request to extend the effectiveness of the Transfer Order by six months, until March 24, 2021. This request was approved by the NRC on September 1, 2020.

III.

In a subsequent letter dated February 2, 2021, LaCrosseSolutions, LLC submitted a second request to extend the effectiveness of the Transfer Order by an additional six months, until September 24, 2021. As stated in the February 2, 2021, letter, the LACBWR Final Status Survey Final Reports (FSSRs), their associated Release Records, and responses to NRC staff requests for additional information (RAIs) are currently under review by the staff. The letter noted that, based on the current status of the NRC review, it is anticipated that additional time will be needed to address questions or potential issues identified by the NRC staff during its review of the RAI responses and revised LACBWR FSSRs. The letter also stated that the extension would allow adequate time for response development by LaCrosseSolutions, LLC, regarding possible

additional questions or potential issues, and for the NRC staff to assess the responses provided by LaCrosseSolutions, LLC and to make a final determination regarding the release of the majority of the LACBWR site for unrestricted use.

Based on the above, the NRC has determined that LaCrosseSolutions, LLC has shown good cause for extending the effectiveness of the Transfer Order by an additional six months, as requested.

IV.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the expiration date of the Transfer Order of March 24, 2021, is extended until September 24, 2021. If the subject license transfer from LaCrosseSolutions, LLC to Dairyland Power Cooperative is not completed by September 24, 2021, the Transfer Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the extension request dated February 2, 2021, which is available electronically through ADAMS in the NRC Library at <https://www.nrc.gov/reading-rm/adams.html> under Accession No. ML21036A055. Persons who encounter problems with ADAMS should contact the NRC’s Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by email to pdr.resource@nrc.gov.

Dated this 9th day of March 2021.

For the Nuclear Regulatory Commission,
John W. Lubinski,
Director, Office of Nuclear Material Safety
and Safeguards.

[FR Doc. 2021-05681 Filed 3-18-21; 8:45 am]

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**NUCLEAR REGULATORY
COMMISSION**

[NRC-2016-0178]

**Enhancing Participation in NRC Public
Meetings**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Revision to policy statement;
issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has revised its policy statement, “Enhancing Participation in NRC Public Meetings,” to further clarify and enhance participation in public meetings conducted by the NRC. The revised policy statement redefines the three categories of public meetings and identifies the level of public participation offered at each category of meeting. The revised policy statement

also clarifies notification expectations for meetings that include physical presence in the meeting room and meetings that rely solely on remote access technology such as teleconferencing. The revisions will improve the consistency of the NRC’s public meetings and help participants better prepare for NRC meetings.

DATES: This policy statement is effective on March 19, 2021.

ADDRESSES: Please refer to Docket ID NRC-2016-0178 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2016-0178. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The policy statement, “Enhancing Public Participation in NRC Meetings,” is available as an attachment to this document.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Suzanne Dennis, Office of the Executive
Director for Operations, U.S. Nuclear
Regulatory Commission, Washington,
DC 20555-0001; telephone: 301-415-
0760; email: Suzanne.Dennis@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC has had a formal policy regarding open meetings since 1978; the most recent revision was issued in 2002. In 2014 (ADAMS Accession No. ML14149A323), the NRC assembled a task group to complete a comprehensive look at the NRC's public meeting policies, processes, and guidance, including their implementation, and to work toward making improvements to those aspects of the agency's work. The task group on Enhancing NRC Public Meetings was formed in June 2014, and produced a set of recommendations in January 2015 (ADAMS Accession No. ML15029A456).

In SECY-16-0007, "Proposed Revisions to Policy Statement on Enhancing Public Participation in NRC Meetings," dated January 22, 2016 (ADAMS Accession No. ML15282A074), the NRC staff provided its proposed revisions to the NRC's policy statement on public meetings to address the task group's recommendations. The proposed revisions modified the public meeting categorization system and redefined the three categories of public meetings. The proposed revisions also included topics such as civility at NRC public meetings and NRC staff innovation with meeting formats. In the staff requirements memorandum (SRM) for SECY-16-0007, dated June 24, 2016 (ADAMS Accession No. ML16176A227), the Commission approved the proposed revisions to the policy statement for publication in the **Federal Register** for public comment. The Commission also directed the NRC staff to hold a public meeting related to the revised policy statement in order to have a dialogue on the expectations for and by stakeholders at NRC public meetings.

The draft revisions to the policy statement were published in the **Federal Register** on August 31, 2016 (81 FR 60026). On September 29, 2016, the NRC staff conducted a public meeting to provide information regarding the proposed revisions to the policy statement (ADAMS Accession No. ML16274A128). Additionally, the NRC staff provided information regarding the proposed revisions to the policy statement in a September 19, 2016, blog post (<https://public-blog.nrc-gateway.gov/2016/09/19/back-to-basics-seeking-comment-on-a-new-commission-public-meeting-policy/>).

II. Overview of Public Comments

In response to the proposed revisions to the policy statement, the NRC received 30 comments from 7 members of the public. Based on the public comments, the NRC staff made several

modifications to improve the clarity of the policy statement. This section provides a summary of the changes made to the policy statement as a result of comments and includes discussion of comments that the NRC did not accept.

The NRC updated the "Level of Participation" section for Observation Meetings to clarify that members of the public can pose questions to the NRC during Observation Meetings and that licensees or other parties are not precluded from responding to questions during Observation Meetings.

The NRC updated the "Notice and Access" section of the policy statement to state that the NRC will ensure that public meeting notices are sent out to interested stakeholders using the mechanisms available, such as the applicable NRC listservs.

The NRC updated the "Participation in NRC Public Meetings" section to include a statement that the NRC should always be open to listening and responding to questions from members of the public, regardless of when the interaction occurs.

The NRC updated the "Notice and Access" section of the policy statement to state that the NRC will ensure that available ADAMS documents related to the topic of the meeting are linked to the meeting notice as background documents to the extent practical.

The NRC updated the descriptions of all three categories of meetings to include a statement that the NRC should strive to ensure sufficient time for the meeting so that members of the public can pose their questions and have them answered during the meeting to the extent practical and that, whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside of the meeting.

The NRC disagreed with three public comments. The NRC disagreed with a comment that bridge line numbers should be included in all meeting notices. There are times when the NRC staff requests that those interested in calling in to a meeting contact an NRC staff member for the bridge line information so that the NRC staff can understand in advance how many participants plan to call in to a meeting and set up a bridge line with the capacity to handle the expected number of callers. The NRC also disagreed with two comments that the NRC should notify the public 1 month in advance of public meetings, stating that the NRC policy is to post meeting notices a minimum of 10 days before a meeting and, if at all possible, the NRC staff announces meetings earlier. The NRC believes that the current policy of

providing a minimum of 10 days notice before a public meeting provides the public with sufficient notice of upcoming public meetings without compromising the NRC staff's ability to conduct public meetings on time-sensitive or emerging issues.

The NRC concluded that the remaining comments were either already included in the proposed revision to the policy statement or that the comments were best addressed in detail in staff-level guidance.

III. Procedural Requirements

Congressional Review Act Statement

This Policy Statement is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Paperwork Reduction Act Statement

This Policy Statement does not contain new or amended information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 16, 2021.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

Attachment—Commission Policy Statement on Enhancing Participation in NRC Public Meetings

A. Purpose.

The U.S. Nuclear Regulatory Commission's (NRC) longstanding practice is to provide the public with substantial information on its activities, to conduct business in an open manner, and to balance openness and transparency with the need to exercise regulatory and safety responsibilities without undue administrative burden. The NRC's policy is to open meetings between the agency staff and one or more outside persons to observation and participation to the extent possible. The NRC has had a formal policy regarding open (public) meetings since 1978. The Commission's policy statement, "Enhancing Public Participation in NRC Meetings," was last issued in 2002 (67 FR 36920).

This policy establishes three public meeting categories based on the level of participation offered to attendees. The policy provides information such as descriptions of each category, information on how public meetings are announced, post-meeting activities, and applicability and exceptions.

B. Participation in NRC Public Meetings.

Consistent with the NRC's commitment to openness, the level of participation, purpose, and description for each category of public meeting are described below. When assigning a category to a meeting, the NRC staff will

consider the objective of the meeting and the extent of known public interest in the topic. The NRC staff should always be open to listening to members of the public and responding to questions, regardless of when the interaction occurs.

The three meeting categories are based on the level of public participation to be provided at each type of meeting. Therefore, some categories may support multiple meeting formats. The label for each category provides an indication of the level of participation meeting attendees can expect.

The NRC is committed to providing an atmosphere of civility and inclusion at its public meetings. All participants are expected to follow established ground rules, including those provided in the applicable meeting notice posted on the NRC's public website, to support this atmosphere of civility and inclusion regardless of personal viewpoints. If the actions of one or more participants significantly impact other participants' ability to observe or participate in a meeting, the NRC staff shall take appropriate actions to restore a more respectful environment or end a meeting early, if necessary.

Observation Meeting

Meeting Purpose—The purpose of this type of meeting is for the NRC to meet with representatives from one or more groups in an open and transparent manner to discuss regulatory and technical matters. The meeting will inform the public by providing information to help them understand the applicable regulatory issues and NRC actions.

Level of Participation—Other attendees besides the representatives noted above are invited to observe the meeting and discuss regulatory issues with, and pose questions to, the NRC representatives at a designated point or points identified on the agenda. This does not preclude the licensee or other parties from responding to questions if they choose to do so. The NRC staff should strive to ensure sufficient time is allotted for an Observation Meeting to ensure that members of the public can pose questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC staff should emphasize ways members of the public can ask questions outside the meeting.

Description—Meetings in this category include the NRC meeting with one or more industry groups, licensees, vendors, applicants, potential applicants, or non-government organizations, to discuss regulatory issues regarding a specific facility (or facilities), certificates of compliance, licenses, or license applications. This category of meeting could also include the NRC meeting with representatives of task force groups, industry groups, or public interest and citizen groups. The primary discussions are expected to occur between the NRC and representatives of those entities or groups.

The following description will be included in an Observation Meeting notice:

This is a meeting in which attendees will have an opportunity to observe the NRC performing its regulatory function or discussing regulatory issues. Attendees will have an opportunity to ask questions of the

NRC staff or make comments about the issues discussed following the business portion of the meeting, however the NRC is not actively soliciting comments towards regulatory decisions at this meeting.

Examples—Meetings of this category may include meetings with licensees (or applicants) to discuss license renewal, amendment or exemption requests; meetings with applicants related to topical report reviews, combined licenses, early site permits, or design certifications; annual public meetings to discuss plant performance as part of the Reactor Oversight Process; renewals, or amendments. Certain inspection exit meetings, such as those for Incident Investigation Teams or Augmented Inspection Teams, are included under this category.

Information Meeting With a Question and Answer Session

Meeting Purpose—The purpose of this type of meeting is for the NRC to share information and discuss applicable regulatory issues and NRC actions with meeting attendees. The meeting will inform the public by providing information to help them understand the applicable regulatory issues and NRC actions through NRC presentations and discussions with NRC staff. These are organized, yet informal opportunities to interact with and ask questions of the NRC staff not associated with a more traditional public meeting format.

Level of Participation—This type of meeting is tailored to inform attendees and allow them to ask questions. The NRC staff should strive to ensure sufficient time is allotted for an Information Meeting with a Question and Answer Session to ensure that members of the public can pose their questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside the meeting.

Description—Meetings in this category are held with interested parties, including representatives of non-government organizations, private citizens, or various businesses or industries, to engage them in a discussion of regulatory issues.

The following description will be included in the notice for an Information Meeting with a Question and Answer Session:

The purpose of this meeting is for the NRC staff to meet directly with individuals to discuss regulatory and technical issues. Attendees will have an opportunity to ask questions of the NRC staff or make comments about the issues discussed throughout the meeting, however the NRC is not actively soliciting comments towards regulatory decisions at this meeting.

Examples—Meetings of this category may include town hall and roundtable discussions, and open house meetings.

Comment-Gathering Meeting

Meeting Purpose—The purpose of this type of meeting is for the NRC to obtain feedback on regulatory issues and NRC actions. In most cases, the meeting will include a presentation by the NRC to explain the

regulatory issue or action. The feedback received at these meetings is used to support actions such as licensing and rulemaking activities.

Level of Participation—This type of meeting is focused on allowing attendees to provide opinions, perspectives, and feedback. The NRC staff should strive to ensure sufficient time is allotted for a Comment-Gathering Meeting to ensure that members of the public can pose questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside the meeting.

Description—This type of meeting would be held with a broad range of interested parties, including representatives of non-government organizations, private citizens, or various businesses or industries, to fully engage them in a discussion of a specific regulatory issue.

The following description will be included in the notification of a Comment-Gathering Meeting:

The purpose of this meeting is for NRC staff to meet directly with individuals to receive comments from participants on specific NRC decisions and actions to ensure that NRC staff understands their views and concerns.

The notice for such meetings should include details as to how comments will be taken at the meeting (e.g., NRC staff taking notes, or creating a transcript of the meeting) and how NRC will use the comments (e.g., to inform NRC discussions, or as official comments related to a formal NRC regulatory decision), as well as to clarify whether participants will need to also submit comments made at the meeting in writing to receive formal consideration.

Examples—Meetings of this category may include town hall and roundtable discussions, environmental impact statement scoping meetings, and workshops.

C. Notice and Access.

Although the extent of meeting outreach and preparation by NRC staff can be different for each meeting, certain steps are usually taken. Meeting information will be announced as soon as the NRC staff is reasonably confident that a meeting will be held and firm date, time, and facility arrangements have been made. This will generally occur no fewer than 10 days before a meeting. When a meeting must be scheduled but cannot be announced within the 10-day timeframe, the NRC staff will provide as much advance notice as possible.

Public notice of meetings will be made through the NRC's Public Meetings & Involvement web page at <https://www.nrc.gov/public-involve.html>. Meeting changes or cancellations will also be announced promptly on this web page. Individuals who cannot access the NRC's public website can contact the NRC's PDR staff via a toll-free number (1-800-397-4209) or by email (pdr.resource@nrc.gov) for information on scheduled NRC meetings. Some meetings, specifically meetings with a high level of public interest, may also be noticed in the **Federal Register** or through

other means such as a press release, blog post, or advertisement in local newspapers. The NRC staff will ensure that public meeting notices are sent out to interested stakeholders using the mechanisms available, such as the applicable NRC listservs.

Meeting details and materials such as an agenda, names of participants, and background documents will be entered into the NRC's Public Meeting Schedule website. A link to the materials as well as the Agencywide Documents Access and Management System (ADAMS) accession number for additional meeting materials such as presentations will, when possible, be provided in the meeting notice on the NRC's public website under the "Public Meetings & Involvement" web page at <https://www.nrc.gov/public-involve.html>. The NRC staff will ensure that available ADAMS documents related to the topic of the meeting are linked to the meeting notice as background documents to the extent practical.

Audio teleconferencing and other technologies that allow participation from locations other than a meeting room will be used whenever possible to help ensure widespread involvement in meetings. If information on how to participate remotely in a meeting is not provided in the meeting notice, individuals may request the use of such technology through the meeting contact listed on the meeting notice. Such requests may be granted to the extent resources are available and technical factors can be accommodated.

D. After-Meeting Activities.

The NRC staff will provide answers to questions as appropriate during the public meeting and will inform attendees at the meeting how it plans to address questions that cannot be answered at the meeting. Informal follow-up (telephone or email) may be appropriate. Individuals also have the option of calling, writing, or emailing the NRC staff about particular concerns. NRC staff will either provide feedback forms at public meetings or provide instructions for submitting feedback through the NRC public website so that comments can be reviewed and offices can track any planned improvements or resulting actions. NRC staff will make meeting summaries publicly available in ADAMS following the meeting.

E. Innovation.

The NRC staff will make efforts, to find new and innovative ways to interact with individuals, including exploring varied meeting formats and other ways to incorporate technologies that allow participation from locations other than a meeting room. Experiences with new methods will be shared across the agency for information and consideration by other NRC staff.

F. Applicability and Exceptions.

This policy applies to planned, formal encounters between NRC staff members and outside individuals or entities, with an expressed intent of discussing substantive issues directly associated with the NRC's regulatory responsibilities. Such meetings will be designated in advance as public

meetings, open for public attendance and categorized in accordance with this policy, subject to the following conditions and exceptions:

1. This policy applies solely to NRC staff-sponsored and conducted meetings with an outside individual or entity. It does not apply to a meeting conducted by an outside individual or entity where an NRC staff member might participate, nor when an NRC employee attends a meeting outside of his or her official capacity.

2. This policy does not apply to meetings between the NRC staff and outside individuals or entities who are:

- a. Under contract to the NRC;
- b. Acting as an official consultant to the NRC;
- c. Acting as an official representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except on matters where the agency is subject to NRC regulatory oversight);
- d. Acting as an official representative of a foreign government or representing an international organization such as the International Atomic Energy Agency; or
- e. Acting as an official representative of a State or local government or Tribal official.

3. Meetings between the NRC staff and outside individuals or entities will not be designated as public meetings if the NRC staff determines that the subject matter or information to be discussed in the meeting:

- a. Is specifically authorized by an Executive Order to be withheld in the interests of national defense or foreign policy (classified information);
- b. Is specifically exempt from public disclosure by statute (e.g., safeguards or proprietary information);
- c. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;
- d. Is related to a planned, ongoing, or completed investigation, or contains information compiled for law enforcement purposes;
- e. Could compromise the ongoing reviews and inspections associated with an open allegation;
- f. Could result in the inappropriate disclosure and dissemination of preliminary, pre-decisional, or unverified information;
- g. Is for general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action; however, should discussions in a closed meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed and propose discussing the issues in a future public meeting; or

h. Indicates that the administrative burden associated with public attendance at the meeting could interfere with the NRC staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

4. This policy does not apply to Commission meetings, advisory committee meetings, meetings related to financial assistance or acquisition requirements, or to meetings sponsored by offices that report

directly to the Commission (for example, the Office of the General Counsel or the Office of the Chief Financial Officer). Similarly, it does not apply to "government-to-government" meetings: meetings between NRC staff and representatives of State governments, including Agreement State representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission, as well as meetings between NRC staff and representatives of local or Tribal governments. Also, the policy does not apply to or supersede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. For example, Part 7 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Advisory Committees," and 10 CFR part 9, "Public Records," will continue to be applicable to advisory committee meetings and Commission meetings, respectively.

5. This policy does not cover the hearings associated with adjudicatory proceedings under the Commission's Rules of Practice and Procedure set forth in 10 CFR part 2. The term "hearings" relates primarily to Commission adjudicatory proceedings on various types of license applications and licensing actions (e.g., applications for initial issuance of a license, amendment of an existing license, renewal of a license) or to enforcement actions involving the imposition of civil penalties or orders to modify, suspend, or revoke a license or take other appropriate action. Specific requirements regarding participation in and the conduct of adjudicatory proceedings (including the settlement of such proceedings) are provided in the Commission's Rules of Practice and Procedure set forth in 10 CFR part 2. This policy does not cover meetings concerning the settlement of enforcement matters.

6. Certain meetings that would normally be closed under Sections F.3.a. or F.3.b. of this policy may be opened to cleared members of the public who also have a need-to-know. A cleared member of the public is a person who holds a U.S. Government security clearance or has been granted access to Safeguards Information in accordance with 10 CFR 73.22(b).

7. This policy may be applicable to only part of a meeting. For example, an NRC meeting may have a portion that is open to the public and a portion that is closed to the public due to any of the exceptions listed above. In these cases, this policy statement is applicable to the public portion of the meeting only.

8. This policy is a matter of NRC discretion; the NRC reserves the right to depart from any stated conditions as circumstances may warrant.

G. Contact.

The primary point of contact in the agency for general issues related to this policy will be the Deputy Assistant for Operations, Office of the Executive Director for Operations. The Office of Public Affairs is also available to receive questions and suggestions. There are also opportunities for comment on our public participation policies, or on many of our programs through

the NRC's website under the "Public Meetings & Involvement" web page at <https://www.nrc.gov/public-involve.html>.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91331; File No. SBSDR-2021-01]

Security-Based Swap Data Repositories; ICE Trade Vault, LLC; Notice of Filing of Application for Registration as a Security-Based Swap Data Repository

March 16, 2021.

I. Introduction

On February 11, 2021, ICE Trade Vault, LLC ("ICE Trade Vault") filed with the Securities and Exchange Commission ("Commission") an application on Form SDR to register as a security-based swap data repository ("SDR") pursuant to Section 13(n)(1) of the Securities Exchange Act of 1934 ("Exchange Act") and 17 CFR 240.13n-1 ("Rule 13n-1") thereunder,¹ and as a securities information processor ("SIP") under Section 11A(b) of the Exchange Act.² ICE Trade Vault amended its application on March 10 and March 11, 2021. ICE Trade Vault intends to operate as a registered SDR for security-based swap ("SBS") transactions in the credit derivatives asset class. The Commission is publishing this notice to solicit comments from interested persons regarding ICE Trade Vault's application,³ and the Commission will consider any comments it receives in making its determination whether to approve ICE Trade Vault's application for registration as an SDR and as a SIP.

¹ 15 U.S.C. 78m(n)(1); 17 CFR 240.13n-1. A copy of ICE Trade Vault's application on Form SDR and all non-confidential exhibits and amendments thereto are available for public viewing on the Commission's website. In 2016, ICE Trade Vault submitted a prior application for registration as an SDR. See Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016); Release No. 34-81223 (July 27, 2017), 82 FR 35844 (Aug. 1, 2017). ICE Trade Vault withdrew this prior application in 2018. See Letter from Kara Dutta, General Counsel, ICE Trade Vault, Mar. 23, 2018, <https://www.sec.gov/divisions/marketreg/sdr/ice-trade-vault-sdr-application-withdrawal-letter-032318.pdf>.

² 15 U.S.C. 78k-1(b).

³ The descriptions set forth in this notice regarding the structure and operations of ICE Trade Vault have been derived, excerpted, or summarized from ICE Trade Vault's application on Form SDR.

II. Background

A. SDR Registration, Duties, and Core Principles

Section 13(n) of the Exchange Act makes it unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of an SDR.⁴ To be registered and maintain registration, an SDR must comply with certain requirements and core principles described in Section 13(n), as well as any requirements that the Commission may impose by rule or regulation.⁵ In 2015, the Commission adopted 17 CFR 240.13n-1 to 13n-12 under the Exchange Act to establish Form SDR, the procedures for registration as an SDR, and the duties and core principles applicable to an SDR ("SDR Rules").⁶ The Commission provided a temporary exemption from compliance with the SDR Rules and also extended exemptions from the provisions of the Dodd-Frank Act set forth in a Commission order providing temporary exemptions and other temporary relief from compliance with certain provisions of the Exchange Act concerning security-based swaps, and these temporary exemptions expired in 2017.⁷

The Commission also has adopted 17 CFR 242.900 to 909 under the Exchange Act (collectively, "Regulation SBSR"), which governs regulatory reporting and public dissemination of security-based swap transactions.⁸ Among other things, Regulation SBSR requires each registered SDR to register with the Commission as a SIP,⁹ and the Form SDR constitutes an application for registration as a SIP, as well as an SDR.¹⁰

In 2019, the Commission stated that implementation of the SBS Reporting Rules can and should be done in a manner that carries out the fundamental policy goals of the SBS Reporting Rules while minimizing burdens as much as

practicable.¹¹ Noting ongoing concerns among market participants about incurring unnecessary burdens and the Commission's efforts to promote harmonization between the SBS Reporting Rules and swap reporting rules, the Commission took the position that, for four years following Regulation SBSR's Compliance Date 1 in each asset class,¹² certain actions with respect to the SBS Reporting Rules would not provide a basis for a Commission enforcement action.¹³ The no-action statement's relevance to ICE Trade Vault's application for registration as an SDR and SIP is discussed further below.

B. Standard for Registration

As noted above, to be registered with the Commission as an SDR and maintain such registration, an SDR is required to comply with the requirements and core principles described in Section 13(n) of the Exchange Act, as well as with any requirement that the Commission may impose by rule or regulation.¹⁴ In addition, Rule 13n-1(c)(3) under the Exchange Act provides that the Commission shall grant the registration of an SDR if it finds that the SDR is so organized, and has the capacity, to be able to: (i) Assure the prompt, accurate, and reliable performance of its functions as an SDR; (ii) comply with any applicable provisions of the securities laws and the rules and regulations thereunder; and (iii) carry out its functions in a manner consistent with the purposes of Section 13(n) of the Exchange Act and the rules and regulations thereunder.¹⁵ The Commission shall deny the registration of an SDR if it does not make any such finding.¹⁶ Similarly, to be registered with the Commission as a SIP, the Commission must find that such applicant is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a SIP,

¹¹ Release No. 34-87780 (Dec. 18, 2019), 85 FR 6270, 6347 (Feb. 4, 2020) ("ANE Adopting Release").

¹² See *id.* Under Regulation SBSR, the first compliance date ("Compliance Date 1") for affected persons with respect to an SBS asset class is the first Monday that is the later of: (i) six months after the date on which the first SDR that can accept transaction reports in that asset class registers with the Commission; or (ii) one month after the compliance date for registration of SBS dealers and major SBS participants ("SBS entities"). *Id.* at 6346. The compliance date for registration of SBS entities is October 6, 2021. See *id.* at 6270, 6345.

¹³ See *id.* The specific rule provisions of the SBS Reporting Rules affected by the no-action statement are discussed in Part II.B.

¹⁴ See 15 U.S.C. 78m(n)(3).

¹⁵ 17 CFR 240.13n-1(c)(3).

¹⁶ *Id.*

⁴ 15 U.S.C. 78m(n).

⁵ *Id.*

⁶ See Release No. 34-74246 (Feb. 11, 2015), 80 FR 14438, 14438 (Mar. 19, 2015) ("SDR Adopting Release"). In 2016, the Commission subsequently amended 17 CFR 240.13n-4 to address third-party regulatory access to SBS data obtained by an SDR. See Release No. 34-78716 (Aug. 29, 2016), 81 FR 60585 (Sep. 2, 2016).

⁷ See Release No. 34-80359 (Mar. 31, 2017), 82 FR 16867 (Apr. 6, 2017).

⁸ Release No. 34-74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Release No. 34-78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016). Regulation SBSR and the SDR Rules are referred to collectively as the "SBS Reporting Rules."

⁹ See 17 CFR 242.909.

¹⁰ See Form SDR, Instruction 2.