

Rules and Regulations

Federal Register

Vol. 77, No. 143

Wednesday, July 25, 2012

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-67286A; File No. S7-44-10]

RIN 3235-AK87

Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies; Technical Amendments to Rule 19b-4 and Form 19b-4 Applicable to All Self-Regulatory Organizations; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction; clarification.

SUMMARY: On July 13, 2012, the Securities and Exchange Commission (“Commission”) published a document in the *Federal Register* (77 FR 41602), concerning, among other things, the process for submissions for review of security-based swaps for mandatory clearing and notice filing requirements for clearing agencies. The document contained typographical errors in the preamble and in the general authority for Part 240. The Commission is publishing corrections to the preamble and the general authority as well as a clarification concerning the Office of Management and Budget (“OMB”) control number for Rule 3Ca-1 under the Securities Exchange Act of 1934 (“Exchange Act”).

DATES: Effective on August 13, 2012.

FOR FURTHER INFORMATION CONTACT: Catherine Moore, Senior Special Counsel, Kenneth Riitho, Special Counsel or Andrew Bernstein, Special Counsel, at (202) 551-5710; Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-7010.

SUPPLEMENTARY INFORMATION:

Correction

In the *Federal Register* of July 13, 2012, in FR Doc. 2012-16233, the following corrections are made:

- 1. On page, 41627 in the third line of the third column remove “3” and add in its place “10.”
- 2. On page, 41631 in the 40th line of the third column remove “3” and add in its place “10.”
- 3. On page, 41632 in the 32nd line of the first column remove “3” and add in its place “10.”
- 4. On page, 41645 in the 23rd line of the third column remove “Security-Based Swap Submissions” after the phrase, “mandate to submit” and add in its place “Advance Notices.”
- 5. On page, 41646 in the 57th line of the first column remove “14” after the phrase, “resulting in a total annual burden of” and add in its place “16.”

PART 240—[CORRECTED]

- 6. On page 41647, in the 24th line from the bottom of the third column, the general authority citation for part 240 is corrected to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78n-1, 78o, 78o-4, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 et seq.; 18 U.S.C. 1350, 12 U.S.C. 5221(e)(3), and Sec. 939A, Pub. L. 111-203, 124 Stat. 1376, (2010), unless otherwise noted.

* * * * *

Clarification

On page 41627, in the 14th line from the bottom of the first column, it states: “Finally, the Commission has submitted a new collection of information titled ‘Rule 3Ca-1 Stay of Clearing Requirement and Review by the Commission under the Securities Exchange Act of 1934’ to OMB for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. OMB has not yet assigned a control number to the new collection of information.” The Commission has submitted the collection of information under Rule 3Ca-1 as part of the collection of information in “Rule 19b-4 Filings with Respect to Proposed Rule Changes by Self-Regulatory Organizations” (OMB Control No. 3235-0045), so a new control number for the information collection request under Rule 3Ca-1

will not be assigned. We provide below a clarification of why the information collection request under Rule 3Ca-1 was submitted under OMB Control No. 3235-0045:

Section 3C of the Exchange Act, as added by Section 763(a) of the Dodd-Frank Act (“Exchange Act Section 3C”) requires each clearing agency that plans to accept a security-based swap (or any group, category, type or class of security-based swaps) for clearing to submit such security-based swap to the Commission (referred to herein as a “Security-Based Swap Submission”) for a determination by the Commission of whether the security-based swap (or any group, category, type or class of security-based swaps) referenced in the submission is required to be cleared.¹ The amendments to Rule 19b-4 and Form 19b-4 will require, among other things, that clearing agencies file Security-Based Swap Submissions and any related information electronically with the Commission on Form 19b-4 using the existing Electronic Form 19b-4 Filing System.²

Exchange Act Section 3C also provides that after making a mandatory clearing determination, the Commission, on application of a counterparty to a security-based swap (or group, category, type, or class of security-based swaps), or on its own initiative, may stay the clearing requirement.³ The Commission adopted new Rule 3Ca-1 to establish the procedure by which the Commission may stay the requirement that a security-based swap is subject to mandatory clearing while the clearing of the security-based swap is reviewed.⁴ The collection of information required by new Rule 3Ca-1 will be used by the Commission to determine whether to grant the stay of the clearing requirement sought by a counterparty and to review whether the clearing requirement will continue to apply to the security-based swap (or group,

¹ See 15 U.S.C. 78c-3(b)(2)(A) (as added by Section 763(a) of the Dodd-Frank Act).

² See *Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies; Technical Amendments to Rule 19b-4 and Form 19b-4 Applicable to All Self-Regulatory Organizations*, Securities Exchange Act Release No. 67286 (June 28, 2012), 77 FR 41602 (July 13, 2012) (“*Adopting Release*”).

³ See 15 U.S.C. 78c-3(c)(1) (as added by Section 763(a) of the Dodd-Frank Act).

⁴ See *Adopting Release*, 77 FR 41618.

category, type, or class of security-based swaps) referenced in the application for a stay.⁵

After reviewing the collection of information requirements for the amendments to Rule 19b-4 and Form 19b-4 and for new Rule 3Ca-1, the Commission believes that the procedures for reviewing Security-Based Swaps Submissions and applications for a stay from a mandatory clearing requirement are so closely connected that the collection of information should be included in a single submission to OMB. Specifically, the number of applications for a stay from a mandatory clearing requirement will, at least in part, be dependent on the number of mandatory clearing determinations the Commission makes pursuant to a Security-Based Swap Submission filed pursuant to Rule 19b-4 and on Form 19b-4.⁶ In estimating the collection of information requirement related to new Rule 3Ca-1, the Commission drew a comparison between the amount of time it would take for a clearing agency to prepare a Security-Based Swap Submission and the amount of time it would take a counterparty to prepare an application of a stay of a clearing requirement, given that each filing would likely address similar issues related to the clearing of the particular security-based swap.⁷ In addition, the Commission believes that an application for a stay will take less time to prepare than a new submission, due to the fact that some of the information addressed in the application for a stay will have already been provided with the Security-Based Swap Submission when it was published for notice and comment.⁸ Accordingly, the Commission believes that the collection of information that is required in connection with a request for a stay under new Rule 3Ca-1 is interrelated to the collection of information under Rule 19b-4 and Form 19b-4 and should not be treated as a separate collection of information. For that reason, the Commission has submitted the collection of information under Rule 3Ca-1 as part of the collection of information in "Rule 19b-4 Filings with Respect to Proposed Rule Changes by Self-Regulatory Organizations" (OMB Control No. 3235-0045).

Dated: July 19, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012-17985 Filed 7-24-12; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 376

[Docket No. RM12-13-000; Order No. 765]

Continuity of Operations Plan

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this rule the Commission revises its regulations pertaining to its Continuity of Operations Plan to allow the Commission the discretion to better address not only long-term and catastrophic events but also short-term events including loss of power or water. The rule allows for greater discretion regarding: the activation and deactivation of the Continuity of Operations Plan and any suspension of Commission operations; the length of time that the Continuity of Operations Plan is in effect and the length of time that Commission operations are suspended; the deactivation schedule and the resumption of full Commission operations; and the rescheduling of hearings, conferences and meetings. The rule also adds items to the list of requirements which are suspended when Commission operations are suspended.

DATES: *Effective Date:* The rule will become effective July 25, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth Molloy, Office of the General Counsel, Federal Energy Regulatory Commission, Room 102-67, 888 First St. NE., Washington, DC 20426, (202) 502-8771. Lawrence R. Greenfield, Office of the General Counsel, Federal Energy Regulatory Commission, Room 102-15, 888 First St. NE., Washington, DC 20426, (202) 502-6415.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellingshoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony T. Clark.

Final Rule

(Issued July 19, 2012)

I. Introduction

1. The Commission's regulations pertaining to its Continuity of

Operations Plan (COOP) were originally developed to address emergency conditions lasting up to 30 days during which Commission headquarters operations are disrupted or communications are unavailable, either of which may prevent the public or the Commission from meeting regulatory or statutory requirements.¹ Events such as the power outage and earthquake that affected Commission headquarters operations in 2011 show that the Commission's regulations pertaining to its COOP need to address a wide range of disruptions during which the Commission's headquarters is unable to function, either in whole or in part, in the ordinary manner. Accordingly, this Final Rule revises the Commission's regulations pertaining to its COOP to better address not only longer term and catastrophic events, but also shorter term events such as loss of power or water.

II. Discussion

2. The Commission, in this Final Rule, adopts revisions to its COOP regulations. In doing so, however, the Commission emphasizes that its goal in the event of an emergency is to continue operations in as normal a manner as circumstances allow,² and, where a full or partial suspension of agency operations does occur, to return to full, normal operations as quickly as possible.

3. With this approach in mind, this Final Rule revises the Commission's COOP regulations to allow greater discretion to respond to the varying situations which may disrupt Commission headquarters functions.³ This Final Rule recognizes that Commission headquarters operations may be temporarily disrupted in whole or in part, or communications with Commission headquarters may be temporarily unavailable, in whole or in part, due to a variety of causes and for periods of varying length depending on

¹ More information concerning the COOP can be found on the Commission's Web site at www.ferc.gov/coop.asp.

² For example, teleworking may allow certain Commission functions to continue in particular circumstances as if there had been no or only limited disruption to Commission headquarters functions. As appropriate in particular circumstances, such functions may include, for example, participation by Commission Trial Staff in informal settlement conferences and discussions in those proceedings that have been set for trial-type evidentiary hearing and/or settlement judge procedures.

³ Notwithstanding the revisions to the Commission's COOP regulations adopted here, the Commission's goal in the event of an emergency that requires a full or partial suspension of agency operations is to return to full, normal operations as quickly as possible.

⁵ See Adopting Release, 77 FR 41628.

⁶ See Adopting Release, 77 FR 41634.

⁷ *Id.*

⁸ *Id.*