

Regulatory Commission, Region III, 801 Warrenville Road, Lisle, Illinois 60532-4351; telephone (630) 829-9870 or by email at pjl2@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to the Dow Chemical Company Byproduct Material License No. 21-00265-06, to remove the possession or use of thorium from its Midland, Michigan facility license and release that portion of the facility for unrestricted use.

The NRC staff has prepared an Environmental Assessment (EA) in support of this licensing action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate.

II. EA Summary

The purpose of the proposed action is to remove the possession or use of thorium from its Midland, Michigan facility license and release that portion of the facility for unrestricted use. This license was approved for research and development of a thorium containing catalyst. On September 26, 2003, Dow Chemical Company submitted a license amendment request to remove the possession or use of thorium from its license. The Dow Chemical Company has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license criteria in subpart E of 10 CFR part 20 for unrestricted release. The staff has examined the Dow Chemical Company's request and the information that the licensee has provided in support of its request, including the surveys performed by the Dow Chemical Company to demonstrate compliance with 10 CFR 20.1402, "Radiological Criteria for Unrestricted Use," to ensure that the NRC's decision is protective of the public health and safety and the environment. Based on its review, the staff has determined that the affected environment and the environmental impacts associated with the removal of the possession or use of thorium from Byproduct Material License No. 21-00265-06 are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496). Additionally, no non-radiological impacts were identified. The staff also finds that the proposed release for unrestricted use of the Dow Chemical

Company facility is in compliance with the 10 CFR part 20.1402 and no other activities in the area that could result in cumulative impacts.

III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of Dow Chemical Company's proposed license amendment to remove the possession or use of thorium from its Midland, Michigan facility license and release that portion of the facility for unrestricted use. On the basis of the EA, the staff has concluded that the environmental impacts from the proposed action would not be significant. Accordingly, the staff has determined that a FONSI is appropriate, and has determined that the preparation of an environmental impact statement is not warranted.

IV. Further Information

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Dow Chemical Company's request, the EA summarized above, and the documents related to this proposed action are available electronically for public inspection and copying from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. These documents include Dow Chemical Company's letter dated September 26, 2003, with enclosures (Accession No. ML033570177); and the EA summarized above (Accession No. ML040280082). These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 27th day of January 2004.

Christopher G. Miller,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, RIII.

[FR Doc. 04-2665 Filed 2-6-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following

meetings during the week of February 9, 2004:

An Open Meeting will be held on Wednesday, February 11, 2004 at 10 a.m., in Room 1C30, the William O. Douglas Room, and Closed Meetings will be held on Wednesday, February 11, 2004 at 12:30 p.m. and Thursday, February 12, 2004 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (3), (5), (7), (9B), and (10) and 17 CFR 200.402(a) (3), (5), (7), (9ii), and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meetings in closed sessions.

The subject matter of the Open Meeting scheduled for Wednesday, February 11, 2004 will be:

1. The Commission will consider a recommendation to propose for public comment an amendment to rule 12b-1 under the Investment Company Act of 1940. The recommended proposal would prohibit investment companies from paying for the distribution of their shares with their brokerage commissions. The Commission will also consider whether to ask for comment about the need for additional changes to rule 12b-1.

For further information, please contact Hester Peirce at (202) 942-0690.

2. The Commission will consider whether to adopt amendments to Forms N-1A, N-2, N-3, and N-CSR, Articles 6 and 12 of Regulation S-X, and rules 30a-2, 30a-3, and 30d-1 under the Investment Company Act of 1940, as well as new rule 30b1-5 under the Investment Company Act of 1940 and new Form N-Q under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. The amendments would (1) require a registered open-end management investment company to disclose in its reports to shareholders fund expenses borne by shareholders during the reporting period; (2) require a registered management investment company to file and certify a schedule of its complete portfolio holdings with the Commission on a quarterly basis; (3) permit a registered management investment company to include a summary portfolio schedule in reports to shareholders and exempt money

market funds from including a portfolio schedule in reports to shareholders, provided that the complete portfolio schedule is filed with the Commission and available to shareholders upon request; (4) require a registered management investment company to include a tabular or graphic presentation of a fund's portfolio holdings in its reports to shareholders; and (5) require a registered open-end management investment company to include Management's Discussion of Fund Performance in its annual report to shareholders.

For further information, please contact Christopher Kaiser at (202) 942-0724.

3. The Commission will consider whether to propose amendments to Schedule 14A under the Securities Exchange Act of 1934, and to Forms N-1A, N-2, and N-3 under the Securities Act of 1933 and the Investment Company Act of 1940. The proposals would require a registered management investment company to provide disclosure in its reports to shareholders regarding the basis for the board of directors' approval of an investment advisory contract. They would also enhance existing disclosure requirements in the registration statements of registered management investment companies and in proxy statements regarding the basis for the board's approval of, or recommendation that shareholders approve, an investment advisory contract.

For further information, please contact Deborah D. Skeens at (202) 942-0562.

The subject matter of the Closed Meeting scheduled for Wednesday, February 11, 2004 will be:

Post-argument discussion.

The subject matters of the Closed Meeting scheduled for Thursday, February 12, 2004 will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions;

Regulatory matters involving a financial institution; and

Adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: February 4, 2004.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49172; File No. SR-CBOE-2004-06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Extension of a Linkage Fee Pilot Program

February 2, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 2, 2004, the Chicago Board Options Exchange, Inc. ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

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

The CBOE proposes to extend the current pilot program for six months until July 31, 2004 applicable to Options Intermarket Linkage ("Linkage") fees.

The proposed fee schedule is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's current fee structure for Principal ("P") and Principal Acting as Agent ("P/A") Orders³ executed on the Exchange is operating under a pilot program scheduled to expire on January 31, 2004.⁴ Currently, because all Linkage Orders received by CBOE are for the account of a broker-dealer market maker on another exchange, the fees applicable to P and P/A Orders are the same as fees applicable to market makers on other exchanges that submit orders to CBOE outside of the Linkage, taking into account how those orders are handled at CBOE. The Exchange now proposes to extend the pilot program to July 31, 2004.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act⁶ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

³ Under the Plan and Exchange Rule 6.80(12) which tracks the language of the Plan, a "Linkage Order" means an Immediate or Cancel order routed through the Linkage as permitted under the Plan for the Purpose of Creating and Operating an Options Intermarket Linkage. There are three types of Linkage Orders:

(i) "P/A Order," which is an order for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent;

(ii) "P Order," which is an order for the principal account of an Eligible Market Maker and is not a P/A Order; and

(iii) "Satisfaction Order," which is an order sent through the Linkage to notify a member of another Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through.

⁴ See Securities Exchange Act Release No. 47761 (April 29, 2003), 68 FR 24042 (May 6, 2003) (SR-CBOE-2003-11).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.