

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this proposed Rule 11.6800 Series. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2017-03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2017-03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2017-03 and should be submitted on or before February 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Eduardo A. Aleman,
Assistant Secretary.

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SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15033 and #15034]

Georgia Disaster #GA-00090

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major

disaster for the State of Georgia (FEMA-4297-DR), dated 01/26/2017.

Incident: Severe Storms, Tornadoes, and Straight-line Winds.

Incident Period: 01/21/2017 through 01/22/2017.

Effective Date: 01/26/2017.

Physical Loan Application Deadline Date: 03/27/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 10/26/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/26/2017, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Berrien, Cook, Crisp, Dougherty, Turner, Wilcox.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Atkinson, Baker, Ben Hill, Brooks, Calhoun, Coffee, Colquitt, Dodge, Dooley, Irwin, Lanier, Lee, Lowndes, Mitchell, Pulaski, Sumter, Telfair, Terrell, Tift, Worth.

The Interest Rates Are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.000
Homeowners Without Credit Available Elsewhere	1.500
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	3.125
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15033C and for economic injury is 150340.

³⁵ 17 CFR 200.30-3(a)(12).

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

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SURFACE TRANSPORTATION BOARD

[Docket No. NOR 38302S; Docket No. NOR 38376S]

United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al.; United States Department of Energy and United States Department of Defense v. Aberdeen & Rockfish Railroad Company, et al.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed settlement agreement, issuance of procedural schedule.

SUMMARY: On October 20, 2016, the United States Department of Energy and the United States Department of Defense (the Government) and Norfolk Southern Railway Company (NSR) (collectively, Movants) filed a motion requesting approval of an agreement (NSR Settlement Agreement) that would settle these rate reasonableness disputes as between them only. The Board is adopting a procedural schedule for filing comments and replies addressing their proposed settlement agreement.

DATES: Comments are due by March 20, 2017. Reply comments are due by April 19, 2017.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. 38302S, et al., 395 E Street SW., Washington, DC 20423-0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site. In addition, send one copy of comments to each of the following: (1) Stephen C. Skubel, Room 6H-087, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; (2) Terrance A. Spann, U.S. Department of Defense, 9275 Gunston

Road, Suite 1300, Fort Belvoir, VA 22060; and (3) Garret D. Urban, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe, (202) 245-0376. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: In March 1981, the Government filed these complaints against 21 major railroads (the Railroad Defendants) under section 229 of the Staggers Rail Act of 1980, Public Law 96-448, 94 Stat. 1895. The Government sought reparations and a rate prescription relating to the nationwide movement of spent nuclear fuel, other high-level radioactive wastes, and the empty containers (casks) and buffer and escort cars used for their movement (together, radioactive materials). In 1986, the Board's predecessor, the Interstate Commerce Commission (ICC), found that the Railroad Defendants were engaging in an unreasonable practice by imposing substantial and unwarranted cost additives—above and beyond the regular train service rates—in an effort to avoid transporting these radioactive materials. The ICC directed the Railroad Defendants to cancel the existing rates and cost additives, prescribed new rates, and awarded reparations. *See Commonwealth Edison Co. v. Aberdeen & Rockfish R.R.*, 2 I.C.C.2d 642 (1986). The United States Court of Appeals for the District of Columbia Circuit set aside and remanded the decision. *See Union Pac. R.R. v. ICC*, 867 F.2d 646 (D.C. Cir. 1989). On remand, the ICC ruled that the movement of these radioactive materials for reprocessing was subject to the rate cap on recyclables set out in former 49 U.S.C. 10731(e) and directed the parties to file revenue-to-variable cost (R/VC) evidence to resolve the remaining reparations and rate prescription issues. *See U.S. Dep't of Energy v. Balt. & Ohio R.R.*, 10 I.C.C.2d 112 (1994). While judicial review was pending, Congress enacted the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803, which repealed § 10731 in its entirety and directed that all proceedings pending under the repealed statutory provision be terminated.

The Railroad Defendants petitioned the Board to dismiss the complaints in 1996, and, in 1997, they invited the Government to explore the possibility of settling the complaints. Discussions commenced on a nationwide settlement covering all the Railroad Defendants that might carry radioactive materials.

The Government subsequently chose to negotiate only with Union Pacific Railroad Company (UP), the destination carrier for most of the movements of radioactive materials that were to be covered by the nationwide settlement, after the parties concluded that there were potential antitrust problems in negotiating with the Railroad Defendants as a group. *See id.*

In 2004, the Government and UP moved for approval under 49 U.S.C. 10704 of a settlement agreement they had negotiated to resolve these complaints as between them only. The Board approved that settlement agreement in 2005 and directed the Government to file quarterly status reports on the progress of settlement negotiations with other railroads. *See U.S. Dep't of Energy v. Aberdeen & Rockfish R.R.*, NOR 38302S, et al. (STB served Aug. 2, 2005). In 2012, BNSF Railway Company (BNSF) and the Government similarly moved for approval of a settlement agreement, and the Board approved that agreement in a decision served the next year. *See U.S. Dep't of Energy v. Aberdeen & Rockfish R.R.*, NOR 38302S, et al. (STB served Aug. 26, 2013) (*BNSF Settlement Decision*). The settlement agreements with UP and BNSF successfully resolved all rate-setting, shipping, and service determinations between those carriers and the Government.

Movants now jointly request that the Board approve the proposed NSR Settlement Agreement and prescribe the rate methodology set forth in it. They assert that the agreement achieves a long-term, system-wide settlement, as between NSR and the Government, of all rate and service issues related to spent fuel and related traffic now moving or likely to move in the future. Movants note that the UP and BNSF settlements have served as a model for the NSR Settlement Agreement.

In particular, the NSR Settlement Agreement:

(1) Has an unlimited term. This differs from the BNSF settlement but follows the UP settlement;

(2) applies broadly to the nationwide movement on NSR's rail lines of irradiated spent fuel, parts, and constituents; spent fuel moving from foreign countries to the United States for disposal; empty casks; radioactive wastes; and buffer and escort cars. With respect to those movements governed by the rate basis prescribed in *Trainload Rates on Radioactive Materials, E. Railroads*, 362 I.C.C. 756 (1980) and 364 I.C.C. 981 (1981) (*Eastern Case*),¹ this

¹ In that proceeding, maximum R/VC ratios were prescribed on a commodity-by-commodity basis at