

overlies R-3702A and B, and extends from FL 220 to FL 270, but is not affected by this proposed action.

Hazardous training operations conducted in these areas only require restricted airspace up to 10,000 feet MSL. However, under the current configuration, R-3702A only extends up to 6,000 feet MSL. Therefore, to provide protection when hazardous training operations are being conducted at 10,000 feet MSL and below, R-3702B must also be activated. This results in periods when the airspace between 11,000 feet MSL and FL 220 is being unnecessarily restricted and unavailable for transit by nonparticipating aircraft. Resetting the altitude boundary between R-3702A and R-3702B at 10,000 feet MSL instead of 6,000 feet MSL, would permit more efficient airspace management and allow air traffic control (ATC) to provide better service to civil aircraft in that area.

### The Proposal

The FAA is proposing to amend Title 14 Code of Federal Regulations (14 CFR) part 73 to realign the designated altitudes of restricted areas R-3702A and R-3702B at Fort Campbell, KY. The proposal would change the designated altitudes for R-3702A from "surface to 6,000 feet MSL," to "surface to 10,000 feet MSL." In addition, the designated altitudes for R-3702B would be changed from "6,000 feet MSL to FL 220," to "10,000 feet MSL to FL 220." The proposed change would permit Fort Campbell to conduct training that involves hazardous operations not exceeding 10,000 feet MSL without unnecessarily restricting aircraft from transiting the area at higher altitudes. This change would allow ATC to provide better service to nonparticipating aircraft in the area.

Section 73.37 of Title 14 CFR part 73 was republished in FAA Order 7400.8N, dated February 16, 2007.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to the appropriate environmental analysis in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 73.37 [Amended]

2. Section 73.37 is amended as follows:

\* \* \* \* \*

#### R-3702A Fort Campbell, KY [Amended]

Under Designated altitudes, by removing the words "Surface to 6,000 feet MSL," and inserting the words "Surface to 10,000 feet MSL."

\* \* \* \* \*

#### R-3702B Fort Campbell, KY [Amended]

Under Designated altitudes, by removing the words "6,000 feet MSL to FL 220," and inserting the words "10,000 feet MSL to FL 220."

\* \* \* \* \*

Issued in Washington, DC, April 20, 2007.

**Paul Gallant,**

*Acting Manager, Airspace and Rules Group.*

[FR Doc. E7–8020 Filed 4–25–07; 8:45 am]

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### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Part 3

**RIN 3038–AC37**

#### Registration of Intermediaries

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Commission Regulation 3.10 to require certain registered intermediaries, *i.e.*, futures commission merchants ("FCMs"), introducing brokers ("IBs"), commodity pool operators ("CPOs"), commodity trading advisors ("CTAs") and leverage transaction merchants ("LTMs"), to complete an online annual review of their registration information maintained with the National Futures Association ("NFA"). The proposed amendment ("Proposed Amendment") would ensure that NFA will have accurate and current information about such registrants. The Commission's proposal ("Proposal") also includes a technical and conforming amendment to Commission Regulation 3.33(f), which regulation is cross-referenced in the Proposed Amendment.

**DATES:** Comments must be received on or before May 29, 2007.

**ADDRESSES:** Comments on the Proposal should be sent to Eileen Donovan, Acting Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Proposal Regarding the Registration of Intermediaries." Comments also may be submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following the comment submission instructions.

#### FOR FURTHER INFORMATION CONTACT:

Helene D. Schroeder, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418–5450; facsimile number: (202) 418–5528; and electronic mail: [hschroeder@cftc.gov](mailto:hschroeder@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. The Regulatory Framework

Sections 4d, 4f(a)(1), 4m and 4n(1) of the Commodity Exchange Act ("Act")<sup>1</sup> require the registration of firms seeking to act as intermediaries for exchange-traded futures.<sup>2</sup> The statutory framework for registration procedures is

<sup>1</sup> 7 U.S.C. 1 *et seq.* (2000). The Act can be accessed at <http://www.access.gpo.gov/uscode/title7/chapter1.html>.

<sup>2</sup> Section 4c of the Act provides the Commission with plenary authority over commodity options.

set forth in Section 4f(a)(1) of the Act for FCMs and IBs,<sup>3</sup> and in Section 4n(a)(1) for CPOs and CTAs.<sup>4</sup> Additionally, Section 19 of the Act grants the Commission plenary authority over leverage transactions.<sup>5</sup>

Pursuant to these statutory and other regulatory provisions, a person seeking to register as an intermediary must file an application that contains the information and facts that are deemed necessary by the Commission.<sup>6</sup> Sections 4f and 4n further provide that, unless renewed, the person's registration will expire automatically each year, or at such other time (not less than one year from the date of issuance) as the Commission by rule, regulation or order may prescribe.<sup>7</sup>

Section 17(o)(1) of the Act authorizes the Commission to require any registered futures association to perform any portion of its registration functions under the Act with respect to each member of the association,<sup>8</sup> and Section 8a(10) permits the Commission to authorize any person to perform any registration functions under the Act, in accordance with rules adopted by such person and submitted to the Commission for approval.<sup>9</sup> The

Commission has exercised this authority by delegating to NFA, the sole registered futures association, its authority to process applications for registration of intermediaries.<sup>10</sup>

Part 3 of the Commission's Regulations<sup>11</sup> contains the regulations relating to the registration of intermediaries and other futures industry professionals. Commission Regulation 3.10(a) specifies that an application for registration as an FCM, IB, CPO, CTA or LTM must be on a Form 7-R, completed and filed with NFA in accordance with the instructions thereto.<sup>12</sup> Commission Regulation 3.31(a)(1) imposes a continuing obligation on registrants to update their registration information.<sup>13</sup> Specifically, Commission Regulation 3.31(a)(1) requires each FCM, IB, CTA, CPO or LTM to promptly correct any deficiency or inaccuracy that is contained in the person's Form 7-R or any Form 8-R filed on behalf of a principal or an associated person that no longer renders accurate and current the information contained therein. It further specifies that each such correction must be made on a Form 3-R and must be prepared and filed with NFA in accordance with the instructions thereto.

To further ensure that registration information remained accurate and current, Commission Regulation 3.10(d), which was revoked in 2002, required FCMs, IBs, CPOs, CTAs and LTMs to file the Form 7-R with NFA annually on a date specified by NFA. In accordance with that regulation, NFA sent each FCM, IB, CPO, CTA and LTM a pre-printed paper copy of the registrant's Form 7-R to review. If the information in the printout was inaccurate, the registrant was required to correct the information and return the printout with the corrections to NFA.<sup>14</sup>

#### *B. Implementation of NFA's Online Registration System*

In light of technological advancements and improvements, NFA altered its registration procedures in 2002 by shifting from paper-based registration to an online or electronic registration system. Pursuant to the updated procedures, NFA requires, with

limited exception,<sup>15</sup> that all registration (and membership) forms, including the completed Form 7-R and 3-R, must be filed with NFA electronically through NFA's online registration system.

In June 2002, the Commission deleted the requirement for firms to review annually registration information as specified by Commission Regulation 3.10(d).<sup>16</sup> The Commission determined that, because such persons were already under an ongoing obligation pursuant to Commission Regulation 3.31(a) to update their registration information to correct deficiencies and inaccuracies, the continuation of the annual paper updating process was redundant and resulted in unnecessary costs to both NFA and the registrant.<sup>17</sup> Further, because NFA was implementing an online system for the intake of registration documents, the Commission believed it made little sense for NFA to continue receiving annual paper updates of such registration forms.

In the period since the elimination of Regulation 3.10(d), NFA has experienced some problems with the registration information provided by certain intermediaries. Further, the Commission and NFA recently have arranged for firms to designate an enforcement contact to be the recipient of communications from the Commission relating to enforcement issues. It is important to maintain an up-to-date list of such contacts. In addition, although the Commission has seen no evidence of security breaches of registration information, an annual review of information in the registration database should enhance the overall safety of such data.

NFA has devoted significant resources toward developing an online registration update protocol for firms to review and update their registration records. The protocol is designed to provide a straightforward process by which registrants can review and modify their existing registration information.<sup>18</sup> In addition to providing an updated list of users, the protocol will require registrants to provide updated disciplinary, branch office and firm contact information. The Proposed Amendment is intended to facilitate NFA's efforts in implementing this new

<sup>3</sup> 7 U.S.C. 6f(a)(1).

<sup>4</sup> 7 U.S.C. 6n(1).

<sup>5</sup> 7 U.S.C. 23. Commission Regulation 31.5, 17 CFR 31.5 (2006), was promulgated under this provision and along with Regulation 3.10, 17 CFR 3.10, governs the registration of LTMs. The Commission's regulations can be accessed at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/17cfrv1\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/17cfrv1_06.html).

<sup>6</sup> In the case of FCMs and IBs, the application must provide the "names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and the names of such officers, directors, and stockholders, if a corporation, as the Commission may direct." With regard to CPOs and CTAs, the application must contain identifying information, education and business affiliations of controlling persons thereof, the manner of giving advice and rendering of analyses or reports, the basis upon which the applicant is or will be compensated and such other information as the Commission may require to determine whether the applicant is qualified for registration.

<sup>7</sup> In this regard, Section 4f(a)(1) provides in pertinent part as follows: "Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act."

Section 4n(2) additionally provides: "Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may by rule regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application."

<sup>8</sup> 7 U.S.C. 21(o)(1).

<sup>9</sup> 7 U.S.C. 12a(10).

<sup>10</sup> 54 FR 19556 (May 8, 1989) (LTMs); 49 FR 39593 (Oct. 9, 1984) (FCMs, CPOs and CTAs); and 48 FR 35158 (Aug. 3, 1983) (IBs).

<sup>11</sup> 17 CFR part 3.

<sup>12</sup> 17 CFR 3.10(a).

<sup>13</sup> 17 CFR 3.31(a)(1).

<sup>14</sup> Regulation 3.10(d) also provided that the failure to file the Form 7-R within 30 days following the date specified by NFA would be deemed to be a request for withdrawal from registration.

<sup>15</sup> For example, NFA requires that any securities broker or dealer that is registered with the Securities and Exchange Commission that becomes a notice-registered FCM or IB must submit a hardcopy version of its Form 7-R.

<sup>16</sup> 67 FR 38869 (June 6, 2002).

<sup>17</sup> *Id.* at 38871.

<sup>18</sup> For example, a firm could modify the title given for a particular principal of a firm, but it could not identify a new principal, as this would require separate application.

protocol and ensure that NFA is in possession of current and accurate information regarding intermediaries. All firms remain subject to their obligations under Regulation 3.31(a)(1) to promptly correct any deficiency or inaccuracy in a Form 7-R or Form 8-R filed by the firm.

## II. Proposal

The Proposed Amendment, which would set forth an annual review requirement, would be added as new paragraph (d).<sup>19</sup> As proposed, the new paragraph would provide that each FCM, IB, CPO, CTA and LTM, in accordance with procedures established by NFA, must complete an online annual review of the registration information maintained by NFA. Pursuant to procedures established by NFA, registrants would be expected to correct any deficiencies or inaccuracies contained therein.

The Proposed Amendment also would provide that the failure to complete the review and update within 30 days of the date established by NFA for completion would be deemed to be a request for withdrawal from registration. As further provided therein, NFA would be required to process the request in accordance with the existing procedures for withdrawal of registration set forth in Commission Regulation 3.33(f).

Commission Regulation 3.33(f) establishes the date on which a request for withdrawal of registration will become effective unless the Commission or NFA take certain actions as specified therein.<sup>20</sup> When the Commission deleted the requirement for registrants to conduct an annual paper updating process by revoking Commission Regulation 3.10(d) in 2002, the Commission did not make a conforming change to Commission Regulation 3.33(f). Specifically, the Commission did not remove unnecessary language that cross-referenced the revoked provision. That language, which appears as the introductory phrase of Commission Regulation 3.33(f) provides as follows: "Except as otherwise provided in Regulation 3.10(d)." This introductory phrase will continue to be unnecessary if the Proposed Amendment is adopted. Accordingly, the Commission's Proposal also includes a technical and conforming amendment to Commission Regulation 3.33(f) to remove the introductory language. As proposed, the text would begin with the language following the

introductory phrase: "A request for withdrawing of registration." The residual text in Commission Regulation 3.33(f) would remain intact.

## III. Related Matters

### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")<sup>21</sup> requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Proposed Amendment would affect persons that are registered as FCMs, IBs, CPOs, CTAs and LTMs. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.<sup>22</sup> The Commission previously determined that registered FCMs, CPOs and LTMs are not small entities for the purpose of the RFA.<sup>23</sup> With respect to the remaining persons, CTAs and IBs, the Commission does not believe that the economic impact of the Proposed Amendment will be significant. First, the information that would be required under the Proposed Amendment already is required to be collected under the existing registration framework. Second, the Proposed Amendment and NFA's new protocol will focus each registrant on the specific areas that must be reviewed and, if needed, updated. Third, the Proposed Amendment will permit review and updating via electronic means in keeping with the current registration procedures. Accordingly, in accordance with Section 3(a) of the RFA,<sup>24</sup> the Chairman, on behalf of the Commission, certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this finding.

### B. Cost-Benefit Analysis

Section 15(a) of the Act<sup>25</sup> requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. 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, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission, in its discretion, may choose to give greater weight to any one of the five enumerated areas and determine that, notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Proposed Amendment concerns the registration of certain intermediaries, in particular, FCMs, IBs, CPOs, CTAs and LTMs. Specifically, the Proposed Amendment will require these intermediaries to complete an online annual review of their registration information, including disciplinary information, firm contacts and lists of authorized users. By ensuring that NFA, the self-regulatory organization that oversees the activities of these registrants, will have accurate and current information regarding registrants, the Proposed Amendment will maximize the protection of market participants and the public.

Such intermediaries already are under an ongoing obligation to provide updated information to NFA pursuant to Commission Regulation 3.31(a)(1). The Proposed Amendment would require these registrants to comply with an online review protocol established by NFA. This protocol would provide a straightforward process for registrants to electronically update their registration information. It would focus and guide registrants on the particular areas that need updating. By facilitating NFA's efforts to adopt this protocol, the Proposed Amendment also should result in efficiency enhancements for registrants and NFA.

The Proposed Amendment should have no effect on the following three enumerated areas: (1) Efficiency, competitiveness or the financial integrity of futures markets; (2) price discovery; and (3) sound risk management practices.

After considering these factors, the Commission has determined to issue the Proposed Amendment discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits

<sup>19</sup> Paragraph (d) of Regulation 3.10 had been reserved.

<sup>20</sup> Commission Regulation can be accessed at the Web site provided in footnote 5. See also NFA Registration Rule 601(c).

<sup>21</sup> 5 U.S.C. 601 *et seq.*

<sup>22</sup> 47 FR 18618 (Apr. 30, 1982).

<sup>23</sup> 47 FR 18618, 18619.

<sup>24</sup> 5 U.S.C. 605(b).

<sup>25</sup> 7 U.S.C. 19(a).

of the Proposed Amendment with their comment letters.

### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA") imposes certain obligations on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA.<sup>26</sup> The Proposed Amendment would require intermediaries to conduct an annual review of their registration information maintained with NFA. The information that would be reviewed in accordance with the Proposed Amendment is part of an approved collection of information. Moreover, the Proposed Amendment would not result in any material modifications to this approved collection. Accordingly, for purposes of the PRA, the Commission certifies that the requirements of the PRA are inapplicable to the Proposed Amendment.

### List of Subjects in 17 CFR Part 3

Administrative practice and procedure, Brokers, Commodity Futures, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission proposes to amend 17 CFR part 3 as follows:

### PART 3—REGISTRATION

1. The authority citation for part 3 continues to read as follows:

**Authority:** 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.10 is amended by adding paragraph (d) to read as follows:

#### **§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.**

\* \* \* \* \*

(d) On a date to be established by the National Futures Association, and in accordance with procedures established by the National Futures Association, each registrant as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant shall, on an annual basis, review and update registration information maintained with the National Futures Association. The failure to complete the review and update within thirty days following the date established by the National Futures Association shall be deemed to be a

request for withdrawal from registration, which shall be processed in accordance with the provisions of § 3.33(f).

3. Section 3.33 is amended by revising paragraph (f) introductory text to read as follows:

#### **§ 3.33 Withdrawal from registration.**

\* \* \* \* \*

(f) A request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

\* \* \* \* \*

Issued in Washington, DC, on April 23, 2007, by the Commission.

**Eileen Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. E7-8025 Filed 4-25-07; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 260 and 284

[Docket Nos. RM07-10-000 and AD06-11-000]

#### Transparency Provisions of Section 23 of the Natural Gas Act; Transparency Provisions of the Energy Policy Act

April 19, 2007.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In order to implement its authority under section 23 of the Natural Gas Act, which was added by section 316 of the Energy Policy Act of 2005 (EPAct 2005), the Commission proposes to revise its regulations to: require that intrastate pipelines post daily the capacities of, and volumes flowing through, their major receipt and delivery points and mainline segments in order to make available the information needed to track daily flows of natural gas throughout the United States; and require that buyers and sellers of more than a *de minimis* volume of natural gas report annual numbers and volumes of relevant transactions to the Commission in order to make possible an estimate of the size of the physical U.S. natural gas market, assess the importance of the use of index pricing in that market, and

determine the size of the fixed-price trading market that produces the information. These revisions would facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce.

**DATES:** Comments are due June 11, 2007. Reply comments are due July 10, 2007.

**ADDRESSES:** You may submit comments identified by Docket No. RM07-10-000, by one of the following methods:

- *Agency Web Site:* <http://ferc.gov>.

Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

#### **FOR FURTHER INFORMATION CONTACT:**

Stephen J. Harvey (Technical), 888 First Street, NE., Washington, DC 20426, (202) 502-6372, [Stephen.Harvey@ferc.gov](mailto:Stephen.Harvey@ferc.gov).

Eric Ciccoretti (Legal), 888 First Street, NE., Washington, DC 20426, (202) 502-8493, [Eric.Ciccoretti@ferc.gov](mailto:Eric.Ciccoretti@ferc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

1. The Federal Energy Regulatory Commission (Commission), in order to facilitate market transparency in natural gas markets, proposes to revise its regulations to: (a) Require daily posting of some natural gas flow information by intrastate pipelines; and (b) require annual filings by buyers and sellers of natural gas in U.S. wholesale markets (that transact more than *de minimis* volumes) of aggregate annual purchase and sales information. These proposals exercise expanded Commission authority under section 23 of the Natural Gas Act,<sup>1</sup> which was added by the Energy Policy Act of 2005 (EPAct 2005) to require reporting from entities not under the Commission's traditional jurisdiction.<sup>2</sup> At this time, as discussed *infra*, due to other market-related Commission initiatives, we do not propose additional regulations for transparency in electricity markets.

2. The first proposal, designed to make available the information needed to track daily flows of natural gas throughout the United States, would

<sup>1</sup> To be codified at 15 U.S.C. 717t-2.

<sup>2</sup> Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

<sup>26</sup> 26 44 U.S.C. 3501 *et seq.*