

**Deletions**

On 3/27 and 4/10/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (74 FR 58, pgs. 13413–13414 and 74 FR 68, pgs. 16367–16369, respectively) of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services deleted from the Procurement List.

**End of Certification**

Accordingly, the following products and services are deleted from the Procurement List:

**Products**

*PCU, Level 1 Boxer*

NSN: 8420–01–542–5494—Size S;

NSN: 8420–01–542–5495—Size M;

NSN: 8420–01–542–5496—Size L;

NSN: 8420–01–542–5497—Size LL;

NSN: 8420–01–542–5499—Size XL;

NSN: 8420–01–542–5500—Size XLL;

NSN: 8420–01–542–5491—Size XS;

NSN: 8420–01–543–7068—Size ML;

NSN: 8420–01–542–5478—Size XXL;

NSN: 8420–01–542–5490—Size XXLL;

NSN: 8420–01–542–5485—Size XXXL;

NSN: 8420–01–542–5488—Size XXXLL.

NPA: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY.

Contracting Activity: XR W2DF RDECOM ACQ CTR NATICK, Natick, MA & Washington, DC.

**Services**

*Service Type/Location:* Custodial Services: VA Primary Care Center, North Pinellas Park, St. Petersburg, Marion City, Naples & Sarasota, Multiple Locations, FL.

NPA: Abilities, Inc. of Florida, Clearwater, FL.

Contracting Activity: Department Of Veterans

Affairs, St. Petersburg, FL.  
*Service Type/Location:* Shelf Stocking, Custodial & Warehousing: Key West Naval Air Station, Key West, FL.  
NPA: Unknown (No Providing Agency).  
*Contracting Activity:* Defense Commissary Agency (DECA).

**Lou Bartalot,**

*Director, Compliance.*

[FR Doc. E9–13886 Filed 6–11–09; 8:45 am]

**BILLING CODE 6353–01–P**

**COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED****Procurement List; Proposed Addition**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed addition to the procurement list.

**SUMMARY:** The Committee is proposing to add to the Procurement List a service to be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities.

**DATES:** *Comments Must be Received on or Before:* 7/13/2009.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

**FOR FURTHER INFORMATION OR TO SUBMIT**

**COMMENTS CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

**Additions**

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agency employing persons who are blind or have other severe disabilities.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other

than the small organizations that will furnish the service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

**End of Certification**

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

**Services**

*Service Type/Locations:* Consolidated Base Operation Support (BOS).  
Naval & Marine Corps Reserve Center, 1600 Lafayette Ave., Moundsville, WV;  
Naval Reserve Center, 1200 Navy Way Road Avoca, PA;  
Naval & Marine Corps Reserve Center, 3938 Old French Road Erie, PA;  
Naval & Marine Corps Reserve Center Lehigh Valley, PA, 1400 Postal Drive, Allentown, PA;  
Naval & Marine Corps Reserve Center, 261 Industrial Park Road Ebensburg, PA;  
Naval & Marine Corps Reserve Center Pittsburgh, PA, 625 East Pittsburgh McKeesport Blvd., North Versailles, PA;  
Marine Corps Reserve Center, 615 Kenhorst Boulevard Reading, PA;  
Naval & Marine Corps Reserve Center, 3920 Kirkwood Highway Wilmington, DE.  
NPA: Human Technologies Corporation, Utica, NY.  
*Contracting Activity:* Dept of the Navy, U.S. Fleet Forces Command, Norfolk, VA.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. E9–13802 Filed 6–11–09; 8:45 am]

**BILLING CODE 6353–01–P**

**COMMODITY FUTURES TRADING COMMISSION**

**Notice of Intent, Pursuant to the Authority in Section 2(h)(7) of the Commodity Exchange Act and Commission Rule 36.3(c)(3), To Undertake a Determination Whether the Henry Financial LD1 Fixed Price Contract Traded on the IntercontinentalExchange, Inc., Performs a Significant Price Discovery Function**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of action and request for comment.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) is undertaking a review to determine whether the Henry Financial LD1 Fixed Price contract traded on the IntercontinentalExchange, Inc. (ICE), an exempt commercial market (“ECM”) under sections 2(h)(3)–(5) of the Commodity Exchange Act (“CEA” or the “Act”), performs a significant price discovery function. The Commission is undertaking this review based upon its evaluation of information provided by the ICE, as well as a Commission report on ECMs. Authority for this action is found in section 2(h)(7) of the CEA and Commission rule 36.3(c) promulgated thereunder. In connection with this evaluation, the Commission invites comment from interested parties.

**DATES:** Comments must be received on or before July 13, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- Follow the instructions for submitting comments. *Federal eRulemaking Portal*: <http://www.regulations.gov>.
- *E-mail*: [secretary@cftc.gov](mailto:secretary@cftc.gov). Include ICE Henry Financial LD1 Fixed Price Contract in the subject line of the message.
- *Fax*: (202) 418–5521.
- *Mail*: Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Courier*: Same as mail above.

All comments received will be posted without change to <http://www.CFTC.gov/>.

**FOR FURTHER INFORMATION CONTACT:**

Gregory K. Price, Industry Economist, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5515. E-mail: [gprice@cftc.gov](mailto:gprice@cftc.gov); or Susan Nathan, Senior Special Counsel, Division of Market Oversight, same address. Telephone: (202) 418–5133. E-mail: [snathan@cftc.gov](mailto:snathan@cftc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On March 16, 2009, the CFTC promulgated final rules implementing provisions of the CFTC Reauthorization Act of 2008 (“Reauthorization Act”)<sup>1</sup>

which subjects ECMs with significant price discovery contracts (“SPDCs”) to self-regulatory and reporting requirements, as well as certain Commission oversight authorities, with respect to those contracts. Among other things, these rules and rule amendments revise the information-submission requirements applicable to ECMs, establish procedures and standards by which the Commission will determine whether an ECM contract performs a significant price discovery function, and provide guidance with respect to compliance with nine statutory core principles applicable to ECMs with SPDCs. These rules became effective on April 22, 2009.

In determining whether an ECM’s contract is or is not a SPDC, the Commission will consider the contract’s material liquidity, price linkage to other contracts, potential for arbitrage with other contracts traded on designated contract markets or derivatives transaction execution facilities, use of the ECM contract’s prices to execute or settle other transactions, and other factors.

In order to facilitate the Commission’s identification of possible SPDCs, Commission rule 36.3(c)(2) requires that an ECM operating in reliance on section 2(h)(3) promptly notify the Commission and provide supporting information or data concerning any contract: (i) That averaged five trades per day or more over the most recent calendar quarter; and (ii) (A) for which the ECM sells price information regarding the contract to market participants or industry publications; or (B) whose daily closing or settlement prices on 95 percent or more of the days in the most recent quarter were within 2.5 percent of the contemporaneously determined closing, settlement or other daily price of another agreement.

**II. Determination of a SPDC**

*A. The SPDC Determination Process*

Commission rule 36.3(c)(3) establishes the procedures by which the Commission makes and announces its determination on whether a specific ECM contract serves a significant price discovery function. Under those procedures, the Commission will publish a notice in the **Federal Register** that it intends to undertake a determination as to whether the specified agreement, contract, or transaction performs a significant price discovery function and to receive written data, views, and arguments relevant to its determination from the

ECM and other interested persons.<sup>2</sup> After prompt consideration of all relevant information, the Commission will, within a reasonable period of time after the close of the comment period, issue an order explaining its determination. Following the issuance of an order by the Commission that the ECM executes or trades an agreement, contract, or transaction that performs a significant price discovery function, the ECM must demonstrate, with respect to that agreement, contract, or transaction, compliance with the core principles under section 2(h)(7)(C) of the CEA<sup>3</sup> and the applicable provisions of part 36. If the Commission’s order represents the first time it has determined that one of the ECM’s contracts performs a significant price discovery function, the ECM must submit a written demonstration of its compliance with the core principles within 90 calendar days of the date of the Commission’s order. For each subsequent determination by the Commission that the ECM has an additional SPDC, the ECM must submit a written demonstration of its compliance with the core principles within 30 calendar days of the Commission’s order.

*B. ICE’s Henry Financial LD1 Fixed Price Contract*

The ICE Henry Financial LD1 Fixed Price contract is cash settled based on the final settlement price of the New York Mercantile Exchange’s (NYMEX’s) physically-delivered Henry Hub-based Natural Gas futures contract for the corresponding contract month.<sup>4</sup> The trading unit of the ICE Henry Financial LD1 Fixed Price contract is 2,500 mmBtu multiplied by the number of calendar days in the contract month. For example, if a contract month has 30 days, the trading unit is 75,000 mmBtu, which is referred to as 30 lots.

Based upon a required quarterly notification filed on April 30, 2009 (mandatory under Rule 36.3(c)(2)), the subject contract realized more than an average of five trades per day during the first quarter of 2009. In addition, the average volume of natural gas traded each business day over that period was 449,010 contracts, and the open interest in the contract as of March 31, 2009, was 2,932,798 contracts.

<sup>2</sup> The Commission may commence this process on its own initiative or on the basis of information provided to it by an ECM pursuant to the notification provisions of Commission rule 36.3(c)(2).

<sup>3</sup> U.S.C. 2(h)(7)(C).

<sup>4</sup> The NYMEX is a designated contract market that offers futures and option contracts on a wide range of energy products, including crude oil, refined petroleum products, and natural gas.

<sup>1</sup> 74 FR 12178 (Mar. 23, 2009); these rules became effective on April 22, 2009.

It appears that the ICE Henry Financial LD1 Fixed Price contract may satisfy the material liquidity, price linkage, and arbitrage criteria for SPDC determination. With regard to material liquidity, the high average daily trading volume indicates that the subject contract is relatively liquid. With respect to the price linkage and arbitrage tests, it is noted above that the ICE Henry Financial LD1 Fixed Price contract and the NYMEX's physically-delivered Natural Gas futures contract have the same final settlement prices. Moreover, ICE uses the NYMEX's forward settlement curve when conducting its mark-to-market accounting procedures to settle the subject contract on daily basis. An October 2007 CFTC publication entitled *Report on the Oversight of Trading on Regulated Futures Exchanges and Exempt Commercial Markets* ("ECM Study") stated that traders and voice brokers view the subject ICE contract as economically equivalent to the NYMEX physically-delivered Natural Gas futures contract.<sup>5</sup> The ICE and NYMEX contracts essentially comprise a single market for natural gas derivatives trading, and traders look to both the ICE and to the NYMEX when determining where to execute a trade at the best price. The ECM Study also stated that the ICE natural gas contract acts as price discovery market. To this end, the ECM Study referenced an analysis<sup>6</sup> of whether the NYMEX, ICE, or both facilities exhibit price leadership with respect to their natural gas contracts. If a particular exchange's prices lead those on another exchange, then the former exchange's contract is thought of as a price discovery market. In 2006, the ICE's natural gas contract exhibited price leadership on 20 percent of the contract days; the NYMEX's physically-delivered natural gas contract, on the other hand, exhibited price leadership on 63 percent of the contract days. Based on these factors, the ECM Study concluded that the ICE and the NYMEX contracts are both price discovery venues for natural gas trading.

### III. Request for Comment

In evaluating whether an ECM's agreement, contract, or transaction performs a significant price discovery function, section 2(h)(7) of the CEA directs the Commission to consider, as appropriate, four specific criteria: Price linkage, arbitrage, material price reference, and material liquidity. As it

explained in Appendix A to the part 36 rules, the Commission, in making SPDC determinations, will apply and weigh each factor, as appropriate, to the specific contract and circumstances under consideration. In addition, as part of its evaluation, the Commission will consider the written data, views, and arguments from the ECM that lists the potential SPDC and from any other interested parties.

The Commission requests comment on whether the ICE's Henry Financial LD1 Fixed Price contract performs a significant price discovery function. Commenters' attention is directed particularly to Appendix A of the Commission's part 36 rules for a detailed discussion of the factors relevant to SPDC determination. The Commission notes that comments which analyze the contract in terms of these factors will be especially helpful to the determination process. In order to determine the relevance of comments received, the Commission requests that commenters explain in what capacity are they knowledgeable about the Henry Financial LD1 Fixed Price contract.

### IV. Related Matters

#### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")<sup>7</sup> imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. Certain provisions of final Commission rule 36.3 impose new regulatory and reporting requirements on ECMs, resulting in information collection requirements within the meaning of the PRA; OMB previously has approved and assigned OMB control number 3038-0060 to this collection of information.

#### B. Cost-Benefit Analysis

Section 15(a) of the CEA<sup>8</sup> requires the Commission to consider the costs and benefits of its actions before issuing an order under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of an order or to determine whether the benefits of the order outweigh its costs; rather, it requires that the Commission "consider" the costs and benefits of its action. Section 15(a) further specifies that the 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 bulk of the costs imposed by the requirements of Commission Rule 36.3 relate to significant and increased information-submission and reporting requirements adopted in response to the Reauthorization Act's directive that the Commission take an active role in determining whether contracts listed by ECMs qualify as SPDCs. The enhanced requirements for ECMs will permit the Commission to acquire the information it needs to discharge its newly mandated responsibilities and to ensure that ECMs with SPDCs are identified as entities with the elevated status of registered entity under the CEA and are in compliance with the statutory terms of the core principles of section 2(h)(7)(C) of the Act. The primary benefit to the public is to enable the Commission to discharge its statutory obligation to monitor for the presence of SPDCs and extend its oversight to the trading of SPDCs.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")<sup>9</sup> requires that agencies consider the impact of their rules on small businesses. The requirements of part 36 affect exempt commercial markets. The Commission previously has determined that exempt commercial markets are not small entities for purposes of the RFA.<sup>10</sup> Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that this Order, taken in connection with the part 36 rules, will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on June 9, 2009 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. E9-13871 Filed 6-11-09; 8:45 am]

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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 09-C0019]

### Mattel, Inc. and Fisher-Price, Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

<sup>5</sup> [http://www.cftc.gov/stellent/groups/public/@newsroom/documents/file/pr5403-07\\_ecmreport.pdf](http://www.cftc.gov/stellent/groups/public/@newsroom/documents/file/pr5403-07_ecmreport.pdf).

<sup>6</sup> ECM Study at 11.

<sup>7</sup> 44 U.S.C. 3507(d).

<sup>8</sup> 7 U.S.C.19(a).

<sup>9</sup> 5 U.S.C. 601 *et seq.*

<sup>10</sup> 66 FR 42256, 42268 (Aug. 10, 2001).