

delivery location until October 2002, when it was removed due to the closing of the facility at this location. Recently, a new operator has re-opened the Guymon facility and has expressed an interest in being reinstated as a Live Cattle delivery point. In addition, the Texhoma Livestock Auction in Texhoma, Oklahoma has expressed an interest to the Exchange in becoming a Live Cattle delivery point.

4. Penalties for Delivery Obstructions

The Exchange proposes to penalize any seller who has not properly pre-sorted cattle for grading, at a rate of \$.015 per pound of live cattle delivered per business day until proper delivery is made. In addition, the Exchange proposes to penalize any buyer who disrupts the delivery process, at a rate of \$.015 per pound of live cattle delivered. These penalties to the seller and buyer would be imposed at the discretion of the USDA grader.

In support of the proposal, the Exchange indicates that the potential imposition of penalties will increase the "throughput" of the delivery system, by reducing the likelihood of impediments to the efficient operation of the grading process resulting from the actions of sellers and buyers. In this regard, the Exchange notes that failure on the part of a deliverer to do a proper job of sorting the cattle prior to delivery reduces the number of deliveries that can be completed in a given time period, and takes unfair advantage of those delivering shorts who properly sort their cattle. In addition, disruptive behavior by receiving longs and/or their agents interferes with the delivery process and reduces the number of deliveries that can be completed in a given time period. The Exchange further believes that the USDA grader is the logical party to determine whether, and to what extent, a delivering short or receiving long has disrupted the delivery process because it is the only unbiased, independent participant in the process, and USDA personnel are present at every delivery. The Exchange notes that the USDA has agreed to accept the responsibility for making these determinations.

5. Prohibit Deliveries at Certain Locations on Auction Days

The Exchange proposes to give itself the discretion to prohibit delivery at particular stockyards on those dates when an auction or other activity that may interfere with futures delivery is taking place at such stockyards. In support of the proposal, the Exchange notes that all of the contract's existing delivery locations hold feeder cattle

auctions as their primary business, and that live cattle futures deliveries compete for many of the same resources, such as scales, pens, sorting alleys, etc. Although the Exchange historically has relied on the operators of the delivery stockyards to discourage deliveries on auction dates, it has proven difficult in practice for operators to do so. As a result, deliveries made on auction days have resulted in greater failure rates caused by auction-related operational bottlenecks that prevent cattle from being presented in a timely manner to the USDA grader.

The Exchange notes that it will determine in advance and "black out" auction days in its electronic tender system, making it impossible for a delivering short to submit a tender for delivery on those dates. Further, the Exchange notes that this prohibition on auction-day deliveries would apply generally to all locations, with the exception of Amarillo and Dodge City, "where there are multiple scales and ample pens and sorting alleys."

6. Uniform Grading and Documentation Fees

The Exchange is proposing to establish and set annually a uniform grading and documentation fee per delivery unit, which will be charged to sellers for each contract unit of cattle delivered on the futures contract. The fee will be applicable at all delivery locations. Currently, the Exchange passes through to the seller the actual costs billed to it by the USDA for grading services. The Exchange notes that USDA grading fees vary widely by location, ranging from \$42 to \$484, depending on the travel costs incurred by USDA to service a particular location. The Exchange believes that this variability has "introduced a large degree of uncertainty into the delivery process for those planning to deliver at locations which require USDA travel." The Exchange further notes that the USDA is intending to propose a uniform flat fee of \$100 per delivery unit for CME live graded deliveries.

7. Standing Without Water

The Exchange proposes to eliminate the requirement that live-graded delivery cattle stand without water during the time interval between 9 a.m. and the time of grading. Cattle will continue to be denied access to feed during this period.

8. Price Differentials for Heavy Carcasses

The Exchange proposes to provide for the application of price differentials to the delivery of steer carcasses weighing

between 950 and 1,000 pounds based on price data from USDA's National Weekly Direct Slaughter Cattle—Premiums and Discounts report, which is used under existing rules for establishing a price differential for cattle weighing between 900 and 950 pounds. Currently, cattle weighing between 950 and 1,000 pounds are discounted at a rate equal to 20% of the final settlement price. In support of the proposal, the Exchange states that the proposal "would allow more precise discounting of carcasses in this weight bracket."

The Division is requesting comment on the proposals. Copies of the Exchange's proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the proposed amendments can also be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418-5100.

Other materials submitted by the CME in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations there under (17 CFR Part 145 (2002)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments pertaining to the proposed amendments or with respect to other materials submitted by the CME should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 by the specified date.

Dated: Issued in Washington, DC on January 17, 2003.

Michael Gorham,
Director.

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DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.
