

are structured to assure that neither the Fund nor DFAITC will participate therein on a basis that is different from or less advantageous than any other participant.

#### Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The Fund and each Underlying Series will be part of the same "group of investment companies," as defined in rule 11a-3 under the Act.

2. No Underlying Series shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the directors of the Fund will not be "interested persons" of the Fund, as defined in section 2(a)(19) of the Act.

4. Before approving any advisory contract under section 15, the board of directors of the Fund, including a majority of the directors who are not "interested persons" of the Fund, as defined in section 2(a)(19), shall find that advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Portfolio's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Fund.

5. Any sales charges or service fees charged with respect to the securities of the Fund, when aggregated with any sales charges or service fees paid by the Fund with respect to shares of the acquired Underlying Portfolios, shall not exceed the limits set forth in Article III, section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: Monthly average total assets for each Fund portfolio and each of its Underlying Series; monthly purchases and redemptions (other than by exchange) for each Fund portfolio and each of its Underlying Series; monthly exchanges into and out of each Fund portfolio and each of its Underlying Series; month-end allocations of each Fund portfolio's assets among its Underlying Series; annual expense ratios for each Fund portfolio and each of its Underlying Series; and a description of any vote taken by the shareholders of any Underlying Series, including a statement of the percentage of votes cast

for and against the proposal by the Fund and by the other shareholders of the Underlying Series. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Fund (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the SEC, by the Division of Investment Management, under delegated authority.  
Margaret H. McFarland,  
*Deputy Secretary.*

FR Doc. 96-172 Filed 1-4-96; 8:45 am]

BILLING CODE 8010-01-M

#### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Marcum Natural Gas Services, Inc., Common Stock, \$.01 Par Value) File No. 1-12014

December 29, 1995.

Marcum Natural Gas Services, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Pacific Stock Exchange, Incorporated. ("PSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, since May 23, 1994, the Security has been listed and traded on the Nasdaq National Market. The Company believes that, in light of the trading of the Security on the Nasdaq National Market, the listing of the Security on the PSE imposed costs on the Company in excess of the benefits to the Company and its stockholders.

Any interested person may, on or before January 23, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 96-173 Filed 1-4-96; 8:45 am]

BILLING CODE 8010-01-M

#### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (NDE Environmental Corporation, Common Stock, \$.0001 Par Value) File No. 1-10361

December 29, 1995.

NDE Environmental Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reason alleged in the application for withdrawing the Security from listing and registration is that the Company has chosen to voluntarily delist rather than rectify its failure to maintain compliance with the listing requirements of the BSE. Specifically, the BSE has informed the Company that it has fallen below BSE requirements for continued listing based upon the company's most recent 10-Q. More specifically, the Company is below the following requirements: the market value of float shares, \$140,981, is below the requirement of \$500,000; and the shareholder's equity, \$319,034, is below the requirement of \$500,000. Additionally, the BSE has informed the Company that it also must list the Additional Shares issued as a result of the agreement with Proactive Partners, L.P., regarding a refinancing arrangement (4,815,586 shares of common stock).

Any interested person may, on or before January 23, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

FR Doc. 96-174 Filed 1-4-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36651; File No. SR-DTC-95-21]

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Permanent Approval of a Proposed Rule Change Concerning Short Position Reclamation Procedures**

December 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 9, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-95-21) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant permanent approval of 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 proposed rule change seeks permanent approval of DTC's existing procedures for the recall of securities deliveries that have created short positions as a result of call lotteries or rejected deposits. The Commission previously granted temporary approval to proposed rule changes establishing DTC's procedures for the recall of certain deliveries which have created short positions as a result of call lotteries or rejected deposits.<sup>2</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> For a complete description and discussion of the procedures designed to eliminate short positions caused by call lotteries or rejected deposits, refer to Securities Exchange Act Release Nos. 30552 (April 2, 1992), 57 FR 12352 [File No. SR-DTC-90-02] (order granting temporary approval through April 1, 1994, of DTC's procedures to recall certain deliveries that have created short positions as a result of call lotteries); 35034 (November 30, 1994), 59 FR 63396 [File Nos. SR-DTC-94-08 and SR-DTC-94-09] (ordering granting temporary approval through May 1, 1995, of DTC's procedures to recall certain deliveries that have created short positions as a result of call lotteries and rejected deposits); and 35940 (July 6, 1995), 60 FR 36318 [File No. SR-DTC-95-07] (order granting temporary approval through December 31, 1995, of DTC's procedures to recall certain deliveries that have created short positions as a result of call lotteries and rejected deposits).

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

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

The proposed rule change seeks permanent approval of procedures that (1) enable a participant to recall book-entry deliveries of callable securities<sup>4</sup> if the participant's account becomes short as a result of deliveries made between the call publication date<sup>5</sup> and the date of DTC's call lottery<sup>6</sup> and (2) enable a participant to recall securities deliveries that have created short positions as a result of rejected deposits.<sup>7</sup> The proposed rule change is part of a program that is being implemented at the request of participants and securities industry groups to eliminate short positions.

Pursuant to DTC's proposal, a participant with a short position created either because of a delivery made between the call publication date and the date of DTC's lottery or because of a rejected deposit may initiate the recall

<sup>3</sup> The Commission has modified the text of the summaries submitted by DTC.

<sup>4</sup> Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity date at a specified price.

<sup>5</sup> The call publication date is the date on which the issuer gives notice of redemption.

<sup>6</sup> DTC has established a lottery process to allocate called securities in a partially called issue among participants having positions in the issue. DTC allocates the called securities among participants that had positions in the issue on the call publication date rather than on the day when the lottery is held. For a description of DTC's lottery processing procedures, refer to Securities Exchange Act Release No. 21523 (November 27, 1984), 49 FR 47352 [File No. SR-DTC-84-09].

<sup>7</sup> Under DTC procedures, a participant depositing securities receives immediate credit in its securities account (*i.e.*, before the certificates are sent to the transfer agent for transfer and registration in DTC's nominee name). Once the participant's account is credited, the securities are available to the depositing participant for deliveries, withdrawals, and pledges. If the transfer agent rejects a deposit after the depositing participant has made a book-entry delivery of the credited securities, elimination of the credit from the participant's account may create a short position.

process within ten business days of the creation of the short position by sending a broadcast message directly to the receiver of the book-entry delivery.<sup>8</sup> Participants are able to transmit this message through DTC's Participant Terminal System network. The receiving participant will have five business days to comply with the recall request if it has a position in that security at DTC. If the receiving participant no longer has such a position at DTC, it must comply with the recall request within fifteen business days. If the short position is less than the amount of the delivery, the receiver has the option to return the entire delivery or just a portion equal to the delivering participant's short position. If the receiving participant does not comply with the recall request within the applicable time, the recalling participant may request DTC's intervention.<sup>9</sup> Recalls will reverse only the book-entry delivery while the original transaction still must be settled by the delivering and receiving participants (*i.e.*, the delivering participant still must deliver securities to the receiving participant).

DTC believes that the reclamation procedures have been effective in reducing short positions caused by call lotteries and rejected deposits. Through September 1995, a total of 287 short positions valued at \$54,289,000 have been eliminated through the use of the reclamation procedures.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal seeks to make permanent procedures that should help reduce the number of short positions created either by call lotteries or by rejected deposits and thus should assure the safeguarding of securities and funds which are in the custody and control of DTC or for which DTC is responsible.

**(B) Self-Regulatory Organization's Statement on Burden on Competition**

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

<sup>8</sup> If the securities are rejected by the transfer agent after ninety days of the deposit for registered securities and after nine months for bearer securities, the participant will not be able to recall the book-entry delivery and the participant's account will remain short.

<sup>9</sup> The intervention request must be submitted to DTC no later than twenty-five days after the original reclamation request was made.