

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)¹⁴ of the Act and Rule 19b-4(f)(6)¹⁵ thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx seeks to have the proposed rule change become operative immediately upon filing in order to remain competitive with other exchanges with similar rules in effect.¹⁷

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately upon filing as of August 29, 2002, to allow the Phlx to compete with another options exchange that currently has a maximum automatic execution eligibility limit in QQQ options of 2,000 contracts in the first two near-term expiration months.¹⁸ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2002-47 and should be submitted by October 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG-1998-3584]

Proposed Modernization of the Coast Guard National Distress and Response System

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability of supplemental program environmental assessment.

SUMMARY: The U.S. Coast Guard announces the availability of the Supplemental Program Environmental Assessment for the National Distress and Response System Modernization Project (NDRSMP). The Supplemental PEA provides an update to and supplements environmental information to the Programmatic Environmental Assessment that was issued in July

1998. The Coast Guard is requesting comments on the alternatives and the potential environmental impacts as a result of NDRSMP.

DATES: Comments and related material must reach the Docket Management Facility on or before October 28, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-1998-3584), U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Internet for the Docket Management System at <http://dms.dot.gov>.

In choosing among these means, please give due regard to recent difficulties and delays associated with delivery of mail through the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as the Supplemental Program Environmental Assessment, will become part of this docket and will be available for inspection or copying at Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also find this docket, including the SPEA, on the Internet at <http://www.dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, the proposed project, or the associated Environmental Assessment, contact Ms. Donna M. Meyer, Environmental Program Manager, National Distress and Response System Modernization Project, U.S. Coast Guard Headquarters, 202-267-1496. For questions on viewing or submitting material to the docket, contact Ms. Dorothy Beard, Chief, Dockets, DOT, at 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments and related material on the Supplemental Program Environmental Assessment (SPEA) are encouraged. Please provide the name and address of

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

¹⁷ See *supra* note 6.

¹⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁹ 17 CFR 200.30-3(a)(12).

the comment originator, identify the docket number for this notice (USCG-1998-3584), and provide background support for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. When submitting by mail or hand delivery, submit your comments or material in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know if the comments and/or material were received by the facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the comment period.

Proposed Action

The U.S. Coast Guard intends to modernize its National Distress and Response System (NDRS). The NDRS forms the backbone of the Coast Guard's Short Range Communication System (SRCS) that supports a wide range of Coast Guard operations, including Activity, Group, Marine Safety Office (MSO), Vessel Traffic Service (VTS), Air Station, Cutter and Station operations. As part of the SRCS, the NDRS incorporates the use of VHF-FM radios to provide two-way voice communications coverage for the majority of Coast Guard missions in coastal areas and navigable waterways where commercial and recreational traffic exists. The NDRS consists of approximately 300 remotely-controlled VHF transceivers and antenna sites, and was originally intended for monitoring the international VHF-FM maritime distress frequency (Channel 16), and as the primary command and control network to coordinate Coast Guard search and rescue (SAR) response activities. The secondary function was to provide command, control, and communications for the Coast Guard missions of National Security, Maritime Safety, Law Enforcement, and Marine Environmental Protection.

In July 1998, the Coast Guard published a Programmatic Environmental Assessment (PEA) that considered general concepts for a new system to modernize the current obsolete and nonstandard National Distress System (NDS). The alternatives considered by the Coast Guard included:

Alternative A—Status Quo.

Alternative B—Upgrade status quo by systematically upgrading the existing network with modern analog

transceivers. This alternative replaces old equipment with new equipment and adds additional radio capability. It is expected this alternative would require additional antenna sites.

Alternative C—Dual Mode VHF and/or UHF Network replaces existing analog network with dual mode (digital and analog) transceivers. It is expected this alternative would require additional antenna sites.

Alternative D—Multi-mode: Satellite, Cellular, VHF and/or UHF Network. This alternative replaces the existing network with multi-mode equipment that uses satellite, cellular, and VHF/UHF communications. It is expected that this alternative would require additional antenna sites.

Alternatives B, C, and D would all require approximately the same number of additional antenna sites. Since 1998, new circumstances and relevant information regarding the deployment of the system to an existing antenna site, or leasing an antenna site, or constructing a new antenna site as well as the Coast Guard's preference for Alternative C called for preparation of a Supplemental Program Environmental Assessment to consider any environmental impacts that were previously not taken into account.

Supplemental Programmatic Environmental Assessment

The Coast Guard has prepared a Supplemental Program Environmental Assessment (SPEA). The SPEA identifies and examines those reasonable alternatives to effectively deploy the modernized NDRS. The SPEA analyzed the no action alternative and three action alternatives that could fulfill the need and meet system requirements. The successful deployment of the NDRS will utilize a combination of only the action alternatives by using an existing antenna, leasing antenna space from a service provider, or constructing a new antenna site. The SPEA is a program document meant to provide a broad environmental review of a Federal agency's (Coast Guard) national program. In this case, the SPEA has provided a broad, general view of the environmental impacts that can be anticipated by modernizing and deploying the NDRS nationwide. The SPEA cannot foresee all possible site specific and cumulative environmental impacts as a result of implementing any of the action alternatives. However, once specific and individual sites have been identified for deployment of the NDRS, those sites will undergo a more narrow environmental review (tiering). This narrower environmental review of

individual and specific sites will result in the issuance of either (1) Categorical Exclusion, (2) Finding of No Significant Impact (FONSI), or (3) Environmental Impact Statement (EIS).

The purpose of this Notice of Availability is to inform the public, local, State, and Federal government agencies that a Supplemental PEA is available for review and comment. You are encouraged to submit your comments, information, or other relevant observations concerning the merits of the alternatives and potential environmental impacts relating to the deployment and installation of the National Distress and Response System Modernization Project. Coordination with appropriate Federal, State and local agencies, and private organizations and citizens who have expressed interest in this proposal has been undertaken and will continue. All comments will be considered in either the preparation of a FONSI or the development of an EIS (if necessary).

Dated: September 13, 2002.

C.D. Wurster,

RADM, U.S. Coast Guard, Assistant Commandant for Acquisitions.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2002-12408]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Elgin, Joliet and Eastern Railway Company

The Elgin, Joliet and Eastern Railway Company (EJ&E) has petitioned the FRA for a waiver of compliance from the Railroad Locomotive Safety Standards, 49 CFR Part 229 and Locomotive Cab Sanitation, 49 CFR 229.137.

The EJ&E is asking for an extension of time for the installation of new toilet facilities in 27 locomotives. They are asking for an extension of one (1) year to be able to install two (2) toilets per month and bring them into full compliance with FRA regulations. The