

occasions without submitting NRC Form 241, a copy of its Agreement State specific license, and the required fee for calendar years 2009, 2010, and 2011, with the Regional Administrator of the appropriate NRC regional office.

This is a Severity Level II violation. (Section 6.9) Civil Penalty—\$11,200 (EA-13-105)

#### *GEC's Response to the Violation*

In its letter dated April 15, 2014, GEC acknowledged the violation, but disagreed with the NRC's conclusion that the GEC president willfully (i.e., deliberately) caused the violation. The NRC's re-evaluation of the willful aspect of the violation is addressed in a separate correspondence to the president of GEC.

#### *Summary of GEC's Request for Mitigation of Civil Penalty Amount*

In its response, GEC requested relief from the civil penalty and requested that the NRC consider the penalty imposed on GEC by the Commonwealth of Massachusetts for the use of a nuclear density gauge in its jurisdiction without filing for reciprocity.

In the April 15, 2014, letter, and in an email correspondence dated April 30, 2014, GEC requested relief from the proposed civil penalty due to the unexpected payment to the Commonwealth of Massachusetts for the use of a nuclear density gauge in its jurisdiction without filing for reciprocity. Specifically, GEC stated that payment of the additional NRC proposed civil penalty would pose a financial hardship for GEC. To support its request, on May 5, 2014, GEC submitted by email GEC's tax returns for calendar years 2011 and 2012.

#### *NRC Evaluation of GEC's Request for Mitigation of Civil Penalty Amount*

In response to GEC's request, the NRC reviewed GEC's financial information, the documentation included as part of the inspection and investigation, and the applicable enforcement guidance to determine the appropriate action.

The Enforcement Policy Section 2.3.4 allows the use of discretion in application of a Civil Penalty, including a secondary consideration of the licensee's ability to pay. Specifically, it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business. However, the Enforcement Policy Section 3.6 also states that one of the civil penalty assessment factors to be considered in applying discretion is the presence of willful behavior that caused a noncompliance with NRC requirements in order to obtain an

economic benefit. The NRC determined that Mr. Geisser, President of GEC, acted deliberately and provided GEC an economic benefit of not paying NRC reciprocity fees for calendar years 2009, 2010, and 2011. The reciprocity fees for those years provided GEC an economic benefit of approximately \$6,000.

In the NRC's evaluation of GEC's request, the NRC considered the potential financial implications and hardships that payment of the proposed civil penalty would place on GEC, the financial penalty taken previously against GEC by the Commonwealth of Massachusetts, and the economic benefit GEC received for not complying with NRC requirements. Specifically, the NRC considered that a substantial financial penalty has already been imposed on GEC by the Commonwealth for the same violation during the same time-frame, although in different jurisdictions, and that payment of the proposed NRC civil penalty may pose a financial hardship for GEC.

The NRC determined that GEC provided an adequate basis that the NRC civil penalty may pose a financial hardship for GEC. However, while some reduction of the full civil penalty is warranted, the NRC also considered that the civil penalty should account for the economic benefit that GEC gained by not complying with NRC requirements to file for reciprocity with the NRC and pay the required fees.

#### *NRC Conclusion*

Based on its evaluation, the NRC has concluded that the violation occurred as stated and that GEC provided an adequate basis for mitigation of the civil penalty. Consequently, a civil penalty in the amount of \$8,400 is imposed.

[FR Doc. 2014-18815 Filed 8-7-14; 8:45 am]

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## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2014-0187]**

### **Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft generic letter; public meeting and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft generic letter to request information from licensees to address the treatment of natural phenomena hazards in fuel cycle facilities. The NRC has determined that facility-specific information is necessary

to confirm that fuel cycle facilities are in compliance with appropriate regulatory requirements. The NRC will use information submitted by licensees in response to the generic letter if additional regulatory action is warranted.

**DATES:** Submit comments by November 6, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0187. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Marcano, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-287-9063, email: [Jonathan.Marcano@nrc.gov](mailto:Jonathan.Marcano@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

### **I. Obtaining Information and Submitting Comments**

#### *A. Obtaining Information*

Please refer to Docket ID NRC-2014-0187 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0187.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select

“ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *NRC’s PDR*: You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC–2014–0187 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Background

The NRC is issuing draft Generic Letter 2013 XX–XX: “Treatment of Natural Phenomena Hazards In Fuel Cycle Facilities” (ADAMS Accession No. ML13157A158), to request information from addressees to demonstrate if compliance is being maintained with the regulatory requirements and applicable license conditions regarding the treatment of natural phenomena events in the facilities’ safety assessments; and to determine if additional NRC regulatory action is necessary to ensure that licensees are in compliance with their current licensing basis and existing NRC regulations.

On March 11, 2011, the Tohoku-Taiheiyou-Oki earthquake occurred near the east coast of Honshu, Japan. This magnitude 9.0 earthquake and the subsequent tsunami caused significant damage to at least four of the six units of the Fukushima Dai-ichi nuclear power station and, as a result, there was a loss of offsite and onsite electrical power systems.

On March 23, 2011, the Chairman of the NRC, via Tasking Memorandum—COMGBJ–11–0002, “NRC Actions Following the Events in Japan,” directed the NRC’s Executive Director for Operations to establish the NRC Near-Term Task Force (NTTF) to evaluate available technical and operational information from the events in Japan following the March 11, 2011, earthquake and tsunami at the Fukushima Dai-ichi nuclear power station. The NTTF was tasked to consider lessons learned from the event and to develop recommendations to improve the regulatory systems for reactors in the United States and their applicability to licensed facilities other than power reactors.

On July 12, 2011, in light of the accident at the Fukushima Dai-ichi nuclear power plant, the NTTF presented a set of recommendations as a result of a systematic and methodical review of NRC processes and regulations applicable to nuclear power reactors in the United States (ADAMS Accession No. ML111861807). The NTTF recommendations are intended to clarify and strengthen the regulatory framework for protection against natural disasters, mitigation and emergency preparedness of nuclear power reactors in the United States.

For fuel cycle facilities, in light of the lessons learned from the accident at the Fukushima Dai-ichi nuclear power plant, the staff performed a systematic evaluation and inspection of selected fuel cycle facilities to confirm that licensees were in compliance with regulatory requirements and license conditions; and to evaluate their readiness under natural phenomena hazards (NPH) events and other licensing bases events related to NPH. The staff’s assessment considered the NTTF recommendations to determine whether additional regulatory actions by the NRC are warranted.

The staff completed inspections at selected fuel facilities and the results were used to perform a systematic evaluation of the processes and regulations applicable to fuel facilities. The results of the evaluation allow the staff to conclude that the current regulatory approach and requirements of these licensees continues to serve as

a basis for reasonable assurance of adequate protection of public health and safety. However, the staff identified generic issues regarding compliance with the current regulatory framework with regards to the treatment of certain natural phenomena events in the facilities (uranium conversion, enrichment and fuel fabrication) safety assessments. The NRC is issuing this draft generic letter to request information from licensees to verify that compliance is being maintained with regulatory requirements and license conditions regarding the treatment of natural phenomena events.

## III. Cumulative Effects of Regulation

The NRC is considering the cumulative effects of regulation (CER) as they relate to this Generic Letter. The CER considers the challenges licensees face in addressing the implementation of new regulatory positions, programs, and requirements (e.g., rulemaking, guidance, backfits, inspections). The CER initiative stems from the total burden imposed on licensees by the NRC from simultaneous or consecutive regulatory actions that can adversely affect the licensee’s capability to implement those requirements while continuing to operate or construct its facility in a safe and secure manner. The NRC proposed several rulemaking process enhancements to address CER in SECY–11–0032, “Consideration of the Cumulative Effects of Regulation in the Rulemaking Process,” dated October 11, 2011 (ADAMS Accession No. ML112840466). In SECY–12–0137, “Implementation of the Cumulative Effects of Regulation Process Changes,” dated October 5, 2012 (ADAMS Accession No. ML12223A162) built upon the recommendations in SECY–11–0032. In its Staff Requirements Memorandum to SECY–12–0137 (ADAMS Accession No. ML13071A635), the Commission directed the staff to, among other items, “continue to develop and implement outreach tools that will allow NRC to consider more completely the overall impacts of multiple rules, orders, generic communications, advisories, and other regulatory actions on licensees and their ability to focus effectively on items of greatest safety importance.”

With regard to this generic letter, the NRC requests that licensees comment about any CER challenges they may face. Specifically, the NRC requests comment on the following questions:

- a. In light of any current or projected cumulative effects, does this generic letter request provide sufficient time for licensees to respond with the information requested, including any

need to develop this information through supporting engineering calculation or analyses?

b. If a current or projected cumulative effect poses a significant challenge, what should be done to address it? For example, if more time is required to develop and provide the information, what period of time is sufficient? Are there equally effective alternatives to providing the requested information to the NRC that reduce the cumulative effects?

c. Do other (NRC or other regulatory agency) regulatory actions (e.g., Orders, rules, generic letter, bulletins, 50.54(f) requests) influence licensee responses to this draft generic letter? If so what are they and do you have a suggested approach to reduce the cumulative effects in light of these other regulatory actions?

d. Are there other projects that licensees are undertaking, plan to undertake, or should be undertaking that provide greater safety benefit, that might be displaced or delayed as a result of the expenditure of effort and resources to respond to this generic letter?

e. Are there unintended consequences associated with responding to this generic letter at this time?

f. Please comment on the NRC's supporting justification for this generic letter.

#### IV. Public Meeting

The NRC is requesting public comments on the draft generic letter. The NRC plans to hold a public meeting approximately 45 days into the comment period to discuss draft Generic Letter 2013 XX-XX: "Treatment of Natural Phenomena Hazards In Fuel Cycle Facilities" (ADAMS Accession No. ML13157A158), to engage industry stakeholders and members of the public in a discussion of this issue. This meeting is scheduled during the comment period to allow industry stakeholders and members of the public time to submit comments on the proposed generic communication before the comment period closes. All comments that are to receive consideration in the final generic letter must still be submitted electronically or in writing as indicated in the ADDRESSES section of this document.

Additional details regarding the meeting will be posted at least 10 days prior to the public meeting on the NRC's Public Meeting Schedule Web site at <http://www.nrc.gov/public-involve/public-meetings/index.cfm>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been cancelled or

rescheduled, and the time allotted for public comments can be obtained from the Public Meeting Schedule Web site.

Dated at North Bethesda, Maryland, this 1st day of August 2014.

For the Nuclear Regulatory Commission.

**Marissa Bailey,**

*Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72751; File No. SR-Phlx-2014-23]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, Related to the Priority Afforded to In-Crowd Participants Respecting Crossing, Facilitation, and Solicited Orders in Open Outcry Trading

August 4, 2014.

#### I. Introduction

On April 23, 2014, NASDAQ OMX PHLX LLC ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to revise the priority afforded to in-crowd participants respecting crossing, facilitation, and solicited orders in open outcry trading ("Proposal"). The proposed rule change was published for comment in the **Federal Register** on May 13, 2014.<sup>3</sup> On June 23, 2014, the Commission extended the time period in which to either approve the Proposal, disapprove the Proposal, or institute proceedings to determine whether to approve or disapprove the Proposal to August 11, 2014.<sup>4</sup> The Commission received two comment letters from one commenter regarding the Proposal<sup>5</sup> and one

response letter from Phlx.<sup>6</sup> On July 30, 2014, the Exchange filed Amendment No. 1 to the Proposal.<sup>7</sup> The Commission is publishing this notice and order to solicit comments on the Proposal, as modified by Amendment No. 1, from interested persons and to institute proceedings under Section 19(b)(2)(B) of the Act<sup>8</sup> to determine whether to approve or disapprove the Proposal, as modified by Amendment No. 1.

#### II. Description of the Proposal

The Exchange proposes to amend Phlx Rule 1014, Commentary .05(c)(ii), to afford priority in open outcry trading to in-crowd participants over out-of-crowd Streaming Quote Traders ("SQTs")<sup>9</sup>, Remote Specialists<sup>10</sup>, and Remote Streaming Quote Traders ("RSQTs")<sup>11</sup> and over out-of-crowd

<sup>6</sup> See Letter from Carla Behnfeldt, Associate General Counsel, The NASDAQ OMX Group, Inc., dated June 20, 2014 ("Phlx Response Letter").

<sup>7</sup> In Amendment No. 1, the Exchange clarifies a reference to a previous Phlx filing and an example. Amendment No. 1 has been placed in the public comment file for SR-Phlx-2014-23 at <http://www.sec.gov/comments/sr-phlx-2014-23/phlx201423.shtml> (see letter from Carla Behnfeldt, Associate General Counsel, The NASDAQ OMX Group, Inc., to Secretary, Commission, dated July 30, 2014) and also is available on the Exchange's Web site at [http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/pdf/phlx-filings/2014/SR-Phlx-2014-23\\_Amendment\\_1.pdf](http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/pdf/phlx-filings/2014/SR-Phlx-2014-23_Amendment_1.pdf).

<sup>8</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>9</sup> An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. Types of ROTs include SQTs, RSQTs and non-SQTs, which by definition are neither SQTs nor RSQTs. A Registered Options Trader is defined in Exchange Rule 1014(b)(i) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Phlx Rules 1014(b)(i) and (ii).

<sup>10</sup> A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. See Phlx Rules 501 and 1020.

<sup>11</sup> A RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with a Remote Streaming Quote Trader Organization ("RSQTO") with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may not submit option quotations in eligible options to which such RSQT is assigned to the extent that the RSQT is also approved as a Remote Specialist in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Specialist. An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Phlx Rule 507(a)(i).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 72119 (May 7, 2014), 79 FR 27351 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 72447 (June 23, 2014), 79 FR 36569 (June 27, 2014).

<sup>5</sup> See Letter from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC, dated June 3, 2014 ("ISE Letter I"); Letter from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC, dated July 8, 2014 ("ISE Letter II").