Based on the above evaluation, the NRC staff finds that the 10 CFR 51.22(c)(25)(i) provision is met.

(b) 10 CFR 51.22(c)(25)(ii)—There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

The proposed exemption, which would change the method of monitoring thermal performance of the HSMs, would not involve any changes to effluents. Therefore, there is no significant change in the types or increase in the amounts of effluents that may be released offsite.

(c) 10 CFR 51.22(c)(25)(iii)—There is no significant increase in individual or cumulative public or occupational radiation exposure.

The proposed exemption, which would change the method of monitoring thermal performance of the HSMs, would not involve any changes to public or occupational radiation exposures. Therefore, there is no significant increase in individual or cumulative public or occupational radiation exposure.

(d) 10 CFR 51.22(c)(25)(iv)—There is no significant construction impact.

The proposed exemption, which would change the method of monitoring thermal performance of the HSMs, would not involve any construction activities. Therefore, there is no significant construction impact.

(e) 10 CFR 51.22(c)(25)(v)—There is no significant increase in the potential for or consequences from radiological accidents.

The proposed exemption, which would change the method of monitoring thermal performance of the HSMs, would not involve any changes to the design, safety limits, or safety analysis assumptions associated with the cask system and would not create any new accident precursors. Therefore, there is no significant increase in the potential for or consequences from radiological accidents.

As this exemption request meets all of the provisions in 10 CFR 51.22(c)(25)(i)–(v), and the exemption request is of a type listed in 10 CFR 51.22(c)(25)(vi), this action meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). The NRC has found that granting exemptions that meet the provisions in 10 CFR 51.22(c)(25) is a category of actions that does not result in any significant effect, either individually or cumulatively, on the human environment.

The proposed exemption would allow NextEra to discontinue the daily visual inspection of the HSM air vents to ensure they are not blocked and instead use a daily temperature measurement program as an alternate method of monitoring HSM thermal performance. This proposed change to the method of monitoring HSM thermal performance does not involve security matters and would not impact the common defense and security of the United States.

Given the above considerations, this exemption will not endanger life or property or the common defense and security.

Otherwise in the Public Interest

In its exemption request, NextEra noted that it currently complies with TS 5.2.5.b in CoC 72–1030, Amendment No. 0, by using cameras to perform the visual surveillance of the HSM vents remotely. However, during adverse winter weather conditions, snow and ice obstruct the camera lenses and prevent viewing the HSM vents. As a result, personnel must conduct local inspections of the HSM vents and use a ladder to access the top vents for inspection, which can pose a safety hazard to the personnel conducting these inspections during adverse winter weather conditions. The licensee states that the purpose of the exemption request is to eliminate the potential for injuries that could occur to personnel when accessing the HSM vents to perform visual inspections under adverse winter weather conditions.

The exemption, by removing the requirement for the daily visual inspection of the HSM vents and thus reducing the potential for unnecessary falls or injuries to personnel conducting the inspections during adverse winter weather conditions, is consistent with NRC's mission to protect public health and safety. Therefore, the exemption is in the public interest.

4.0 Conclusion

Based on the foregoing considerations, the NRC has determined that, pursuant to 10 CFR 72.7, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants NextEra an exemption from the requirements in 10 CFR 72.212(b)(2)(i)(A), 10 CFR 72.212(b)(7), and 10 CFR 72.214 for the Seabrook Station ISFSI, subject to the following conditions:

(1) The exemption pertains only to the visual inspection requirement in TS 5.2.5.b in CoC 72–1030, Amendment No. 0, and NextEra must implement the daily temperature measurement program, as proposed in TS 5.2.5.c in Amendment No. 1 to CoC 72–1030, as an alternate method of monitoring HSM thermal performance.

(2) If comments arise during the rulemaking concurrence process or if the NRC receives significant adverse comments during the public comment period for the future proposed rule and direct final rule for Amendment No. 1 to CoC 72–1030, and as a result of such comments, changes to the HSM thermal monitoring program in TS 5.2.5.c are required, NextEra will then be required to address those changes in a manner deemed satisfactory to NRC staff.

The NRC has determined that this action meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(C). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the granting of this exemption.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 2nd day of December 2010.

For the Nuclear Regulatory Commission.

Douglas W. Weaver,

Deputy Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2010–31080 Filed 12–9–10; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63431; File No. SR–C2–2010–009]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to the Penny Pilot Program

December 3, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 2, 2010, the C2 Options Exchange, Incorporated ("Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules relating to the Penny Pilot Program. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal/crclc2rulefiling.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 6.4—Minimum Increments for Bids and Offers to ensure that the C2 rule language regarding the Penny Pilot Program tracks that of the language of Chicago Board Options Exchange, Incorporated ("CBOE") regarding CBOE's Penny Pilot Program, as relevant to C2. CBOE recently proposed a rule change to amend its Rule 6.42 to extend CBOE's Penny Pilot Program's expiration date.[5] C2 hereby amends its Rule 6.4 to further clarify and ensure that the C2 Penny Pilot Program mirrors that of CBOE, as applicable.

CBOE's Penny Pilot Program is scheduled to expire on December 31, 2010. CBOE proposed to extend the Penny Pilot Program until December 31, 2011.[6] C2 desires to clarify that C2 also wants to include December 31, 2011 as the expiration date for the C2 Penny Pilot Program. Extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, C2 may replace any option class which is currently included in the Pilot Program and which is delisted with the next most actively-traded, multiple-listed option class that is not yet participating in the Pilot Program ("replacement class"). Any replacement class would be determined based on national average daily volume in the preceding six months, and would be added on the second trading day following January 1, 2011 and July 1, 2011.[7] C2 will announce any replacement classes by circular.

C2 is specifically authorized to act jointly with the other options exchanges participating in the Penny Pilot Program in identifying any replacement class. C2 will submit to the SEC semi-annual reports that will analyze the impact of the Penny Pilot on market quality and systems capacity. This report will include, but is not limited to the following: (1) Data and analysis of the number of quotations generated for options included in the report; (2) an assessment of the quotation spreads for the options included in the report; (3) an assessment of the impact of the Pilot Program on its automated systems; (4) data reflecting the size and depth of markets; and (5) any capacity problems or other problems that arose related to the operation of the Pilot Program and how the Exchange addressed them.

2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change allows for an extension of the Penny Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposal.

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) by its terms does not become operative for 30 days after the date of this 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) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–C2–2010–009 on the subject line.

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 34–63386 (November 29, 2010).

[6] *Id.*

[7] The month immediately preceding their addition to the Pilot Program, *i.e.,* December or June, would not be used for purposes of the six month analysis. For example, a replacement class to be added on the second trading day following January 1 would be identified based on OCC volume data from June 1 through November 30.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. C2 has satisfied this requirement.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2010–009. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml.* 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2010–009 and should be submitted on or before January 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31049 Filed 12–9–10; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63436; File No. SR–Phlx–2010–166]

Self-Regulatory Organizations; NASDAQ OMX PHLX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Options Regulatory Fee

December 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 24, 2010, NASDAQ OMX PHLX, Inc. [sic] ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase its Options Regulatory Fee.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on January 3, 2011.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings*, at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

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

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

1. Purpose

The purpose of the proposed rule change is to amend the Options Regulatory Fee ("ORF") to increase the current $0.0030 per contract fee to each member for all options transactions executed or cleared by the member that are cleared by The Options Clearing Corporation ("OCC") in the customer range (*i.e.*, that clear in the customer account of the member's clearing firm at OCC). The Exchange proposes instead to assess a $0.0035 per contract ORF. The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The purpose of the proposed rule change is to recoup increased regulatory expenses while also ensuring that the ORF would not exceed costs.

The ORF is imposed upon all transactions executed by a member, even if such transactions do not take place on the Exchange.[3] The ORF also includes options transactions that are not executed by an Exchange member but are ultimately cleared by an Exchange member.[4] The ORF is not charged for member options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. The dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The ORF is collected indirectly from members through their

[3] The ORF applies to all "C" account origin code orders executed by a member on the Exchange. Exchange rules require each member to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees pursuant to the rules of the Exchange and report resulting transactions to the OCC. *See* Exchange Rule 1063, Responsibilities of Floor Brokers, and Options Floor Procedure Advice F–4, Orders Executed as Spreads, Straddles, Combinations or Synthetics and Other Order Ticket Marking Requirements. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

[4] In the case where one member both executes a transaction and clears the transaction, the ORF is assessed to the member only once on the execution. In the case where one member executes a transaction and a different member clears the transaction, the ORF is assessed only to the member who executes the transaction and is not assessed to the member who clears the transaction. In the case where a non-member executes a transaction and a member clears the transaction, the ORF is assessed to the member who clears the transaction.