VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[52] that the proposed rule change (SR–NASDAQ–2021–009), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–11693 Filed 6–2–21; 8:45 am]

BILLING CODE 8011–01–P

[52] *Id.*

[53] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92053; File No. SR–NYSEArca–2021–43]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Fees and Charges

May 27, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 14, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to replace the monthly rebate tied to the performance in the opening and closing auctions in NYSE Arca-listed Securities and the ETF Incentive Program for NYSE Arca-listed Securities with a new pricing incentive for Lead Market Makers and ETP Holders registered as Market Makers. The Exchange proposes to implement the fee changes effective May 14, 2021. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, 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 self-regulatory organization 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 the Fee Schedule to replace the monthly rebate tied to the performance in the opening and closing auctions in NYSE Arca-listed Securities and the ETF Incentive Program for NYSE Arca-listed Securities[4] with a new pricing incentive that is tied to meeting enhanced market quality metrics. The Exchange now proposes to provide financial incentives for Lead Market Makers (''LMMs'')[5] that are based on whether the LMM meets certain Performance Metrics (as described below). Specifically, the Exchange would provide incremental credits to LMMs based on how many Performance Metrics an LMM meets in each NYSE Arca-listed Security. The Exchange also proposes to make the additional credits available for ETP Holders registered as Market Maker (''Market Makers'').[6] The Exchange believes that the proposed rule change would encourage LMMs and Market Makers to maintain better market quality in NYSE Arca-listed Securities in which they are registered, including in lower volume securities.

The Exchange notes that its listing business operates in a highly competitive market in which market participants, including issuers of securities, LMMs, and other liquidity providers, can readily transfer their listings, or direct order flow to competing venues if they deem fee levels, liquidity provision incentive programs, or other factors at a particular venue to be insufficient or excessive. The proposed rule change reflects the current competitive pricing environment and is designed to incentivize market participants to participate as LMMs or Market Makers, and thereby, further enhance the market quality on all securities listed on the Exchange and encourage issuers to list new products on the Exchange.

The Exchange proposes to implement the fee changes effective May 14, 2021.[7]

Background

As noted above, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[8]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[9] Indeed, equity trading is currently dispersed across 16

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release No. 87978 (January 15, 2020), 85 FR 3727 (January 22, 2020) (SR–NYSEArca–2020–03).

[5] The term ''Lead Market Maker'' is defined in Rule 1.1(w) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

[6] Pursuant to Rule 7.23–E(a)(1), all registered Market Makers, including LMMs, have an obligation to maintain continuous, two-sided trading interest in those securities in which the Market Marker is registered to trade. In addition, pursuant to Rule 7.24–E(b), LMMs are held to higher performance standards in the securities in which they are registered as LMM. LMMs can earn additional financial incentives for meeting the higher performance standards specified from time to time in the Fee Schedule. Only one LMM can be registered in a NYSE-Arca listed security, but that security can have an unlimited number of registered Market Makers. Market Makers can also be registered in securities that trade on an unlisted trading privileges basis on the Exchange.

[7] The Exchange originally filed to amend the Fee Schedule on May 3, 2021 (SR–NYSEArca–2021–33). SR–NYSEArca–2021–33 was subsequently withdrawn and replaced by this filing.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[9] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

exchanges,[10] numerous alternative trading systems,[11] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 17% market share.[12] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.[13]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

With this proposed rule change, the Exchange proposes to reorganize certain existing fees and credits and introduce new pricing that is tied to market quality metrics provided by LMMs and Market Makers on an ETP basis. In doing so, the Exchange proposes four new sections that would be applicable to LMM Transaction Fees and Credits. The proposed four sections, discussed below, would be:

- Section I. Definitions for purposes of LMM Transaction Fees and Credits
- Section II. LMM Base Fees and Credits per Share
- Section III. LMM Performance Metrics-based Incremental Base Credit Adjustments
- Section IV. Additional Tape B Credits for LMMs and Market Makers

Section I. Definitions for purposes of LMM Transaction Fees and Credits

In connection with the proposed rule change, the Exchange would add new Section I titled ''Definitions for purposes of LMM Transaction Fees and Credits'' that would set forth the following nine definitions:

1. ''CADV'' would mean the consolidated average daily volume in a security in the prior month.
2. ''ETP'' would mean Exchange Traded Products listed on NYSE Arca.
3. ''ETP Price'' would mean the average Official Closing Price [14] in that ETP in the prior month.
4. ''Less Active ETPs'' would mean ETPs that have a CADV in the prior calendar quarter that is the greater of either less than 100,000 shares or less than 0.013% of Consolidated Tape B ADV.
5. ''Leveraged ETP'' would mean an ETP that tracks an underlying index by a ratio other than on a one-to-one basis.
6. ''Maximum LMM Spread'' would mean time-weighted average LMM spread (LMM Offer minus LMM Bid) divided by the average of the LMM Bid and LMM Offer, in basis points.
7. ''Minimum LMM Shares within 1% of NBBO'' would mean the average number of LMM shares quoted throughout the trading day that are within 1% of the National Best Bid and Best Offer divided by two.
8. ''Minimum LMM Shares at the Core Open Auction within 1.5% of the Auction Reference Price'' would mean the average of LMM buy shares and LMM sell shares for Limit Orders quoted within 1.5% of the Auction Reference Price [15] divided by two.
9. ''Minimum LMM Shares at the Closing Auction within 1% of the NBBO'' would mean the average number of LMM buy shares and LMM sell shares for Limit Orders quoted within 1% of the National Best Bid and Best Offer before the end of Core Trading Hours [16] divided by two.

The Exchange proposes these definitions to use consistent terms throughout this section of the Fee Schedule relating to LMMs.

Section II. LMM Base Fees and Credits per Share

The Exchange proposes to add new Section II titled ''LMM Base Fees and Credits per Share.'' The Exchange notes that the fees and credits in proposed Section II are current fees and credits. The Exchange proposes a non-substantive change to reorganize these current fees and credits in a table format without any change to the level of the fees and credits.

Specifically, the Exchange currently charges LMMs a base fee of $0.0029 per share for orders that remove liquidity and provides the following base credits:

- $0.0033 per share for orders that provide liquidity in securities for which the LMM is registered as the LMM and which have a CADV in the previous month greater than 3,000,000 shares;
- $0.0040 per share for orders that provide liquidity in securities for which the LMM is registered as the LMM and which have a CADV in the previous month of between 1,000,000 and 3,000,000 shares; and
- $0.0045 per share for orders that provide liquidity in securities for which the LMM is registered as the LMM and which have a CADV in the previous month of less than 1,000,000 shares.

Additionally, LMMs are provided a credit of $0.0030 per share for orders that provide undisplayed liquidity in Arca Only Orders [17] in securities for which the LMM is registered as the LMM, and a credit of $0.0015 per share for Non-Displayed Limit Orders that provide liquidity in securities for which the LMM is registered as the LMM. The Exchange also does not charge LMMs a fee for orders executed in the Closing Auction.

The Exchange proposes to reorganize the presentation of the Fee Schedule in order to enhance its clarity and transparency, thereby making the Fee Schedule easier to navigate. With respect the current LMM fees and credits discussed above, the Exchange proposes a horizontal presentation in a table rather than the current vertical presentation. The proposed changes described above would be included in the new presentation under proposed

[10] *See* Cboe U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmr exchangesshtml.html.*

[11] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[12] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[13] *See id.*

[14] With respect to equities traded on the Exchange, the term ''Official Closing Price'' means the reference price to determine the closing price in a security. *See* NYSE Arca Rule 1.1(ll). NYSE Arca Rule 1.1(ll) describes how the Official Closing Price is determined.

[15] The term ''Auction Reference Price'' is defined in NYSE Arca Rule 7.35–E(a)(8)(A). NYSE Arca Rule 7.35–E(a)(8)(A) describes how the Auction Reference Price is determined.

[16] With respect to equities traded on the Exchange, the term ''Core Trading Hours'' means the hours of 9:30 a.m. Eastern Time through 4:00 p.m. (Eastern Time) or such other hours as may be determined by the Exchange from time to time. *See* NYSE Arca Rule 1.1(j).

[17] The ''Arca Only Order'' has been renamed as the ''Non-Routable Limit Order.'' *See* Securities Exchange Act Release No. 83967 (August 28, 2018), 83 FR 44984 (September 4, 2018) (SR–NYSEArca-2018–61). Accordingly, the proposed new presentation would utilize the new name ''Non-Routable Limit Orders'' instead of ''Arca Only Orders.''

Section II titled LMM Base Fees and Credits per Share, without any substantive change to the rate or the requirement to qualify for these existing fees and credits. The proposed changes would appear as follows in the Fee Schedule:

ETP CADV	Credit for adding liquidity	Fee for removing liquidity	Credit for adding non-displayed limit orders	Credit for adding undisplayed liquidity in non-routable limit orders	Fee for orders in the closing auction
<1,000,000	($0.0045)	$0.0029	($0.0015)	($0.0030)	No Fee.
1,000,000 to 3,000,000	($0.0040)				
>3,000,000	($0.0033)				

Section III. LMM Performance Metrics-Based Incremental Base Credit Adjustments

The Exchange proposes to adopt market quality metrics that LMMs would be required to meet to qualify for incremental credits. Proposed Section III titled ''LMM Performance Metrics-based Incremental Base Credit Adjustments'' would provide a table of Performance Metrics that LMMs would be required to meet to qualify for certain incremental credits. LMMs that meet the Performance Metrics would be entitled to enhanced credits based on the quality of the market provided by an LMM in an ETP assigned to the LMM.

The Exchange proposes to adopt the following four Performance Metrics that LMMs would be measured by:

1. Maximum LMM Spread. Maximum LMM Spread means time-weighted average LMM spread (LMM Offer minus LMM Bid) divided by the average of the LMM Bid and LMM Offer, in basis points;

2. Minimum LMM Shares within 1% of NBBO. Minimum LMM Shares within 1% of NBBO means the average number of LMM shares quoted throughout the trading day that are within 1% of the National Best Bid and Best Offer divided by two;

3. Minimum LMM Shares in Core Open Auction within 1.5% of Auction Reference Price. Minimum LMM Shares at the Core Open Auction within 1.5% of the Auction Reference Price means the average of LMM buy shares and LMM sell shares for Limit Orders quoted within 1.5% of the Auction Reference Price divided by two; and

4. Minimum LMM Shares at the Closing Auction within 1% of the NBBO. Minimum LMM Shares at the Closing Auction within 1% of the NBBO means the average number of LMM buy shares and LMM sell shares for Limit Orders quoted within 1% of the National Best Bid and Best Offer before the end of Core Trading Hours divided by two.

As proposed, each ETP would be grouped based on its prior month CADV and its price. An LMM would be considered to have met a Performance Metric in an ETP assigned to the LMM in a billing month if it meets the following:

MONTHLY AVERAGE LMM PERFORMANCE METRICS

ETP CADV	ETP price	Maximum LMM spread (bps)	Minimum LMM shares within 1% of national BBO	Minimum LMM shares in core open auction within 1.5% of auction reference price	Minimum LMM shares at the closing auction within 1% of the national BBO
>1,000,000	>$50	55	6,000	4,000	12,250
	$25–$50	45	20,000	8,500	14,250
	Under $25	40	42,000	22,000	30,000
100,001–1,000,000	>$50	35	2,500	2,500	3,250
	$25–$50	35	3,500	4,000	4,750
	Under $25	65	10,000	5,750	7,250
10,000–100,000	>$50	40	2,200	2,000	2,250
	$25–$50	55	2,400	2,050	2,500
	Under $25	70	4,000	2,200	4,500
Under 10,000	>$50	50	2,000	1,750	2,000
	$25–$50	60	3,000	1,800	3,000
	Under $25	75	3,000	1,800	3,000

Under the proposal, the base credit earned by an LMM for Adding Displayed Liquidity (as provided in Section II above) in an assigned ETP would be adjusted based on the number of Performance Metrics met by the LMM in the billing month for each assigned ETP, as follows:

Numbers of performance metrics met	Incremental base credit adjustment per ETP	Incremental base credit adjustment per leveraged ETP
4	($0.0001)	($0.0001)
3	(0.00005)	(0.00005)
2	0.0000	0.0000
1	0.0001	0.0000
0	0.0002	0.0000

The Performance Metrics illustrated above would apply to all ETPs, including Leveraged ETPs. However, for Leveraged ETPs, there would be no adjustment to the base credit payable to the LMM if the LMM meets 1 or 2 Performance Metrics or if the LMM does not meet any Performance Metrics. LMMs that are registered as the LMM in a Leveraged ETF would be able to earn an incremental credit of $0.00005 per share if the LMM meets 3 of the 4 Performance Metrics, or earn an incremental credit of $0.0001 per share if the LMM meets all 4 Performance Metrics.

The following example illustrates how a LMM can earn an incremental credit by meeting the Performance Metrics. Assume an LMM is registered in an ETP that has a CADV of 500,000 shares and a price of $30, both in the prior month. That LMM would currently be eligible for a base credit for adding of $0.0045 per share.[18] Given the profile of the ETP, *i.e.,* CADV of 500,000 shares and a price of $30, the LMM would have to meet the following Performance Metrics to earn an incremental credit (as illustrated in the Performance Metrics table above):

- Maximum LMM Spread (''Spread''): 35 basis points (''bps'')
- Minimum LMM Shares within 1% of Last Bid and Offer (''Depth''): 3,500 shares
- Minimum LMM Shares at the Core Open Auction within 1.5% of the Auction Reference Price (''Open Depth''): 4,000 shares
- Minimum LMM Shares at the Closing Auction within 1% of the Last Bid & Offer (''Closing Depth''): 4,750 shares

Assume in the billing month, the LMM in this ETP had a Spread of 30 bps, Depth of 3,000 shares, Open Depth of 4,500 shares, and Closing Depth of 5,000 shares. The LMM in this example met 3 of the 4 Performance Metrics (Spread, Open Depth, and Closing Depth) but did not meet Depth. As a result, the LMM has qualified to earn an incremental credit of $0.00005 per share, for a combined credit per share of $0.00455.

The following example illustrates how a LMM registered as a LMM in a Leveraged ETP can earn an incremental credit. Assume the same LMM as in the example above was registered in a second ETP that is a Leveraged ETP that also has a CADV of 500,000 shares and a price of $30, both in the prior month. The LMM would currently be eligible for a base credit for adding of $0.0045 per share. In this example, the profile of the Leveraged ETP is the same as in the non-Leveraged ETP in the example above.

Assume in the billing month, the LMM in the Leveraged ETP had a Spread of 25 bps, Depth of 3,000 shares, Open Depth of 2,000 shares, and Closing Depth of 2,500 shares. The LMM in this example has met just 1 of the 4 Performance Metrics and therefore, would not earn any incremental credit. Since the credit payable to a LMM in a Leveraged ETP would not be adjusted if the LMM meets only 1 or 2 Metrics, or does not meet any Performance Metrics, the LMM in this example would continue to receive the base credit of $0.0045 per share. If the LMM had met at least 3 of the 4 Performance Metrics in the Leveraged ETP, the LMM would have qualified for an incremental credit of $0.00005 per share, for a combined credit of $0.00455 per share. And if the LMM had met all 4 Performance Metrics in the Leveraged ETP, the LMM would have qualified for an incremental credit of $0.0001 per share, for a combined credit of $0.0046 per share.

Section IV. Additional Tape B Credits for LMMs and Market Makers

The Exchange proposes to add new Section IV titled ''Additional Tape B Credits for LMMs and Market Makers.'' The Exchange notes that the additional credits in proposed Section IV for LMMs are current; the Exchange is not proposing any new additional credits for LMMs under Section IV with this proposed rule change.

As more fully described below, the Exchange proposes a non-substantive change to reorganize the presentation of the credits under proposed Section IV. The Exchange also proposes two changes with respect to the Section IV credits. First, the Exchange proposes that to qualify for the additional credits available under Section IV, LMMs would be required to meet at least two Performance Metrics per Less Active ETP assigned to the LMM. Second, the Exchange proposes to make additional credits available to Market Makers who meet the specified Performance Metrics.

Non-Substantive Change

The Exchange currently provides LMMs, and ETP Holders affiliated with such LMM, incremental credits for orders in Tape B Securities that provide displayed liquidity in securities for which they are registered as the LMM and in securities for which they are not registered as an LMM based on the number of securities that have a CADV in the prior calendar quarter of less than 100,000 shares, or 0.013% of Consolidated Tape B ADV, whichever is greater (''Less Active ETPs'').[19]

These additional credits are as follows:

- An additional credit of $0.0004 per share if an LMM is registered as the LMM in at least 400 Less Active ETPs or at least 300 Less Active ETPs if the LMM and ETP Holders and Market Makers affiliated with such LMM add liquidity in all securities of at least 1.00% of US CADV. This credit would appear in the proposed Less Active table under proposed Section IV as Tier 1 without any substantive change to the amount of the credit.
- An additional credit of $0.0003 per share if an LMM is registered as the LMM in at least 200 but less than 400 Less Active ETPs or in at least 200 but less than 300 Less Active ETPs if the LMM and ETP Holders and Market Makers affiliated with such LMM add liquidity in all securities of at least 1.00% of US CADV. This credit would appear in the proposed Less Active table under proposed Section IV as Tier 2 without any substantive change to the amount of the credit.
- An additional credit of $0.0002 per share if an LMM is registered as the LMM in at least 100 but less than 200 Less Active ETPs. This credit would appear in the proposed Less Active table under proposed Section IV as Tier 3 without any substantive change to the amount of the credit.
- An additional credit of $0.0001 per share if an LMM is registered as the LMM in at least 75 but less than 100 Less Active ETPs. This credit would appear in the proposed Less Active table under proposed Section IV as Tier 4 without any substantive change to the amount of the credit.
- An additional credit of $0.00005 per share if an LMM is registered as the LMM in at least 50 but less than 75 Less Active ETPs. This credit would appear in the proposed Less Active table under proposed Section IV as Tier 5 without any substantive change to the amount of the credit.

As noted above, the Exchange proposes to reorganize the presentation of the incremental credits described above in a table rather than the current vertical presentation in order to enhance its clarity and transparency.

Performance Metrics-Based Tape B Credits

As noted above, the Exchange currently provides tier-based incremental credits to LMMs and to ETP Holders affiliated with the LMM that provide displayed liquidity in Tape B securities. A LMM can earn anywhere between $0.00005 per share to $0.0004 per share of incremental credits depending on the number of Less Active ETP Securities in which an LMM is registered as the LMM.

As proposed, LMMs would be able to earn an additional credit on all Tape B Securities if the LMM meets at least two Performance Metrics in each of the Less

[18] Under proposed Section II. LMM Base Fees and Credits per Share, ETPs that have a CADV of less than 1,000,000 shares receive $0.0045 per share credit for adding displayed liquidity.

[19] The number of Less Active ETPs for the billing month is based on the number of Less Active ETPs in which an LMM is registered as the LMM on the average of the first and last business day of the previous month.

Active ETPs in which they are registered as the LMM.

The number of Less Active ETPs for a billing month would be calculated as the average number of Less Active ETPs in which an LMM is registered on the first and last business day of the previous month.

To determine which Less Active ETP Tier would apply to an LMM, the Exchange would count the number of Less Active ETPs assigned to that LMM, as follows:

Each Less Active ETP in which an LMM is registered and meets at least two Performance Metrics would count as one Less Active ETP. Each Less Active ETP that is a Leveraged ETP in which an LMM is registered would count as one Less Active ETP regardless of the number of Performance Metrics met.

The Exchange also proposes that Market Makers would be eligible to earn this additional credit on all Tape B securities if:

- The Market Maker notifies the Exchange on or before the first trading day that the additional credit is available in a calendar month of which new Less Active ETPs for which the Marker Maker is registered that it would be seeking to count towards or remove from qualifying for this additional credit in that month.
- The Market Maker cannot also be the registered LMM in a Less Active ETP that it is seeking to count to qualify for the additional credit as a Market Maker.
- Every two Less Active ETPs that a Market Maker identifies and meets at least two Performance Metrics will count as one Less Active ETP for purposes of determining the applicable additional credit.
- If an ETP Holder is both an LMM and a Market Maker in Less Active ETPs and has notified the Exchange of Less Active ETPs that it seeking to count for the additional credit as a Market Maker, the number of Less Active ETPs calculated for the Market Maker above will be combined with the number of Less Active ETPs in which the LMM is registered.

The Exchange believes that offering this incentive program to Market Makers would promote the additional display of liquidity in Less Active ETPs that list and trade on the Exchange. The Exchange notes that Market Makers would need to meet Performance Metrics in more Less Active ETPs than the assigned LMMs in order to achieve the same level of additional credit.

The changes described above would be included under proposed new Section IV and would appear as follows on the Fee Schedule:

Less active ETP tiers	Number of less active ETPs per LMM/Market Maker	Additional credit on all Tape B Securities
Tier 5	50–74 ETPs	($0.00005)
Tier 4	75–99 ETPs	(0.0001)
Tier 3	100–199 ETPs	(0.0002)
Tier 2	200–399 ETPs, or 200–299 ETPs if the LMM or Market Maker and its affiliates add liquidity of at least 1.00% of US CADV.	(0.0003)
Tier 1	At Least 400 ETPs, or at least 300 ETPs if the LMM or Market Maker and its affiliates add liquidity of at least 1.00% of US CADV.	(0.0004)

The following example illustrates the applicability of the expanded eligibility of additional Tape B credits to LMMs and Market Makers that meet a certain number of Performance Metrics.

Assume a LMM is registered in 120 Less Active ETPs. Currently, that LMM would qualify for an additional credit of $0.0002 per share for adding liquidity in all Tape B Securities under the Less Active ETP Tier 3 in the table above. Assume further that of those 120 Less Active ETPs, the LMM meets at least two Performance Metrics in 90 of those Less Active ETPs, and does not meet at least two Performance Metric in the other 30 Less Active ETPs. The LMM in this example would qualify for Less Active ETP Tier 4 and would receive an incremental credit of $0.0001 per share for adding liquidity on all Tape B Securities. If the LMM in this example seeks to qualify as a Market Maker in another 50 Less Active ETPs, and as a Market Maker, the LMM meets at least two Performance Metrics in 40 of its non-registered Less Active ETPs, then those 40 Less Active ETPs would count as 20 Less Active ETPs for a combined total number of Less Active ETPs of 110 Less Active ETPs (90 Less Active ETPs as LMM + 20 Less Active ETPs as Market Maker). The LMM would then qualify for Less Active ETP Tier 3 and would receive an incremental credit of $0.0002 per share for adding liquidity on all Tape B Securities.

The following example illustrates how a Market Maker that is not an LMM can receive the incremental credits. Assume a Market Maker notifies the Exchange that it is seeking to qualify in 180 Less Active ETPs. Assume further that the Market Maker meets at least 2 Performance Metrics in 160 Less Active ETPs, and does not meet at least 2 Performance Metrics in the other 20 Less Active ETPs, for a total of 80 Less Active ETPs since every two Less Active ETPs that a Market Maker identifies and meets at least two Performance Metrics count as one Less Active ETP for purposes of determining which Less Active ETP tier applies to the Market Maker. The Market Maker in this example would qualify under Less Active Tier 4 for an incremental credit of $0.0001 per share for adding liquidity in all Tape B securities.

The Exchange believes the proposed rule change would enhance market quality on all NYSE Arca-listed Securities by incentivizing LMMs and Market Makers to meet the Performance Metrics across all Less Active ETPs, which would support the quality of price discovery in such securities on the Exchange and provide additional liquidity for incoming orders for the benefit of all market participants. The Exchange believes that providing increased credits to LMMs and ETP Holders that are affiliated with a LMM that add liquidity in Tape B Securities to the Exchange could lead to more LMMs to register to quote and trade in Less Active ETP Securities. The Exchange believes the proposed financial incentives could also encourage competition in Tape B Securities quoted and traded on the Exchange.

The Exchange does not know how much order flow LMMs and Market Makers choose to route to other exchanges or to off-exchange venues. The proposed credits in NYSE Arca-listed Securities would be available to all LMMs and Market Makers that are registered in those securities and are subject to the obligations specified in Rule 7.23–E relating to Market Makers. There are currently seven LMMs that would qualify for the incremental credits. Without having a view of their activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in more LMMs and Market Makers sending their orders in NYSE Arca-listed Securities to the Exchange to qualify for the existing credits or whether this proposed rule change would result in these members sending more of their orders in NYSE Arca-listed Securities to the Exchange to qualify for the proposed incremental credits. The Exchange cannot predict with certainty how many LMMs and Market Makers would avail themselves of this opportunity, but additional liquidity-providing orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed rule change is also intended to incentivize LMMs to increase auction liquidity in less liquid NYSE Arca-listed Securities to support price discovery in the Exchange's opening and closing auctions for the benefit of all market participants. The Exchange believes that the proposed rule change could lead to more LMMs to register in less liquid securities and encourage greater participation in the opening and closing auctions on the Exchange.

The Exchange believes the proposed rule change would also to provide superior market quality and price discovery for NYSE Arca-listed Securities, specifically securities that are less active, through a quoting size requirement that would promote liquidity in the opening and closing auction in such securities. The proposed rule change is intended to provide a more meaningful incentive to both LMMs and ETP Holders to provide liquidity in less active securities by providing financial incentives to the Exchange's members as long as they meet certain prescribed quoting criteria. The Exchange believes that a performance-driven incentive would encourage such members to provide meaningful quotes and size in less active securities listed and traded on the Exchange.

Additionally, for newly listed and low volume ETPs, the cost to a firm for making a market, such as holding inventory in the security, is often not fully offset by the revenue through rebates provided by the Exchange. In some cases, firms may even operate at a loss in new and low volume ETPs. The Exchange believes the proposed credits, which would compensate members as long as they meet the prescribed performance metrics, is a more deterministic program from a member's perspective. The member would decide how many, if any, low volume securities it wants to provide tight and deep markets in. The more securities the member provides heightened quoting in, the more the member could collect in the form of a rebate.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[21] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also notes that its ETP listing business operates in a highly-competitive market in which market participants, which includes LMMs and ETP Holders, as well as ETP issuers, can readily transfer their listings or opt not to participate, respectively, if they deem fee levels, liquidity provision incentive programs, or any other factor at a particular venue to be insufficient or excessive. The proposed rule change reflects a competitive pricing structure designed to incentivize issuers to list new products and transfer existing products to the Exchange and market participants to enroll and participate as LMMs on the Exchange, which the Exchange believes will enhance market quality in all ETPs listed on the Exchange.

The Proposed Fee Change is Reasonable

The Exchange believes that the proposal to adopt market quality-based incentives is a reasonable means to incentivize liquidity provision in ETPs listed on the Exchange. The marketplace for listings is extremely competitive and the Exchange is not the only venue for listing ETPs. Competition in ETPs is further exacerbated by the fact that listings can and do transfer from one listing market to another. The proposed rule change is intended to help the Exchange compete as a listing venue for ETPs. Further, the Exchange notes that the proposed incentives are not transaction fees, nor are they fees paid by participants to access the Exchange. Rather, the proposed rebates are based on achieving certain objective market quality metrics. The Exchange believes providing rebates that are based on the quality of the market in individual ETPs that generally have low volume will allow ETP Holders to anticipate their revenue and will incentivize them to provide tight and deep markets in those securities.

Given the novelty of the proposed rule change, the Exchange cannot be certain that LMMs and Market Makers will choose to actively compete for these incentives. For LMMs and Market Makers that do choose to actively participate by providing deep and tight markets in Less Active ETP Securities, the Exchange expects those members to receive payments comparable to what they currently receive, with the potential for additional upside when they meet the Performance Metrics in a greater number of less active securities. The Exchange believes the proposed credits, which would compensate LMMs and Market Makers as long as they meet the prescribed Performance Metrics, is also reasonable because it is a more deterministic program from an ETP Holder's perspective.

The Exchange believes the proposed rule change is intended to encourage LMMs and Market Makers to promote price discovery and market quality in Less Active ETP Securities for the benefit of all market participants. The Exchange believes the proposed rule change is reasonable and appropriate in that the credits are based on the amount of business transacted on the Exchange. The Exchange notes that the proposed incremental credits offered by the Exchange is similar to market quality incentive programs already in place on other markets, such as the Designated Liquidity Provider incentives on the Nasdaq Stock Market LLC (''Nasdaq''), which requires a member on that exchange to provide meaningful and consistent support to market quality and price discovery in low volume exchange-traded products by quoting at the National Best Bid and Offer and adding liquidity in a minimum number of such securities. In return, Nasdaq provides the member with an incremental rebate.[22] The Exchange believes that providing increased credits to LMMs and Market Makers that add liquidity in Tape B Securities to the Exchange is reasonable because the Exchange believes that by providing

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(4) and (5).

[22] *See* Equity 7 Pricing Schedule, Section 114. Market Quality Incentive Programs, at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Equity%207#section_114_market_quality_incentive_programs.*

increased rebates to such members, more of them will register to quote and trade in Less Active ETP Securities. The Exchange believes the proposed incremental credit for adding liquidity is also reasonable because it will encourage liquidity and competition in Tape B Securities quoted and traded on the Exchange. Moreover, the Exchange believes that the proposed fee change will incentivize LMMs and Market Maker to register as either an LMM or Market Maker in Less Active ETP Securities and thus, add more liquidity in Tape B Securities to the benefit of all market participants.

The Exchange believes that providing additional credits to Market Makers that add liquidity in Less Active ETPs is reasonable because the Exchange believes that by providing such additional credits, more Market Makers would choose to register in Less Active ETP Securities on the Exchange, which the Exchange believes would benefit all market participants. As noted above, because Market Makers registered in a security must meet the quoting obligations specified in Rule 7.23–E, expanding eligibility to Market Makers to receive credits is a reasonable attempt to increase participation on the Exchange and provide an incentive for Market Makers to meet additional standards for their registered Less Active ETPs.

Submission of additional liquidity to the Exchange would promote price discovery and transparency and enhance order execution opportunities for LMMs and Market Makers from the substantial amounts of liquidity present on the Exchange. All participants would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange believes that eliminating the existing monthly rebate tied to the performance in the opening and closing auctions in NYSE Arca-listed Securities and the ETF Incentive Program for NYSE Arca-listed Securities is reasonable because those pricing incentives did not the achieve their intended purpose of incentivizing LMMs and ETP Holders to send a greater number of their orders in Tape B Securities to the Exchange. The Exchange believes replacing the monthly rebate program and the ETF Incentive Program with pricing incentives tied to Performance Metrics discussed above will allow the Exchange to better maintain its competitive standing. On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

Finally, the Exchange believes the proposed non-substantive changes to relocate existing fees and credits into a table format is reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency of the Fee Schedule, thereby reducing potential confusion.

The Proposed Fee Change is an Equitable Allocation of Fees and Credits

The Exchange believes the proposed rule change is equitable because the proposal would provide discounts that are reasonably related to the value to the Exchange's market quality associated with higher volumes in Less Active ETP Securities. The Exchange further believes that the proposed incremental rebate is equitable because it is consistent with the market quality and competitive benefits associated with the fee program and because the magnitude of the additional rebate is not unreasonably high in comparison to the rebate paid with respect to other displayed liquidity-providing orders. The Exchange believes that it is equitable to offer increased rebates to LMMs and Market Makers as both are currently subject to obligations specified in Rule 7.23–E, which are not applicable to non-Market Maker ETP Holders, and they would be subject to additional requirements and obligations (such as meeting Performance Metrics) that other market participants are not.

The Exchange believes that the proposal to offer rebates tied to market quality metrics represents an equitable allocation of payments because LMMs and Market Makers would be required to not only meet their Rule 7.23–E obligations, but also meet prescribed quoting requirements in order to qualify for the payments, as described above. Where an LMM or Market Maker does not meet at least two Performance Metrics, that member will not receive any additional financial benefit. Further, all LMMs and Market Makers on the Exchange are eligible to participate and could do so by simply registering in a Less Active ETP and meeting the proposed market quality metrics. The Exchange has designed the proposed pricing incentives to be sustainable over the long-term and generally expects that payments made to LMMs and Market Makers will be comparable to payments the Exchange currently makes to its members and comparable to pricing incentives offered by the Exchange's competitors. As such, the Exchange believes that the proposal represents an equitable allocation of dues, fees and credits.

The Exchange believes that eliminating the existing monthly rebate tied to the performance in the opening and closing auctions in NYSE Arca-listed Securities and the ETF Incentive Program for NYSE Arca-listed Securities is equitable because the Exchange is eliminating those pricing incentives for all participants.

The Proposed Fee Change is not Unfairly Discriminatory

The Exchange believes that the proposed rule change is not unfairly discriminatory. In the prevailing competitive environment, LMMs and Market Makers are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The Exchange believes it is not unfairly discriminatory to adopt incremental credits applicable to LMMs and Market Makers because both are already subject to additional obligations, as specified in Rule 7.23–E, and the proposed additional credits would be provided on an equal basis to all similarly situated participant provided each such participant meets the prescribed market quality metrics. If an LMM or Market Maker does not meet the required number of Performance Metrics, the member would not receive any incremental credit. Further, the Exchange believes the incremental credit would incentivize each of these participants to register in Less Active ETPs and send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed rule change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

The proposal to offer an additional credit tied to meeting certain market quality requirements neither targets nor will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because LMMs and Market Makers already have increased obligations vis-à-vis non-Market Maker ETP Holders, as specified in Rule 7.23–E, and the proposed requirements would be applied to all similarly-situated LMMs and Market Maker equally. In addition, the proposed incentives for LMMs replace the existing incentive structure, which is already available only for LMMs. The Exchange does not believe it would be unfairly discriminatory to extend the availability of additional credits for

Tape B securities to Market Makers because Market Makers have obligations under Rule 7.23–E, and pursuant to the proposed change, would need to meet additional performance requirements in order to qualify for the additional credit.

The Exchange believes that the proposed rule change is not unfairly discriminatory because all LMMs and Market Makers that choose to qualify for the incremental credits would be required to meet a minimum number of Performance Metrics in order to receive the credits. Where a participant does not achieve a certain number of Performance Metrics, it will not receive any incremental credits. Further, all LMMs and Market Makers on the Exchange are eligible to participate in the program and could do so by simply registering in Less Active ETPs and meeting a minimum number of Performance Metrics. The Exchange has designed the pricing incentives proposed herein to be sustainable over the long-term and generally expects that payments made to LMMs and Market Makers would be comparable to payments the Exchange currently makes to its LMMs and comparable to pricing incentives offered by the Exchange's competitors. As such, the Exchange believes that the proposal is not unfairly discriminatory.

The Exchange believes that eliminating the existing monthly rebate tied to the performance in the opening and closing auctions in NYSE Arca-listed Securities and the ETF Incentive Program for NYSE Arca-listed Securities is not unfairly discriminatory because the Exchange is eliminating both pricing incentives for all participants.

Finally, subject to their obligations specified in Rule 7.23–E, the submission of additional orders to the Exchange is optional for LMMs and Market Makers in that they could choose the level of trading activity on the Exchange. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,[23] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for LMMs and ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small." [24]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed Performance Metrics-based incremental credit applicable to LMMs and Market Makers in Less Active ETPs in which they are registered would continue to incentivize market participants to direct their displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages LMMs and Market Makers to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed pricing incentive would be applicable to all similarly-situated market participants that have obligations under Rule 7.23–E to meet specified obligations, and, as such, the proposed changes would not impose a disparate burden on competition among market participants on the Exchange. The Exchange believes the proposed adoption of Performance Metrics would enhance competition as it is intended to increase the Exchange's competitiveness in Less Active ETPs, and all LMMs and Market Makers would be able to participate on an equal basis. Accordingly, the Exchange does not believe that the proposed change will impair the ability of ETP Holders to maintain their competitive standing. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The Exchange also does not believe the proposed rule change to eliminate underutilized pricing incentives will impose any burden on intramarket competition because the proposed change would impact all LMMs and Market Makers uniformly.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition. The Exchange believes that the proposed rule change could promote competition between the Exchange and other execution venues, including those that currently offer comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [25] of the Act and subparagraph (f)(2) of Rule 19b–4 [26] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [27] of the Act to determine whether the proposed rule change should be approved or disapproved.

[23] 15 U.S.C. 78f(b)(8).

[24] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 15 U.S.C. 78s(b)(2)(B).

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 email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2021–43 on the subject line.

Paper Comments

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

All submissions should refer to File No. NYSEArca–2021–43. This file number should be included on the subject line if email 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 website (*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 website 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 10:00 a.m. and 3:00 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. NYSEArca–2021–43, and should be submitted on or before June 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–11611 Filed 6–2–21; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–FMCSA–2021–0059]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Waste Management, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on Waste Management, Inc.'s (Waste Management) application for an exemption to allow all of its 106 operating companies to replace the high-mounted brake lights on their owned and operated fleets of heavy-duty refuse and support trucks with red or amber brake-activated pulsating lamps positioned in the upper center position, or in an upper dual outboard position, in addition to the steady burning brake lamps required by the Federal Motor Carrier Safety Regulations (FMCSRs).

DATES: Comments must be received on or before July 6, 2021.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2021–0059 using any of the following methods:

• *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.

• *Fax:* 1–202–493–2251.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery by Courier:* Bring comments to Docket Operations in Room W12–140 of the West Building Ground Floor, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Docket Operations in Room W12–140, U.S. Department of Transportation, West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–0676, *luke.loy@dot.gov.*

SUPPLEMENTARY INFORMATION: