

paragraph (a)(2)(ii), as the basis for the exemption. The licensee states that the underlying purpose of the rule is to assure that adequate testing is done to assure containment integrity. The licensee's view is that from the standpoint of testing adequacy, *when* the testing is performed is not relevant because the conditions of testing are the same regardless of when it is performed. Taking credit for testing performed during power operation provides the same degree of assurance of containment integrity as taking credit for testing performed during shutdown. Therefore, consistent with 10 CFR 50.12, paragraph (a)(2)(ii), the licensee proposes that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

IV

Section III.D.3 of Appendix J to 10 CFR Part 50 states that Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. The licensee proposes an exemption to this section to perform the required Type C tests while the plant is at power.

The Commission has determined that pursuant to 10 CFR 50.12(a)(1) that this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The staff agrees with the licensee's views provided above. In addition, the NRC staff position is that the focus of Section III.D.3 of Appendix J is on the maximum time period between Type C tests, not the plant's condition when the tests are performed. This position is illustrated in Section III.D.2 of Appendix J regarding Type B tests (for detection of local leakage of containment penetrations), where it states that Type B tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. From a safety standpoint, Type B and Type C tests are the same kinds of tests, performed on somewhat different types of containment isolation barriers; therefore, Type B and Type C tests can be treated similarly. Also, there is no reason to restrict Type C tests to

refueling outages as long as the 2-year maximum interval is not exceeded. Based on the above, the NRC staff finds the basis for the licensee's proposed exemption from the requirement to perform the Type C tests during each reactor shutdown for refueling to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will not have a significant impact on the quality of the human environment (60 FR 45171). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of August 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

*Director, Division of Reactor Projects III/IV,
Office of Nuclear Reactor Regulation.*

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RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1995, shall be at the rate of 33 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1995, 36.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 63.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 29, 1995.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36181; File No. SR-Amex-95-24]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Execution of Odd-Lot Market Orders

September 1, 1995.

On June 16, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Amex Rule 205³ to provide for the execution of odd-lot market orders⁴ at a price based upon the Intermarket Trading System ("ITS") best bid or offer, subject to certain conditions as described more fully below.

The proposed rule change was published for comment in the **Federal Register** on July 19, 1995.⁵ No comments were received on the proposal.

The Exchange proposes to amend Amex Rule 205 in order to establish new odd-lot pricing procedures. The Commission initially approved the Exchange's current odd-lot pricing procedures as a pilot program in January 1989⁶ and extended it eleven times since then.⁷ Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amex Rule 205 pertains to the manner of executing odd-lot orders.

⁴ An odd-lot market order is an order of less than a unit of trading to buy, sell, or sell short, that carries no further qualifying notations. The normal trading unit, or round-lot, is 100 shares.

⁵ Securities Exchange Act Release No. 35963 (July 12, 1995), 60 FR 37112.

⁶ Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2348 (approving File No. SR-Amex-88-23).

⁷ See Securities Exchange Act Release Nos. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR-Amex-95-03); 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR-Amex-94-47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR-Amex-94-28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR-Amex-93-45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR-Amex-93-24); 31828 (Feb. 5, 1993), 58 FR 8434 (approving File No. SR-Amex-93-06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR-Amex-92-04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR-Amex-91-09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR-Amex-90-39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR-Amex-89-31).