

N-588 to the P-T limit calculations meets the special circumstance provisions stated in 10 CFR 50.12(a)(2)(i), for granting this exemption to the regulation.

#### Code Case N-640

Entergy has requested, pursuant to 10 CFR 50.60(b), an exemption to use ASME Code Case N-640 as the basis for establishing the P-T limit curves. Appendix G to 10 CFR part 50 has required use of the initial conservatism of the  $K_{Ia}$  equation since 1974 when the equation was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, the industry has gained additional knowledge about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the  $K_{Ic}$  equation is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, the RPV P-T operating window is defined by the P-T operating and test limit curves developed in accordance with the ASME Code, Section XI, Appendix G, procedure.

The ASME Working Group on Operating Plant Criteria (WGOPC) has concluded that application of Code Case N-640 to plant P-T limits is still sufficient to ensure the structural integrity of RPVs during plant operations. The staff has concurred with ASME's determination. The staff has concluded that application of Code Case N-640 would not significantly reduce the safety margins required by 10 CFR part 50, Appendix G. The staff also concluded that relaxation of the requirements of Appendix G to the Code by application of Code Case N-640 is acceptable and would maintain, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety for the IP2 RPV and RCPB. Therefore, the staff concludes that Code Case N-640 is acceptable for application to the IP2 P-T limits.

The staff examined the licensee's rationale to support the exemption requests and concluded that ENO has provided sufficient technical bases for using the methods of Code Cases N-588 and N-640 in the calculation of the P-T limits for IP2. The staff has also concluded that application of Code Case N-588 and Code Case N-640 to the P-T limit calculations will continue to serve the purpose in 10 CFR part 50, Appendix G, for protecting the structural integrity of the IP2 RPV and reactor coolant pressure boundary. In this case, since strict compliance with requirements of 10 CFR 50.60(a) and 10

CFR part 50, Appendix G, is not necessary to serve the overall intent of the regulations, the staff concludes that application of the Code Cases N-588 and N-640 to the P-T limit calculations meets the special circumstance provisions in 10 CFR 50.12(a)(2)(ii), for granting exemptions to the regulations, and that, pursuant to 10 CFR 50.12(a)(1), the granting of these exemptions is authorized by law, will not present undue risk to the public health and safety, and is consistent with the common defense and security. The staff, therefore, considers granting exemptions to 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to allow ENO to use Code Cases N-588 and N-640 as the part of the bases for generating the P-T limit curves for IP2 is appropriate.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the 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. Also, special circumstances are present. Therefore, the Commission hereby grants ENO an exemption from the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, for the calculation of P-T limits for IP2. The licensee shall use the methods Code Cases N-588 and N-640 in calculation of the P-T limits for IP2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 7206).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of February 2002.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, February 28, 2002

Thursday, March 14, 2002  
Thursday, March 28, 2002  
Thursday, April 11, 2002  
Thursday, April 25, 2002  
Thursday, May 9, 2002  
Thursday, May 23, 2002  
Thursday, June 6, 2002  
Thursday, June 27, 2002

The meeting will start at 10:00 a.m. and will be held in Room 5H09, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415 (202) 606-1500.

Dated: February 12, 2002.

**Mary M. Rose,**

*Chairperson, Federal Prevaling Rate Advisory Committee.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45451 File No. SR-AMEX-2001-47]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to Issuer Listing Standards and Procedures

February 14, 2002.

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> notice is hereby given that on July 16, 2001, the American Stock Exchange LLC ("Amex" 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 Exchange filed Amendment No. 1 to its proposal on January 10, 2002<sup>3</sup> and filed Amendment No. 2 to its proposal on February 13, 2002.<sup>4</sup> 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 Amex proposes to amend the *American Company Guide* to adopt (i) new listing standards relating to the authority of the Amex Committee on Securities in respect of its review of initial listings; (ii) new procedures that would impose definitive time limits with respect to how long a non-

compliant company can retain its listing; (iii) substantive revisions to the initial and continued listing standards; and (iv) changes to the appeal procedures applicable to staff denials of initial listing applications and staff delisting determinations. The text of the proposed rule change is available at the principal offices of the Amex and at the Commission.

#### 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.

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

###### 1. Purpose

The Exchange is proposing certain enhancements to its initial and continued listing program. The Amex represents that the proposed changes, which are described below, are designed to provide issuers and investors greater clarity with respect to its listing qualification process, while preserving a degree of measured flexibility in the application of the listing standards and procedures.

The Exchange has also augmented its management reporting system to ensure that senior Exchange management is regularly alerted to any developing trends emerging from the listing qualifications process, with respect to outstanding listing applications, recently approved companies, and companies failing to meet or in jeopardy of failing to meet the continued listing standards. The management review will also encompass the continued status of companies approved pursuant to the proposed alternative standards as compared to those approved pursuant to the regular standards, which will also enable the staff to provide feedback to the Committee on Securities and the Board of Governors as to the effectiveness of these standards and the proposals contained herein.

#### Initial Listing Approval Process

Currently, the Exchange evaluates applicants for initial listing based on quantitative and qualitative guidelines, and the Exchange may exercise discretion by approving a listing applicant that does not fully satisfy each of the stated numerical guidelines.<sup>5</sup> This discretion may be exercised in two ways. First, the Listing Qualifications management has the authority to approve a company for initial listing on the basis of its "substantial compliance" with the applicable guidelines. Second, the Amex Committee on Securities (the "Committee"), which the Exchange represents to be comprised of seasoned financial professionals, is authorized by the Amex Board of Governors to use its professional judgment in evaluating whether a particular issuer is appropriate for listing even though it does not fully comply with the numerical guidelines.

To provide issuers and investors with increased transparency and information regarding the manner in which securities are listed on the Amex, the Exchange is proposing the following:

1. Replace all references to listing "guidelines" with references to listing "standards."<sup>6</sup>

2. Revise and clarify the authority of the Listing Qualifications Department management to approve a company for initial listing, to provide that it may approve a company under the following circumstances:

- The company satisfies new "Initial Listing Standard 1" (existing "Regular Listing Guidelines").
- The company satisfies new "Initial Listing Standard 2" (existing "Alternate Listing Guidelines").
- The company satisfies new "Initial Listing Standard 3" (new "Market Capitalization" standard discussed below).
- The company satisfies new "Initial Listing Standard 4" (new "Currently Listed Securities" standard discussed below).

3. Adopt new quantitative alternative minimum listing standards limiting the authority of Committee panels with respect to the review of initial listings determinations, such that a Committee panel would be able to approve a company that did not satisfy one of the regular initial listing standards only if (a) the company satisfies new

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

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

<sup>3</sup> See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (January 9, 2002) ("Amendment No. 1"). Amendment No. 1 supercedes and replaces the original 19b-4 filing in its entirety.

<sup>4</sup> See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Florence Harmon, Senior Special Counsel, Division, Commission (February 13, 2002) ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected various typographical errors, elaborated on the augmentation of its management reporting system, clarified the procedures by which an issuer would be considered under the Alternative Listing Standards, and added inadvertently omitted rule language.

<sup>5</sup> Section 101 of the *American Company Guide* provides that factors other than the specified guidelines will be considered in evaluating listing eligibility, and an application may be approved even if the company does not meet all of the numerical guidelines.

<sup>6</sup> This change would also apply to references to continued listing guidelines.