

November 1, 2004

Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

BY E-MAIL AND FASCIMILE

SUBJECT: Request for Commission Rule Approval: Proposed Amendments to Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract. Submission No. 04-149.

Dear Ms. Webb:

Pursuant to Section 5c(c)(2) of the Commodity Exchange Act (the "Act") and CFTC Rule 40.5 ("Voluntary Submission of Rules for Commission Review and Approval"), the New York Mercantile Exchange Inc. ("NYMEX" or the "Exchange") hereby requests on a voluntary basis CFTC approval for a proposed amendment to Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract.

The proposed amendment and a complete explanation of its operation, purpose and effect are attached hereto.

If you have any questions concerning this submission, please contact Albert J. Getz at 212-299-2608.

Sincerely,

Robert A. Levin
Senior Vice President

cc: Richard Shilts, Division of Market Oversight
Allen Cooper, Eastern Region

I. EXPLANATION AND PURPOSE

The Exchange proposes to amend COMEX Copper Supplement No. 1 "Official List of Approved Brands and Markings" by adding the BHP Billiton Tintaya S.A. "Tintaya" copper brand as acceptable for good delivery against the COMEX Grade 1 Copper Futures Contract.

BHP Billiton Tintaya S.A., wholly owned by BHP Billiton Limited, has submitted an application to the New York Mercantile Exchange, Inc. ("Exchange") requesting that its copper brand "Tintaya" produced at Campamento Minera Tintaya, Distrito de Espinar, Cusco, Peru be approved as acceptable for delivery against the New York Mercantile Exchange Inc.'s COMEX Division Grade 1 Copper Futures Contract. The application submitted by BHP Billiton Tintaya S.A. for the registration of the "Tintaya" copper brand meets the requirements of the Exchange.

BACKGROUND

Tintaya is located 260-km northeast of Arequipa, Peru. This area was extensively explored for copper mineralization starting in the late 1800's and in 1985, Empresa Minera Especial Tintaya S.A. commenced commercial operations at an annual rate of 300,000 tons of copper concentrate. The copper concentrate, with an average grade of 30 percent, is shipped to various locations. During the mining of the sulphide mineralization, oxide ore, which is amenable to heap leach solvent extraction technology, was mined and stored since commercial development of the mine started in 1985.

Construction of the facilities to treat the stored oxide mineralization commenced in February 2001 and the first cathodes were produced in April 2002. The process utilizes conventional heap leach solvent extraction, electrowinning technology coupled with the Kidd Creek Technology to produce between 36,000 and 38,000 tons per year of electrowon copper cathodes. The cathode dimensions are 101 cm (39 inches) long by 99 cm (38 inches) wide and weigh between 85 and 90 kilograms (187 and 198 pounds). Every fourth cathode is corrugated.

Cathode bundles contain between 28 and 30 cathode sheets and weigh approximately 2.5 tons (5,000 pounds) plus or minus five percent. Each bundle is labeled with the gross and net weight, lot and bundle number. Each bundle has three straps, which are secured by clips inscribed with the "TINTAYA" logo.

APPLICATION REQUIREMENTS

The application for listing Grade 1 Copper Brands as good delivery against the COMEX Division Grade 1 Copper Futures Contract stipulates that the copper brand must be in continuous production for a minimum of six months at the rated plant capacity. The minimum level of production required is 10,000 short tons per year. The application also requires letters from three mutually acceptable copper rod manufacturers affirming that they have purchased and tested the brand and that the brand is now acceptable for use in the manufacture of rod at their plant, and detailed assays from two mutually acceptable independent assayers. The "Tintaya" brand of electrowon copper cathodes meets these requirements.

REFERENCES

BHP Billiton Tintaya S.A. has submitted letters from the following wire rod manufacturers: AmRod Corp., Nexans and Southwire Company. All have tested a minimum of two 200-ton lots from different months of production and have confirmed that the cathodes conform to the chemical specifications required by ASTM B115-00. Based on these tests all three wire rod manufacturers will accept the "Tintaya" copper brand for purposes of manufacturing continuous