

**October 28, 2005**

**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 Amendment to Supplement No. 2, “Licensed Warehouses for Copper” and Supplement No. 3, “Licensed Weighmasters for Copper” of the Grade 1 Copper Futures Contract. Submission No. 05-193.**

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 proposed amendments to Supplement No. 2, “Licensed Warehouses for Copper” and Supplement No. 3, “Licensed Weighmasters for Copper” of the Grade 1 Copper Futures Contract.

The proposed amendments and a complete explanation of their operation, purpose and effect are attached hereto.

If you have any questions concerning this submission, please contact the undersigned at 212-299-2390 or 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 Supplement No. 2, “Licensed Warehouses for Copper” and Supplement No. 3, “Licensed Weighmasters for Copper” of the Grade 1 Copper Futures Contract. The proposed amendments add Panama City Port Authority, Panama City, Florida as an Exchange Licensed Warehouse and Exchange Licensed Weighmaster for copper.

The application submitted by Panama City Port Authority (“PCPA”) meets all of the requirements of the Exchange for the handling and storage of metal. However, it has not met the weighing requirements. The company does not have the appropriate weighing equipment or the personnel trained in the weighing of copper into contract units of 25,000 pounds respectively. A condition precedent to the effective date of PCPA becoming an Exchange Licensed Warehouse and Licensed Weighmaster would be after the installation of the appropriate weighing equipment and the training of personnel to the satisfaction of the Exchange.

### **A. BACKGROUND**

The PCPA is a component unit of the City of Panama City, Florida and is the lessee in an agreement with the City of Panama City, Florida, for the lease of the land occupied by the PCPA. The lease is for a period of 99 years, expiring August 31, 2065.

The port was established in 1967. Historically, the port has handled unitized general cargo including kraft paper, wood pulp and steel coils. Some of the warehouse buildings have been used as a distribution facility for bagged products.

The operators of the facility have extensive experience in the handling and storage of copper as well as other commodities. The Port receives, on average, two vessels per month of copper from South America and has been, over the past several years, one of the principle ports in the United States for the receipt of copper. The port currently handles approximately 200,000 metric tons of copper per annum and copper market participants use this facility for the storage and transshipment of copper.

### **B. FACILITY AND MATERIAL HANDLING**

PCPA is located in the Florida Panhandle and is strategically located as the northern most port in the Gulf of Mexico. The Port has six deep water berths consisting of 3,420 linear feet, with 32 foot draft, 600 linear feet of barge facilities and 470,000 square feet of warehousing space. The Port is equipped with modern loading and unloading facilities for truck, rail, barge, container RO-RO vessel and deep water vessel traffic. The Gulf Intracoastal Waterway is located adjacent to the Port and offers intracoastal shipment capability via barge.

The two warehouse buildings which will be used for the storage of copper are called West Warehouse Number 4 and East Warehouse Number 3. Other products which may be stored in these buildings include kraft linerboard, wood pulp and lumber. Other warehouse buildings within the port complex may also be used for the storage of copper.

**Indoor Storage:** East Warehouse 3 is a 60,000 square foot steel constructed building with an eight inch reinforced concrete floor designed for a 1,200 square foot floor loading.

West Warehouse 4 is a 55,000 square foot steel clear span building with a 25-foot minimum eave height. The floor is a 10-inch thick reinforced concrete designed for 2,000 pounds per square foot floor loading.

**Security:** Both warehouse facilities are located within PCPA's secure area. Access to the secure area is limited to authorized "badged" personnel or legitimate visitors such as scheduled truck drivers. In some cases with an extended entry, a background check is required. The entire port is fenced, well lighted and patrolled by contract security and local law enforcement. Both warehouse buildings are equipped with sprinkler systems.

**Storage Capacity:** The estimated storage capacity is 10,000 tons in West Warehouse No. 4 and 12,000 tons in East Warehouse No. 3. However, the port only intends to utilize 25% of West Warehouse No. 4 for the storage of COMEX Copper or 2,500 tons. Other buildings in the Port's complex may also be used for the storage of copper as requirements dictate.

**Material Handling:** East Warehouse No. 3 and West Warehouse No. 4 are supported by rail and truck docking as well as adjacent paved ramps for loading flat-bed trailers. West Warehouse No.4 can receive six rail cars per day while East Warehouse No. 3 can receive four rail cars per day. Both warehouses can handle up to fifteen trucks or containers per shift.

PCPA owns twenty-two fork trucks ranging in capacity from 5,000 pounds to 15,000 pounds, the majority of which are 12,000 pound capacity trucks.

**Guaranteed Minimum Shipping Capacity:** The Port Panama City will guarantee 500 tons per day as a minimum shipping rate on copper cathodes. The port currently handles copper cathodes for a number of shippers and has handled-out as much as 2,000 tons in a single day.

**Inspection:** Exchange staff visited and inspected the proposed facilities and determined that they are suitable for the storage of copper. Staff was impressed with the knowledge and operating history of the warehouse personnel at this major port facility.

## **C. INSURANCE**

PCPA has indicated that it will participate in the insurance program arranged by the Exchange through Marsh USA. This program provides insurance coverage up to \$225 million for any one warehouse and/or location. The warehouse pays the insurance premiums based on the value at risk at the end of each month directly to Marsh USA.

## **D. CONDITIONS PRECEDENT**

Conditions precedent to the effective date of PCPA becoming an Exchange Licensed Warehouse would be the installation of the appropriate weighing equipment, the training of personnel to the satisfaction of the Exchange, and the execution of legal documentation acceptable to the Exchange.

## **II. PROPOSED AMENDMENTS**

The proposed amendments are attached.

**Proposed Amendments. Underlining indicates additions; Strike through indicates deletions.**

Copper Supplement  
No. 2

COMMODITY EXCHANGE, INC.

LICENSED WAREHOUSES FOR COPPER

	<u>FACILITIES</u>	<u>COMPUTER CODE</u>
<u>CAMDEN, NEW JERSEY</u>		
South Jersey Port Corporation----- P.O. Box 129 Camden, NJ 08101 (Orders: (856)-757-4983)	Second & Beckett Streets Camden, NJ	2602
<u>BALTIMORE, MARYLAND</u>		
Edgemere Terminals, Inc.----- 8004 Stansbury Road Baltimore, Md. 21222 (Orders: (410) 282-4420)	8004 Stansbury Road Baltimore, Md.	3402
Locust Industries Limited----- 4747 Hollins Ferry Road Baltimore, Md. 21227 (Orders: (410) 247-9520)	4747 Hollins Ferry Road Baltimore, Md.	3606
Madison Warehouse Corporation----- 7330 Carbide Road Baltimore, Md. 21226 (Orders: (410) 360-2300)	7330 Carbide Road Baltimore, Md.	3204
<u>TOLEDO, OHIO</u>		
MetalStore LLC----- 3332 St. Lawrence Drive Toledo, Ohio 43605 (Orders: (419) 698-3441)	3332 St. Lawrence Drive Toledo, Ohio	8101
<u>PANAMA CITY, FLORIDA</u>		
<u>Panama City Port Authority</u> ----- <u>5321 West Highway 98</u> <u>Panama City, Florida</u> <u>(Orders: (850) 767-3220)</u>	<u>5321 West Highway 98</u> <u>Panama City, Florida</u>	<u>9101</u>

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COMMODITY EXCHANGE, INC  
 LICENSED WAREHOUSES FOR COPPER  
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FACILITIES                      COMPUTER CODE

NEW ORLEANS, LOUISIANA

Hayes/Dockside, Inc.----- P.O. Box 53315 New Orleans, La. 70153 (Orders: (504) 897-5020)	7200 North Peters Street Arabi, La. 6025 River Road Marrero, La.	5206   5210
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AMARILLO, TEXAS

Dalby Moving & Storage Co., Inc.----- P.O. Box 78450 Tucson, Arizona 85703 (Orders: (520) 887-3606)	415 North Grand Avenue Amarillo, Texas	5606
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EL PASO, TEXAS

El Paso Terminal Warehouse, Inc.----- P.O. Box 9248 El Paso, Texas 79983 (Orders: (915) 772-2758)	5850 Welch Avenue, #1 El Paso, Texas 5850 Welch Avenue, #2 El Paso, Texas	5804  5806
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SALT LAKE CITY, UTAH

Utah Commodity Storage, Inc.----- 2724 Meadow Creek Court Park City, Utah 84060 (Orders: (435) 649-3333)	Building 661 1730 West I Avenue Tooele, Utah  Building 670 210 North Loadstone Way Tooele, Utah	5708   5710
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COMMODITY EXCHANGE, INC.  
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FACILITIES                      COMPUTER CODE

TUCSON, ARIZONA

Arizona Commodity Storage , Inc.---- 2724 Meadow Creek Court Park City, Utah 84060 (Orders: (435) 649-3333)	601 East 24th Street Tucson, Arizona 850 East Teton Tucson, Arizona 2004 S. Euclid Avenue Tucson, Arizona	5502  5506 5508
Southwest Commodity Warehouses, Inc.----- P.O. Box 78450 Tucson, Arizona 85703-8450 (Orders: (520) 887-3606)	4619 North Highway Drive Tucson, Arizona 1702 S. Euclid Tucson, Arizona 1 Jacobus Road San Manuel, Arizona	5902  5904 6202

COMMODITY EXCHANGE, INC.

LICENSED WEIGHMASTERS FOR COPPER

ALMETCO, INC.  
P.O. Box 85  
Nocona, Texas 76255  
(Orders: (940) 825-6975)

INSPECTION SERVICES INC.  
3342 S. Hunter Farm Way  
West Valley City, Utah 84128  
(Orders: (801) 205-9066)

INSPECTORATE GRIFFITH U.S.A., INC.  
5050 Timbercreek  
Houston, Texas 77017  
(Orders:(713) 944-2000)

LAUCKS TESTING LABORATORIES, INC.  
940 South Harney Street  
Seattle, Wash. 98101  
(Orders: (206) 767-5060)

LEDOUX & COMPANY  
359 Alfred Avenue  
Teaneck, N.J. 07666  
(Orders: (201) 837-7160)

METALSTORE LLC  
3332 St. Lawrence Drive  
Toledo, Ohio 43605  
(Orders: (419) 698-3441)

PANAMA CITY PORT AUTHORITY

5321 West Highway 98  
Panama City, Florida  
(Orders: (850) 767-3220)

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R. MARKEY & SONS, INC.  
5 Hanover Square, 12th Floor  
New York, N.Y. 10004  
(Orders: (212) 482-8600)

SGS North America Inc.  
Mineral Services Division  
Suite 210-B  
1919 S. Highland Avenue  
Lombard, Illinois 60148  
( Orders: (630) 953-9300 )

ALEX STEWART (ASSAYERS) INC.  
472 Westfield Avenue  
Clark, New Jersey 07066  
(Orders: (732) 827-0656)

U.S. COMMODITY SERVICES  
1610 North 9<sup>th</sup> Street  
Tacoma, Wash. 98403  
(Orders: (253) 272-1402)

J.W. WISNER INC.  
7670 East Broadway  
Suite 105  
Tucson, Arizona 85710  
(Orders: (520) 296-3666)

ERSA GLOBAL USA, Inc.  
Suite 707, 16607 Blanco Road  
San Antonio, TX 78232  
(Orders: (210) 826-3302)

SOUTHWEST COMMODITY WAREHOUSES, INC.  
P.O. Box 78450  
Tucson, Arizona 85705  
  
4619 North Highway Drive  
Tucson, Arizona 85705  
(Orders: (520) 887-3606)

### **III. EXCHANGE ACTION**

The proposed amendments were approved by the NYMEX Board of Directors at a regularly scheduled meeting. No anti-competitive effects are anticipated or are apparent. There were no substantive opposing views concerning these amendments.

As the proposed amendments adding the Panama City Port Authority as an Exchange Licensed Warehouse and Weighmaster for the COMEX Division Grade 1 Copper Futures Contract affects a "Special Matter" under the COMEX By-Laws, notice was provided to the owners of COMEX Division Memberships who were provided with 10 days to submit a petition signed by owners of 155 COMEX Division Memberships requesting a vote of the COMEX Division to disapprove the amendments, pursuant to the procedures set forth under COMEX By-Law 205(D). No petitions were received.

While there are open positions in the Copper Futures Contract these amendments will not have an economic impact on positions or prices in the market.

The Exchange intends to implement the proposed amendments the latter of (1) the day after it receives notification of Commission approval or notification that such approval is not necessary or (2) the satisfaction of the conditions precedent discussed above or (3) the completion of the relocation of the current tenant presently occupying the warehouse buildings.

In addition to the notification of the proposed amendment to add Panama City Port Authority as an Exchange Licensed Warehouse and Weighmaster for Copper pursuant to COMEX By-Law 205(D), given October 12, 2005, the Membership was informed in a Notice to Membership dated October 28, 2005, that the Exchange intends to amend Supplement No. 2, "Licensed Warehouses for Copper" and Supplement No. 3, "Licensed Weighmasters for Copper" by adding Panama City Port Authority, Panama City, Florida as an Exchange Licensed Warehouse and Weighmaster for Copper as discussed above, pending notification from the Commission.