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August 17, 2004

**BY EMAIL AND FACSIMILE**

Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: Policy Certification. NYMEX Submission 04-110: Notification Period for  
Overtime Charges at Exchange Licensed Warehouses**

Dear CFTC Commissioners:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of the Exchange's new policy pertaining to the Licensed Warehouses for Copper establishing overtime charges for the shipment of copper and notification to the Exchange of these charges.

Currently, the Exchange Licensed Warehouses for both copper and aluminum are required to provide the Exchange with ninety days written notice before there is any increase in handling and storage charges. New charges become effective on the first calendar day of the month following a ninety day notification period. The length of time that the charges remain effective is at the sole discretion of the warehouse. These charges constitute maximum rates for all copper and aluminum stored in the Licensed Warehouse. Warehouses may then, at their own discretion, negotiate lower prices with customers. However, these charges have always applied to normal business hours and generally not to overtime charges. This policy was certified with the Commission on June 23, 2004 under NYMEX Submission 04-85.

Under the new policy, the Exchange Licensed Warehouses for Copper may establish overtime charges for shipments of copper that occur outside the Warehouse's normal business hours and charge the party shipping the outbound copper accordingly. Any such "overtime" scheduling and billing is contingent to customer's agreement. The Warehouses may notify the Exchange of any changes in the overtime charges at any time and the revised overtime charges will become effective immediately. This policy, recently approved by the NYMEX Board, will become effective on Monday, August 23, 2004.

Any increases in the handling and storage charges for copper during normal business hours continues to require the ninety day notification period as discussed above.

Since, the scheduling of shipments must be on a first come first served basis, the first market participant in the outbound shipping queue will be offered to schedule shipments during a second shift (overtime) first. If this is refused, the next outbound shipper in the queue will be offered the same proposal and so on through out the entire shipping queue.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached new policy complies with the Act, including regulations under the Act. As previously noted, this new policy will go into effect on Monday, August 23, 2004.

Should you have any questions concerning the above, please contact Albert J. Getz at 212-299-2608 or the undersigned at (212) 299-2390.

Very truly yours,

Robert A. Levin  
Senior Vice President, Research

