



May 11, 2009 C.F.T.C.  
OFFICE OF THE SECRETARIAT

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**VIA E-MAIL**

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

**Re: Notification Relating to Submission 09-36. Notification of Effective Date for Approved Amendment to Supplement No. 2, "Licensed Warehouses for Copper" and Supplement No. 3, "Licensed Weighmasters for Copper", of the Grade 1 Copper Futures Contract**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") in its Submission No. 09-36 dated March 10, 2009 to the Commodity Futures Trading Commission ("CFTC" or "Commission") indicated that it was self-certifying 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 amendments would add the Tucson Port Authority, LLC copper warehouse located at 6908 E. Century Park Drive, Tucson, Arizona as an Exchange Licensed Warehouse for the storage of copper deliverable against the Exchange's Grade 1 Copper Futures contract. As stated in Submission 09-36, the effective date of the amendments to Supplement No. 2 and Supplement No. 3 was dependent upon the satisfaction of the conditions precedent set forth below and in Submission 09-36.

The conditions precedent are as follows: (1) the execution of legal documentation acceptable to the Exchange; (2) obtaining a Standby Letter of Credit in a format acceptable to the Exchange in the amount of \$500,000, which already has been agreed to by the Tucson Port Authority, LLC; and (3) the installation of the appropriate weighing equipment necessary to weigh copper into contract sized lots and the training of personnel to operate this equipment.

The conditions precedent have been completed. As such, the Exchange is notifying the Commission that the effective date for the addition of Tucson Port Authority, LLC to Supplement No. 2, "Licensed Warehouses for Copper" and Supplement No. 3, "Licensed Weighmasters for Copper", of the Grade 1 Copper Futures contract will be Wednesday, May 13, 2009.

For your convenience, a copy of Submission 09-36 is enclosed herewith. Should you have any questions concerning the above, please contact Robert A. Levin at (212) 299-2390, or me at (312) 648-5422.

Sincerely,

/s/ Stephen M. Szarmack  
Director and Associate General Counsel

# SUBMISSION COVER SHEET

Exchange Identifier Code 09.36

Date March 10, 2009

## ORGANIZATION

New York Mercantile Exchange, Inc.

## FILING AS A:

DCM

DCO

DTEF

## TYPE OF FILING

### • Rule Amendments

Self-Certification Under Reg. 40.6(a)

Commission Approval Requested Under Reg. 40.5 or 40.4 (a)

Notification of Rule Amendment Under Reg. 40.6(c)

Non-Material Agricultural Rule Change Determination Under Reg. 40.4(b)

### • New Products

Self-Certification Under Reg. 40.2 or 41.23

Commission Approval Requested Under Reg. 40.3

## RULE NUMBERS

Supplement No. 2, "Licensed Warehouses for Copper", of the Grade 1 Copper Futures Contract and Supplement No. 3, "Licensed Weighmasters for Copper", of the Grade 1 Copper Futures Contract.

## DESCRIPTION (Rule Amendments Only)

This certification amends the aforementioned Supplements to reflect the addition of the Tucson Port Authority, LLC copper warehouse located at 6908 E. Century Park Drive, Tucson, Arizona, as an Exchange Licensed Warehouse for the storage of Copper for delivery against the Exchange's Copper Futures Contracts and an Exchange Licensed Weighmaster for Copper.



March 10, 2009

VIA E-MAIL

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

**Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #09.36:  
Notification of the Amendments to Supplement No. 2, "Licensed Warehouses  
for Copper" and Supplement No. 3, "Licensed Weighmasters for Copper", of  
the Grade 1 Copper Futures Contract**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying 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 amendments to the aforementioned Supplements reflect the addition of the Tucson Port Authority, LLC copper warehouse located at 6908 E. Century Park Drive, Tucson, Arizona for the storage of copper deliverable against the Exchange's Grade 1 Copper Futures contract. The Tucson Port Authority, LLC is a new Exchange warehouse facility located in an approved delivery location.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached amendments to Supplement No. 2 and Supplement No. 3 to the Grade 1 Copper Futures contract comply with the Act, including regulations under the Act.

The effective date will be dependent upon the satisfaction of the conditions precedent in the attached letter. The Exchange will notify the Commodity Futures Trading Commission of the effective date upon satisfaction of the conditions precedent.

Should you have any questions concerning the above, please contact Robert A. Levin at (212) 299-2390 or the undersigned at (202) 638-3838.

Sincerely,

A handwritten signature in cursive script, appearing to read "De'Ana H. Dow".

De'Ana H. Dow  
Managing Director  
Government Relations

Attachments

**(Bold/Underline indicates additions)**

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
Madison Warehouse Corporation----- 7330 Carbide Road Baltimore, Md. 21226 (Orders: (410) 360-2300)	7330 Carbide Road Baltimore, Md.	3204
C. Steinweg (Baltimore), Inc.----- 1201 Wallace Street Baltimore, MD 21230 (Orders: (410) 752-8254)	1201 Wallace Street Shed #7	3502
<u>TOLEDO, OHIO</u>		
MetalStore LLC----- 3332 St. Lawrence Drive Toledo, Ohio 43605 (Orders: (419) 698-3441)	3332 St. Lawrence Drive Toledo, Ohio	8101

PANAMA CITY, FLORIDA

Panama City Port Authority ----- 5321 West Highway 98 Panama City, Florida 32401 (Orders: (850) 767-3220)	5321 West Highway 98 Panama City, Florida	9101
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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

Stagecoach Cartage and Distribution, LP----- 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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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	5902 5904

<u>Tucson Port Authority, LLC-----</u> <u>6964 E. Century Park Drive</u> <u>Tucson, AR 85756</u> <u>Telephone: 520-574-1320</u>	<u>6908 E. Century Park Drive</u> <u>Tucson, AR 85756</u>	<u>5905</u>
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**(Bold/Underline indicates additions)**

Copper Supplement  
No. 3

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. 98108  
(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)

C. STEINWEG (BALTIMORE) INC.  
1201 Wallace Street  
Baltimore, MD 21230  
(Orders: (410) 752-8254)

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

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)

**TUCSON PORT AUTHORITY, LLC**  
**6908 E. Century Park Drive**  
**Tucson, Arizona 85756**  
**Telephone: 520-574-1320**



## **I. EXPLANATION AND PURPOSE**

The Exchange is amending Supplement No. 2, "Licensed Warehouses for Copper", and Supplement No. 3, "Licensed Weighmasters for Copper", of the Grade 1 Copper Futures Contract. The purpose of the amendments is to add Tucson Port Authority, LLC, located in Tucson, Arizona, as an Exchange Licensed Warehouse and Exchange Licensed Weighmaster for the Exchange's Grade 1 Copper Futures Contract.

### **A. CONDITIONS PRECEDENT**

The satisfaction of the conditions precedent to the effective date of the Tucson Port Authority, LLC becoming an Exchange Licensed Warehouse is currently pending. Those conditions are as follows: (1) the execution of legal documentation acceptable to the Exchange; (2) obtaining a Standby Letter of Credit in a format acceptable to the Exchange in the amount of \$500,000, which already has been agreed to by the Tucson Port Authority, LLC; and (3) the installation of the appropriate weighing equipment necessary to weigh copper into contract sized lots and the training of personnel to operate this equipment.

### **B. NAME AND ADDRESS OF APPLICANT**

#### **Corporate Offices**

Tucson Port Authority, LLC  
6964 E. Century Park Drive  
Tucson, AR 85756

Telephone: 520-574-1320

Facsimile: 520-574-1331

Contact: Alan Levin, Owner

#### **Warehouse Location**

Tucson Port Authority, LLC  
6908 E. Century Park Drive  
Tucson, AR 85756

Telephone: 520-574-1320

Facsimile: 520-574-1331

Contact: Alan Levin, Owner

### **C. FACILITY AND MATERIAL HANDLING**

Tucson Port Authority, LLC is a company established within Century Park Properties which is owned and operated by Alan Levin. The facility is a general merchandise warehouse that contains a total of 360,000 square feet of warehousing space. Three additional tenants currently occupy portions of the warehouse. These tenants and their respective occupancies are: Biagi - 90,000 sq.ft.; Motorola - 120,000 sq.ft.; and Wal-Mart - 30,000 sq.ft. The Tucson Port Authority, LLC facility has allocated a total of 120,000 square feet of storage space for the storage of copper. Demising walls separate each tenant's space. Therefore, the copper stored would be physically separated from the other tenants. The building is built out of metal with structural steel and sheet metal. The floor construction is made of reinforced six inch (6") concrete slabs. The load bearing capacity is 10,000 pounds per square foot. The front to back dimensions within the warehouse is 300 feet. The columns that support the roof rafters are 100 feet apart giving the capacity to have 30,000 square foot modules with defined end walls. This design accommodates the specifications requested by Tucson Port Authority, LLC. Within each

module there are three (3) dock level doors for trucks, one (1) grade level door, and one (1) rail dock door. Additional rail dock doors can be built from the existing structure if needed. Currently, Tucson Port Authority, LLC can accommodate for ten (10) rail cars and twenty (20) trucks per day. Tucson Port Authority, LLC guarantees that it is capable of shipping five hundred (500) tons of copper per day. Union Pacific Railroad services the Tucson Port Authority, LLC six (6) days per week. As stated above, the installation of the appropriate weighing equipment necessary to weigh copper into contract sized lots is still pending.

#### **D. INSPECTION**

Exchange staff visited the facility in Tucson, Arizona on January 21, 2009. The facility was orderly and in good physical condition. The merchandise stored in the facility was easily accessible and neatly stored. Exchange staff was impressed with the knowledge and experience of the warehouse operators in the handling and storage of various products currently stored in the facility. Staff has reviewed with the applicant the Exchange procedures with respect to the reporting of stocks, record keeping, and all other issues pertaining to the storage of copper.

#### **E. SECURITY**

The Tucson Port Authority, LLC storage facility contains monitoring cameras, motion detectors, laser beams, a sprinkler system, and door contacts. The facility is monitored by the Central Alarm Company. The sprinkler system is monitored via a flow switch and, upon activation, immediately notifies the local Fire Department. There is a locked entrance and construction wall that separates the proposed area for copper storage from the other tenants in the storage facility.

#### **F. INSURANCE**

The Tucson Port Authority, LLC has indicated that it will participate in the insurance policy that the Exchange has through its insurance broker, Marsh USA Inc., underwritten by Lloyd's of London. This policy insures copper for up to \$225 million of value at risk. In addition, Tucson Port Authority, LLC has provided a certificate of insurance for Warehouseman's Legal Liability coverage. That policy's expiration date is December 15, 2009.

#### **G. FINANCIAL**

Name and Address of Independent Auditor: Bitner and Collings, PLLC  
2930 North Swan Road, Suite 209  
Tucson, AZ 85712

Bitner and Collings, PLLC has been retained by the Tucson Port Authority, LLC to perform the annual audit as required by the Exchange.

### **Financial Information**

Since Tucson Port Authority, LLC is privately owned, the owner has not generated audited financial statements, however, the company has agreed to obtain a Standby Letter of Credit in a format acceptable to the Exchange in the amount of \$500,000. The purpose of the Standby Letter of Credit is to ensure that there would be sufficient funds available to relocate any warranted copper to another Exchange Licensed Warehouse in the event that the Tucson Port Authority, LLC fails to cure a material breach of the Delivery Point Agreement, which could result in the agreement with the Exchange being terminated. The Exchange, in its sole discretion, has the right to require the Tucson Port Authority, LLC to increase the dollar amount of the Standby Letter of Credit and/or to limit the amount of metal that may be placed on warrant. The format of the Standby Letter of Credit must be acceptable to the Exchange.

### **H. ELECTRONIC DELIVERY SYSTEM**

Since the Exchange has implemented the Electronic Delivery System ("EDS"), paper warrants are no longer used by the Exchange Licensed Warehouses or deliverable against the Exchange's Futures contracts. The Tucson Port Authority, LLC will participate and use the Electronic Delivery System to generate warrants.

### **II. PROPOSED AMENDMENTS**

The proposed amendments to Supplement No. 2 and Supplement No. 3 to the Grade 1 Copper Futures contract are attached above.