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October 13, 2004

**Via E-Mail and US Mail**

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

**Re: Rule Certification. NYMEX Submission 04.132 – Notification of Amendments to NYMEX Division Rules 6.51 and 6.52.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of amendments to NYMEX Division Rules 6.51, Settlement Price Committee, and 6.52, Settlement Prices for Crude Oil, Heating Oil, Unleaded Gasoline and Coal Futures Contracts.

Effective November 1, 2004, Staff participation will be integrated into the Crude Oil Futures Settlement Committee, pursuant to NYMEX Rule 6.51. Also, the status of NYMEX Rule 6.52, which specifies the settlement procedures for Crude Oil, Heating Oil, Unleaded Gasoline and Coal Futures contracts, is being changed from pilot program to permanent status. Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy M. Minett  
Vice President  
Compliance Department

Attachments  
cc: Thomas LaSala  
Brian Regan

(Additions are underlined.)

### **NYMEX Rule 6.51 Settlement Price Committee**

(A) Except as provided in Subsection (B) below, the Settlement Price Committee, which shall be a Regular Committee, shall consist of such members, permittees and representatives of non-member firms as the Chairman may appoint with the consent of the Board. Additionally, one (1) Exchange employee will be a voting member of the Committee in the PJM electricity futures contract, calendar spread options and crack spread options. The Exchange employee shall have final authority in all instances to veto and override price determinations made by the Committee. Further, in the Natural Gas and Crude Oil Futures contracts, an Exchange employee shall be a voting member of the Committee and shall have the right and authority to veto and override any decision by the Committee in conformance with Exchange Rule 6.52A(D) and 6.52 respectively. The Committee shall be divided into sub-committees for each futures and options contract traded. To the extent possible, each sub-committee shall consist of at least six (6) Members, at least one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent trade interests (either personal, of his employer, or of a substantial customer base).

(B) For all futures and options contracts traded solely on NYMEX ACCESS® or NYMEX ClearPort<sup>sm</sup> Trading, the Settlement Price Committee shall consist of such Exchange employees as the President shall designate from time to time and such Members, Non-Members, and representatives of Member and Non-Member firms as may be appointed by the Chairman and approved by the Board.

(C) At the conclusion of the RTH trading session on the Exchange Floor each day, settlement prices shall be determined for every contract listed.

(D) The Settlement Price Committee, or any subcommittee thereof, shall have the authority to request from any member representing that certain market information should be considered in the determination of a settlement price, such documentation as it deems appropriate including, but not limited to, trading cards or records created using an Approved Handheld, and order tickets.

(Strikethroughs indicate deletions.)

**NYMEX Rule 6.52 Settlement Prices for Crude Oil, Heating Oil, Gasoline, and Coal Futures Contracts (~~Pilot Program~~)**

(A) For crude oil, except for NYMEX Brent crude oil futures, heating oil, gasoline or coal futures contracts, the settlement price for each delivery month that: (1) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (2) for which 10% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month which occur in the closing range. (3) Additionally, TAS volume, if applicable, shall be included as closing range volume for the purpose of item (2) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(B) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greatest weight given to spreads executed late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded in lesser volumes, (ii) spread bids and offers actively represented late in the trading day, and (iii) spread transactions, bids and offers from earlier in the trading day, provided that, in any circumstance where the Committee is considering bids and offers for spreads, it shall consider the mid-point of the best bid and best offer and not the individual best bid or best offer. In the event of a "price spike in the closing range" in any contract month where the settlement price is determined by weighted average according to the open interest and volume criteria set forth in paragraph (A), the Settlement Price Committee may disregard the settlement price for a spiked month in considering spread relationships pursuant to this paragraph. For the purpose of this rule, a "price spike in the closing range" shall have occurred if, in the sole discretion of the Settlement Price Committee, a significant change in the spread relationships between the "spiked month" and the contract months immediately preceding and following such month occurred during the closing range. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 100 contracts for outrights or at least 200 contracts for spreads in crude oil futures contracts or for at least 50 contracts (outright or spreads) for heating oil or gasoline futures contracts or for at least 10 contracts for coal futures, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final fifteen (15) minutes of trading.

(C) If any settlement price, determined pursuant to paragraphs (A) or (B), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Settlement Price Committee, (including, but not limited to, (i) bids or offers for outright transactions and spreads that were unfilled during the

closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.

(D) In the event that the Settlement Price Committee: establishes a settlement price in accordance with paragraph (C) of this Rule; determines that a "price spike in the closing range occurred", in accordance with paragraph (B) of this Rule; or fails to determine a settlement price by unanimous agreement of the six Members designated by the Chairman to establish settlement prices pursuant to Rule 6.51, the Committee shall prepare a written record of the basis upon which it established such settlement price.

(E) Notwithstanding the above, the settlement price for the last day of trading in a contract month in the Exchange's Brent Crude Oil futures contract shall be determined in accordance with the rules in NYMEX Chapter 205 (Brent Crude Oil Futures Contract).