



New York
Mercantile Exchange

NYMEX/COMEX. Two divisions, one marketplace

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VIA FACSIMILE AND E-MAIL

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

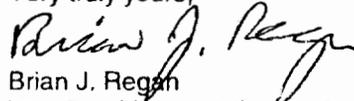
**Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #05.46:
Amendments Concerning Service by NYMEX Staff on NYMEX Floor
Committees**

Dear CFTC Commissioners:

The New York Mercantile Exchange, Inc. ("Exchange") is notifying the Commodity Futures Trading Commission ("Commission") that it is amending NYMEX Rule 3.20 ("Floor Committee") and NYMEX Rule 8.21 ("Floor Committee"). The rules are being implemented in connection with the implementation of a new program under which certain NYMEX staff employees will be dedicated to serving on NYMEX Floor Committees. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached amendments comply with the Act, including regulations under the Act; these rule changes will be implemented effective on Tuesday, March 15, 2005.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2207.

Very truly yours,


Brian J. Regan
Vice President and Counsel

Att.

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(212) 299-2000

The New York Mercantile Exchange, Inc., is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, propane, platinum and palladium. The COMEX Division offers trading in gold, silver, copper, aluminum, and the FTSE Eurotop 100[®] index, and the FTSE Eurotop 300[®] index.

NOTIFICATION OF NYMEX RULE AMENDMENTS

(Underlining in bold indicates additions; strike-outs in bold indicate deletions.)

Rule 3.20 FLOOR COMMITTEE

(A) The Floor Committee shall be a Regular Committee and shall consist of such number of Floor Members and NYMEX staff members as the Chairman may appoint, subject to the approval of the Board.

(B) The Floor Committee shall:

(i) Resolve any disputes arising out of bids or offers by action of any member of the Committee without notice to other members of the Committee.

(ii) Supervise practices relating to bids or offers and take steps to avoid disruptive practices or practices inconsistent with orderly trading procedures.

(iii) Supervise the conduct of members and others on the Floor of the Exchange and maintain good order and decorum.

(iv) Have such other powers as may be set forth in the Bylaws and Rules and such other functions as may be delegated to it by the Board.

(C) The Chairman of the Floor Committee shall designate a Ring Chairman for each trading ring on the Exchange. The Ring Chairman for all Class A Member products will be a Class A Member. The Ring Chairman for all COMEX Division products will be a COMEX Division Member. With respect to service on the Floor Committee by Floor Members, the Ring Chairman will recommend to the Chairman of the Committee members to serve in each trading ring. Although NYMEX staff members on the Floor Committee may not serve as a Ring Chairman, such staff members nonetheless shall be permitted to attend and to vote at Ring Chairman meetings as well as at regular meetings of the full Floor Committee.

Rule 8.21. FLOOR COMMITTEE

(A)(1) Authority to Issue Warning Letters and/or Summary Fines for Violations of Decorum or Attire Rules

The Floor Committee, any member of the Floor Committee including any Exchange employees serving on the Floor Committee, any agent acting on behalf of the Floor Committee, any Board Member who is not a Public Director, and any Exchange employee designated by the Board may impose summarily, on any Member or any person under the control of a Member, a Warning Letters and/or fine of not more than five thousand dollars (\$5,000) for each violation of any Rule relating to decorum or attire on the trading floor or in any part of the Exchange premises.

(2) Authority to Issue Warning Letters and/or Summary Fines for Other Floor Offenses

The Floor Committee, any member of the Floor Committee, any agent acting on behalf of the Floor Committee and any Exchange employee designated by the Board may impose summarily, on any Member or any person under the control of a Class A Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) for each violation of: any Rule relating to clerk registration, any Rule regarding the untimely or inaccurate submission of trade data, reports, records or similar matters for clearing or for verifying each day's transactions; for a failure by qualified floor traders and/or their

authorized representatives to attend any option's expirations; or for failure by a Member to attend a mandatory session of the Training and Education Committee. With respect to any Class A Member or any person under control of a Class A Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of NYMEX Rules 6.37 or 6.06. With respect to any COMEX Division Member or any person under control of a COMEX Division Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of: COMEX Rules 4.03; 4.14; 4.25; 4.09; 4.05(a); or 4.70; or for any interference or attempt to interfere with an employee of the Exchange in the performance of his duties under COMEX Rules 4.04, 4.05 and 4.07. In the event that either: i) the official citing the alleged infraction was involved in the incident in question; and/or ii) the facts of the alleged infraction are challenged by a disinterested third party, then the party charged shall be entitled to an adjudication in accordance with the applicable requirements of Subpart B of the Commission's Part 8 rules, 17 C.F.R. §§8.05 through 8.20 (exclusive of §§8.10, 8.16 and 8.19) prior to the imposition of any fine. In no event shall the issuance of a Warning Letter entitle a Member to a hearing. Warning Letters may be appealed in accordance with the provisions set forth in Exchange Rule 8.21(l) below.

(B) The official imposing the fine shall issue a "Notice of Fine" in a form to be prescribed by the Exchange, which shall notify the Respondent of the offense committed and the fine to be imposed. The form shall notify the Respondent of the right to request a hearing whenever the provisions of paragraph (A)(i) or (ii) of this rule are applicable. Failure to request a hearing, unless good cause is shown, shall be deemed a consent to the fine, which shall then be imposed in the amount set forth in the Notice of Fine, or in such amount as may be determined by the Floor Committee in the event that the Notice of Fine does not specify an amount.

(C) A Class A Member who claims that he is entitled to a hearing in accordance with the provisions of paragraph (A) of this rule shall be entitled to file a written request for a hearing with the Hearing Registrar within seven (7) business days after mailing of such notice by the Hearing Registrar, subject to the following:

(i) The Compliance Department shall review the request for a hearing and prepare an Investigative Report which shall be in writing and shall set forth the reason that the investigation was initiated, the relevant facts, the conclusions of the Compliance Department and, if the Compliance Department concludes that there is a reasonable basis to believe that a rule violation occurred, a recommendation of the Compliance Department to a Panel comprised of three Members of the Executive Floor Committee (the "Review Panel") whether the matter requires a hearing in accordance with the provisions of paragraph (A) of this rule. The Review Panel shall determine if a hearing is required. In addition to the above, the Compliance Department may refer a matter to the Business Conduct Committee in accordance with the provisions of Chapter 8 ("Disciplinary Rules").

(ii) The Respondent shall be notified of the determination of the Review Panel and shall be entitled to file an Answer within seven (7) business days after mailing of such notice by the Hearing Registrar. Any charges not denied in the answer shall be deemed admitted and if no answer is filed within the time period specified in the rule, unless good cause is shown, all the charges will be deemed to have been admitted.

(iii) A party who files a request for a hearing shall be required to appear at the hearing unless a written withdrawal of the request for a hearing has been filed with the Hearing Registrar at least one week prior to the scheduled hearing day. The Panel (composed as set forth in paragraph (D) of this rule) may in its discretion enter a penalty for non-appearance in an amount not to exceed \$250 against a party who has not filed a withdrawal of his request for a hearing and who has not appeared at the scheduled time and place. Such penalty shall become effective ten

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(10) days after it has been issued unless the Respondent shows good cause for the non-appearance prior to the effective day of the penalty.

(D) A hearing required pursuant to paragraph (A) of this rule shall be scheduled no earlier than twenty days following the incident in question and shall be conducted before a Panel comprised of no fewer than three Members of the Executive Floor Committee, provided that none of the Panel members shall have served on the Review Panel for the incident in question. The Panel shall meet at such times as it deems appropriate. The personal appearance of the Respondent and the Compliance Department shall be required. Where the Respondent fails to appear at a requested hearing at the time and place scheduled without acceptable justification, in addition to the sanctions which may be imposed under paragraph (C)(iii) of this rule, he shall be deemed in default, and the proceeding shall be determined against the Respondent upon consideration of the Notice of Fine, the allegations of which shall be deemed to have been admitted. The Panel may determine the procedures to be applied in any hearing before it; provided, however, that the following procedures shall apply in every case:

(i) The prosecution shall be conducted by the Compliance Department;

(ii) The Respondent shall be permitted to present witnesses or other evidence; and may cross-examine witnesses;

(iii) Unless good cause is shown, the Compliance Department and the Respondent shall be limited to a presentation not to exceed fifteen (15) minutes;

(iv) The formal rules of evidence shall not apply and the Panel shall have the discretion to accept or reject any and all evidence;

(v) A tape recording of the proceedings shall be made which shall be capable of being transcribed;

(vi) The Notice of Fine, the tape recording, any documentary evidence or other material presented to the Panel by either party shall constitute the record of the hearing;

(vii) The Compliance Department shall have the burden of proof;

(viii) A finding of a Rules violation may be made on the weight of the evidence contained in the record of the proceeding.

(E) In advance of the hearing, the Respondent shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that (i) are to be relied upon by the Compliance Department in prosecuting the matter; or (ii) which are relevant to the charges. Respondent shall be required to produce such discovery as the Compliance Department shall request which is relevant to the charges and Respondent's defense.

(F) Any person within the jurisdiction of the Exchange who is called at any hearing shall appear at such hearing and give testimony or produce evidence.

(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of the hearing.

(H) The Panel shall render a written decision within thirty (30) days of the hearing date, receipt of notice that the Respondent has waived his right to a hearing, or the entry of default, whichever is applicable. The written decision shall include: (i) the specific Rule violation which the Respondent was found to have committed; (ii) an order which may impose the penalty recommended in the Notice of Fine,

increase or decrease the recommended amount; and (iii) notice that the decision constitutes a final decision of the Exchange which is appealable to the Commission.

(I) Any Warning Letter imposed in accordance with Rule 8.21(A) and/or any fine that does not require a hearing, may be appealed to the Floor Committee or any subcommittee thereof consisting of the Chairman, Vice Chairman and any Ring Chairman as may be appointed by the Chairman of the Floor Committee to hear such appeals by filing a typewritten request with the Hearing Registrar within seven (7) business days after mailing of such notice by the Hearing Registrar. In its sole discretion, the Floor Committee or a subcommittee thereof may affirm, reverse, or modify any penalty imposed pursuant to Rule 8.21(A). A modification of any fine may include, among other things, an increase in any fine imposed.

(J) Any fine imposed in accordance with this Rule §8.21(A) shall be due and payable within ten (10) days after notice of such action is given to the Member. Where a determination has been made either by a Panel of the Executive Floor Committee following a hearing or by the Floor Committee or a subcommittee thereof following an appeal, such action shall be final ten (10) days after notice is given to the Member and shall not be subject to appeal, and any fine imposed as a result of such determination shall be due and payable within ten (10) days after notice of the determination is given to the Member.

(K) The Floor Committee and any subcommittee appointed pursuant to paragraph (I) of this rule may refer any matter within its jurisdiction to the Business Conduct Committee or to the Compliance Department for further action under this Chapter 8.

(L) In addition to any sanctions provided in any other paragraph in this section, any three members of the Floor Committee, one of whom must be either the Chairman or the Vice Chairman of the Floor Committee, may summarily remove, or cause the removal, from the floor of the Exchange, any member or any employee or agent of any member or member firm that commits a floor offense as described in Rule 6.60 which in the opinion of such three members of the Floor Committee either involves a physical altercation or otherwise is sufficiently disruptive to warrant such summary removal. Any member or employee summarily removed from the floor of the Exchange pursuant to the provisions of this rule may not return to the floor of the Exchange for such period of time as may be determined by such three members of the Floor Committee which period of time shall in no event exceed two full business days in addition to the day of the altercation.