

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 72-2]

**Notice of Issuance of Renewed Materials License SNM-2501; Virginia Electric and Power Company, Surry Independent Spent Fuel Storage Installation**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued renewed Materials License SNM-2501 to Virginia Electric and Power Company (Dominion) for the receipt, possession, transfer, and storage of spent fuel at the Surry Independent Spent Fuel Storage Installation (ISFSI), located in Surry County, Virginia. The renewed license authorizes operation of the Surry ISFSI in accordance with the provisions of the renewed license and its Technical Specifications.

The application for the renewed license complies with the standards and requirements of the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license. Public notice of the proposed action and opportunity for hearing regarding the proposed issuance of the renewed license was published in the **Federal Register** on January 14, 2003 (69 FR 1871).

Supporting documentation is available for inspection at NRC's Public Electronic Reading Room at: <http://www.nrc.gov/reading-rm/ADAMS.html>. A copy of the license application, dated April 29, 2002 as supplemented October 6, 2003, and the staff's EA, dated February 2005, can be found at this site using the ADAMS accession numbers ML021290068, ML032900118, and ML040560156. Any questions should be referred to Mary Jane Ross-Lee, Spent Fuel Project Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mailstop O13D13, telephone (301) 415-3781; fax number (301) 415-8555.

Dated in Rockville, Maryland, this 25th day of February, 2005.

For the Nuclear Regulatory Commission.

**Mary Jane Ross-Lee,**

*Senior Project Manager, Licensing Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 05-4175 Filed 3-3-05; 8:45 am]

BILLING CODE 7590-01-P

**RAILROAD RETIREMENT BOARD****Agency Forms Submitted for OMB Review**

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

**Summary of Proposal(s)**

(1) *Collection Title:* Statement Regarding Contributions and Support of Children.

(2) *Form(s) Submitted:* G-139.

(3) *OMB Number:* 3220-0195.

(4) *Expiration Date of Current OMB Clearance:* 05/31/2005.

(5) *Type of Request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated Annual Number of Respondents:* 500.

(8) *Total Annual Responses:* 500.

(9) *Total Annual Reporting Hours:* 500.

(10) *Collection Description:* Dependency on the employee for at least one-half support is a condition affecting eligibility for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren and step-grandchildren. The information collected solicits financial information needed to determine entitlement to a child's annuity based on actual dependency.

*Additional Information or Comments:* Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312-751-3363) or [Charles.Mierzwa@rrb.gov](mailto:Charles.Mierzwa@rrb.gov).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 or [Ronald.Hodapp@rrb.gov](mailto:Ronald.Hodapp@rrb.gov) and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Charles Mierzwa,**  
*Clearance Officer.*

[FR Doc. 05-4168 Filed 3-3-05; 8:45 am]

BILLING CODE 7905-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51277/February 28, 2005]

**Order Making Fiscal 2005 Mid-Year Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Securities Exchange Act of 1934****I. Background**

Section 31 of the Securities Exchange Act of 1934 ("Exchange Act") requires each national securities exchange and national securities association to pay transaction fees to the Commission.<sup>1</sup> Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted on the exchange.<sup>2</sup> Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted by or through any member of the association other than on an exchange.<sup>3</sup>

Sections 31(j)(1) and (3) require the Commission to make annual adjustments to the fee rates applicable under Sections 31(b) and (c) for each of the fiscal years 2003 through 2011, and one final adjustment to fix the fee rates for fiscal year 2012 and beyond.<sup>4</sup> Section 31(j)(2) requires the Commission, in certain circumstances, to make a mid-year adjustment to the fee rates in fiscal 2002 through fiscal 2011.<sup>5</sup> The annual and mid-year adjustments are designed to adjust the fee rates in a given fiscal year so that, when applied to the aggregate dollar volume of sales for the fiscal year, they are reasonably likely to produce total fee collections under Section 31 equal to the "target offsetting collection amount" specified in Section 31(l)(1) for that fiscal year.<sup>6</sup> For fiscal 2005, the target offsetting collection amount is \$1,220,000,000.<sup>7</sup>

Congress established the target offsetting collection amounts in the Investor and Capital Markets Fee Relief Act ("Fee Relief Act") by applying reduced fee rates to the Congressional Budget Office's ("CBO") January 2001 projections of dollar volume for fiscal years 2002 through 2011.<sup>8</sup> In any fiscal

<sup>1</sup> 15 U.S.C. 78ee.

<sup>2</sup> 15 U.S.C. 78ee(b).

<sup>3</sup> 15 U.S.C. 78ee(c).

<sup>4</sup> 15 U.S.C. 78ee(j)(1) and (j)(3).

<sup>5</sup> 15 U.S.C. 78ee(j)(2).

<sup>6</sup> 15 U.S.C. 78ee(l)(1).

<sup>7</sup> *Id.*

<sup>8</sup> The target offsetting collection amounts for fiscal 2002 through 2006 were determined by

year through fiscal 2011, the annual, and in certain circumstances, mid-year adjustment mechanisms will result in additional fee rate reductions if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too low, and fee rate increases if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too high.

## II. Determination of the Need for a Mid-Year Adjustment in Fiscal 2005

Under Section 31(j)(2) of the Exchange Act, the Commission must make a mid-year adjustment to the fee rates under Sections 31(b) and (c) in fiscal year 2005 if it determines, based on the actual aggregate dollar volume of sales during the first five months of the fiscal year, that the baseline estimate (\$37,902,443,515,254) is reasonably likely to be 10% (or more) greater or less than the actual aggregate dollar volume of sales for fiscal 2005.<sup>9</sup> To make this determination, the Commission must estimate the actual aggregate dollar volume of sales for fiscal 2005.

Based on data provided by the national securities exchanges and the national securities association that are subject to Section 31,<sup>10</sup> the actual aggregate dollar volume of sales during the first four months of fiscal 2005 was \$10,211,172,018,628.<sup>11</sup> Using these data and a methodology for estimating the

applying a rate of \$15 per million to the CBO's January 2001 projections of dollar volume for those fiscal years. The target offsetting collection amounts for fiscal 2007 through 2011 were determined by applying a rate of \$7 per million to the CBO's January 2001 projections of dollar volume for those fiscal years. For example, CBO's January 2001 projection of dollar volume for fiscal 2005 was \$81,300,000,000,000. Applying the initial rate under the Fee Relief Act of \$15 per million to that projection produces the target offsetting collection amount for fiscal 2005 of \$1,220,000,000.

<sup>9</sup> The amount \$37,902,443,515,254 is the baseline estimate of the aggregate dollar amount of sales for fiscal year 2005 calculated by the Commission in its Order Making Fiscal 2005 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934, Rel. No. 33-8418 (April 30, 2004), 69 FR 25632 (May 7, 2004).

<sup>10</sup> The NASD, Inc. ("NASD") and each exchange is required to file a monthly report on Form R31 containing dollar volume data on sales of securities subject to Section 31. The report is due on the 10th business day following the month for which the exchange or association provides dollar volume data.

<sup>11</sup> Although Section 31(j)(2) indicates that the Commission should determine the actual aggregate dollar volume of sales for fiscal 2005 "based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year," data are only available for the first four months of the fiscal year as of the date the Commission is required to issue this order, *i.e.*, March 1, 2005. Dollar volume data on sales of securities subject to Section 31 for February 2005 will not be available from the exchanges and the NASD for several weeks.

aggregate dollar amount of sales for the remainder of fiscal 2005 (developed after consultation with the CBO and the OMB),<sup>12</sup> the Commission estimates that the aggregate dollar amount of sales for the remainder of fiscal 2005 to be \$24,166,536,269,237. Thus, the Commission estimates that the actual aggregate dollar volume of sales for all of fiscal 2005 will be \$34,377,708,287,865.

Because the baseline estimate of \$37,902,443,515,254 is more than 10% greater than the \$34,377,708,287,865 estimated actual aggregate dollar volume of sales for fiscal 2005, Section 31(j)(2) of the Exchange Act requires the Commission to issue an order adjusting the fee rates under Sections 31(b) and (c).

## III. Calculation of the Uniform Adjusted Rate

Section 31(j)(2) specifies the method for determining the mid-year adjustment for fiscal 2005. Specifically, the Commission must adjust the rates under Sections 31(b) and (c) to a "uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of [fiscal 2005], is reasonably likely to produce aggregate fee collections under Section 31 (including fees collected during such 5-month period and assessments collected under [Section 31(d)]) that are equal to [\$1,220,000,000]." <sup>13</sup> In other words, the uniform adjusted rate is determined by subtracting fees collected prior to the effective date of the new rate and assessments collected under Section 31(d) during all of fiscal 2005 from \$1,220,000,000, which is the target offsetting collection amount for fiscal 2005. That difference is then divided by the revised estimate of the aggregate dollar volume of sales for the remainder of the fiscal year following the effective date of the new rate.

The Commission estimates that it will collect \$438,149,779 in fees for the period prior to the effective date of the

<sup>12</sup> See Appendix A.

<sup>13</sup> 15 U.S.C. 78ee(j)(2). The term "fees collected" is not defined in Section 31. Because national securities exchanges and national securities associations are not required to pay the first installment of Section 31 fees for fiscal 2005 until March 15, the Commission will not "collect" any fees in the first five months of fiscal 2005. See 15 U.S.C. 78ee(e). However, the Commission believes that, for purposes of calculating the mid-year adjustment, Congress, by stating in Section 31(j)(2) that the "uniform adjusted rate \* \* \* is reasonably likely to produce aggregate fee collections under Section 31 \* \* \* that are equal to [\$1,220,000,000]," intended the Commission to include the fees that the Commission will collect based on transactions in the six months before the effective date of the mid-year adjustment.

mid-year adjustment<sup>14</sup> and \$20,973 in assessments on round turn transactions in security futures products during all of fiscal 2005. Using the methodology referenced in Part II above, the Commission estimates that the aggregate dollar volume of sales for the remainder of fiscal 2005 following the effective date of the new rate will be \$18,708,485,344,202. Based on these estimates, the uniform adjusted rate is \$41.80 per million of the aggregate dollar amount of sales of securities.<sup>15</sup>

The Commission recognizes that this fee rate is higher than the current fee rate of \$32.90 per million. However, the new fee rate is established by the statutory mid-year adjustment mechanism and is a direct consequence of more recent information on the dollar amount of sales of securities. The aggregate dollar amount of sales of securities subject to Section 31 fees is illustrated in Appendix A.

## IV. Effective Date of the Uniform Adjusted Rate

Section 31(j)(4)(B) of the Exchange Act provides that a mid-year adjustment shall take effect on April 1 of the fiscal year in which such rate applies. Therefore, the exchanges and the national securities association that are subject to Section 31 fees must pay fees under Sections 31(b) and (c) at the uniform adjusted rate of \$41.80 per million for sales of securities transacted on April 1, 2005, and thereafter until the annual adjustment for fiscal 2005 is effective.<sup>16</sup>

<sup>14</sup> This calculation is based on applying a fee rate of \$23.40 per million to the aggregate dollar volume of sales of securities subject to Section 31 through January 6, 2005, and a rate of \$32.90 for the period from January 7, 2005 to March 31, 2005. Because the Commission's regular appropriation for fiscal year 2005 was not enacted prior to the end of fiscal year 2004, Exchange Act Section 31(k), the "Lapse of Appropriation" provision, required that the fee rate in use at the end of fiscal year 2004, \$23.40 per million, remain in effect until 30 days after the appropriation was enacted. See also Order Making Fiscal 2005 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934, Rel. No. 33-8418 (April 30, 2004), 69 FR 25632 (May 7, 2004). The Commission's regular appropriation for fiscal year 2005 was enacted on December 8, 2004, and the \$32.90 per million rate went into effect 30 days later, by operation of the statute. See Exchange Act Section 31(j)(4)(A)(ii).

<sup>15</sup> The calculation is as follows: (\$1,220,000,000 - \$438,149,779 - \$20,973) / \$18,708,485,344,202 = \$0.0000417901. Consistent with the system requirements of the exchanges and the NASD, the Commission rounds this result to the seventh decimal point, yielding a rate of \$41.80 per million.

<sup>16</sup> Section 31(j)(1) and Section 31(g) of the Exchange Act require the Commission to issue an order no later than April 30, 2005, adjusting the fee rates applicable under Sections 31(b) and (c) for fiscal 2006. These fee rates for fiscal 2006 will be effective on the later of October 1, 2005 or thirty

## V. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,<sup>17</sup>

*It is hereby ordered* that each of the fee rates under Sections 31(b) and (c) of the Exchange Act shall be \$41.80 per \$1,000,000 of the aggregate dollar amount of sales of securities subject to these sections effective April 1, 2005.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

**BILLING CODE 8010-01-P**

## Appendix A

### A. Baseline Estimate of the Aggregate Dollar Amount of Sales

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (January 1995–January 2005). The data obtained from the exchanges and NASD are presented in Table A. The monthly aggregate dollar amount of sales from all exchanges and the NASD is contained in column C.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The average monthly change in the logarithm of ADS over the entire sample is 0.016 and the standard deviation 0.118. Assume the monthly percentage change in ADS follows a random walk. The expected monthly percentage growth rate of ADS is 2.4 percent.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for

January 2005 (\$128,432,971,367) to forecast ADS for February 2005 (\$131,460,417,421 = \$128,432,971,367 × 1.024).<sup>18</sup> Multiply by the number of trading days in February 2005 (19) to obtain a forecast of the total dollar volume for the month (\$2,497,747,931,005). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column G of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column C) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month  $t$ , calculate the change in ADS from the previous month as  $\Delta_t = \log(ADS_t / ADS_{t-1})$ , where  $\log(x)$  denotes the natural logarithm of  $x$ .

3. Calculate the mean and standard deviation of the series  $\{\Delta_1, \Delta_2, \dots, \Delta_{120}\}$ . These are given by  $\mu = 0.016$  and  $\sigma = 0.118$ , respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that  $\Delta_s$  and  $\Delta_t$  are statistically independent for any two months  $s$  and  $t$ .

5. Under the assumption that  $\Delta_t$  is normally distributed, the expected value of  $ADS_t / ADS_{t-1}$  is given by  $\exp(\mu + \sigma^2/2)$ , or on average  $ADS_t = 1.024 \times ADS_{t-1}$ .

6. For February 2005, this gives a forecast ADS of  $1.024 \times \$128,432,971,367 = \$131,460,417,421$ . Multiply this figure by the 19 trading days in February 2005 to obtain a total dollar volume forecast of \$2,497,747,931,005.

7. For March 2005, multiply the February 2005 ADS forecast by 1.024 to obtain a

forecast ADS of \$134,559,227,001. Multiply this figure by the 22 trading days in March 2005 to obtain a total dollar volume forecast of \$2,960,302,994,030.

8. Repeat this procedure for subsequent months.

### B. Using the Forecasts From A To Calculate the New Fee Rate

1. Determine the aggregate dollar volume of sales between 10/1/04 and 1/6/05 to be \$8,143,963,787,852. Multiply this amount by the fee rate of \$23.40 per million dollars in sales during this period and get \$190,568,753 in actual fees collected during 10/1/04 and 1/6/05. Determine the actual and projected aggregate dollar volume of sales between 1/7/05 and 3/31/05 to be \$7,525,259,155,811. Multiply this amount by the fee rate of \$32.90 per million dollars in sales during this period and get an estimate of \$247,581,026 in actual and projected fees collected during 1/7/05 and 3/31/05.

2. Estimate the amount of assessments on security futures products collected during 10/1/04 and 9/30/05 to be \$20,973 by summing the amounts collected through January of \$5,845 with projections of a 2.4% monthly increase in subsequent months.

3. Determine the projected aggregate dollar volume of sales between 4/1/05 and 9/30/05 to be \$18,708,485,344,202.

4. The rate necessary to collect the target \$1,220,000,000 in fee revenues is then calculated as:  $(\$1,220,000,000 - \$190,568,753 - \$247,581,026 - \$20,973) \div \$18,708,485,344,202 = .000041790$ .

5. Consistent with the system requirements of the exchanges and the NASD, round the rate to the seventh decimal point, yielding a rate of .0000418 (or \$41.80 per million).

days after the enactment of the Commission's regular appropriation for fiscal 2006.

<sup>17</sup> 15 U.S.C. 78ee.

<sup>18</sup> The value 1.024 has been rounded. All computations are done with the unrounded value.

Table A. Estimation of baseline of the aggregate dollar amount of sales.  
(Methodology developed in consultation with the Office of Management and Budget and the Congressional Budget Office.)

## Fee rate calculation.

a. Baseline estimate of the aggregate dollar amount of sales, 10/1/04 to 1/6/05 (\$Millions)	8,143,964
b. Baseline estimate of the aggregate dollar amount of sales, 1/7/05 to 3/31/05 (\$Millions)	7,525,259
c. Baseline estimate of the aggregate dollar amount of sales, 4/1/05 to 9/30/05 (\$Millions)	18,708,485
d. Estimated collections in assessments on security futures products in FY 2005 (\$Millions)	0.021
e. Implied fee rate ( $(\$1,220,000,000 - 0.0000234*a - 0.0000329*b - d) / c$ )	\$41.79009

## Data

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Dollar Amount of Sales	(D) Average Daily Dollar Amount of Sales (ADS)	(E) Change in LN of ADS	(F) Forecast ADS	(G) Forecast Aggregate Dollar Amount of Sales
Jan-95	21	379,051,209,771	18,050,057,608	-		
Feb-95	19	389,060,886,035	20,476,888,739	0.126		
Mar-95	23	491,872,609,718	21,385,765,640	0.043		
Apr-95	19	435,327,633,818	22,911,980,727	0.069		
May-95	22	531,855,060,379	24,175,230,017	0.054		
Jun-95	22	574,332,213,609	26,106,009,710	0.077		
Jul-95	20	576,049,335,831	28,802,466,792	0.098		
Aug-95	23	570,638,726,060	24,810,379,394	-0.149		
Sep-95	20	578,133,939,676	28,906,696,984	0.153		
Oct-95	22	642,190,178,035	29,190,462,638	0.010		
Nov-95	21	596,424,550,565	28,401,169,075	-0.027		
Dec-95	20	624,610,441,037	31,230,522,052	0.095		
Jan-96	22	687,599,091,854	31,254,504,175	0.001		
Feb-96	20	687,232,471,273	34,361,623,564	0.095		
Mar-96	21	714,836,120,093	34,039,815,243	-0.009		
Apr-96	21	704,410,318,022	33,543,348,477	-0.015		
May-96	22	768,379,507,489	34,926,341,250	0.040		
Jun-96	20	631,098,780,223	31,554,939,011	-0.102		
Jul-96	22	688,428,728,384	31,292,214,927	-0.008		
Aug-96	22	570,109,772,036	25,914,080,547	-0.189		
Sep-96	20	617,243,881,688	30,862,194,084	0.175		
Oct-96	23	764,269,441,454	33,229,106,150	0.074		
Nov-96	20	748,494,700,419	37,424,735,021	0.119		
Dec-96	21	764,479,496,753	36,403,785,560	-0.028		
Jan-97	22	957,432,637,586	43,519,665,345	0.179		
Feb-97	19	837,174,183,446	44,061,799,129	0.012		
Mar-97	20	839,192,728,788	41,959,636,439	-0.049		
Apr-97	22	862,799,213,315	39,218,146,060	-0.068		
May-97	21	925,733,852,647	44,082,564,412	0.117		
Jun-97	21	930,409,085,859	44,305,194,565	0.005		
Jul-97	22	1,085,682,706,898	49,349,213,950	0.108		
Aug-97	21	1,031,344,138,751	49,111,625,655	-0.005		
Sep-97	21	1,036,460,244,602	49,355,249,743	0.005		
Oct-97	23	1,329,653,432,718	57,811,018,814	0.158		
Nov-97	19	926,017,878,587	48,737,783,084	-0.171		
Dec-97	22	1,046,220,806,199	47,555,491,191	-0.025		
Jan-98	20	1,037,925,292,902	51,896,264,645	0.087		
Feb-98	19	1,081,705,333,396	56,931,859,652	0.093		
Mar-98	22	1,259,994,685,467	57,272,485,703	0.006		
Apr-98	21	1,298,494,359,253	61,833,064,726	0.077		
May-98	20	1,110,221,658,995	55,511,082,950	-0.108		
Jun-98	22	1,243,779,791,913	56,535,445,087	0.018		
Jul-98	22	1,399,011,433,748	63,591,428,807	0.118		
Aug-98	21	1,307,501,463,442	62,261,974,450	-0.021		
Sep-98	21	1,352,428,235,083	64,401,344,528	0.034		
Oct-98	22	1,460,835,397,598	66,401,608,982	0.031		
Nov-98	20	1,298,403,768,065	64,920,188,403	-0.023		
Dec-98	22	1,442,697,787,306	65,577,172,150	0.010		

Jan-99	19	1,884,555,055,910	99,187,108,206	0.414	
Feb-99	19	1,656,058,202,765	87,160,958,040	-0.129	
Mar-99	23	1,908,967,664,074	82,998,594,090	-0.049	
Apr-99	21	2,177,601,770,622	103,695,322,411	0.223	
May-99	20	1,784,400,906,987	89,220,045,349	-0.150	
Jun-99	22	1,697,339,227,503	77,151,783,068	-0.145	
Jul-99	21	1,767,035,098,986	84,144,528,523	0.087	
Aug-99	22	1,692,907,150,726	76,950,325,033	-0.089	
Sep-99	21	1,730,505,881,178	82,405,041,961	0.068	
Oct-99	21	2,017,474,765,542	96,070,226,931	0.153	
Nov-99	21	2,348,374,009,334	111,827,333,778	0.152	
Dec-99	22	2,686,788,531,991	122,126,751,454	0.088	
Jan-00	20	3,057,831,397,113	152,891,569,856	0.225	
Feb-00	20	2,973,119,888,063	148,655,994,403	-0.028	
Mar-00	23	4,135,152,366,234	179,789,233,315	0.190	
Apr-00	19	3,174,694,525,687	167,089,185,562	-0.073	
May-00	22	2,649,273,207,318	120,421,509,424	-0.328	
Jun-00	22	2,883,513,997,781	131,068,818,081	0.085	
Jul-00	20	2,804,753,395,361	140,237,669,768	0.068	
Aug-00	23	2,720,788,395,832	118,295,147,645	-0.170	
Sep-00	20	2,930,188,809,012	146,509,440,451	0.214	
Oct-00	22	3,485,926,307,727	158,451,195,806	0.078	
Nov-00	21	2,795,778,876,887	133,132,327,471	-0.174	
Dec-00	20	2,809,917,349,851	140,495,867,493	0.054	
Jan-01	21	3,143,501,125,244	149,690,529,774	0.063	
Feb-01	19	2,372,420,523,286	124,864,238,068	-0.181	
Mar-01	22	2,554,419,085,113	116,109,958,414	-0.073	
Apr-01	20	2,324,349,507,745	116,217,475,387	0.001	
May-01	22	2,353,179,388,303	106,962,699,468	-0.083	
Jun-01	21	2,111,922,113,236	100,567,719,678	-0.062	
Jul-01	21	2,004,384,034,554	95,446,858,788	-0.052	
Aug-01	23	1,803,565,337,795	78,415,884,252	-0.197	
Sep-01	15	1,573,484,946,383	104,898,996,426	0.291	
Oct-01	23	2,147,238,873,044	93,358,211,871	-0.117	
Nov-01	21	1,939,427,217,518	92,353,677,025	-0.011	
Dec-01	20	1,921,098,738,113	96,054,936,906	0.039	
Jan-02	21	2,149,243,312,432	102,344,919,640	0.063	
Feb-02	19	1,928,830,595,585	101,517,399,768	-0.008	
Mar-02	20	2,002,216,374,514	100,110,818,726	-0.014	
Apr-02	22	2,062,101,866,506	93,731,903,023	-0.066	
May-02	22	1,985,859,756,557	90,266,352,571	-0.038	
Jun-02	20	1,882,185,380,609	94,109,269,030	0.042	
Jul-02	22	2,349,564,490,189	106,798,385,918	0.126	
Aug-02	22	1,793,429,904,079	81,519,541,095	-0.270	
Sep-02	20	1,518,944,367,204	75,947,218,360	-0.071	
Oct-02	23	2,127,874,947,972	92,516,302,086	0.197	
Nov-02	20	1,780,816,458,122	89,040,822,906	-0.038	
Dec-02	21	1,561,092,215,646	74,337,724,555	-0.180	
Jan-03	21	1,723,698,830,414	82,080,896,686	0.099	
Feb-03	19	1,411,722,405,357	74,301,179,229	-0.100	
Mar-03	21	1,699,581,267,718	80,932,441,320	0.085	
Apr-03	21	1,759,751,025,279	83,797,667,870	0.035	
May-03	21	1,871,390,985,678	89,113,856,461	0.062	
Jun-03	21	2,122,225,077,345	101,058,337,016	0.126	
Jul-03	22	2,100,812,973,956	95,491,498,816	-0.057	
Aug-03	21	1,766,527,686,224	84,120,366,011	-0.127	
Sep-03	21	2,063,584,421,939	98,265,924,854	0.155	
Oct-03	23	2,331,850,083,022	101,384,786,218	0.031	
Nov-03	19	1,903,726,129,859	100,196,112,098	-0.012	
Dec-03	22	2,066,530,151,383	93,933,188,699	-0.065	
Jan-04	20	2,390,942,905,678	119,547,145,284	0.241	
Feb-04	19	2,177,765,594,701	114,619,241,826	-0.042	
Mar-04	23	2,609,443,903,115	113,454,082,744	-0.010	
Apr-04	21	2,411,279,535,948	114,822,835,045	0.012	

May-04	20	2,253,135,847,669	112,656,792,383	-0.019		
Jun-04	22	2,106,449,803,404	95,747,718,337	-0.163		
Jul-04	21	2,203,895,014,681	104,947,381,651	0.092		
Aug-04	22	2,027,596,448,411	92,163,474,928	-0.130		
Sep-04	21	1,987,599,548,361	94,647,597,541	0.027		
Oct-04	21	2,407,510,364,975	114,643,350,713	0.192		
Nov-04	21	2,569,602,996,944	122,362,047,474	0.065		
Dec-04	22	2,665,399,229,376	121,154,510,426	-0.010		
Jan-05	20	2,568,659,427,333	128,432,971,367	0.058		
Feb-05	19				131,460,417,421	2,497,747,931,005
Mar-05	22				134,559,227,001	2,960,302,994,030
Apr-05	21				137,731,082,301	2,892,352,728,325
May-05	21				140,977,705,168	2,960,531,808,532
Jun-05	22				144,300,858,037	3,174,618,876,824
Jul-05	20				147,702,344,889	2,954,046,897,770
Aug-05	23				151,184,012,225	3,477,232,281,168
Sep-05	21				154,747,750,075	3,249,702,751,583

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51258; File No. SR-Amex-2005-001]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Adoption of Generic Listing Standards for Index-Linked Securities

February 25, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 6, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On February 25, 2005, Amex amended its proposal.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add section 107D to the Amex *Company Guide* for the purpose of adopting generic listing standards pursuant to Rule 19b-4(e) of

the Act<sup>4</sup> in connection with index-linked securities ("Index Securities").

The text of the proposed rule change, as amended, is set forth below.

Proposed new language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

#### Amex Company Guide

##### Section 107 Other Securities

The Exchange will consider listing any security not otherwise covered by the criteria of sections 101 through 106, provided the issue is otherwise suited for auction market trading. Such issues will be evaluated for listing against the following criteria:

A-C. No Change

D. [Reserved] *Index-Linked Securities*

*Index-linked securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes. Such securities may or may not provide for the repayment of the original principal investment amount. The Exchange may submit a rule filing pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 to permit the listing and trading of index-linked securities that do not otherwise meet the standards set forth below in paragraphs (a) through (k). The Exchange will consider for listing and trading pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934, index-linked securities provided:*

(a) *Both the issue and the issuer of such security meet the criteria set forth above in "General Criteria," except that the minimum public distribution shall be 1,000,000 units with a minimum of 400 public holders, except, if traded in thousand dollar denominations, then no minimum number of holders.*

(b) *The issue has a minimum term of one (1) year but not greater than ten (10) years.*

(c) *The issue must be the non-convertible debt of the issuer.*

(d) *The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.*

(e) *The issuer will be expected to have a minimum tangible net worth in excess of \$250,000,000, and to otherwise substantially exceed the earnings requirements set forth in section 101(a) of the Company Guide. In the alternative, the issuer will be expected: (i) to have a minimum tangible net worth of \$150,000,000 and to otherwise substantially exceed the earnings requirement set forth in section 101(a) of the Company Guide, and (ii) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.*

(f) *The issuer is in compliance with Rule 10A-3 under the Securities Exchange Act of 1934.*

(g) *Initial Listing Criteria—Each underlying index is required to have at least ten (10) component securities. In addition, the index or indexes to which the security is linked shall either (1) have been reviewed and approved for the trading of options or other derivatives by the Commission under section 19(b)(2) of the 1934 Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or (2) the index or indexes meet the following criteria:*

(i) *Each component security has a minimum market value of at least \$75*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Amendment No. 1, dated February 25, 2005 ("Amendment No. 1"). In Amendment No. 1, the Exchange revised the proposed rule text and corresponding description. Amendment No. 1 replaced Amex's original filing in its entirety.

<sup>4</sup> 17 CFR 240.19b-4(e).