

application-declaration ("Application") under sections 12(c) and 12(d) of the Act and rules 44, 46, and 54 under the Act.

The Applicants request authorizations in connection with Monongahela's proposal to sell its utility assets located in Ohio, except certain excluded assets, to Columbus Southern Power Company ("CSP").<sup>1</sup> The sale is the result of a series of developments in connection with the restructuring of the electric utility industry in Ohio. In response to 1999 Ohio legislation that required Monongahela to provide its Ohio retail electric customers the right to choose their electric generation supplier beginning January 1, 2001, the Public Utilities Commission of Ohio ("PUCO") approved a settlement of Monongahela's transition plan, which included a transfer of its Ohio generation assets to an affiliate at book value and under which Monongahela guaranteed that its large commercial and industrial customers would be provided capped rates through 2003 and its other retail customers would be provided capped rates through 2005 should they elect not to choose an alternative supplier.

Monongahela and CSP have entered into an Asset Purchase Agreement ("APA") under which Monongahela has agreed to sell, assign, convey, transfer and deliver to CSP all of Monongahela's right, title, and interest in assets used by Monongahela in its Ohio transmission and distribution business, with the exception of certain excluded assets. These assets include, 59 miles of transmission lines, related substations and associated property, and approximately 1,167 miles of distribution facilities that are located in Ohio and that constitute utility assets under the Act. The associated property includes the easements and/or real property interests on which the lines and related substations are located and other physical property required for transmission and distribution service. In addition, Monongahela will transfer to CSP other assets, such as contracts, books, records, accounts, inventories, machinery, tools, furniture, and other personal property.

The purchase price for these assets will be the net book value at the time the Transaction closes of the assets identified as Acquired Assets in Section 2.1 of the APA, plus \$10,000,000, less Monongahela's share of property taxes as specified in the APA. The net book value of the utility assets to be sold to CSP was approximately \$46.6 million at

March 31, 2005. The consideration for the utility assets to be sold in the Transaction was the product of arm's-length bargaining between unaffiliated parties. In addition, the Transaction is being undertaken at the behest, and under the review of, the PUCO. Applicants submit that for these reasons, the consideration Monongahela will receive reflects carrying value for the assets that the CSP will acquire in the Transaction and, therefore, will satisfy the requirements of section 12(d). Applicants submit that the authorizations requested in this Application are in their best interest and are appropriate for the protection of investors and consumers.

Applicants seek authority for Monongahela to dividend to Allegheny out of unearned surplus the proceeds received from the sale of those assets. The proceeds would be used by Allegheny to reduce debt and for other lawful corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. E5-5093 Filed 9-16-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52408; File No. SR-Amex-2005-024]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Establish a Process for the Waiver, Deferral, or Rebate of Listing Fees for Certain Closed-End Funds

September 12, 2005.

#### I. Introduction

On February 17, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, 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> to provide a process for the waiver, deferral, or rebate of listing fees for certain closed-end funds. On July 27, 2005, Amex amended the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal**

**Register** on August 11, 2005.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange is proposing to amend Section 140 of the Amex Company Guide to provide that the Amex Board of Governors or its designee may, in its discretion, waive, defer, or rebate all or any part of the initial listing fee applicable to a closed-end fund that transfers to Amex from another marketplace. The Exchange currently has the authority to waive, defer, or rebate initial listing fees applicable to stocks, bonds, and warrants. To enable it to respond to specific competitive situations, the Exchange believes it is appropriate to have the authority to waive, defer, or rebate all or any part of the listing fees applicable to closed-end funds that transfer to Amex from another marketplace. Such authority could be exercised only by the Amex Board of Governors or its designee. The Amex Board of Governors has delegated this authority to a staff committee, comprised of management representatives from the Office of the Chairman and the ETF Marketplace, Finance and Listing Qualifications Departments. In addition, an attorney from the Office of the General Counsel would provide legal counsel to the committee.

#### III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,<sup>5</sup> which requires, among other things, that the Exchange's rules provide for the equitable allocation of reasonable dues, fees, and other charges among issuers and other persons using its facilities. This proposal gives Amex similar authority with respect to listing fees for closed-end funds as it already possesses with respect to listing fees for stocks, bonds, and warrants.<sup>6</sup> In addition, the Commission notes that it

<sup>3</sup> See Securities Exchange Act Release No. 52216 (August 5, 2005), 70 FR 46896.

<sup>4</sup> In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> See Securities Exchange Act Release No. 50270 (August 26, 2004), 69 FR 53750 (September 2, 2004) (SR-Amex-2004-70).

<sup>1</sup> CSP is an electric utility company and a subsidiary company of American Electric Power Company, Inc., a registered holding company.

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

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

has previously approved a similar proposal by another self-regulatory organization.<sup>7</sup>

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-Amex-2005-024) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jonathan G. Katz,**

*Secretary.*

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**BILLING CODE 8010-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Policy Statement Number PS-ACE100-2005-10038]

#### Policy on Bonded Joints and Structures—Technical Issues and Certification Considerations

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of issuance of policy statement.

**SUMMARY:** This notice announces the issuance of a Federal Aviation Administration (FAA) policy for certification of bonded structures. This notice is necessary to advise the public, especially manufacturers of normal, and acrobatic category airplanes, and commuter category airplanes and their suppliers, that the FAA has adopted a policy on bonded joints and structures. **DATES:** Policy statement PS-ACE100-2005-10038 was issued by the Manager of the Small Airplane Directorate on September 2, 2005.

*How to Obtain Copies:* A paper copy of policy statement may be obtained by writing to the following: Small Airplane Directorate, Standards Office (ACE-110), Aircraft Certification Service, Federal Aviation Administration, 901 Locust Street, Room 301, Kansas City, MO 64106. The policy statement will also be available on the Internet at the following address [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/).

**FOR FURTHER INFORMATION CONTACT:** Lester Cheng, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE-111, 901 Locust Street, Room 301,

Kansas City, Missouri 64106; telephone: (316) 946-4111; fax: 816-4090; e-mail: [lester.cheng@faa.gov](mailto:lester.cheng@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

We announced the availability of the policy statement on May 27, 2005 (70 FR 30829). We revised the policy in response to the comments, and the policy has been adopted.

Issued in Kansas City, Missouri on September 12, 2005.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-18504 Filed 9-16-05; 8:45am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-05-21436]

#### Highway Safety Programs; Conforming Products List of Screening Devices to Measure Alcohol in Bodily Fluids

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** This Notice amends and updates the list of devices that conform to the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

**EFFECTIVE DATE:** September 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. James F. Frank, Office of Research and Technology, Behavioral Research Division (NTI-131), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-5593.

**SUPPLEMENTARY INFORMATION:** On August 2, 1994, NHTSA published Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids (59 FR 39382). These specifications established performance criteria and methods for testing alcohol screening devices to measure alcohol content. The specifications support State laws that target youthful offenders (e.g., “zero tolerance” laws) and the Department of Transportation’s workplace alcohol testing program. NHTSA published its first Conforming Products List (CPL) for screening devices on December 2, 1994 (59 FR 61923, with corrections on December 16, 1994 in 59 FR 65128), identifying the devices that meet NHTSA’s Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids. Five (5) devices

appeared on that first list. Thereafter, NHTSA amended the CPL on August 15, 1995 (60 FR 42214) and on May 4, 2001 (66 FR 22639), adding seven (7) devices to the CPL in those two (2) actions.

Since the publication of the last CPL, NHTSA has evaluated additional devices at the Volpe National Transportation Systems Center (VNTSC) in Cambridge, Massachusetts, resulting in the following changes to the CPL.

(1) AK Solutions, Inc. of Palisades Park, New Jersey submitted seven (7) different electronic screening devices for testing, all of which use a semiconductor sensor. Their trade names are: (a) “Alcoscan AL-2500”; (b) “AlcoChecker”; (c) “AlcoKey”; (d) “AlcoMate”; (e) “AlcoMate Pro”; (f) “Alcoscan AL-5000”; and (g) Alcoscan AL-6000. All of these devices meet the NHTSA Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(2) Guth Laboratories, Inc. of Harrisburg, Pennsylvania submitted for testing the “Alcotector WAT89EC-1” screening device, an electronic device that uses a fuel cell sensor and has a digital display. This device meets the NHTSA Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(3) Q-3 Innovations, Inc. of Independence, Iowa submitted for testing the “Alcoholhawk® Precision,” an electronic screening device that uses a semiconductor sensor and has a digital display. This device meets the NHTSA Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(4) Q-3 Innovations, Inc. certified that it also sells the “Alcoholhawk® Elite,” which is the same technical device as the “Alcoholhawk® Precision,” and has only cosmetic differences not related to the alcohol-measuring capability of the device. Hence, the “Alcoholhawk® Elite” will also be listed on the CPL. Q-3 Innovations, Inc. also sells the “Alcoholhawk® ABI,” which is the same device as the “ABI” manufactured by Han International Co., Ltd. of Seoul, Korea. As the Han “ABI” already appears on the CPL, and Han International has certified that the “Alcoholhawk® ABI” is the same device, the “Alcoholhawk® ABI” will also be listed on the CPL. Finally, Q-3 Innovations sells the “Alcoholhawk® PRO,” also manufactured by Han International. This device was previously submitted by AK Solutions, Inc. and approved for inclusion on the CPL. While Han International continues to manufacture the device, it is now sold as the “Alcoholhawk® PRO” by Q-3 Innovations,

<sup>7</sup> See Securities Exchange Act Release No. 28731 (January 2, 1991), 56 FR 906 (January 9, 1991) (SR-NASD-90-61).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).