

September 8, 2005

**BY EMAIL AND FACSIMILE**

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

OFFICE OF THE SECRETARIAT

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C.F.T.C.

**NYMEX Submission 05.158**

**Re: Clarifying Amendments to NYMEX SO2 and NOX Emissions Allowance  
Futures Contracts**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of the following contract amendments.

The Board of Directors voted in open session to approve the following amendments to the existing SO2 and NOX futures contracts to enhance the clarity of contract language. These amendments do not make substantive changes. They are proposed to go in effect immediately upon notification to the Membership.

For both contracts, they include:

- I. Removal of reference to "one ton" of emissions in contract definitions of allowance to avoid confusion with quantity defined under Contract Unit rule
- II. Editing of Product Placement Rule for clarity.
- III. Editing of Delivery Procedures Rule to clarify that some delivery information is exchanged directly between the customer's clearing members and not through the Notices of Intention through the Exchange's Clearing Department.

For the NOX contract only:

- IV. The existing contract was designed for Ozone Season NOX emissions allowances which currently trade. Annual NOX emissions allowances will begin trading in 2007 and will not be fungible with the Ozone Season allowances. Therefore, language is added to the contract to specify that only Ozone Season allowances are deliverable.

V.  
These specific amendments are attached.

These amendments will be effective the second business day after being sent to the Commission. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that this clarification complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Jay Gottlieb, Director, Research, at (212) 299-2607; or the undersigned at (212) 299-2390.

Very truly yours,

Robert A. Levin  
Senior Vice President, Research

## Attached Rule Amendments

Additions underlined, deletions ~~struck-through~~

### I. To eliminate "one ton" in definitions

For NOX

#### 783.01A. Definitions

(B) NOX Allowance refers to a tradable permit to emit ~~one-ton~~ of NOX as specified further by EPA.

For So2

#### 782.01A. Definitions

(B) SO2 Allowance refers to a tradable permit to emit ~~one-ton~~ of SO2 as specified further by EPA.

### II. To simplify and clarify Product Placement Rule

For NOX

#### 783. 08 Product Placement

##### (1) Certification:

For purposes of Rule 9.19, the Seller and Buyer shall fulfill its contractual obligation on a maturing contract ~~unless,~~ only if, by 12:00 ~~pm~~ noon on the day preceding the last trading day in the applicable delivery month, such Seller and Buyer have received NATS account certification from his customer, in the form prescribed by the Exchange stating that:

- (a) ~~If a buyer,~~ the Buyer's customer has an account with NATS, with access to CAMD Business System.
- (b) ~~If a seller,~~ the Seller's Customer has an account with NATS, with access to CAMD Business System.

The receipt of such certification shall not relieve the Seller or Buyer, or their respective Customers of any obligations under any Rule other than Rule 9.19.

## For SO2

### 782. 08 Product Placement

#### (1) Certification:

For purposes of Rule 9.19, the Seller and Buyer shall fulfill its contractual obligation on a maturing contract ~~unless~~, only if, by 12:00 ~~pm~~ noon on the day preceding the last trading day in the applicable delivery month, such Seller and Buyer have received ATS account certification from his customer, in the form prescribed by the Exchange stating that:

- (e) ~~If a buyer~~, the Buyer's customer has an account with NATS, with access to CAMD Business System.
- (d) ~~If a seller~~, the Seller's Customer has an account with NATS, with access to CAMD Business System.

The receipt of such certification shall not relieve the Seller or Buyer, or their respective Customers of any obligations under any Rule other than Rule 9.19.

### III. To clarify which delivery information is exchanged directly between customers' clearing members

#### For NOX

### 783. 09 Delivery Procedures

#### (A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS

##### (1) NOTICE OF INTENTION TO ACCEPT

By 11:30 a.m. on the second business day prior to the last business day of an expiring delivery month, a Buyer having an open position shall file with the Exchange a properly completed and signed Notice of Intention to Accept. The Notice of Intention to Accept shall be in the form prescribed by the Exchange and shall include: the Name of the Buyer's Customer, Number of contracts to be accepted, and any additional information as may be required by the Exchange;

##### (2) INFORMATION PROVIDED BY BUYER TO SELLER

By 4:00 p.m. on Notice Day, the Buyer shall provide the Seller with the following information: NATS Account Number; Vintage Year, Name, Phone Number and e-mail address of the Account Representative (AAR) or the authorized alternate for that NATS account, and

**For SO2**

**783. 09 Delivery Procedures**

**(A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS**

**(1) NOTICE OF INTENTION TO ACCEPT**

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**(3) INFORMATION PROVIDED BY BUYER TO SELLER**

By 4:00 p.m. on Notice Day, the Buyer shall provide the Seller with the following information: ATS Account Number; Vintage Year, Name, Phone Number and e-mail address of the Account Representative (AAR) or the authorized alternate for that ATS account, and

**IV. To distinguish between Ozone Season and Annual NOX emissions allowances.**

**783. 01 Scope**

The provisions of these rules shall apply to all NOX ozone season emissions allowances bought or sold for future delivery on the Exchange with the Delivery at the U.S Environmental Protection Agency's (EPA) Allowance Tracking System.