

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 16-396

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 09/28/16 Filing Description: Declaration of Force Majeure with Respect to the RBOB Gasoline Futures Contract

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- |                                     |                                     |            |
|-------------------------------------|-------------------------------------|------------|
| <input checked="" type="checkbox"/> | Certification                       | § 40.6(a)  |
| <input type="checkbox"/>            | Approval                            | § 40.5(a)  |
| <input type="checkbox"/>            | Notification                        | § 40.6(d)  |
| <input type="checkbox"/>            | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/>            | SIDCO Emergency Rule Change         | § 40.10(h) |

Rule Numbers: See filing.

**New Product**

Please note only ONE product per Submission.

- |                          |                                       |            |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Certification                         | § 40.2(a)  |
| <input type="checkbox"/> | Certification Security Futures        | § 41.23(a) |
| <input type="checkbox"/> | Certification Swap Class              | § 40.2(d)  |
| <input type="checkbox"/> | Approval                              | § 40.3(a)  |
| <input type="checkbox"/> | Approval Security Futures             | § 41.23(b) |
| <input type="checkbox"/> | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/> | Swap Submission                       | § 39.5     |

**Official Product Name:**

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- |                          |   |                      |
|--------------------------|---|----------------------|
| <input type="checkbox"/> | Certification   | § 40.6(a)            |
| <input type="checkbox"/> | Certification Made Available to Trade Determination     | § 40.6(a)            |
| <input type="checkbox"/> | Certification Security Futures                          | § 41.24(a)           |
| <input type="checkbox"/> | Delisting (No Open Interest)                            | § 40.6(a)            |
| <input type="checkbox"/> | Approval  | § 40.5(a)            |
| <input type="checkbox"/> | Approval Made Available to Trade Determination          | § 40.5(a)            |
| <input type="checkbox"/> | Approval Security Futures                               | § 41.24(c)           |
| <input type="checkbox"/> | Approval Amendments to enumerated agricultural products | § 40.4(a), § 40.5(a) |
| <input type="checkbox"/> | "Non-Material Agricultural Rule Change"                 | § 40.4(b)(5)         |
| <input type="checkbox"/> | Notification  | § 40.6(d)            |

Official Name(s) of Product(s) Affected:

Rule Numbers:

September 28, 2016

**VIA ELECTRONIC PORTAL**

Mr. Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: CFTC Regulation 40.6(a)(6) Emergency Rule Certifications. Declaration of Force Majeure – RBOB Gasoline Futures Contract. NYMEX Submission No. 16-396**

Dear Mr. Kirkpatrick:

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”), pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a)(6), hereby notifies the Commission that effective on September 27, 2016, it has declared Force Majeure pursuant to NYMEX Rule 701. (“Declarations of Force Majeure”) with respect to the October 2016 deliveries of the RBOB Gasoline Futures Contract (Rulebook Chapter 191; Commodity Code: RB) (the “Contract”).

The marketplace has been informed of this declaration via CME Group Special Executive Report (“SER”) S-7562. A copy of SER S-7752R appears in Exhibit A. SER 7752R notifies market participants that only RBOB gasoline (and not conventional gasoline or related blendstocks) is deliverable under the Contract.

NYMEX Rule 191101.5(a) requires that Contract deliveries comply with EPA gasoline specifications at all times. On September 16, 2016, the EPA revised gasoline standards through a temporary waiver permitting deliveries of conventional (non-RBOB) and conventional/RBOB blends in selected geographical locations, including New Jersey NYMEX RBOB delivery locations. The Exchange issued an SER in consultation with market participants on September 22, 2016 to inform the marketplace of the EPA’s action and its impact on the Contract delivery requirements – namely, the acceptability of conventional gasoline as good delivery in New Jersey locations comprising the New York Harbor.

Based on (i) the EPA not extending relief to New York and thereby precluding Contract deliveries of conventional gas and blends to all New York Harbor locations, (ii) the temporary and limited nature of the EPA’s relief and (iii) expeditious improvements in the supply chain for gasoline, the Exchange, in consultation with a significant segment of open interest holders of the Contract that could participate in delivery, has determined pursuant to NYMEX Rule 701. (“Declarations of Force Majeure”) to render the EPA shift in gasoline specifications inapplicable to Contract deliveries. Accordingly, only RBOB gasoline (and not conventional gasoline or related blendstocks) will be deliverable under the Contract. The Force Majeure action will remain in effect until the expiration of the EPA’s temporary relief, which is attached to this submission.

For reference, the relevant portion of Rule 701. that applies is provided below:

If a determination is made by the Chief Executive Officer, Executive Chairman & President, President of Global Operations, Technology & Risk, Chief Operating Officer or Chief Regulatory Officer, or their delegate, that delivery or final settlement of any contract

cannot be completed as a result of Force Majeure, he shall take such action as he deems necessary under the circumstances, and his decision shall be binding upon all parties to the contract.

The Exchange has reviewed the designated contract market core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA”) and has identified that the declaration of Force Majeure may have some bearing on the following Core Principles:

- Emergency Authority: The declaration of Force Majeure by NYMEX is an emergency circumstance, and, as such, requires prompt notice to be provided to the Commission under both Commission Regulations and NYMEX Rule 701. The declaration of Force Majeure with respect to the Contract was made pursuant to NYMEX Rule 701.
- Availability of General Information: The Exchange published SER S-7752R on September 27, 2016 to provide notice to the marketplace of the declaration of Force Majeure. In addition to being emailed to all market participants subscribed to receive SERs via email, the SER has also been uploaded to the CME Group website.

The Exchange hereby certifies that the action described herein complies with the Act, including regulations under the Act. There were no substantive opposing views to this action.

NYMEX certifies that this submission has been concurrently posted on the CME Group website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information, please email [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com) or contact the undersigned at 212-299-2200.

Sincerely,

/s/Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachments: Exhibit A - SER S-7752R  
Exhibit B - EPA September 2016 Time Limited Fuel Waiver (attached under separate cover)

## Exhibit A



**DATE:** September 27, 2016  
**SER#:** 7752R  
**SUBJECT:** NYMEX will NOT apply EPA Waiver to RBOB Gasoline Futures Contract for October 2016 Deliveries

(This SER supersedes SER 7752 dated September 22, 2016.)

Effective immediately, the EPA waiver issued on September 16, 2016 will **not** apply to deliveries against the October RBOB Gasoline Futures contract (Rulebook Chapter 191; Commodity Code: RB) (the "Contract"). The Exchange emphasizes that only RBOB gasoline (and **not** conventional gasoline or related blendstocks) is deliverable under the Contract.

The United States Environmental Protection Agency ("EPA") issued a waiver on September 16, 2016 in response to the pipeline leak that occurred on the Colonial Pipeline in Alabama. The EPA waiver allows for delivery of conventional gasoline and related blendstocks in New Jersey. The Exchange issued an SER in consultation with market participants on September 22, 2016 to inform the marketplace of the EPA's action and its impact on the Contract delivery requirements – namely, the acceptability of conventional gasoline as good delivery.

The Exchange has been advised that the EPA waiver will **not** be extended to include New York and Connecticut. Consequently, the Exchange has determined that uncertainty associated with the implementation of the EPA waiver could potentially lead to unintended market disruption.

As a result, effective immediately and until expiration of the EPA waiver, pursuant to NYMEX Rule 701 ("Declaration of Force Majeure"), NYMEX is hereby declaring that the EPA waiver will **not** apply to deliveries against the October RBOB Contract.

For additional information, please contact:

**Energy Research**

Daniel Brusstar

[Daniel.Brusstar@cmegroup.com](mailto:Daniel.Brusstar@cmegroup.com)

212.299.2604

**Exhibit B**

**EPA September 2016 Time Limited Fuel Waiver**

(attached under separate cover)