

January 15, 2009

**VIA E-MAIL**

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

RECEIVED  
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OFFICE OF THE SECRETARY

**Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #09.01: Notification Regarding the Listing of Four (4) New Petroleum Futures Contracts on ClearPort® Clearing and Trading Platforms**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of four (4) new petroleum futures contracts. The four new contracts, commodity codes and chapter numbers are listed below.

<b><u>Contract</u></b>	<b><u>Code</u></b>	<b><u>Rule Chapter</u></b>
Chicago Unleaded Gasoline (Platts) Swap	2C	450
Chicago Unleaded Gasoline (Platts) vs. RBOB Spread Swap	3C	451
Chicago ULSD (Platts) Swap	4C	452
Chicago ULSD (Platts) vs. Heating Oil Spread Swap	5C	453

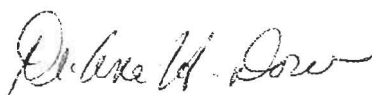
These four new petroleum futures contracts will be cash-settled. They will be listed on the NYMEX ClearPort® trading and clearing systems beginning at 6:00 p.m. (New York Prevailing time) on Sunday, January 25, 2009 for trade date Monday, January 26, 2009 and will be available during normal hours on ClearPort®. Electronic trading is conducted from 6:00 p.m. Sunday until 5:15 p.m. Friday (New York Prevailing time) via the ClearPort® clearing and trading platforms. There is a 45-minute break each day between 5:15 p.m. (current trade date) and 6:00 p.m. (next trade date).

The four new futures contracts will be listed for up to 36 consecutive months beginning with the February 2009 contract month. In addition, the Exchange will allow Exchange of Futures for Physical ("EFP") and Exchange of Futures for Swap ("EFS") transactions to be submitted through ClearPort® clearing. The EFP and EFS transactions in these futures contracts will be governed by the provisions of Exchange Rules 6.21 and 6.21A, respectively.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rules 40.2 and 40.6, the Exchange hereby certifies that the attached contracts comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Daniel Brusstar at (212) 299-2604 or the undersigned at (202) 638-3838.

Sincerely,

A handwritten signature in cursive script, appearing to read "De'Ana H. Dow".

De'Ana H. Dow  
Managing Director  
Government Relations

Attachments: Contract Terms and Conditions  
Supplemental Market Information

## Chicago Unleaded Gasoline (Platts) Swap

### **Rule 450.01 Scope**

The provisions of these rules shall apply to all contracts bought or sold on the Exchange for cash settlement based on the Floating Price.

### **Rule 450.02 Floating Price**

The Floating Price for each contract month is equal to the arithmetic average of the Platts Chicago Unleaded 87 gasoline (pipeline) mean for each business day that it is determined during the contract month.

### **Rule 450.03 Contract Quantity and Value**

The contract quantity shall be 42,000 gallons. Each contract shall be valued as the contract quantity (42,000) multiplied by the settlement price.

### **Rule 450.04 Contract Months**

Trading shall be conducted in contracts in such months as shall be determined by the Exchange.

### **Rule 450.05 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon. There shall be no maximum price fluctuation.

### **Rule 450.06 Termination of Trading**

Trading shall cease on the last business day of the contract month.

### **Rule 450.07 Final Settlement**

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

### **Rule 450.08 Exchange of Futures for, or in Connection with Product and Exchange of Futures for, or in Connection with Swap Transactions**

Any Exchange of Futures for, or in Connection with Product ("EFP") or Exchange of Futures for, or in Connection with Swap Transactions ("EFS") shall be governed by the provisions of Rules 6.21 and 6.21A, respectively.

### **Rule 450.09 Disclaimer**

Platts, a division of The McGraw-Hill Companies, Inc. ("Platts"), licenses the New York Mercantile Exchange, Inc. ("NYMEX") to use various Platts' price assessments in connection with the trading of the contracts.

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## Chicago Unleaded Gasoline (Platts) vs. RBOB Spread Swap

### **Rule 451.01 Scope**

The provisions of these rules shall apply to all contracts bought or sold on the Exchange for cash settlement based on the Floating Price.

### **Rule 451.02 Floating Price**

The Floating Price for each contract month is equal to the arithmetic average of Platts Chicago Unleaded 87 gasoline (pipeline) mean minus the NYMEX RBOB Gasoline Futures first nearby contract month settlement price for each business day that both are determined during the contract month.

For purposes of determining the Floating Price, the Platts Chicago Unleaded 87 Gasoline (pipeline) mean will be rounded each day to the nearest thousandth of a cent.

### **Rule 451.03 Contract Quantity and Value**

The contract quantity shall be 42,000 gallons. Each contract shall be valued as the contract quantity (42,000) multiplied by the settlement price.

### **Rule 451.04 Contract Months**

Trading shall be conducted in contracts in such months as shall be determined by the Exchange.

### **Rule 451.05 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon. There shall be no maximum price fluctuation.

### **Rule 451.06 Termination of Trading**

Trading shall cease on the last business day of the contract month.

### **Rule 451.07 Final Settlement**

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

### **Rule 451.08 Exchange of Futures for, or in Connection with Product and Exchange of Futures for, or in Connection with Swap Transactions**

Any Exchange of Futures for, or in Connection with Product ("EFP") or Exchange of Futures for, or in Connection with Swap Transactions ("EFS") shall be governed by the provisions of Rules 6.21 and 6.21A, respectively.

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## Chicago ULSD (Platts) Swap

**Rule 452.01 Scope**

The provisions of these rules shall apply to all contracts bought or sold on the Exchange for cash settlement based on the Floating Price.

**Rule 452.02 Floating Price**

The Floating Price for each contract month is equal to the arithmetic average of the Platts Chicago ULSD (pipeline) mean for each business day that it is determined during the contract month.

**Rule 452.03 Contract Quantity and Value**

The contract quantity shall be 42,000 gallons. Each contract shall be valued as the contract quantity (42,000) multiplied by the settlement price.

**Rule 452.04 Contract Months**

Trading shall be conducted in contracts in such months as shall be determined by the Exchange.

**Rule 452.05 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon. There shall be no maximum price fluctuation.

**Rule 452.06 Termination of Trading**

Trading shall cease on the last business day of the contract month.

**Rule 452.07 Final Settlement**

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

**Rule 452.08 Exchange of Futures for, or in Connection with Product and Exchange of Futures for, or in Connection with Swap Transactions**

Any Exchange of Futures for, or in Connection with Product ("EFP") or Exchange of Futures for, or in Connection with Swap Transactions ("EFS") shall be governed by the provisions of Rules 6.21 and 6.21A, respectively.

**Rule 452.09 Disclaimer**

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## Chicago ULSD (Platts) vs. Heating Oil Spread Swap

### **Rule 453.01 Scope**

The provisions of these rules shall apply to all contracts bought or sold on the Exchange for cash settlement based on the Floating Price.

### **Rule 453.02 Floating Price**

The Floating Price for each contract month is equal to the arithmetic average of the Platts Chicago ULSD (pipeline) mean minus the NYMEX New York Harbor No. 2 Heating Oil Futures first nearby contract month settlement price for each business day that both are determined during the contract month.

For purposes of determining the Floating Price, the Platts Chicago ULSD (pipeline) mean will be rounded each day to the nearest thousandth of a cent.

### **Rule 453.03 Contract Quantity and Value**

The contract quantity shall be 42,000 gallons. Each contract shall be valued as the contract quantity (42,000) multiplied by the settlement price.

### **Rule 453.04 Contract Months**

Trading shall be conducted in contracts in such months as shall be determined by the Exchange.

### **Rule 453.05 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon. There shall be no maximum price fluctuation.

### **Rule 453.06 Termination of Trading**

Trading shall cease on the last business day of the contract month.

### **Rule 453.07 Final Settlement**

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

### **Rule 453.08 Exchange of Futures for, or in Connection with Product and Exchange of Futures for, or in Connection with Swap Transactions**

Any Exchange of Futures for, or in Connection with Product ("EFP") or Exchange of Futures for, or in Connection with Swap Transactions ("EFS") shall be governed by the provisions of Rules 6.21 and 6.21A, respectively.

### **Rule 453.09 Disclaimer**

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## SUPPLEMENTAL MARKET INFORMATION

### **Price Sources: Platts**

The price reporting service that is used for the final settlement of the four new petroleum futures contracts is Platts. Platts is the major pricing service that is used in the over-the-counter (“OTC”) market for pricing Chicago-area petroleum swap contracts.

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) has a license agreement with Platts to utilize its pricing data. Platts has a long-standing reputation in the industry in publishing price benchmarks that are fair and not manipulated. The pricing methodology used by Platts is derived from telephone surveys and electronic data collected from multiple market participants to determine market value.

The final settlement prices for the Chicago Gasoline and ULSD swap futures contracts are based on the Platts price references. The Platts pricing methodology is well-defined and understood by the market participants in the cash market. The Platts pricing methodology for petroleum products is detailed in the link below.

<http://www.platts.com/Oil/Resources/Methodology%20&%20Specifications/usoilproductspecs.pdf?S=n>

### **Chicago Gasoline and Diesel Markets**

The Chicago petroleum products market represents a large production and consumption area, and serves as a trading hub for the Midwest region, with a vast network of pipelines that supply gasoline and diesel fuel from oil refineries to a key consumption center in the Chicago metropolitan area. There are three major products pipelines that supply gasoline and diesel fuel from Houston refineries to the Chicago area: Explorer Pipeline, TEPPCO Pipeline, and Magellan Pipeline. In addition, the Buckeye Pipeline supplies petroleum products to Chicago from several Midwest refineries located in Illinois, Indiana, Ohio and Minnesota.

According to data collected by the Energy Information Administration of the U.S. Department of Energy (“EIA”), which reflects consumption by state, the demand for gasoline in the Chicago metropolitan area is more than 300,000 barrels per day. Further, diesel fuel demand is approximately 100,000 barrels per day for the on-highway diesel fuel known as Ultra-low Sulfur Diesel (“ULSD”). The EIA statistics showing consumption data by state for gasoline and diesel fuel can be viewed at the link below:

[http://tonto.eia.doe.gov/dnav/pet/pet\\_cons\\_prim\\_dcu\\_SIL\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_cons_prim_dcu_SIL_m.htm)

The EIA provides data on inventories of gasoline and ULSD in Padd 2 with a breakdown by state. The data show substantial stocks of gasoline and ULSD in Illinois, which is a key supply and consumption area in the Midwest. According to the most recent EIA data, gasoline inventories in Illinois were nearly two million barrels, and ULSD (with less than 15 ppm sulfur) inventories were 2.8 million barrels. The EIA stock data with a breakdown by state can be viewed at the link below:

[http://tonto.eia.doe.gov/dnav/pet/pet\\_stoc\\_st\\_dc\\_SIL\\_mdbl\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_stoc_st_dc_SIL_mdbl_m.htm)

The refinery production of gasoline in the Chicago region is approximately one million barrels per day, while production of ULSD is around 500,000 barrels per day. The monthly physical supply of gasoline in the Chicago region is approximately 20 million barrels, while the total monthly supply of ULSD is approximately 10 million barrels. The refinery production data in the Chicago area is available from the EIA at the link below, with a regional breakdown for the tri-state area of Illinois, Indiana and Kentucky.

[http://tonto.eia.doe.gov/dnav/pet/pet\\_pnp\\_refp\\_dc\\_r2a\\_mbbldpd\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pnp_refp_dc_r2a_mbbldpd_m.htm)

In addition, the Chicago market is a key transshipment point for petroleum products that are delivered via pipeline from Houston, Texas. The market participation is diverse and includes many of the same commercial entities that are active in the Gulf Coast market. The estimated trading volume of gasoline in the Chicago cash market is approximately 500,000 to 750,000 barrels per day. Further, the estimated trading volume of ULSD in the Chicago cash market is approximately 300,000 to 400,000 barrels per day.

The typical transaction size in the Chicago gasoline and ULSD cash market is 25,000 barrels, with dozens of separate transactions occurring daily. The volume of spot transactions is more than half of all cash transactions, and the balance of trades are longer-term contracts. There is active trading in forward cash deals on the Explorer and Magellan Pipelines (which link Houston with the Chicago market). The bid/ask spreads are typically in increments of one-quarter cent, although this can tighten to one-tenth cent spreads when the cash market is active.

In the OTC swaps market, Chicago gasoline and ULSD swaps are liquid derivative instruments, with trading volume of 500,000 barrels per day in OTC gasoline market, and approximately 300,000 barrels per day in the OTC diesel market. Based on conversations with market participants, the typical OTC transaction size is 25,000 barrels with 25 to 30 transactions traded daily in the OTC swaps market. The bid/ask spreads are typically in increments of 10 to 20 cents per barrel, which reflects robust liquidity in the OTC market.

### **Chicago Market Participants**

The Chicago cash market and OTC market participants are diverse and include at least 25 to 30 commercial companies. A partial listing is as follows:

<b><u>Refiners</u></b>	<b><u>Traders/Retailers</u></b>	<b><u>Brokers</u></b>	<b><u>Financial (Swaps)</u></b>
ConocoPhillips	Hess Energy Trading	GFI Starsupply	Citibank
Valero	Vitol	FC Stone	Deutsche Bank
Shell	Pilot Travel Centers	Echo Energy	Barclays
ExxonMobil	Trafigura	MOAB	
BP	Northville	United	
Sunoco	Cargill	ICAP	
Chevron	Morgan Stanley	TFS	
Citgo	Goldman Sachs (J. Aron)		
Marathon Ashland	Federal Express		
Koch Petroleum	UPS		

**Speculative Limits for the Chicago-Based Petroleum Contracts**

The Exchange has set the speculative limits for the spot month for the two new Chicago unleaded gasoline futures contracts to be aggregated at 1,000 contracts (equivalent to one million barrels) which represent 5% of the estimated monthly deliverable supply of 20 million barrels of gasoline.

Further, the Exchange has set the speculative limits for the two new Chicago ULSD futures contracts to be aggregated at 1,000 contracts (equivalent to one million barrels) which represent 10% of the estimated monthly deliverable supply of 10 million barrels.