CME Group
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May 27, 2010

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

Re: Rule Certification. New York Mercantile Exchange, Inc. Submission # 10-138.: Notification Regarding the Listing of Vintage 2009 Futures on the Exchange's Existing SO_2 Emission 25 Allowance Futures Contract for Trading on CME Globex® and for Submission for Clearing Through CME ClearPort®

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 a vintage 2009 futures contract on the Exchange's existing SO_2 Emission 25 Allowance Futures for trading on CME Globex and for submission for clearing through CME ClearPort. The new SO_2 Emission 25 Allowance Vintage 2009 Futures (commodity code VAF) will be governed under the existing Exchange Chapter 554 ("SO2 Emission 25-Allowance Futures").

The first listed contract month for the SO_2 Emission 25 Allowance Vintage 2009 Futures will be the July 2010 contract month. Contract months for the SO_2 Emission 25 Allowance Vintage 2009 Futures will be available through the December 2011 contract month, inclusively.

Although the supplemental market information attached herewith includes the recommended position limits for this contract, a separate filing will be submitted to the Commission to self-certify those position limits.

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 SO_2 Emission 25 Allowance Vintage 2009 Futures contract complies with the Act, including regulations under the Act. The listing of this contract will become effective on trade date June 7, 2010.

Should you have any questions concerning the above, please contact Brad Leach at (212) 299-2609 or the undersigned at (312) 648-5422.

Sincerely,

/s/Stephen M. Szarmack
Regulatory Counsel

Attachment: Supplemental Market Information

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APPENDIX A

Supplemental Market Information

Vintage 2009 Market Information

The total SO_2 vintage 2009 allowances held at EPA as of April 16, 2010 is 272,082,539. Table 1 below represents the existing SO_2 futures contracts and the corresponding position limits.

Table 1

Existing SO2 Futures	Code	Spot Limits	Chapter
SO2 Emission 25-Allowance Futures	09	2,500	554
SO2 Emission 25-Allowance Futures 2010	10	2,500	554
SO2 Emission 25-Allowance Futures 2011	11	2,500	554
SO2 Emission 25-Allowance Futures 2012	12	2,500	554
SO2 Emission 25-Allowance Futures 2013	13	2,500	554
SO2 Emission 25-Allowance Futures 2014	14	2,500	554

Therefore, we propose to set spot month limit at 2,500 contracts for the SO2 Emission 25-Allowance Vintage 2009 Futures contract (see Table 2 below). Please note that the SO2 Emission 25-Allowance Vintage 2009 Futures contract will aggregate into the 100-Allowance sized SO2 Emissions Allowance Futures (code RS).

Table 2

New SO2 Futures Vintage 2009	Code	Proposed Spot Limits	Chapter
SO2 Emission 25-Allowance Vintage 2009 Futures	VAF	2,500	554

SO2 Market Participants

AES	Evolution Markets
ALPower	First Energy
Alcoa Allowance Mgt	Fortis Energy marketing
Allegheny Power System	GA Power
Alpha Energy Partners	JPM Futures
Ameren	Keystone
Bear Energy	LDES
Cantor	MF Global
CF Brokerage	Macquarie Cook
Colstrip	Man Financial NY
Conemaugh	ML Commodities
Conesville	Mirant
ConEd	MSCG
Constellation Power Sys	Natsource
CS	NRG
Dayton P&L	PEPCO
Dominion	PPL
Duke	PruBache Commodities
Dynegy	PSEG
Edison Mission Energy	Reliant
Element Markets	Saracen Energy
Evolution Markets	Sempra Energy Trading
First Energy	Southern Co Services
Fortis Energy marketing	Swiss Re
GA Power	Transalta Energy Marketing
JPM Futures	TXU Portfolio
Keystone	VEPCO

Summary: SO_2 Reductions and Allowance Trading Under the Acid Rain Program

The market-based sulfur dioxide (SO_2) allowance trading component of the Acid Rain Program allows utilities to adopt a cost-effective strategy to reduce SO_2 emission at units in their systems. Affected utilities are required to install systems that continuously monitor emission of SO_2, nitrogen oxides (NO_x), and other related pollutants in order to track progress, ensure compliance, and provide credibility to the trading component of the program. In any year that compliance is not achieved, excess emission penalties will apply, and sources either will have allowances deducted immediately from their accounts or may submit a plan to U.S. Environmental Protection Agency (EPA) that specifies how the excess SO_2 emission will be offset.

Overview

The Clean Air Act Amendments of 1990 set a goal of reducing annual SO_2 emission by 10 million tons below levels previously set in 1980. In order to achieve these reductions, the law required a two-phase implementation of the restrictions placed on fossil fuel-fired power plants:

- Phase I (began in 1995)
  Affected 263 units at 110 mostly coal-burning electric utility plants located in 21 Eastern and Mid-Western states. An additional 182 units joined Phase I of the program as substitution or compensating units, bringing the total of Phase I affected units to 445.
- Phase II (began in 2000)
  Tightened the annual emissions limits imposed on large, higher emitting plants and also set restrictions on smaller, cleaner plants fired by coal, oil, and gas, encompassing over 2,000 units in all. The program affects existing utility units serving generators with an output capacity of greater than 25 megawatts and all new utility units.

Reductions in SO_2 emissions are facilitated through a market-based system for capping and trading—the centerpiece of EPA's Acid Rain Program. The allowance trading system creates low-cost rules of exchange that minimize government intrusion and make allowance trading a viable compliance strategy for reducing SO_2.

Introduction

Allowance trading is the centerpiece of EPA's Acid Rain Program, and allowances are the currency with which compliance with the SO_2 emission requirements is achieved. Through the market-based allowance trading system, utilities regulated under the program rather than a governing agency, decide the most cost-effective way to use available resources to comply with the acid rain requirements of the Clean Air Act. Utilities can reduce emissions by employing energy conservation measures, increasing reliance on renewable energy, reducing usage, employing pollution control technologies, switching to lower sulfur fuel, or developing other alternate strategies. Units that reduce their emissions below the number of allowances they hold may trade allowances with other units in their system, sell them to other utilities on the open market or through EPA auctions, or bank them to cover emissions in future years. Allowance trading provides incentives for energy conservation and technology innovation that can both lower the cost of compliance and yield pollution prevention benefits.

The Acid Rain Program established a precedent for solving other environmental problems in a way that minimizes the costs to society and promotes new technologies.

At the end of the year, sources must hold in their compliance accounts a quantity of allowances equal to or greater than the amount of SO_2 emitted during that year. To cover their emissions for the previous year, sources must finalize allowance transactions and submit them to EPA by March 1 (February 29 - leap year) to be recorded in their compliance accounts. The amount of emissions is determined in accordance with the monitoring and reporting requirements described in the Continuous Emission Monitoring Rule.

After the March 1 deadline and the final submitted transfers are recorded, EPA deducts allowances from each source's compliance account in an amount equal to its SO_2 emissions for that year. If the source's emissions do not exceed its allowances, the remaining allowances are carried forward, or banked for

future use. If a source's emissions exceed its allowances, the source must pay a penalty and surrender allowances for the following year to EPA as excess emission offsets.

Allowance Definition

An allowance authorizes a utility or industrial source to emit one ton of SO_2 during a given year or any year thereafter. At the end of each year, the source must hold an amount of allowances at least equal to its annual emissions, i.e., a source that emits 5,000 tons of SO_2 must hold at least 5,000 allowances that are usable in that year. However, regardless of how many allowances a source holds, it is never entitled to exceed the limits set under Title I of the Clean Air Act to protect public health.

Allowances are fully marketable commodities. Once allocated, allowances may be bought, sold, traded, or banked for use in future years. Allowances may not be used for compliance prior to the calendar year for which they are allocated.

Allowances may be bought, sold, and traded by any individual, corporation, or governing body, including brokers, municipalities, environmental groups, and private citizens. The primary participants in allowance trading are officials designated and authorized to represent the owners and operators of electric utility plants that emit SO_2.

Any person or group, including brokers and investors, wishing to purchase allowances may open a general Allowance Management System (AMS) account.

Allocation of Allowances

Allowances were allocated for each year beginning in 1995. Phase I included certain electricity generating units. EPA allocated allowances at an emission rate of 2.5 pounds of SO_2/mmBtu (million British thermal units) of heat input, multiplied by the unit's baseline mmBtu (the average fossil fuel consumed from 1985 through 1987). These allowance allocations are listed in Table A of the Clean Air Act and codified in the Allowance System Regulations (Part 73, Table 1). Alternative or additional allowance allocations were made for various units, including affected units in Illinois, Indiana, and Ohio, which were allocated a pro rata share of 200,000 additional allowances each year from 1995 to 1999.

In Phase II, which began in the year 2000, EPA expanded the group of affected sources to include virtually all units over 25 megawatts (MW) in generating capacity, and tightened the allowance allocation. Allowance allocation calculations were made for various types of units, such as coal- and gas-fired units with low and high emissions rates or low fuel consumption. EPA allocated allowances to each unit at an emission rate of 1.2 pounds of SO_2/mmBtu of heat input, multiplied by the unit's baseline. Beginning in 2010, the Act places a cap at 8.95 million on the number of allowances issued to units each year. This effectively caps emissions at 8.95 million tons annually and ensures that the mandated emissions reductions are maintained over time.

In addition to annual allocations, allowances are also available upon application to three EPA reserves. In Phase I, units could apply for and receive additional allowances by installing qualifying Phase I technology (a technology that can be demonstrated to remove at least 90 percent of the unit's SO_2 emissions) or by reassigning their reduction requirements among other units employing such technology. A second reserve provides allowances as incentives for units achieving SO_2 emission reductions through customer-oriented conservation measures or renewable energy generation. The third reserve contains allowances set aside for auction, which are sponsored annually by EPA. Anyone can participate in the annual allowance auction which is held at the end of March each year.

Units that began operating in1996 or later are not allocated allowances. Instead, they have to purchase allowances from the market or from the EPA auction to cover their SO_2 emissions.

Annual Auction

Once a year, EPA auctions a certain number of SO_2 allowances at the end of March. Utilities, environmental groups, allowance brokers, and anyone else interested in purchasing allowances can participate.

Allowance Tracking System

The role of the EPA in allowance trading is to record allowance transfers that are used for compliance and ensure at the end of the year that a source's emissions do not exceed the number of allowances it holds. As such, the EPA maintains an Allowance Management System (AMS). Each affected utility source, corporation, group, or individual holding allowances holds an account in the AMS. Parties must notify the EPA in order to have transfers recorded in their AMS account, but it is not necessary to record all transfers with the EPA until such time that the allowances are to be used to meet a source's SO_2 emissions limitation requirement. AMS accounts are, however, the official records for allowance holdings and transfers used for compliance purposes. To facilitate tracking and recording, the EPA assigns every account an identification number and every allowance a serial number.

Any person or group, including brokers and investors, wishing to purchase allowances may open a general AMS account.

Allowance transfer requests and all correspondence with the EPA concerning compliance with the Acid Rain Program must be performed by authorized account representatives. For a source account, the Designated Representative, who represents the owners and operators of that unit, performs this function. For a general account, the Authorized Account Representative is the person who represents the parties with an ownership interest in the allowances, and who executes the Account Information Form to open the account.

Information Contained in AMS Accounts

AMS accounts track the following information:

- Issuance of all allowances.
- Number of allowances held in the account.
- Number of allowances held in various allowance reserves, such as the EPA Auction Reserve and the Conservation and Renewable Energy Reserve.
- Deduction of allowances for compliance purposes.
- Transfer of allowances between accounts.

Reference

http://www.epa.gov/airmarkt/progsregs/arp/index.html