Sean M. Downey
Director and Assistant General Counsel
Legal Department

September 6, 2012

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 40.2(a) Certification. Notification Regarding the Listing of a Coal Swap Futures Contract for Trading the NYMEX Trading Floor and Clearing through CME ClearPort®
NYMEX Submission 12-267

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of a new Coal (API 8) cfr South China (Argus/McCloskey) Swap futures contract for trading on the NYMEX trading floor and for submission for clearing through CME ClearPort beginning at 6:00 p.m. on Sunday, September 9, 2012, for trade date Monday, September 10, 2012.

CONTRACT SPECIFICATIONS

- **Contract Title:** Coal (API 8) cfr South China (Argus/McCloskey) Swap Futures
- **Commodity Code:** SSI
- **Contract Size: 1,000 metric tons**
- **Prices and Fluctuations:** Minimum price tick = $0.05; Final settlement tick = $0.01; Value per tick = $50.00
- **Termination of Trading:** Trading shall cease on the last Friday of the contract month. The last Friday of the contract month. If such Friday is a UK holiday, the contract will terminate on the UK business day immediately prior to the last Friday of the contract month unless such day is not an Exchange business day, in which case the contract shall terminate on the Exchange business day immediately prior.
- **Listing Schedule:** Consecutive calendar months for the current year and the next full calendar year
- **First Listed Month:** October 2012
- **Rule Chapter:** 1113
- **Exchange Hours:**

Open Outcry: Monday – Friday 9:00 a.m. – 2:30 p.m. (8:00 a.m. – 1:30 p.m. Chicago Time/CT).
CME ClearPort: Sunday – Friday 6:00 p.m. – 5:15 p.m. (5:00 p.m. – 4:15 p.m. CT) with a 45-minute break each day beginning at 5:15 p.m. (4:15 p.m. CT).

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- **Fee Schedule:**

Exchange Fees					
	Member Day	**Member**	**Cross Division**	**Non-Member**	**IIP**
Pit	n/a	$5.00	$6.00	$7.00	
Globex	n/a	n/a	n/a	n/a	n/a
ClearPort		$5.00		$7.00	

Other Processing Fees		
	Member	**Non-Member**
Cash Settlement	$1.00	$1.00
Futures from E/A	n/a	n/a
	House Acct	**Customer Acct**
Options E/A Notice	n/a	n/a
Delivery Notice	n/a	n/a

Additional Fees and Surcharges	
EFS Surcharge	n/a
Block Surcharge	n/a
Facilitation Desk Fee	$0.20

The Exchange will allow the exchange for related position (EFRP) transactions to be submitted through CME ClearPort. EFRP transactions in this option contract will be governed by the provisions of Exchange Rule 538.

The Exchange is also notifying the CFTC that it is self-certifying the insertion of the terms and conditions for the new contract into the Position Limit, Position Accountability and Reportable Level Table and Header Notes located in the Interpretations and Special Notices Section of Chapter 5 of the NYMEX Rulebook in relation to the listing of the new contract. These terms and conditions establish the all month/any one month accountability levels, expiration month position limit, reportable level, and aggregation allocation for the new contract.

Exchange business staff responsible for the new product and the Exchange legal department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act (the "Act" or "CEA"). During the review, Exchange staff identified that the new product may have some bearing on the following Core Principles:

- Prevention of Market Disruption: Trading in this contract will be subject to the NYMEX rules ("Rulebook") Chapters 4 and 7 which include prohibitions on manipulation, price distortion and disruptions of the delivery or cash-settlement process. As with all products listed for trading on one of CME Group's designated contract markets, activity in the new product will be subject to extensive monitoring and surveillance by CME Group's Market Regulation Department.

- Contracts not Readily Subject to Manipulation: The new contract is not readily subject to manipulation due to the liquidity and robustness in the underlying cash market, which provides diverse participation and sufficient spot transactions to support the final settlement index as assessed by Argus Media and IHS McCloskey (methodology provided in the attached Cash Market Overview).

- Compliance with Rules: Trading in this contract will be subject to the rules in Rulebook Chapter 4 which includes prohibitions against fraudulent, noncompetitive, unfair and abusive practices. Additionally, trading in this contract will also be subject to the full panoply of trade practice rules, the majority of which are contained in Chapter 5 and Chapter 8 of the Rulebook. As with all products listed for trading on one of CME Group's designated contract markets, activity in the new product will be subject to extensive monitoring and surveillance by CME Group's Market Regulation Department. The Market Regulation Department has the authority to exercise its investigatory and enforcement power where potential rule violations are identified.

- Position Limitations or Accountability: The spot month position limits for the contract is set at less than the threshold of 25% of the deliverable supply in the underlying market in accordance with the guidelines included in CFTC Part 151.

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- Availability of General Information: The Exchange will publish information on the contract's specifications on its website, together with daily trading volume, open interest and price information.
- Daily Publication of Trading Information: Trading volume, open interest and price information will be published daily on the Exchange's website and via quote vendors.
- Financial Integrity of Contracts: All contracts traded on the Exchange will be cleared by the Clearing House of the Chicago Mercantile Exchange Inc. which is a registered derivatives clearing organization with the Commission and is subject to all Commission regulations related thereto.
- Execution of Transactions: The new contract is dually listed for clearing through the CME ClearPort platform and for open outcry trading on the NYMEX trading floor. The CME ClearPort platform provides a competitive, open and efficient mechanism for novating transactions that are competitively executed by brokers. In addition, the NYMEX trading floor is available as a venue to provide for competitive and open execution of transactions.
- Trade Information: All required trade information is included in the audit trail and is sufficient for the Market Regulation Department to monitor for market abuse.
- Protection of Market Participants: Rulebook Chapters 4 and 5 contain multiple prohibitions precluding intermediaries from disadvantaging their customers. These rules apply to trading on all of the Exchange's competitive trading venues and will be applicable to transactions in this product.
- Disciplinary Procedures: Chapter 4 of the Rulebook contains provisions that allow the Exchange to discipline, suspend or expel members or market participants that violate the Rulebook. Trading in this contract will be subject to Chapter 4, and the Market Regulation Department has the authority to exercise its enforcement power in the event rule violations in this product are identified.
- Dispute Resolution: Disputes with respect to trading in this contract will be subject to the arbitration provisions set forth in Chapter 6 of the Rulebook. Chapter 6 allows all nonmembers to submit a claim for financial losses resulting from transactions on the Exchange to arbitration. A member named as a respondent in a claim submitted by a nonmember is required to participate in the arbitration pursuant to Chapter 6. Additionally, the Exchange requires that members resolve all disputes concerning transactions on the Exchange via arbitration.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.2, the Exchange hereby certifies that the attached contract complies with the Act, including regulations under the Act. There were no substantive opposing views to this proposal. A description of the cash market for this new product is attached.

The Exchange certifies that this submission has been concurrently posted on the Exchange's website at http://www.cmegroup.com/market-regulation/rule-filings.html.

Should you have any questions concerning the above, please contact the undersigned at (312) 930-8167 or Sean.Downey@cmegroup.com.

Sincerely,

/s/Sean M. Downey
Director and Assistant General Counsel

Attachments: Appendix A: Rule Chapter
Appendix B: Chapter 5 Table
Appendix C: Cash Market Overview and Analysis of Deliverable Supply

Appendix A

Chapter 1113
Coal (API 8) cfr South China (Argus/McCloskey) Swap Futures

1113100. SCOPE OF CHAPTER

The provisions of these rules shall apply to all futures contracts bought or sold on the Exchange for cash settlement based on the Floating Price. The procedures for trading, clearing and cash settlement of this contract, and any other matters not specifically covered herein shall be governed by the general rules of the Exchange.

1113101. CONTRACT SPECIFICATIONS

The Floating Price for each contract month shall be equal to the (API 8) cfr South China Monthly Coal Price Index published in the Argus/McCloskey's Coal Price Index Report (i.e. being the average of weekly prices during the contract month).

1113102. TRADING SPECIFICATIONS

The number of months open for trading at a given time shall be determined by the Exchange.

1113102.A. Trading Schedule

The hours of trading for this contract shall be determined by the Exchange.

1113102.B. Trading Unit

The contract quantity shall be one thousand (1,000) metric tons. Each contract shall be valued as the contract quantity (1,000) multiplied by the settlement price.

1113102.C. Price Increments

Prices shall be quoted in U.S. dollars and cents per ton. The minimum price fluctuation shall be $0.05 (5¢) per metric ton. The minimum final settlement is $0.01 per metric ton.

1113102.D. Position Limits and Position Accountability

In accordance with Rule 559, no person shall own or control positions in excess of 500 contracts net long or net short in the spot month.

In accordance with Rule 560:

1. the all-months accountability level shall be 2,000 contracts net long or net short in all months combined;
2. the any-one month accountability level shall be 1,500 contracts net long or net short in any single contract month excluding the spot month.

Refer to Rule 559 for requirements concerning the aggregation of positions and allowable exemptions from the specified position limits.

1113102.E. Termination of Trading

The contract shall terminate at the close of trading on the last Friday of the contract month. If such Friday is a UK holiday, the contract will terminate on the UK business day immediately prior to the last Friday of the contract month unless such day is not an Exchange business day, in which case the contract shall terminate on the Exchange business day immediately prior.

1113103. FINAL SETTLEMENT

Final settlement 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.

1113104. DISCLAIMER

The Coal (API 8) cfr South China (Argus/McCloskey) Swap Futures (the "Product") is not sponsored, endorsed, sold or promoted by Argus Media Inc. ("Argus") or IHS Global Ltd. ("IHS"). Argus and IHS make no representation or warranty, express or implied, to the owners of the Product or any member of the public regarding the advisability of trading in the Product. Argus' and IHS' only relationship to Chicago Mercantile Exchange Inc., CME Clearing Europe Ltd. And New York Mercantile Exchange, Inc. (together, "CME") is the licensing of certain trademarks and trade names of Argus and IHS, and of the API 8 index (which is determined, composed and calculated by

Argus and IHS without regard to CME or the Product), and Argus and IHS have no obligation to take the needs of CME or the owners of the Product into consideration in determining, composing or calculating the API 8 index. Argus and IHS are not responsible for and have not participated in the determination of the timing of, prices at, or quantities of the Product to be listed or in the determination or calculation of the equation by which the Product is to be converted into cash. Argus and IHS have no obligation or liability in connection with the administration, marketing or trading of the Product.

ARGUS, IHS AND CME DO NOT GUARANTEE THE ACCURACY AND/OR THE COMPLETENESS OF THE API 8 INDEX OR ANY DATA RELATED THERETO AND NEITHER ARGUS, IHS, NOR CME SHALL HAVE ANY LIABILITY FOR ANY ERRORS, OMISSIONS, OR INTERRUPTIONS THEREIN. ARGUS, IHS AND CME MAKE NO WARRANTY, EXPRESS OR IMPLIED, AS TO RESULTS TO BE OBTAINED BY CME, OWNERS OF THE PRODUCT, OR ANY OTHER PERSON OR ENTITY FROM THE USE OF THE API 8 INDEX OR ANY DATA RELATED THERETO. ARGUS, IHS, AND CME MAKE NO EXPRESS OR IMPLIED WARRANTIES, AND EXPRESSLY DISCLAIM ALL WARRANTIES, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE WITH RESPECT TO THE API 8 INDEX OR ANY DATA RELATED THERETO. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL ARGUS, IHS, OR CME HAVE ANY LIABILITY FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT OR INDIRECT, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. THERE ARE NO THIRD PARTY BENEFICIARIES OF ANY AGREEMENTS OR ARRANGEMENTS BETWEEN ARGUS, IHS, AND CME.

Without prejudice to any of the above provisions and in addition to them, each and every third party should and must note that, insofar as New York Mercantile Exchange, Inc. (“NYMEX”) may list any index for trading in or in connection or by reference therewith, none of:

a. NYMEX;

b. its directors or officers; or

c. any relevant party that NYMEX may contract with for the supply of the index or information in relation thereto;

(each of the foregoing, a “Relevant Party”) assume any obligation or liability in connection with the trading of any contract based on such index. Accordingly, no Relevant Party shall be in any way responsible for any losses, expenses or damages (in all cases direct or indirect) arising in connection with or referable to the trading of any contract linked or referable to the said index, *provided* that nothing herein shall affect either the obligations of NYMEX or its Members as Parties trading in any contract so linked or referable. None of the Relevant Parties guarantee or warrant or undertake in any manner the accuracy or completeness of any such index or any information or data included in or referable to it.

NONE OF THE RELEVANT PARTIES MAKE ANY WARRANTY OR GIVES ANY GUARANTEE OR UNDERTAKING, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF, OR THE RESULTS TO BE OBTAINED BY ANY PERSON OR ENTITY FROM THE USE OF ANY SUCH INDEX, AND PROXY RELATED OR REFERABLE THERETO OR ANY INFORMATION OR DATA INCLUDED IN OR REFERABLE TO IT IN CONNECTION WITH ANY TRADING OR ANY CONTRACTS OR FOR ANY OTHER USE. NONE OF THE RELEVANT PARTIES MAKE ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO ANY SUCH INDEX, ANY RELATED OR REFERABLE THERETO OR ANY INFORMATION OR DATA INCLUDED IN OR REFERABLE TO ANY SUCH INDEX.

Appendix B

NYMEX Rulebook Chapter 5 Position Limit Table
(Bold/underline indicates addition)

Contract Name	**Rule Chapter**	**Commodity Code**	**All Month Accountability Level**	**Any One Month Accountability Level**	**Expiration Month Limit**	**Reporting Level**	**Aggregate Into (1)**
			Rule 560	**Rule 560**	**Rule 559**	**Rule 561**	
Coal							
Coal (API 8) CFR South China (Argus/McCloskey) Swap Futures	**1113**	**SSI**	**2,000**	**1,500**	**500**	**25**	**SSI**

Appendix C

CASH MARKET OVERVIEW

Coal as a Traded Commodity

Thermal coal, also known as steam coal, is a globally traded commodity. Thermal coal is burned to generate electricity. Coal is usually transported by truck, train or barge within the domestic markets, but for international trade, dry-bulk seaborne vessels are used, primarily handysize, panamax, and capesize vessels. Seaborne trade in steam coal has increased by an average of around 7% per year over the period 1990 to 2010[1].

The two major thermal coal markets are the Atlantic and Pacific markets. In the Atlantic market, the main importers are Western European countries, such as the UK, Germany and Spain. In the Pacific market, import demand comes mainly from Japan, China, South Korea and Taiwan. India is also a major importer from both Atlantic and Pacific suppliers.

Tables 1 and 2 show the world's most relevant coal consuming and importing countries:

Table 1: Top Coal Consumers (2010e) (million tons)

Country	Consumption
China	3,162
USA	932
India	538
Australia	353
South Africa	255
Russia	248
Indonesia	173
Kazakhstan	105
Poland	77
Colombia	74

Source: World Coal Association[2]

[1] Source: World Coal Association www.worldcoal.org The World Coal Association is a global industry association comprising the major international coal producers and stakeholders.
[2] http://www.worldcoal.org/resources/coal-statistics/

Table 2: Top Coal Importers (2010e) (million tons)

Country	Total	of which	
		Steam	Coking
Japan	187	129	58
China	177	129	48
South Korea	119	91	28
India	90	60	30
Chinese Taipei	63	58	5
Germany	46	38	8
Turkey	27	20	7

Source: World Coal Association[3]

China's Role in the World Coal Market

China is the world's largest producer and consumer of thermal coal and is also one of the world's largest coal importers. Estimates of Chinese imports vary, according to the statistical source, as some estimates will include anthracite along with thermal coal. Imports of bituminous coal equaled 99.5 million metric tons in 2011, according to data from the United Nations Comtrade Database[4], but the World Coal Association estimates that imports could have been as high as129 million tons in 2010[5].

Table 3: China Imports of thermal coal (2008-11)

Year	Anthracite	Bituminous	Other Coal
2008	19.39	16.60	4.35
2009	34.33	72.46	19.05
2010	26.30	98.39	39.85
2011	36.11	99.51	46.31
Average 2009-2011	32.25	90.12	35.07

Source: United Nations Comtrade Database[6], million metric tons

[3] http://www.worldcoal.org/resources/coal-statistics/
[4] Source United Nations Comtrade Database, DESA/UNSD, http://comtrade.un.org
[5] http://www.worldcoal.org/resources/coal-statistics/
[6] Source United Nations Comtrade Database, DESA/UNSD, http://comtrade.un.org. Anthracite data is under HS code 270111, Bituminous data is under HS code 270112, Other coal data is under HS code 270119.

As shown in Table 3 above, Chinese imports have grown extremely strongly in recent years in line with the rapid economic growth experienced in China. China is currently the world's second largest importer of thermal coal.

Even though China is the world's largest producer of thermal coal, logistical constraints mean that it is sometimes problematic to supply the southern industrialized regions with coal produced in the production heartlands of the north. This ensures that the southern part of the country often relies on imported material in order to make up any deficit.

Apart from logistical constraints, there is also an economic factor at play. Transporting coal from the north China to south China can often prove costly, as the distances involved are large and demand is so high. Coal is typically transported from the mine head to the nearest port by rail, then shipped to the south in coastal vessels, or else it is transported all the way by rail. Either way, the logistics of domestic Chinese transportation can often prove more expensive than transporting imported coal to China by sea, as seaborne imports typically move in much larger vessels and thus enjoy economies of scale.

Chinese coal users in the south of the country carefully monitor the difference in price between the cost of delivering domestic coal from the north of the country versus the cost of importing coal from countries such as Indonesia, Australia and Russia. Chinese imports surge whenever imported coals are at a discount to domestic coal of similar quality.

Commodity prices in every region have experienced significant volatility in recent years; although Chinese coal prices have proved more stable than most global commodities. This is a result of the relative price stability of domestic coal prices, which is promoted by the Chinese government. Nonetheless, prices have proved relatively more volatile than Chinese users had come to expect previously and this has led to a greater focus on risk management. The negative experiences associated with long-term pricing arrangements have also led participants to move towards shorter term and index-linked contracts that correspond more closely with market conditions at the time of delivery.

There is now active trade in over-the-counter ("OTC") swaps by participants in the Australian, Indonesian and Chinese coal markets.

The API 8 (CFR China) Price Assessment

The API 8 price assessment is the average of coal price assessment published by Argus Media ("Argus") and IHS McCloskey. Specifically, the index is comprised of the average of the Argus cfr south China 5,500 price assessment and the IHS McCloskey/Xinhua Infolink South China CFR (5,500kc NAR) marker. Each of these contributor prices, and the API 8 index, are published once a week each Friday[7]. Argus and McCloskey have provided information to the Exchange which demonstrates that their assessments incorporate data from a broad number of sources and represent a substantial proportion of eligible transactions and overall volume.

Argus South China Coal Prices

Argus is one of the major pricing services that are used in the OTC market for pricing swap contracts, and the methodology utilized by Argus is well-known in the global coal industry. Their pricing methodology is derived from telephone surveys and electronic data collected from multiple market participants to determine market value. Argus was founded in 1970 and is a privately held UK-registered company, owned by its employees and the family of its founder[8].

Argus' methodology for assessing south China coal prices can be found at http://www.argusmedia.com/~/media/Files/PDFs/Meth/argus_coal_dailyint.ashx. Characteristics for coal included in the Argus cfr south China 5,500 price assessment are as follows[9]:

Characteristics	Typical	Rejection limits
NCV	5,500 kcal/kg	tolerance ± 200 kcal/kg
Total moisture	max 18pc	more than 18pc
Ash	11-25pc	more than 25pc
Sulphur	less than 1pc	more than 1pc
Volatile matter	max 40pc	more than 40pc
Hardgrove grindability	45-70	less than 44
Size range	50mm	-
Disport	Guangzhou	

[7] http://www.argusmedia.com/~/media/Files/PDFs/Meth/argus_coal_dailyint.ashx
[8] Further details about Argus Media can be found at http://www.argusmedia.com/About-Argus
[9] Source: http://www.argusmedia.com/~/media/Files/PDFs/Meth/argus_coal_dailyint.ashx

To be included in the assessment, deals must be for a minimum of 50,000 metric tons and a maximum of 150,000 metric tons, and be for delivery within a 90-day window. The price assessment is published once a week and based on data collected throughout the week.

IHS McCloskey South China Coal Prices

IHS McCloskey is a leading source of news and analysis on the international coal industry. It is one of the major pricing services that are used in the OTC market for pricing swap contracts, and the methodology utilized by IHS McCloskey is well-known in the global coal industry[10]. The McCloskey Group was founded in the UK in 1987, and was acquired by IHS Inc. in 2007[11].

IHS McCloskey's methodology for assessing south China coal prices can be found at http://cr.mccloskeycoal.com/hybrid.asp?typeCode=28&pubCode=7&navcode=418. Price assessments are for coal with a calorific value of 5,500 kcal/kg, and a maximum sulfur content of 1%. The south China CFR marker assesses the spot price for coal delivered into South China, basis Guangzhou (GZ), from domestic or international origins. The price is an international origin equivalent price for coal. IHS McCloskey incorporates prices for domestic origin coal by adjusting for taxes, port handling fees and other factors. To be included in the assessment, transactions must be vessels with a minimum cargo size of 50,000 metric tons, and be for delivery within a 90-day window. The marker is published once a week and based on data collected throughout the week.

NYMEX is a party to an agreement with Argus Media and IHS McCloskey to use the API 8 (cfr South China) index as the basis for contract construction.

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[10] See http://www.mccloskeycoal.com/

[11] http://press.ihs.com/press-release/corporate-financial/ihs-acquires-mccloskey-group-leading-coal-markets-research-firm

ANALYSIS OF DELIVERABLE SUPPLY

The Exchange is assessing spot month position limits for the Coal (API 8) cfr South China (Argus/McCloskey) Swap futures contract based on import data for coal into China. It should be noted that whilst the API 8 is intended to be an assessment of coal from international origins, Chinese domestic coal supplies may also be included in the assessment. The Exchange will keep under review the applicability of including domestic Chinese supplies within the assessment of deliverable supply.

Table 3 above shows that the average coal imports into China for 2009-2011 were 90.12 million metric tons per annum for bituminous coal. Industry estimates suggest that 50% of this figure is of the quality that would be included in the API 8 index. This would equate to an average of 45.06 million metric tons per annum for the period 2009 to 2011.

The Exchange has discussed the physical market structure with industry participants including commercial and financial firms, as well the price reporting agencies. The physical market for coal being delivered into China is predominantly traded on a spot or short term contract basis. Given the substantial availability of domestically produced coal, there are little or no long term supply contracts for delivery into China. Cargoes are typically re-tradable and are frequently re-traded. Due to the cash market's flexibility for re-trading cargoes, the Exchange believes it is not necessary to adjust the deliverable supply estimate to reflect any restriction due to term contract delivery arrangements.

The contract size for the Coal (API 8) cfr South China (Argus/McCloskey) Swap futures is 1,000 metric tons. The deliverable supply of API 8 quality coal of 45.06 million metric tons per annum equates to 3.75 million metric tons per calendar month, the equivalent of 3,755 contracts. The spot month limit of 500 lots therefore represents 13.3% of the deliverable supply which is less than the threshold of 25% of the deliverable supply in the underlying market in accordance with the guidelines included in CFTC Part 151.