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## RULE SELF-CERTIFICATION

October 19, 2011

Office of the Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> St., N.W.  
Washington, D.C. 20581

CONFIDENTIAL TREATMENT  
REQUESTED

Re: Green Exchange LLC  
Reference File: GX-2011-22

Ladies and Gentlemen:

Pursuant to Section 40.2 of the regulations (the "CFTC Rules") promulgated by the Commodity Futures Trading Commission (the "Commission") under the Commodity Exchange Act, as amended (the "Act"), Green Exchange LLC ("GreenX"), a designated contract market under the Act, hereby submits this self-certification for the following:

1. GreenX is adopting Rules 1601 and 1602 to include contract specifications for the CSAPR TR SO<sub>2</sub> Group 1 Allowance Futures contract and the CSAPR TR SO<sub>2</sub> Group 2 Allowance Futures contract, respectively. Additionally, GreenX is adopting Rules 1603 and 1604 to include contract specifications for the CSAPR TR NOx Annual Allowance Futures contract and the CSAPR TR NOx Ozone Season Allowance Futures contract, respectively.

These four contracts were developed in accordance with the Environmental Protection Agency's Cross-State Air Pollution Rule (Transport Rule) cap-and-trade program enacted on July 6, 2011 and effective January 1, 2012. The Transport Rule aims to cut SO<sub>2</sub> and NOx emissions to 2005 levels by 2014. Further, the Transport Rule trading programs will utilize the EPA Clean Air Markets Division Business System Allowance Tracking System ("Allowance Management System") for market tracking purposes. Thus, the physically delivered allowances will be required to be deducted or transferred through the Allowance Management System pursuant to Transport Rule and GreenX delivery procedures as prescribed in the aforementioned GreenX Rules.

2. GreenX is amending Rule 535, the Position Limit, Position Accountability and Reportable Level Table, to include the two CSAPR TR SO<sub>2</sub> Futures contracts and the two CSAPR TR NOx Futures contracts.

3. GreenX is amending Rule 543.G, the Non-Reviewable Ranges table, to include the two CSAPR TR SO<sub>2</sub> Futures contracts and the two CSAPR TR NO<sub>x</sub> Futures contracts.

GreenX hereby certifies that the CSAPR TR SO<sub>2</sub> Group 1 Allowance Futures contract, CSAPR TR SO<sub>2</sub> Group 2 Allowance Futures contract, CASPR TR NO<sub>x</sub> Annual Allowance Futures contract and CSAPR TR NO<sub>x</sub> Ozone Season Allowance Futures contract and the rule amendments comply with the Act and the CFTC Rules.

The listing date of these new contracts is expected to be Sunday, November 6, 2011 for trade date Monday, November 7, 2011. The effective date of the rule amendments is November 6, 2011.

GreenX certifies that this rule certification has been posted on the GreenX website in "Pending Rules" found under the "Market Regulation" tab.

There were no opposing views among GreenX's Board of Directors, Participants or market participants regarding these rules and amendments. The contract specifications for the new contracts and the text of the rule amendments, showing deletions and additions, are attached as Appendix A hereto. A confidential "research note" describing the GreenX CSAPR futures contracts is included separately as Appendix B hereto. GreenX is separately requesting confidential treatment for Appendix B.

If you have any further questions or comments about GreenX's actions, please contact me at 212-299-2510.

Sincerely,



Kari S. Larsen  
Chief Regulatory Officer / General Counsel

cc: Bella Rozenberg  
Marshall Horn  
Michael Philipp

Attachment

## APPENDIX A

(Bold/underlining indicates additions; strikethrough indicates deletions)

### **RULE 535 Position Limit, Position Accountability and Reportable Level Table**

Contract Name	Rule	Commodity Code	All Month Accountability Level	Any One Month Accountability Level	Any/All Month Limit	Expiration Month Limit	Reporting Level	Aggregate Into (1)
			Rule 533	Rule 533	Rule 532	Rule 532	Rule 534	
Emissions								
<u>CSAPR TR SO2 Group 1 Vintage 2012 Allowance Futures</u>	<u>1601</u>	<u>SG1</u>	<u>4,500</u>	<u>3,000</u>	-	<u>1,500</u>	<u>25</u>	<u>SG1</u>
<u>CSAPR TR SO2 Group 2 Vintage 2012 Allowance Futures</u>	<u>1602</u>	<u>SG2</u>	<u>1,600</u>	<u>1,100</u>	-	<u>550</u>	<u>25</u>	<u>SG2</u>
<u>CSAPR TR NOx Annual Vintage 2012 Allowance Futures</u>	<u>1603</u>	<u>NXA</u>	<u>11,000</u>	<u>7,600</u>	-	<u>3,800</u>	<u>25</u>	<u>NXA</u>
<u>CSAPR TR NOx Ozone Season Vintage 2012 Allowance Futures</u>	<u>1604</u>	<u>NXS</u>	<u>10,000</u>	<u>7,200</u>	-	<u>3,600</u>	<u>25</u>	<u>NXS</u>

[Note: Contracts for which no changes have been made are omitted.]

### 543.G. NON-REVIEWABLE RANGES

Futures Contract	Non-Reviewable Range
<u>CSAPR TR SO2 Group 1</u>	<u>\$100 per ton or less</u>
<u>CSAPR TR SO2 Group 2</u>	<u>\$100 per ton or less</u>
<u>CSAPR TR NOx Annual Allowance</u>	<u>\$200 per ton or less</u>
<u>CSAPR TR NOx Ozone Seasonal Allowance</u>	<u>\$200 per ton or less</u>

[Note: Contracts for which no changes have been made are omitted.]

**RULE 1601. CSAPR TR SO<sub>2</sub> Group 1 Allowance Futures**

**1601.01A. DEFINITIONS**

(a) The terms “Allowance Management System” and “AMS” shall mean the system by which TR SO<sub>2</sub> Group 1 Allowances are allocated, held, deducted or transferred pursuant to the Cross-State Air Pollution Rule.

(b) The term “Clean Air Act” shall mean the 1970 U.S. federal law intended to reduce air pollution and protect air quality.

(c) The terms “Cross-State Air Pollution Rule” and “CSAPR” shall mean the EPA rule which requires States to reduce power plant emissions that contribute to ozone and/or fine particle pollution in other states.

(d) The term “EPA” means the U.S. Environmental Protection Agency or any successor agency with similar jurisdiction.

(e) The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member, respectively.

(f) The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer of the physical product, respectively.

(g) The term “Settlement Price” shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the last trading day of the expiring delivery month. The settlement price for the last day of the trading shall be determined in accordance with the procedures set forth in GreenX Rule 905.

(h) The term “State” shall mean one of the U.S. states that is subject to the TR SO<sub>2</sub> Group 1 Trading Program.

(i) The terms “State Implementation Plan” and “SIP” shall mean a State plan for complying with the federal Clean Air Act and CSAPR, administered by the EPA. The SIP consists of rules, agreements, and technical documentation that such State will use to clean up polluted areas.

(j) The term “TR SO<sub>2</sub> Group 1 Allowance” shall mean a limited authorization allocated or auctioned by the EPA or by a State or permitting authority under a SIP revision approved by the EPA, to emit one (1) ton of SO<sub>2</sub> during a specified calendar year for which the authorization is allocated or auctioned or of any calendar year thereafter in accordance with the TR SO<sub>2</sub> Group 1 Trading Program.

(k) The term “TR SO<sub>2</sub> Group 1 Trading Program” shall mean the multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart CCCCC of CSAPR (including such a program that is established or revised in a SIP revision approved by the EPA).

(l) The term “Vintage Year” shall mean the specified calendar year for which a TR SO<sub>2</sub> Group 1 Allowance was allocated.

**1601.01. SCOPE**

The provisions of these rules shall apply to all CSAPR TR SO<sub>2</sub> Group 1 Allowance Futures bought or sold for future delivery on the Exchange with the delivery of TR SO<sub>2</sub> Group 1 Allowances made through the Allowance Management System (AMS).

**1601.02. TIME REFERENCES**

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate the prevailing time in New York.

1601.03. CONTRACT UNIT

The contract unit shall be twenty-five (25) TR SO<sub>2</sub> Group 1 Allowances for a delivery made by transfer through the AMS.

1601.04. DELIVERY

TR SO<sub>2</sub> Group 1 Allowance delivery shall comply with all requirements for the electronic transfer of allowances on the AMS. All deliveries made under this Rule 1601 shall be final and there shall be no appeal.

1601.05. DELIVERY MONTHS

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Exchange.

1601.06. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars (\$) and cents (¢) per allowance. The minimum price fluctuation shall be \$5.00 per allowance (\$125.00 per contract). There shall be no maximum price fluctuations.

1601.07. TERMINATION OF TRADING

Trading in the delivery month shall cease on the fifteenth (15th) day of the delivery month. If such a day is not a Business Day, trading shall cease on the next following day that is a Business Day.

1601.08. DELIVERABLE ALLOWANCES

Allowances acceptable for delivery are TR SO<sub>2</sub> Group 1 Allowances with a Vintage Year corresponding to the specified Vintage Year of the contract. TR SO<sub>2</sub> Group 1 Allowances of prior Vintage Years that have not been surrendered will be eligible for delivery for the current Vintage Year.

All TR SO<sub>2</sub> Group 1 Allowances acceptable for delivery must be eligible for compliance in participating States at the time of delivery.

1601.09. DELIVERY PROCEDURES AND OBLIGATIONS

The Clearing House is a party to all deliveries under this contract and will receive TR SO<sub>2</sub> Group 1 Allowances by electronic transfer from the Seller into the Clearing House account at the AMS. Following receipt from the Seller, the Clearing House will deliver TR SO<sub>2</sub> Group 1 Allowances from the Clearing House account to the AMS account nominated by the Buyer.

All rights, title, and interest in and to, and risk of loss related to, the TR SO<sub>2</sub> Group 1 Allowances will transfer upon receipt in the applicable AMS account.

The Seller shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to the submission of the forms noted in this Rule. The Buyer shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to ensure the acceptance of a valid transfer into its account. If a provision of the GreenX Rules or the Clearing House Rules is inconsistent with a provision of the AMS regulations, the provision of the GreenX Rules or the Clearing House Rules shall prevail as among the Buyer, Seller, and the Clearing House to the extent of such inconsistency and to the extent permitted by law.

By transferring allowances to the Clearing House, the Seller represents and warrants that, at the time of delivery, it has good and marketable title to such allowances, and that such allowances are free and clear of all liens, security interests, claims, encumbrances and adverse claims.

- (a) OPERATIONAL RESPONSIBILITIES OF CLEARING MEMBERS
  - (i) NOTICE OF INTENTION TO ACCEPT

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Buyer having an open long 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: name of the Buyer's Customer; number of contracts to be accepted; AMS account number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(ii) NOTICE OF INTENTION TO DELIVER

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver.

The Notice of Intention to Deliver shall be in the form prescribed by the Exchange and shall include: name of the Seller's Customer; number of contracts to be delivered; AMS Account Number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(iii) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Seller shall transfer TR SO<sub>2</sub> Group 1 Allowances subject to delivery to the Clearing House account of the AMS.

(iv) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Buyer shall deposit / transfer payment equal to the full value of the product to the designated Clearing House bank account.

(v) By 12:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, for each Buyer that has satisfied its obligations under Rule 1601.09(a)(iv), the Clearing House will initiate the process of transferring the TR SO<sub>2</sub> Group 1 Allowances to the Buyer's account at the AMS.

(vi) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, Buyer shall receive TR SO<sub>2</sub> Group 1 Allowances from the Clearing House account of the AMS.

(vii) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading, for each Seller that has satisfied its obligations under Rule 1601.09(a)(iii), the Clearing House shall pay the Seller full contract value.

(b) ASSIGNMENT DAY

(i) The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching positions, to the extent possible.

(ii) The Clearing House shall provide Assignment Notice Reports to the respective Clearing Members on the first (1<sup>st</sup>) Business Day after the final day of trading.

(c) PAYMENT AND DELIVERY MARGINS

(i) The Buyer and Seller shall deposit with the Exchange margins in such amounts and in such form as required by the Exchange. Such margins, which shall not be greater than the margins charged to the Buyer's Customer and Seller's Customer, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.

(ii) Definitions

(A) "Payment" shall include the settlement price times the number of contracts times twenty-five (25).

(B) "Payment Date" shall mean the date on which the Clearing House transfers Payment in connection with a delivery to the Seller.

(iii) Any payment made on Payment Date shall be based on allowances actually delivered.

#### 1601.10. DELIVERY PERIOD

"Delivery Period" shall mean the time between the final day of trading and the second (2nd) Business Day following the final day of trading.

Delivery shall take place on the second (2nd) Business Day after the final day of trading. Should the AMS be inoperable during the Delivery Period due to a public holiday that is an Exchange Business Day, the Clearing House shall have the option to extend the Delivery Period by one (1) Business Day.

#### 1601.11. VALIDITY OF DOCUMENTS

The Exchange makes no representation respecting the authenticity, validity or accuracy of any of Notice of Intention to Accept, Notice of Intention to Deliver, check or of any document or instrument delivered pursuant to these Rules.

#### 1601.12. ALTERNATIVE DELIVERY PROCEDURE

A Buyer may agree with the Seller with which it has been matched by the Exchange under Rule 1601.09(b) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Rule. In such a case, Buyers and Sellers shall execute an Alternative Delivery Procedure on a form prescribed by the Exchange and shall deliver a completed executed copy of such form to the Exchange. The delivery of an executed Alternative Delivery Procedure form to the Exchange shall release the Buyer, Seller and the Exchange from their respective obligations under the Exchange contracts.

In executing such Alternative Delivery Procedure form, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt of an executed Alternative Delivery Procedure form, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

#### 1601.13. LATE PERFORMANCE, FAILURE TO PERFORM AND FORCE MAJEURE

(a) DEFINITION. As used in this Rule 1601.13, the following terms, as well as variations thereof, shall have the meaning described below.

(i) "Late Performance" shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, this Rule. Late Performance shall be restricted to three (3) Business Days. Late Performance beyond three (3) Business Days by a Seller or a Buyer will be deemed a Failure to Perform.

(ii) "Day of Late Performance" shall mean the twenty-four hour period commencing immediately after a Buyer, a Seller, or the Clearing House was to have performed. Each subsequent Day of Late Performance shall commence twenty-four hours after the beginning of the prior Day of Late Performance. When a Party is late in performance, the day when the act was to have performed shall be a Day of Late Performance.

(iii) "Failure to Perform" shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(iv) "Contract Value" shall mean the amount equal to the settlement price on the final day of trading in a Futures Contract times twenty-five (the number of TR SO<sub>2</sub> Group 1 Allowances per Contract) times the number of Contracts to be delivered.

(v) (A) "Party" shall mean a Buyer or Seller and such Buyer and Seller are each responsible to the Exchange for their obligations under these Rules and further responsible to the Exchange for the obligations of their respective customers under this Rule.

(B) "Other Party" shall mean the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(vi) "Force Majeure" shall mean any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, registry suspension or failure, or act of God) which is beyond the control of such Buyer or Seller, and which prevents the Buyer or Seller from making or taking delivery of product when and as provided for in these Rules.

(b) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

(i) The parties to a delivery shall perform their respective delivery obligations at all times until a Party has committed a Failure to Perform.

(ii) A Party that has committed a Failure to Perform may not cure the Failure to Perform by subsequently taking action to correct its deficiency; provided, however, that the foregoing does not relieve a Buyer that has failed to make a payment from such payment obligation.

(c) EMISSIONS ALLOWANCE DELIVERY COMMITTEE

(i) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Emissions Allowance Delivery Committee as set forth below. The Chairman of the Emissions Allowance Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(A) When the Chairman of the Emissions Allowance Delivery Committee is advised by the Chief Executive Officer or any person designated by the Chief Executive Officer that it appears that the performance of a Party to the delivery is late;

(B) Upon the written request of both the Buyer and the Seller;

(C) When the Chief Executive Officer or any person designated by the Chief Executive Officer requests such appointment; or

(D) When either Party to the delivery notifies the Exchange that circumstances exist constituting Force Majeure.

(ii) The Chairman of the Emissions Allowance Delivery Committee shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a Party has been found to have failed to perform such delivery. The general counsel of the Exchange, or its designee, shall serve as advisor to the Panel.

(iii) The Panel shall meet within one (1) Business Day of notification as provided in these Rules. Unless good cause for delay exists, within one (1) Business Day the Panel shall determine whether Force Majeure exists, whether a Buyer or Seller is late in performing or has failed to perform its obligations as provided in this Rule, and advise the Regulatory Oversight Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the parties to the delivery as expeditiously as possible.

(iv) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable: order an extension of time not to exceed ten days from the date of the scheduled delivery; or, refer the delivery to the Exchange, represented by the Regulatory Oversight Department, for emergency action as provided in the GreenX Rules.

(d) EXCHANGE ACTION

(i) Whenever a Buyer or a Seller is found by the Panel to have committed a Late Performance, provided such Late Performance is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department, shall issue a Notice of Assessment, assessing a penalty of ten percent (10%) of the Contract value for each applicable Day of Late Performance, to be paid to the Exchange.



(ii) Whenever a Buyer or a Seller is found by the Panel to have committed a Failure to Perform, provided such Failure to Perform is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department shall issue a Notice of Assessment assessing penalties of twenty percent (20%) of the Contract value, in addition to any penalties assessed pursuant to subparagraph (A) above, to be paid to the Exchange.

(iii) (A) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Disciplinary Panel and by serving a copy of the same on the Exchange's Regulatory Oversight Department, within two (2) Business Days of receipt of the Notice of Assessment from the Regulatory Oversight Department. The Party filing the appeal ("Appellant"), within twenty (20) calendar days after filing the Notice of Appeal, shall file a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Chief Regulatory Officer.

(B) The Regulatory Oversight Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(C) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (d)(iii)(A) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the party to the sanctions set forth in Chapter 7. In the event a Party fails to Appeal, or waives the opportunity to appeal a Notice of Assessment, the Assessment and findings of the Emissions Allowance Delivery Committee shall constitute a final disciplinary action of the Exchange.

(iv) Within ten (10) calendar days after receipt of Regulatory Oversight Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by Regulatory Oversight Department or are otherwise relevant to the matter.

(v) In the event of an appeal by a Party, the Chief Executive Officer, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chief Executive Officer, or his designee, any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the evidence presented to it. Exchange outside counsel shall advise the Panel.

(vi) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(A) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Regulatory Oversight Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(B) At such hearing, the Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(C) The Regulatory Oversight Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Regulatory Oversight Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(D) The Appellant shall be entitled to rebut the Regulatory Oversight Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(E) The Regulatory Oversight Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(F) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other

material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.

(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(H) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefore.

(I) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the CFTC.

(vii) The Assessment Appeal Panel shall consider, and make recommendations to the Chief Executive Officer, or his designee concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Chief Executive Officer shall constitute the final disciplinary action of the Exchange.

(e) ARBITRATION PROCEDURE

(i) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this Contract shall be settled by arbitration in accordance with these Rules.

(ii) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three (3) Business Days of the occurrence upon which the claim is based or the decision of the Emissions Allowance Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(iii) The Arbitration will be governed by Chapter 8 of the GreenX Rules except that the Chief Executive Officer or his designee shall appoint an Arbitration Panel.

#### 1601.14. EXCLUSION OF LIABILITY

Except as specifically provided in the GreenX Rules (and to the extent permitted by law), the Clearing House accepts no liability in connection with this Futures Contract, its performance, non-performance or its termination whether based on breach of contract, warranty, negligence or tort. In particular, but without limitation, the Clearing House shall not be responsible for or shall have any liability whatsoever to any Buyer or Seller for the: availability, suitability, unavailability or malfunction of a Communication Link or any part thereof; performance or non-performance of the AMS of their respective obligations under the AMS regulations or otherwise; performance or non-performance of the EPA; any act or omission of any operator of a Communication Link or any part thereof; or any act or omission of an authorized agent of any other party; or any performance or non-performance by the Clearing House in relation to its serving as a party to the deliveries and the Clearing House shall under no circumstances be liable for any indirect or consequential loss or loss of profits. Additionally, nothing in these Rules will constrain the Clearing House from performing its duties under Clearing House Rule 802.

A Clearing Member that breaches its representation and warranty in Rule 1601.09 shall be liable to the Clearing House and Exchange for their respective losses arising from such breach.

**RULE 1602. CSAPR TR SO<sub>2</sub> Group 2 Allowance Futures**

**1602.01A. DEFINITIONS**

(a) The terms “Allowance Management System” and “AMS” shall mean the system by which TR SO<sub>2</sub> Group 2 Allowances are allocated, held, deducted or transferred pursuant to the Cross-State Air Pollution Rule.

(b) The term “Clean Air Act” shall mean the 1970 U.S. federal law intended to reduce air pollution and protect air quality.

(c) The terms “Cross-State Air Pollution Rule” and “CSAPR” shall mean the EPA rule which requires States to reduce power plant emissions that contribute to ozone and/or fine particle pollution in other states.

(d) The term “EPA” means the U.S. Environmental Protection Agency or any successor agency with similar jurisdiction.

(e) The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member, respectively.

(f) The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer of the physical product, respectively.

(g) The term “Settlement Price” shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the last trading day of the expiring delivery month. The settlement price for the last day of the trading shall be determined in accordance with the procedures set forth in GreenX Rule 905.

(h) The term “State” shall mean one of the U.S. states that is subject to the TR SO<sub>2</sub> Group 2 Trading Program.

(i) The terms “State Implementation Plan” and “SIP” shall mean a State plan for complying with the federal Clean Air Act and CSAPR, administered by the EPA. The SIP consists of rules, agreements, and technical documentation that such State will use to clean up polluted areas.

(j) The term “TR SO<sub>2</sub> Group 2 Allowance” shall mean a limited authorization allocated or auctioned by the EPA or by a State or permitting authority under a SIP revision approved by the EPA, to emit one (1) ton of SO<sub>2</sub> during a specified calendar year for which the authorization is allocated or auctioned or of any calendar year thereafter in accordance with the TR SO<sub>2</sub> Group 2 Trading Program.

(k) The term “TR SO<sub>2</sub> Group 2 Trading Program” shall mean the multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart DDDDD of the CSAPR (including such a program that is established or revised in a SIP revision approved by the EPA).

(l) The term “Vintage Year” shall mean the specified calendar year for which a TR SO<sub>2</sub> Group 2 Allowance was allocated.

**1602.01. SCOPE**

The provisions of these rules shall apply to all CSAPR TR SO<sub>2</sub> Group 2 Allowance Futures bought or sold for future delivery on the Exchange with the delivery of TR SO<sub>2</sub> Group 2 Allowances made through the Allowance Management System (AMS).

**1602.02. TIME REFERENCES**

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate the prevailing time in New York.

**1602.03. CONTRACT UNIT**

The contract unit shall be twenty-five (25) TR SO<sub>2</sub> Group 2 Allowances for a delivery made by transfer through the AMS.

#### 1602.04. DELIVERY

TR SO<sub>2</sub> Group 2 Allowance delivery shall comply with all requirements for the electronic transfer of allowances on the AMS. All deliveries made under this Rule 1602 shall be final and there shall be no appeal.

#### 1602.05. DELIVERY MONTHS

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Exchange.

#### 1602.06. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars (\$) and cents (¢) per allowance. The minimum price fluctuation shall be \$5.00 per allowance (\$125.00 per contract). There shall be no maximum price fluctuations.

#### 1602.07. TERMINATION OF TRADING

Trading in the delivery month shall cease on the fifteenth (15th) day of the delivery month. If such a day is not a Business Day, trading shall cease on the next following day that is a Business Day.

#### 1602.08. DELIVERABLE ALLOWANCES

Allowances acceptable for delivery are TR SO<sub>2</sub> Group 2 Allowances with a Vintage Year corresponding to the specified Vintage Year of the contract. TR SO<sub>2</sub> Group 2 Allowances of prior Vintage Years that have not been surrendered will be eligible for delivery for the current Vintage Year.

All TR SO<sub>2</sub> Group 2 Allowances acceptable for delivery must be eligible for compliance in participating States at the time of delivery.

#### 1602.09. DELIVERY PROCEDURES AND OBLIGATIONS

The Clearing House is a party to all deliveries under this contract and will receive TR SO<sub>2</sub> Group 2 Allowances by electronic transfer from the Seller into the Clearing House account at the AMS. Following receipt from the Seller, the Clearing House will deliver TR SO<sub>2</sub> Group 2 Allowances from the Clearing House account to the AMS account nominated by the Buyer.

All rights, title, and interest in and to, and risk of loss related to, the TR SO<sub>2</sub> Group 2 Allowances will transfer upon receipt in the applicable AMS account.

The Seller shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to the submission of the forms noted in this Rule. The Buyer shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to ensure the acceptance of a valid transfer into its account. If a provision of the GreenX Rules or the Clearing House Rules is inconsistent with a provision of the AMS regulations, the provision of the GreenX Rules or the Clearing House Rules shall prevail as among the Buyer, Seller, and the Clearing House to the extent of such inconsistency and to the extent permitted by law.

By transferring allowances to the Clearing House, the Seller represents and warrants that, at the time of delivery, it has good and marketable title to such allowances, and that such allowances are free and clear of all liens, security interests, claims, encumbrances and adverse claims.

##### (a) OPERATIONAL RESPONSIBILITIES OF CLEARING MEMBERS

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

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Buyer having an open long 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: name of the Buyer's Customer; number of contracts to be accepted; AMS account number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(ii) NOTICE OF INTENTION TO DELIVER

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver.

The Notice of Intention to Deliver shall be in the form prescribed by the Exchange and shall include: name of the Seller's Customer; number of contracts to be delivered; AMS Account Number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(iii) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Seller shall transfer TR SO<sub>2</sub> Group 2 Allowances subject to delivery to the Clearing House account of the AMS.

(iv) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Buyer shall deposit / transfer payment equal to the full value of the product to the designated Clearing House bank account.

(v) By 12:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, for each Buyer that has satisfied its obligations under Rule 1602.09(a)(iv), the Clearing House will initiate the process of transferring the TR SO<sub>2</sub> Group 2 Allowances to the Buyer's account at the AMS.

(vi) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, Buyer shall receive TR SO<sub>2</sub> Group 2 Allowances from the Clearing House account of the AMS.

(vii) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading, for each Seller that has satisfied its obligations under Rule 1602.09(a)(iii), the Clearing House shall pay the Seller full contract value.

(b) ASSIGNMENT DAY

(i) The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching positions, to the extent possible.

(ii) The Clearing House shall provide Assignment Notice Reports to the respective Clearing Members on the first (1<sup>st</sup>) Business Day after the final day of trading.

(c) PAYMENT AND DELIVERY MARGINS

(i) The Buyer and Seller shall deposit with the Exchange margins in such amounts and in such form as required by the Exchange. Such margins, which shall not be greater than the margins charged to the Buyer's Customer and Seller's Customer, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.

(ii) Definitions

(A) "Payment" shall include the settlement price times the number of contracts times twenty-five (25).

(B) "Payment Date" shall mean the date on which the Clearing House transfers Payment in connection with a delivery to the Seller.

(iii) Any payment made on Payment Date shall be based on allowances actually delivered.

#### 1602.10. DELIVERY PERIOD

“Delivery Period” shall mean the time between the final day of trading and the second (2nd) Business Day following the final day of trading.

Delivery shall take place on the second (2nd) Business Day after the final day of trading. Should the AMS be inoperable during the Delivery Period due to a public holiday that is an Exchange Business Day, the Clearing House shall have the option to extend the Delivery Period by one (1) Business Day.

#### 1602.11. VALIDITY OF DOCUMENTS

The Exchange makes no representation respecting the authenticity, validity or accuracy of any of Notice of Intention to Accept, Notice of Intention to Deliver, check or of any document or instrument delivered pursuant to these Rules.

#### 1602.12. ALTERNATIVE DELIVERY PROCEDURE

A Buyer may agree with the Seller with which it has been matched by the Exchange under Rule 1602.09(b) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Rule. In such a case, Buyers and Sellers shall execute an Alternative Delivery Procedure on a form prescribed by the Exchange and shall deliver a completed executed copy of such form to the Exchange. The delivery of an executed Alternative Delivery Procedure form to the Exchange shall release the Buyer, Seller and the Exchange from their respective obligations under the Exchange contracts.

In executing such Alternative Delivery Procedure form, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt of an executed Alternative Delivery Procedure form, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

#### 1602.13. LATE PERFORMANCE, FAILURE TO PERFORM AND FORCE MAJEURE

(a) DEFINITION. As used in this Rule 1602.13, the following terms, as well as variations thereof, shall have the meaning described below.

(i) “Late Performance” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, this Rule. Late Performance shall be restricted to three (3) Business Days. Late Performance beyond three (3) Business Days by a Seller or a Buyer will be deemed a Failure to Perform.

(ii) “Day of Late Performance” shall mean the twenty-four hour period commencing immediately after a Buyer, a Seller, or the Clearing House was to have performed. Each subsequent Day of Late Performance shall commence twenty-four hours after the beginning of the prior Day of Late Performance. When a Party is late in performance, the day when the act was to have performed shall be a Day of Late Performance.

(iii) “Failure to Perform” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(iv) “Contract Value” shall mean the amount equal to the settlement price on the final day of trading in a Futures Contract times twenty-five (the number of TR SO<sub>2</sub> Group 2 Allowances per Contract) times the number of Contracts to be delivered.

(v) (A) “Party” shall mean a Buyer or Seller and such Buyer and Seller are each responsible to the Exchange for their obligations under these Rules and further responsible to the Exchange for the obligations of their respective customers under this Rule.

(B) “Other Party” shall mean the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(vi) "Force Majeure" shall mean any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, registry suspension or failure, or act of God) which is beyond the control of such Buyer or Seller, and which prevents the Buyer or Seller from making or taking delivery of product when and as provided for in these Rules.

(b) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

(i) The parties to a delivery shall perform their respective delivery obligations at all times until a Party has committed a Failure to Perform.

(ii) A Party that has committed a Failure to Perform may not cure the Failure to Perform by subsequently taking action to correct its deficiency; provided, however, that the foregoing does not relieve a Buyer that has failed to make a payment from such payment obligation.

(c) EMISSIONS ALLOWANCE DELIVERY COMMITTEE

(i) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Emissions Allowance Delivery Committee as set forth below. The Chairman of the Emissions Allowance Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(A) When the Chairman of the Emissions Allowance Delivery Committee is advised by the Chief Executive Officer or any person designated by the Chief Executive Officer that it appears that the performance of a Party to the delivery is late;

(B) Upon the written request of both the Buyer and the Seller;

(C) When the Chief Executive Officer or any person designated by the Chief Executive Officer requests such appointment; or

(D) When either Party to the delivery notifies the Exchange that circumstances exist constituting Force Majeure.

(ii) The Chairman of the Emissions Allowance Delivery Committee shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a Party has been found to have failed to perform such delivery. The general counsel of the Exchange, or its designee, shall serve as advisor to the Panel.

(iii) The Panel shall meet within one (1) Business Day of notification as provided in these Rules. Unless good cause for delay exists, within one (1) Business Day the Panel shall determine whether Force Majeure exists, whether a Buyer or Seller is late in performing or has failed to perform its obligations as provided in this Rule, and advise the Regulatory Oversight Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the parties to the delivery as expeditiously as possible.

(iv) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable: order an extension of time not to exceed ten days from the date of the scheduled delivery; or, refer the delivery to the Exchange, represented by the Regulatory Oversight Department, for emergency action as provided in the GreenX Rules.

(d) EXCHANGE ACTION

(i) Whenever a Buyer or a Seller is found by the Panel to have committed a Late Performance, provided such Late Performance is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department, shall issue a Notice of Assessment, assessing a penalty of ten percent (10%) of the Contract value for each applicable Day of Late Performance, to be paid to the Exchange.

(ii) Whenever a Buyer or a Seller is found by the Panel to have committed a Failure to Perform, provided such Failure to Perform is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department shall issue a Notice of Assessment assessing penalties

of twenty percent (20%) of the Contract value, in addition to any penalties assessed pursuant to subparagraph (A) above, to be paid to the Exchange.

(iii) (A) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Disciplinary Panel and by serving a copy of the same on the Exchange's Regulatory Oversight Department, within two (2) Business Days of receipt of the Notice of Assessment from the Regulatory Oversight Department. The Party filing the appeal ("Appellant"), within twenty (20) calendar days after filing the Notice of Appeal, shall file a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Chief Regulatory Officer.

(B) The Regulatory Oversight Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(C) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (d)(iii)(A) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the party to the sanctions set forth in Chapter 7. In the event a Party fails to Appeal, or waives the opportunity to appeal a Notice of Assessment, the Assessment and findings of the Emissions Allowance Delivery Committee shall constitute a final disciplinary action of the Exchange.

(iv) Within ten (10) calendar days after receipt of Regulatory Oversight Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by Regulatory Oversight Department or are otherwise relevant to the matter.

(v) In the event of an appeal by a Party, the Chief Executive Officer, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chief Executive Officer, or his designee, any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the evidence presented to it. Exchange outside counsel shall advise the Panel.

(vi) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(A) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Regulatory Oversight Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(B) At such hearing, the Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(C) The Regulatory Oversight Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Regulatory Oversight Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(D) The Appellant shall be entitled to rebut the Regulatory Oversight Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(E) The Regulatory Oversight Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(F) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.



(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(H) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefore.

(I) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the CFTC.

(vii) The Assessment Appeal Panel shall consider, and make recommendations to the Chief Executive Officer, or his designee concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Chief Executive Officer shall constitute the final disciplinary action of the Exchange.

(e) ARBITRATION PROCEDURE

(i) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this Contract shall be settled by arbitration in accordance with these Rules.

(ii) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three (3) Business Days of the occurrence upon which the claim is based or the decision of the Emissions Allowance Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(iii) The Arbitration will be governed by Chapter 8 of the GreenX Rules except that the Chief Executive Officer or his designee shall appoint an Arbitration Panel.

1602.14. EXCLUSION OF LIABILITY

Except as specifically provided in the GreenX Rules (and to the extent permitted by law), the Clearing House accepts no liability in connection with this Futures Contract, its performance, non-performance or its termination whether based on breach of contract, warranty, negligence or tort. In particular, but without limitation, the Clearing House shall not be responsible for or shall have any liability whatsoever to any Buyer or Seller for the: availability, suitability, unavailability or malfunction of a Communication Link or any part thereof; performance or non-performance of the AMS of their respective obligations under the AMS regulations or otherwise; performance or non-performance of the EPA; any act or omission of any operator of a Communication Link or any part thereof; or any act or omission of an authorized agent of any other party; or any performance or non-performance by the Clearing House in relation to its serving as a party to the deliveries and the Clearing House shall under no circumstances be liable for any indirect or consequential loss or loss of profits. Additionally, nothing in these Rules will constrain the Clearing House from performing its duties under Clearing House Rule 802.

A Clearing Member that breaches its representation and warranty in Rule 1602.09 shall be liable to the Clearing House and Exchange for their respective losses arising from such breach.

**RULE 1603. CSAPR TR NO<sub>x</sub> Annual Allowance Futures**

**1603.01A. DEFINITIONS**

(a) The terms "Allowance Management System" and "AMS" shall mean the system by which TR NO<sub>x</sub> Annual Allowances are allocated, held, deducted or transferred pursuant to the Cross-State Air Pollution Rule.

(b) The term "Clean Air Act" shall mean the 1970 U.S. federal law intended to reduce air pollution and protect air quality.

(c) The terms "Cross-State Air Pollution Rule" and "CSAPR" shall mean the EPA rule which requires States to reduce power plant emissions that contribute to ozone and/or fine particle pollution in other states.

(d) The term "EPA" means the U.S. Environmental Protection Agency or any successor agency with similar jurisdiction.

(e) The terms "Seller" and "Buyer" shall mean the short Clearing Member and the long Clearing Member, respectively.

(f) The terms "Seller's Customer" and "Buyer's Customer" shall mean the seller and buyer of the physical product, respectively.

(g) The term "Settlement Price" shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the last trading day of the expiring delivery month. The settlement price for the last day of the trading shall be determined in accordance with the procedures set forth in GreenX Rule 905.

(h) The term "State" shall mean one of the U.S. states that is subject to the TR NO<sub>x</sub> Annual Trading Program.

(i) The terms "State Implementation Plan" and "SIP" shall mean a State plan for complying with the federal Clean Air Act and CSAPR, administered by the EPA. The SIP consists of rules, agreements, and technical documentation that such State will use to clean up polluted areas.

(j) The term "TR NO<sub>x</sub> Annual Allowance" shall mean a limited authorization allocated or auctioned by the EPA or by a State or permitting authority under a SIP revision approved by the EPA, to emit one (1) ton of NO<sub>x</sub> during a specified calendar year for which the authorization is allocated or auctioned or of any calendar year thereafter in accordance with the TR NO<sub>x</sub> Annual Trading Program.

(k) The term "TR NO<sub>x</sub> Annual Trading Program" shall mean the multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart AAAAA of CSAPR (including such a program that is established or revised in a SIP revision approved by the EPA).

(l) The term "Vintage Year" shall mean the specified calendar year for which a TR NO<sub>x</sub> Annual Allowance was allocated.

**1603.01. SCOPE**

The provisions of these rules shall apply to all CSAPR TR NO<sub>x</sub> Annual Allowance Futures bought or sold for future delivery on the Exchange with the delivery of TR NO<sub>x</sub> Annual Allowances made through the Allowance Management System (AMS).

**1603.02. TIME REFERENCES**

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate the prevailing time in New York.

**1603.03. CONTRACT UNIT**

The contract unit shall be five (5) TR NO<sub>x</sub> Annual Allowances for a delivery made by transfer through the AMS.

#### 1603.04. DELIVERY

TR NO<sub>x</sub> Annual Allowance delivery shall comply with all requirements for the electronic transfer of allowances on the AMS. All deliveries made under this Rule 1603 shall be final and there shall be no appeal.

#### 1603.05. DELIVERY MONTHS

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Exchange.

#### 1603.06. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars (\$) and cents (¢) per allowance. The minimum price fluctuation shall be \$5.00 per allowance (\$25.00 per contract). There shall be no maximum price fluctuations.

#### 1603.07. TERMINATION OF TRADING

Trading in the delivery month shall cease on the fifteenth (15th) day of the delivery month. If such a day is not a Business Day, trading shall cease on the next following day that is a Business Day.

#### 1603.08. DELIVERABLE ALLOWANCES

Allowances acceptable for delivery are TR NO<sub>x</sub> Annual Allowances with a Vintage Year corresponding to the specified Vintage Year of the contract. TR NO<sub>x</sub> Annual Allowances of prior Vintage Years that have not been surrendered will be eligible for delivery for the current Vintage Year.

All TR NO<sub>x</sub> Annual Allowances acceptable for delivery must be eligible for compliance in participating States at the time of delivery.

#### 1603.09. DELIVERY PROCEDURES AND OBLIGATIONS

The Clearing House is a party to all deliveries under this contract and will receive TR NO<sub>x</sub> Annual Allowances by electronic transfer from the Seller into the Clearing House account at the AMS. Following receipt from the Seller, the Clearing House will deliver TR NO<sub>x</sub> Annual Allowances from the Clearing House account to the AMS account nominated by the Buyer.

All rights, title, and interest in and to, and risk of loss related to, the TR NO<sub>x</sub> Annual Allowances will transfer upon receipt in the applicable AMS account.

The Seller shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to the submission of the forms noted in this Rule. The Buyer shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to ensure the acceptance of a valid transfer into its account. If a provision of the GreenX Rules or the Clearing House Rules is inconsistent with a provision of the AMS regulations, the provision of the GreenX Rules or the Clearing House Rules shall prevail as among the Buyer, Seller, and the Clearing House to the extent of such inconsistency and to the extent permitted by law.

By transferring allowances to the Clearing House, the Seller represents and warrants that, at the time of delivery, it has good and marketable title to such allowances, and that such allowances are free and clear of all liens, security interests, claims, encumbrances and adverse claims.

##### (a) OPERATIONAL RESPONSIBILITIES OF CLEARING MEMBERS

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

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Buyer having an open long 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: name of the Buyer's Customer; number of contracts to be accepted; AMS account number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(ii) NOTICE OF INTENTION TO DELIVER

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver.

The Notice of Intention to Deliver shall be in the form prescribed by the Exchange and shall include: name of the Seller's Customer; number of contracts to be delivered; AMS Account Number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(iii) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Seller shall transfer TR NO<sub>x</sub> Annual Allowances subject to delivery to the Clearing House account of the AMS.

(iv) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Buyer shall deposit / transfer payment equal to the full value of the product to the designated Clearing House bank account.

(v) By 12:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, for each Buyer that has satisfied its obligations under Rule 1603.09(a)(iv), the Clearing House will initiate the process of transferring the TR NO<sub>x</sub> Annual Allowances to the Buyer's account at the AMS.

(vi) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, Buyer shall receive TR NO<sub>x</sub> Annual Allowances from the Clearing House account of the AMS.

(vii) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading, for each Seller that has satisfied its obligations under Rule 1603.09(a)(iii), the Clearing House shall pay the Seller full contract value.

(b) ASSIGNMENT DAY

(i) The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching positions, to the extent possible.

(ii) The Clearing House shall provide Assignment Notice Reports to the respective Clearing Members on the first (1<sup>st</sup>) Business Day after the final day of trading.

(c) PAYMENT AND DELIVERY MARGINS

(i) The Buyer and Seller shall deposit with the Exchange margins in such amounts and in such form as required by the Exchange. Such margins, which shall not be greater than the margins charged to the Buyer's Customer and Seller's Customer, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.

(ii) Definitions

(A) "Payment" shall include the settlement price times the number of contracts times five (5).

(B) "Payment Date" shall mean the date on which the Clearing House transfers Payment in connection with a delivery to the Seller.

(iii) Any payment made on Payment Date shall be based on allowances actually delivered.

#### 1603.10. DELIVERY PERIOD

“Delivery Period” shall mean the time between the final day of trading and the second (2nd) Business Day following the final day of trading.

Delivery shall take place on the second (2nd) Business Day after the final day of trading. Should the AMS be inoperable during the Delivery Period due to a public holiday that is an Exchange Business Day, the Clearing House shall have the option to extend the Delivery Period by one (1) Business Day.

#### 1603.11. VALIDITY OF DOCUMENTS

The Exchange makes no representation respecting the authenticity, validity or accuracy of any of Notice of Intention to Accept, Notice of Intention to Deliver, check or of any document or instrument delivered pursuant to these Rules.

#### 1603.12. ALTERNATIVE DELIVERY PROCEDURE

A Buyer may agree with the Seller with which it has been matched by the Exchange under Rule 1603.09(b) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Rule. In such a case, Buyers and Sellers shall execute an Alternative Delivery Procedure on a form prescribed by the Exchange and shall deliver a completed executed copy of such form to the Exchange. The delivery of an executed Alternative Delivery Procedure form to the Exchange shall release the Buyer, Seller and the Exchange from their respective obligations under the Exchange contracts.

In executing such Alternative Delivery Procedure form, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt of an executed Alternative Delivery Procedure form, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

#### 1603.13. LATE PERFORMANCE, FAILURE TO PERFORM AND FORCE MAJEURE

(a) DEFINITION. As used in this Rule 1603.13, the following terms, as well as variations thereof, shall have the meaning described below.

(i) “Late Performance” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, this Rule. Late Performance shall be restricted to three (3) Business Days. Late Performance beyond three (3) Business Days by a Seller or a Buyer will be deemed a Failure to Perform.

(ii) “Day of Late Performance” shall mean the twenty-four hour period commencing immediately after a Buyer, a Seller, or the Clearing House was to have performed. Each subsequent Day of Late Performance shall commence twenty-four hours after the beginning of the prior Day of Late Performance. When a Party is late in performance, the day when the act was to have performed shall be a Day of Late Performance.

(iii) “Failure to Perform” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(iv) “Contract Value” shall mean the amount equal to the settlement price on the final day of trading in a Futures Contract times five (the number of TR NO<sub>x</sub> Annual Allowances per Contract) times the number of Contracts to be delivered.

(v) (A) “Party” shall mean a Buyer or Seller and such Buyer and Seller are each responsible to the Exchange for their obligations under these Rules and further responsible to the Exchange for the obligations of their respective customers under this Rule.

(B) “Other Party” shall mean the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(vi) "Force Majeure" shall mean any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, registry suspension or failure, or act of God) which is beyond the control of such Buyer or Seller, and which prevents the Buyer or Seller from making or taking delivery of product when and as provided for in these Rules.

(b) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

(i) The parties to a delivery shall perform their respective delivery obligations at all times until a Party has committed a Failure to Perform.

(ii) A Party that has committed a Failure to Perform may not cure the Failure to Perform by subsequently taking action to correct its deficiency; provided, however, that the foregoing does not relieve a Buyer that has failed to make a payment from such payment obligation.

(c) EMISSIONS ALLOWANCE DELIVERY COMMITTEE

(i) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Emissions Allowance Delivery Committee as set forth below. The Chairman of the Emissions Allowance Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(A) When the Chairman of the Emissions Allowance Delivery Committee is advised by the Chief Executive Officer or any person designated by the Chief Executive Officer that it appears that the performance of a Party to the delivery is late;

(B) Upon the written request of both the Buyer and the Seller;

(C) When the Chief Executive Officer or any person designated by the Chief Executive Officer requests such appointment; or

(D) When either Party to the delivery notifies the Exchange that circumstances exist constituting Force Majeure.

(ii) The Chairman of the Emissions Allowance Delivery Committee shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a Party has been found to have failed to perform such delivery. The general counsel of the Exchange, or its designee, shall serve as advisor to the Panel.

(iii) The Panel shall meet within one (1) Business Day of notification as provided in these Rules. Unless good cause for delay exists, within one (1) Business Day the Panel shall determine whether Force Majeure exists, whether a Buyer or Seller is late in performing or has failed to perform its obligations as provided in this Rule, and advise the Regulatory Oversight Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the parties to the delivery as expeditiously as possible.

(iv) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable: order an extension of time not to exceed ten days from the date of the scheduled delivery; or, refer the delivery to the Exchange, represented by the Regulatory Oversight Department, for emergency action as provided in the GreenX Rules.

(d) EXCHANGE ACTION

(i) Whenever a Buyer or a Seller is found by the Panel to have committed a Late Performance, provided such Late Performance is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department, shall issue a Notice of Assessment, assessing a penalty of ten percent (10%) of the Contract value for each applicable Day of Late Performance, to be paid to the Exchange.

(ii) Whenever a Buyer or a Seller is found by the Panel to have committed a Failure to Perform, provided such Failure to Perform is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department shall issue a Notice of Assessment assessing penalties

of twenty percent (20%) of the Contract value, in addition to any penalties assessed pursuant to subparagraph (A) above, to be paid to the Exchange.

(iii) (A) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Disciplinary Panel and by serving a copy of the same on the Exchange's Regulatory Oversight Department, within two (2) Business Days of receipt of the Notice of Assessment from the Regulatory Oversight Department. The Party filing the appeal ("Appellant"), within twenty (20) calendar days after filing the Notice of Appeal, shall file a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Chief Regulatory Officer.

(B) The Regulatory Oversight Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(C) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (d)(iii)(A) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the party to the sanctions set forth in Chapter 7. In the event a Party fails to Appeal, or waives the opportunity to appeal a Notice of Assessment, the Assessment and findings of the Emissions Allowance Delivery Committee shall constitute a final disciplinary action of the Exchange.

(iv) Within ten (10) calendar days after receipt of Regulatory Oversight Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by Regulatory Oversight Department or are otherwise relevant to the matter.

(v) In the event of an appeal by a Party, the Chief Executive Officer, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chief Executive Officer, or his designee, any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the evidence presented to it. Exchange outside counsel shall advise the Panel.

(vi) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(A) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Regulatory Oversight Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(B) At such hearing, the Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(C) The Regulatory Oversight Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Regulatory Oversight Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(D) The Appellant shall be entitled to rebut the Regulatory Oversight Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(E) The Regulatory Oversight Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(F) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.

(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(H) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefore.

(I) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the CFTC.

(vii) The Assessment Appeal Panel shall consider, and make recommendations to the Chief Executive Officer, or his designee concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Chief Executive Officer shall constitute the final disciplinary action of the Exchange.

(e) ARBITRATION PROCEDURE

(i) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this Contract shall be settled by arbitration in accordance with these Rules.

(ii) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three (3) Business Days of the occurrence upon which the claim is based or the decision of the Emissions Allowance Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(iii) The Arbitration will be governed by Chapter 8 of the GreenX Rules except that the Chief Executive Officer or his designee shall appoint an Arbitration Panel.

1603.14. EXCLUSION OF LIABILITY

Except as specifically provided in the GreenX Rules (and to the extent permitted by law), the Clearing House accepts no liability in connection with this Futures Contract, its performance, non-performance or its termination whether based on breach of contract, warranty, negligence or tort. In particular, but without limitation, the Clearing House shall not be responsible for or shall have any liability whatsoever to any Buyer or Seller for the: availability, suitability, unavailability or malfunction of a Communication Link or any part thereof; performance or non-performance of the AMS of their respective obligations under the AMS regulations or otherwise; performance or non-performance of the EPA; any act or omission of any operator of a Communication Link or any part thereof; or any act or omission of an authorized agent of any other party; or any performance or non-performance by the Clearing House in relation to its serving as a party to the deliveries and the Clearing House shall under no circumstances be liable for any indirect or consequential loss or loss of profits. Additionally, nothing in these Rules will constrain the Clearing House from performing its duties under Clearing House Rule 802.

A Clearing Member that breaches its representation and warranty in Rule 1603.09 shall be liable to the Clearing House and Exchange for their respective losses arising from such breach.



**RULE 1604. CSAPR TR NO<sub>x</sub> Ozone Season Allowance Futures**

**1604.01A. DEFINITIONS**

(a) The terms “Allowance Management System” and “AMS” shall mean the system by which TR NO<sub>x</sub> Ozone Season Allowances are allocated, held, deducted or transferred pursuant to the Cross-State Air Pollution Rule.

(b) The term “Clean Air Act” shall mean the 1970 U.S. federal law intended to reduce air pollution and protect air quality.

(c) The terms “Cross-State Air Pollution Rule” and “CSAPR” shall mean the EPA rule which requires States to reduce power plant emissions that contribute to ozone and/or fine particle pollution in other states.

(d) The term “EPA” means the U.S. Environmental Protection Agency or any successor agency with similar jurisdiction.

(e) The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member, respectively.

(f) The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer of the physical product, respectively.

(g) The term “Settlement Price” shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the last trading day of the expiring delivery month. The settlement price for the last day of the trading shall be determined in accordance with the procedures set forth in GreenX Rule 905.

(h) The term “State” shall mean one of the U.S. states that is subject to the TR NO<sub>x</sub> Ozone Season Trading Program.

(i) The terms “State Implementation Plan” and “SIP” shall mean a State plan for complying with the federal Clean Air Act and CSAPR, administered by the EPA. The SIP consists of rules, agreements, and technical documentation that such State will use to clean up polluted areas.

(j) The term “TR NO<sub>x</sub> Ozone Season Allowance” shall mean a limited authorization allocated or auctioned by the EPA or by a State or permitting authority under a SIP revision approved by the EPA, to emit one (1) ton of NO<sub>x</sub> during May 1 to September 30, inclusive, of the specified calendar year for which the authorization is allocated or auctioned or of any calendar year thereafter in accordance with the TR NO<sub>x</sub> Ozone Season Trading Program.

(k) The term “TR NO<sub>x</sub> Ozone Season Trading Program” shall mean a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart BBBBB of CSAPR (including such a program that is established or revised in a SIP revision approved by the EPA).

(l) The term “Vintage Year” shall mean the specified calendar year for which a TR NO<sub>x</sub> Ozone Season Allowance was allocated.

**1604.01. SCOPE**

The provisions of these rules shall apply to all CSAPR TR NO<sub>x</sub> Ozone Season Allowance Futures bought or sold for future delivery on the Exchange with the delivery of TR NO<sub>x</sub> Ozone Season Allowances made through the Allowance Management System (AMS).

**1604.02. TIME REFERENCES**

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate the prevailing time in New York.

**1604.03. CONTRACT UNIT**

The contract unit shall be five (5) TR NO<sub>x</sub> Ozone Season Allowances for a delivery made by transfer through the AMS.

#### 1604.04. DELIVERY

TR NO<sub>x</sub> Ozone Season Allowance delivery shall comply with all requirements for the electronic transfer of allowances on the AMS. All deliveries made under this Rule 1604 shall be final and there shall be no appeal.

#### 1604.05. DELIVERY MONTHS

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Exchange.

#### 1604.06. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars (\$) and cents (¢) per allowance. The minimum price fluctuation shall be \$5.00 per allowance (\$25.00 per contract). There shall be no maximum price fluctuations.

#### 1604.07. TERMINATION OF TRADING

Trading in the delivery month shall cease on the fifteenth (15th) day of the delivery month. If such a day is not a Business Day, trading shall cease on the next following day that is a Business Day.

#### 1604.08. DELIVERABLE ALLOWANCES

Allowances acceptable for delivery are TR NO<sub>x</sub> Ozone Season Allowances with a Vintage Year corresponding to the specified Vintage Year of the contract. TR NO<sub>x</sub> Ozone Season Allowances of prior Vintage Years that have not been surrendered will be eligible for delivery for the current Vintage Year.

All TR NO<sub>x</sub> Ozone Season Allowances acceptable for delivery must be eligible for compliance in participating States at the time of delivery.

#### 1604.09. DELIVERY PROCEDURES AND OBLIGATIONS

The Clearing House is a party to all deliveries under this contract and will receive TR NO<sub>x</sub> Ozone Season Allowances by electronic transfer from the Seller into the Clearing House account at the AMS. Following receipt from the Seller, the Clearing House will deliver TR NO<sub>x</sub> Ozone Season Allowances from the Clearing House account to the AMS account nominated by the Buyer.

All rights, title, and interest in and to, and risk of loss related to, the TR NO<sub>x</sub> Ozone Season Allowances will transfer upon receipt in the applicable AMS account.

The Seller shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to the submission of the forms noted in this Rule. The Buyer shall comply with such requirements and obligations imposed by or under applicable AMS regulations in all respects material to ensure the acceptance of a valid transfer into its account. If a provision of the GreenX Rules or the Clearing House Rules is inconsistent with a provision of the AMS regulations, the provision of the GreenX Rules or the Clearing House Rules shall prevail as among the Buyer, Seller, and the Clearing House to the extent of such inconsistency and to the extent permitted by law.

By transferring allowances to the Clearing House, the Seller represents and warrants that, at the time of delivery, it has good and marketable title to such allowances, and that such allowances are free and clear of all liens, security interests, claims, encumbrances and adverse claims.

##### (a) OPERATIONAL RESPONSIBILITIES OF CLEARING MEMBERS

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

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Buyer having an open long 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: name of the Buyer's Customer; number of contracts to be accepted; AMS account number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(ii) NOTICE OF INTENTION TO DELIVER

By 11:00 AM on the first (1st) Business Day after the final day of trading, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver.

The Notice of Intention to Deliver shall be in the form prescribed by the Exchange and shall include: name of the Seller's Customer; number of contracts to be delivered; AMS Account Number; name, phone number and e-mail address of the authorized account representative for that AMS account; and any additional information as may be required by the Exchange.

(iii) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Seller shall transfer TR NO<sub>x</sub> Ozone Season Allowances subject to delivery to the Clearing House account of the AMS.

(iv) By 10:00 AM on the second (2<sup>nd</sup>) Business Day after the final day of trading, the Buyer shall deposit / transfer payment equal to the full value of the product to the designated Clearing House bank account.

(v) By 12:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, for each Buyer that has satisfied its obligations under Rule 1604.09(a)(iv), the Clearing House will initiate the process of transferring the TR NO<sub>x</sub> Ozone Season Allowances to the Buyer's account at the AMS.

(vi) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading of the delivery month, Buyer shall receive TR NO<sub>x</sub> Ozone Season Allowances from the Clearing House account of the AMS.

(vii) By 3:00 PM on the second (2<sup>nd</sup>) Business Day after the final day of trading, for each Seller that has satisfied its obligations under Rule 1604.09(a)(iii), the Clearing House shall pay the Seller full contract value.

(b) ASSIGNMENT DAY

(i) The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching positions, to the extent possible.

(ii) The Clearing House shall provide Assignment Notice Reports to the respective Clearing Members on the first (1<sup>st</sup>) Business Day after the final day of trading.

(c) PAYMENT AND DELIVERY MARGINS

(i) The Buyer and Seller shall deposit with the Exchange margins in such amounts and in such form as required by the Exchange. Such margins, which shall not be greater than the margins charged to the Buyer's Customer and Seller's Customer, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.

(ii) Definitions

(A) "Payment" shall include the settlement price times the number of contracts times five (5).

(B) "Payment Date" shall mean the date on which the Clearing House transfers Payment in connection with a delivery to the Seller.

(iii) Any payment made on Payment Date shall be based on allowances actually delivered.

#### 1604.10. DELIVERY PERIOD

“Delivery Period” shall mean the time between the final day of trading and the second (2nd) Business Day following the final day of trading.

Delivery shall take place on the second (2nd) Business Day after the final day of trading. Should the AMS be inoperable during the Delivery Period due to a public holiday that is an Exchange Business Day, the Clearing House shall have the option to extend the Delivery Period by one (1) Business Day.

#### 1604.11. VALIDITY OF DOCUMENTS

The Exchange makes no representation respecting the authenticity, validity or accuracy of any of Notice of Intention to Accept, Notice of Intention to Deliver, check or of any document or instrument delivered pursuant to these Rules.

#### 1604.12. ALTERNATIVE DELIVERY PROCEDURE

A Buyer may agree with the Seller with which it has been matched by the Exchange under Rule 1604.09(b) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Rule. In such a case, Buyers and Sellers shall execute an Alternative Delivery Procedure on a form prescribed by the Exchange and shall deliver a completed executed copy of such form to the Exchange. The delivery of an executed Alternative Delivery Procedure form to the Exchange shall release the Buyer, Seller and the Exchange from their respective obligations under the Exchange contracts.

In executing such Alternative Delivery Procedure form, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt of an executed Alternative Delivery Procedure form, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

#### 1604.13. LATE PERFORMANCE, FAILURE TO PERFORM AND FORCE MAJEURE

(a) DEFINITION. As used in this Rule 1604.13, the following terms, as well as variations thereof, shall have the meaning described below.

(i) “Late Performance” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, this Rule. Late Performance shall be restricted to three (3) Business Days. Late Performance beyond three (3) Business Days by a Seller or a Buyer will be deemed a Failure to Perform.

(ii) “Day of Late Performance” shall mean the twenty-four hour period commencing immediately after a Buyer, a Seller, or the Clearing House was to have performed. Each subsequent Day of Late Performance shall commence twenty-four hours after the beginning of the prior Day of Late Performance. When a Party is late in performance, the day when the act was to have performed shall be a Day of Late Performance.

(iii) “Failure to Perform” shall mean the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(iv) “Contract Value” shall mean the amount equal to the settlement price on the final day of trading in a Futures Contract times five (the number of TR NO<sub>x</sub> Ozone Season Allowances per Contract) times the number of Contracts to be delivered.

(v) (A) “Party” shall mean a Buyer or Seller and such Buyer and Seller are each responsible to the Exchange for their obligations under these Rules and further responsible to the Exchange for the obligations of their respective customers under this Rule.

(B) “Other Party” shall mean the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(vi) "Force Majeure" shall mean any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, registry suspension or failure, or act of God) which is beyond the control of such Buyer or Seller, and which prevents the Buyer or Seller from making or taking delivery of product when and as provided for in these Rules.

(b) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

(i) The parties to a delivery shall perform their respective delivery obligations at all times until a Party has committed a Failure to Perform.

(ii) A Party that has committed a Failure to Perform may not cure the Failure to Perform by subsequently taking action to correct its deficiency; provided, however, that the foregoing does not relieve a Buyer that has failed to make a payment from such payment obligation.

(c) EMISSIONS ALLOWANCE DELIVERY COMMITTEE

(i) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Emissions Allowance Delivery Committee as set forth below. The Chairman of the Emissions Allowance Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(A) When the Chairman of the Emissions Allowance Delivery Committee is advised by the Chief Executive Officer or any person designated by the Chief Executive Officer that it appears that the performance of a Party to the delivery is late;

(B) Upon the written request of both the Buyer and the Seller;

(C) When the Chief Executive Officer or any person designated by the Chief Executive Officer requests such appointment; or

(D) When either Party to the delivery notifies the Exchange that circumstances exist constituting Force Majeure.

(ii) The Chairman of the Emissions Allowance Delivery Committee shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a Party has been found to have failed to perform such delivery. The general counsel of the Exchange, or its designee, shall serve as advisor to the Panel.

(iii) The Panel shall meet within one (1) Business Day of notification as provided in these Rules. Unless good cause for delay exists, within one (1) Business Day the Panel shall determine whether Force Majeure exists, whether a Buyer or Seller is late in performing or has failed to perform its obligations as provided in this Rule, and advise the Regulatory Oversight Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the parties to the delivery as expeditiously as possible.

(iv) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable: order an extension of time not to exceed ten days from the date of the scheduled delivery; or, refer the delivery to the Exchange, represented by the Regulatory Oversight Department, for emergency action as provided in the GreenX Rules.

(d) EXCHANGE ACTION

(i) Whenever a Buyer or a Seller is found by the Panel to have committed a Late Performance, provided such Late Performance is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department, shall issue a Notice of Assessment, assessing a penalty of ten percent (10%) of the Contract value for each applicable Day of Late Performance, to be paid to the Exchange.

(ii) Whenever a Buyer or a Seller is found by the Panel to have committed a Failure to Perform, provided such Failure to Perform is not excused by a finding of Force Majeure, the Exchange, represented by the Regulatory Oversight Department shall issue a Notice of Assessment assessing penalties

of twenty percent (20%) of the Contract value, in addition to any penalties assessed pursuant to subparagraph (A) above, to be paid to the Exchange.

(iii) (A) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Disciplinary Panel and by serving a copy of the same on the Exchange's Regulatory Oversight Department, within two (2) Business Days of receipt of the Notice of Assessment from the Regulatory Oversight Department. The Party filing the appeal ("Appellant"), within twenty (20) calendar days after filing the Notice of Appeal, shall file a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Chief Regulatory Officer.

(B) The Regulatory Oversight Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(C) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (d)(iii)(A) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the party to the sanctions set forth in Chapter 7. In the event a Party fails to Appeal, or waives the opportunity to appeal a Notice of Assessment, the Assessment and findings of the Emissions Allowance Delivery Committee shall constitute a final disciplinary action of the Exchange.

(iv) Within ten (10) calendar days after receipt of Regulatory Oversight Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by Regulatory Oversight Department or are otherwise relevant to the matter.

(v) In the event of an appeal by a Party, the Chief Executive Officer, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chief Executive Officer, or his designee, any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the evidence presented to it. Exchange outside counsel shall advise the Panel.

(vi) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(A) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Regulatory Oversight Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(B) At such hearing, the Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(C) The Regulatory Oversight Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Regulatory Oversight Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(D) The Appellant shall be entitled to rebut the Regulatory Oversight Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(E) The Regulatory Oversight Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(F) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.

(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(H) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefore.

(I) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the CFTC.

(vii) The Assessment Appeal Panel shall consider, and make recommendations to the Chief Executive Officer, or his designee concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Chief Executive Officer shall constitute the final disciplinary action of the Exchange.

(e) ARBITRATION PROCEDURE

(i) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this Contract shall be settled by arbitration in accordance with these Rules.

(ii) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three (3) Business Days of the occurrence upon which the claim is based or the decision of the Emissions Allowance Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(iii) The Arbitration will be governed by Chapter 8 of the GreenX Rules except that the Chief Executive Officer or his designee shall appoint an Arbitration Panel.

1604.14. EXCLUSION OF LIABILITY

Except as specifically provided in the GreenX Rules (and to the extent permitted by law), the Clearing House accepts no liability in connection with this Futures Contract, its performance, non-performance or its termination whether based on breach of contract, warranty, negligence or tort. In particular, but without limitation, the Clearing House shall not be responsible for or shall have any liability whatsoever to any Buyer or Seller for the: availability, suitability, unavailability or malfunction of a Communication Link or any part thereof; performance or non-performance of the AMS of their respective obligations under the AMS regulations or otherwise; performance or non-performance of the EPA; any act or omission of any operator of a Communication Link or any part thereof; or any act or omission of an authorized agent of any other party; or any performance or non-performance by the Clearing House in relation to its serving as a party to the deliveries and the Clearing House shall under no circumstances be liable for any indirect or consequential loss or loss of profits. Additionally, nothing in these Rules will constrain the Clearing House from performing its duties under Clearing House Rule 802.

A Clearing Member that breaches its representation and warranty in Rule 1604.09 shall be liable to the Clearing House and Exchange for their respective losses arising from such breach.



**CONFIDENTIAL TREATMENT  
REQUESTED**

October 19, 2011

Assistant Secretary of the Commission for FOIA Matters  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

Re: FOIA Request for Confidential Treatment

Dear Secretary:

I am writing on behalf of Green Exchange LLC ("GreenX") to request confidential treatment in accordance with Commission Regulations 40.8(c) and 145.9 for certain confidential information contained in GreenX's Rule Self-Certification GX-2011-22 (the "GreenX Self-Certification"), relating to the listing of GreenX's Cross-State Air Pollution (Transport Rule) ("CSAPR") SO<sub>2</sub> Group 1 Vintage 2012 Allowance Futures contract, CSAPR TR SO<sub>2</sub> Group 2 Vintage 2012 Allowance Futures contract, CSAPR TR NO<sub>x</sub> Annual Vintage 2012 Allowance Futures contract and CSAPR TR NO<sub>x</sub> Ozone Season Vintage 2012 Allowance Futures contracts. Specifically, GreenX is requesting confidential treatment for its "research note" relating to the CSAPR Futures contracts, which has been segregated and attached as Appendix B to the GreenX Self-Certification (the "Confidential Information"). The GreenX Self-Certification also indicates that the Confidential Information has been segregated.

The basis for this confidential treatment request is that disclosure of the Confidential Information would reveal confidential commercial information of GreenX relating to the development of the GreenX CSAPR Futures contracts.

Pursuant to Commission Regulation 145.9(d)(5), GreenX requests that confidential treatment be maintained for the Confidential Information until further notice. GreenX also requests that the Commission notify the undersigned immediately after receiving any FOIA request for the Confidential Information or any other court order, subpoena or summons for the same. Finally, we request that we be notified in the event the Commission intends to disclose the Confidential Information to Congress or to any other governmental agency or unit pursuant to Section 8 of the CEA. GreenX does not waive its notification rights under Section 8(f) of the CEA with respect to any subpoena or summons for the Confidential Information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kari S. Larsen', with a long horizontal line extending to the right.

Kari S. Larsen  
Chief Regulatory Officer / General Counsel