

RECEIVED
C.F.T.C.

October 30, 2008

2008 OCT 31 AM 7:37

OFFICE OF THE SECRETARIAT

VIA E-MAIL

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

**Re: New Product Rule Certification. Submission #08.108: Notification
Regarding the Listing of Two New Plastics Futures Contracts on
ClearPort®**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of the following two (2) new plastics futures contracts:

<u>New Plastics Contracts</u>	<u>Code</u>	<u>Contract Size</u>	<u>Rule Chapter</u>
Polypropylene Futures Contract	PP	47,000 Pounds	599
Polyethylene Futures Contract	PE	47,000 Pounds	600

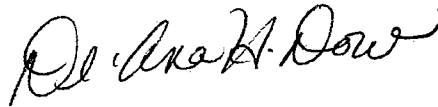
These new futures contracts will be physically-delivered in the Houston area. These futures contracts will be listed on the ClearPort® trading and clearing systems beginning at 6:00 p.m. on Sunday evening, November 2, 2008 for trade date Monday, November 3, 2008. Each of these new futures contracts will be available during the normal trading hours for ClearPort® trading and clearing. The first contract month to be listed will be the January 2009 contract month. The Exchange will list 24 consecutive months.

The exchange of futures for, or in connection with, product (EFP) and off-exchange swap transactions (EFS) for these new futures contracts shall be governed by the provisions of Rules 6.21 and 6.21A, respectively.

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

Should you have any questions concerning the above, please contact Daniel Brusstar at (212) 299-2604 or the undersigned at (202) 715-8517.

Sincerely,

A handwritten signature in black ink, appearing to read "De'Ana H. Dow". The signature is written in a cursive style with a large initial "D".

De'Ana H. Dow
Managing Director
Government Relations

Attachments: Contract terms and conditions
Supplemental Market Information

Polypropylene Futures Contract

Rule	Subject
599.01	Scope
599.02	Definitions
599.03	Contract Unit
599.04	Grade and Quality Specifications
599.05	Delivery
599.06	Delivery Months
599.07	Prices and Fluctuations
599.08	Termination of Trading
599.09	Product Placement
599.10	Delivery Procedures
599.11	Validity of Documents
599.12	Inspection
599.13	EFP and EFS
599.14	Alternative Delivery Procedure
599.15	Late Performance and Failure to Perform

599.01 Scope

The provisions of these rules shall apply to plastics bought or sold for physical delivery of Polypropylene.

599.02 Definitions

- (A)** The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member.
- (B)** The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer, respectively, of the physical product.
- (C)** The term “Notice Day” shall mean the business day after the day the Clearing House receives copies of the Notices of Intention to Deliver and Notices of Intention to Accept from the respective Clearing Members. The Notice Day shall be the second business day after the final day of trading in the expiring delivery month.
- (D)** 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 on the last business day of the month preceding the delivery month.
- (E)** The term “Houston Area” shall mean the terminals located in the following cities in Texas:
 - 1) Houston
 - 2) La Porte

3) Morgan's Point

599.03 Contract Unit

The contract quantity shall be 47,000 pounds. Each contract shall be valued as the contract Quantity (47,000) multiplied by the settlement price.

599.04 Grade and Quality Specifications

Physical delivery of Polypropylene shall meet the following grade and quality specifications:

- (A) Homopolymer general purpose injection molding grade. Nominal melt flow rate 12 (-2/+3). Without additives such as slip and anti block.

Melt Index: 12 (-2/+3) g/10 min (ASTM Method D1238)

- (B) Homopolymer general purpose injection molding grade. Melt flow rate 20 (+/-3). No additives.

Melt Index: 20 (-5/+7) g/10 min (ASTM Method D1238)

- (C) Homopolymer general-purpose fiber ('raffia') extrusion grade. Nominal melt flow rate 3.5 without additives.

Melt Index: 3.5 (-0.6/+1.0) g/10 min (ASTM Method D1238)

599.05 Delivery

- (A) Delivery shall be made Free Along Side (FAS) Buyer's terminal in the Houston Area with all duties, entitlements, taxes, fees and other charges imposed prior to delivery on or in respect to the product paid by the seller. Delivery shall be made in accordance with applicable Federal, State and local laws. The delivery shall be made by any of the following methods:

- 4) By delivery FAS Buyer's terminal by railcar or truck;
- 5) By stock transfer of title to the buyer if facility used by seller allows such transfer;
- 6) By book transfer if the seller agrees to such transfer.

- (B) DELIVERY SIZES

For purposes of these rules, deliveries shall be made in the increment of four (4) contracts, which equals to 188,000 lbs, with a tolerance of five percent (5%).

- (C) DELIVERY LOCATIONS

Delivery shall be made FAS Buyer's terminal in the Houston Area. The approved terminals shall provide access for both rail and truck delivery. The following terminals are acceptable for

delivery: Frontier Logistics - La Porte, TX; Katoen Natie (KTN) - La Porte, TX; Packwell Plastics Packing & Distribution Services - Houston, TX; United DC, Houston, TX.

(D) Timing of Delivery

The Seller shall schedule delivery of plastics during the delivery month so that delivery shall occur during the delivery window commencing on the seventh calendar day of the delivery month and not later than the 21st calendar day of the delivery month.

599.06 Delivery Months

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Board of Directors. Trading in the delivery periods shall commence on the day fixed by the Board of Directors.

599.07 Prices and Fluctuations

Prices shall be quoted in dollars and cents per pound. The minimum price fluctuation shall be 0.0001 cent per pound. There shall be no maximum price fluctuation.

599.08 Termination of Trading

Trading shall cease on the last business day of the month preceding the delivery month.

599.09 Product Placement

(A) Transportation Certification:

- 1) No customer holding an open position in the expiring month may make or take delivery unless, five (5) business days preceding the last trading day of the expiring contract, a Clearing Member has obtained a Transportation Certification from such customer in a form approved by the Exchange, which certifies that:
 - a) If a seller, the customer has:
 - (i) an existing contract with a railroad company to ship plastics to one or more eligible delivery terminals at which delivery may be made under this contract; or
 - (ii) alternative contractual commitments to ensure that a delivery under the terms of this contract may be made.
 - b) If a buyer, the customer has:
 - (i) an existing contract with one or more eligible delivery terminals at which delivery may be made under this contract; or
 - (ii) alternative contractual commitments to ensure that a delivery under the terms of this contract be made.

Provided, however, that for any position established fewer than five business days preceding the last trading day, a Clearing Member shall, by the close of business the day after the

position is established, but in any event prior to the last trading day, obtain such Transportation Certification.

- 2) If a customer's Transportation Certification identifies alternative contractual commitments as specified in either subparagraphs (a)(ii) or (b)(ii) above, such customer shall be required, upon request, to provide the Exchange and/or its Clearing Member with copies of such alternative contractual commitments.

(B) Delivery Certification:

- 1) No customer holding an open position in an expiring month may make or take delivery unless, prior to one hour before the time established for the beginning of the closing range on the last trading day of the expiring contract, a Clearing Member has obtained a Delivery Certification from such customer in a form approved by the Exchange, which certifies that:
 - a) If a Seller, the Seller's Customer has or will have in position, at one or more eligible delivery terminals at which delivery may be made under this contract, a quantity and quality of plastics sufficient to meet such Seller's Customers' delivery obligations when and as prescribed under the terms of this contract; and
 - b) Seller's and Buyer's Customers have a reasonable basis to believe that transportation service will be available to satisfy its delivery obligations when and as prescribed under the terms of this contract.

(C) In the event a customer fails to provide its Clearing Member and/or the Exchange with the Certifications and/or additional documentation as set forth in (A) and (B) above, such Clearing Member shall be required to ensure that, one hour prior to the beginning of the closing range on the final day of trading, it has received from such customer an order for the liquidation of all open futures positions in the expiring contract. The Clearing Member shall be required to ensure that such liquidation order is executed prior to the termination of trading on the last trading day in conformance with Exchange Rule 9.19.

(D) The receipt of such Certifications and/or additional documentation shall not relieve the Seller or Buyer, or their respective customers, of any obligations under any of the terms of this contract other than this Rule 599.09 (A), or any Exchange Rule other than Rule 9.19.

599.10 Delivery Procedures

(A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS (BUYERS)

(1) NOTICE OF INTENTION TO ACCEPT

By 3:00 p.m. on the first business day of the delivery month, 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, in the form prescribed by the Exchange, shall include: the name of the

Buyer's Customer, the number of contracts to be accepted, name of delivery facility, the names of three inspection companies, and any additional information required by the Exchange.

(2) BUYER'S INITIAL DELIVERY INSTRUCTIONS

As soon as possible after receipt from the Exchange of a Notice of Intention to Deliver, but not later than 4:30 p.m. on a business day not later than the fifth business day of the delivery month, the Buyer shall deliver to the Seller identified in such Notice of Intention to Deliver, with a copy to the Exchange, properly completed and signed Initial Delivery Instructions, in the form prescribed by the Exchange, which shall include the following information:

- a) Name of Buyer's Customer;
- b) Tender Number;
- c) Number of Contracts;
- f) Names of three inspection companies, if so requested;
- g) Such additional information as may be required by the Exchange.

(3) DELIVERY INSTRUCTIONS

The Buyer may tender, at the office of the Seller, Delivery Instructions on any business day prior to 10:30 a.m. Delivery Instructions given after 10:30 a.m. on any business day shall be deemed to have been given on the following business day. A Buyer may not tender Delivery Instructions on the day on which Initial Delivery Instructions are tendered to the Seller under Rule 599.09(A)(2). The Buyer must give Delivery Instructions to the Seller not later than five calendar days prior to the time of the proposed delivery, or such earlier business day as is necessary to assure that the day on which Delivery Instructions are given is followed by a period that includes at least one business day and three subsequent calendar days ending on the day prior to the last business day of the delivery month. A copy of the Delivery Instructions must be given to the Exchange. Except as provided in Rule 599.09(A)(6) below, Delivery Instructions must conform to the Initial Delivery Instructions tendered by the Buyer to the Seller.

(4) FORM OF DELIVERY INSTRUCTIONS

The Buyer's Delivery Instructions must be properly completed and signed, in such form as prescribed by the Exchange, and shall contain the following information:

- (a) Name of Buyer's Customer;
- (b) Tender Number;
- (c) Number of Contracts;
- (d) Name of terminal or warehouse;
- (e) Names of three inspection companies, if so required;
- (f) Such additional information as may be required by the Exchange.

(5) AMENDMENT OF INITIAL DELIVERY INSTRUCTIONS OR OF DELIVERY INSTRUCTIONS

Neither initial delivery instructions nor delivery instructions may be amended after they have been given. However, upon mutual consent of the parties and upon written notice to the Exchange, the

parties may change the delivery facility named by the Buyer, the method of delivery named by the Seller, or the delivery date named by the Seller.

(6) ACCEPTANCE OF PRODUCT

The Seller shall schedule delivery of plastics during the delivery month so that delivery shall occur during the delivery window commencing on the seventh calendar day of the delivery month and not later than the 21st calendar day of the delivery month.

(B) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN SHORT POSITIONS (SELLERS)

(1) NOTICE OF INTENTION TO DELIVER

By 3:00 p.m. on the first business day of the delivery month, 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 such form as prescribed by the Exchange and shall include:

- a) the name of the Seller's Customer;
- b) the grade of Polypropylene to be delivered;
- c) the number of contracts;
- d) Method of Delivery (rail or truck);
- e) date of delivery to take place between the 7th and 21st of the delivery month;
- f) Selection of inspection company, if required;
- g) Any additional information as may be required by the Exchange.

(C) SETTLEMENT PRICE. The last settlement price shall be the basis for delivery.

(D) NOTICE DAY. The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching size of positions to the extent possible. The Clearing House shall pass copies of the notices to the respective Clearing Members on the morning of the next business day. The day the notices are passed to the Clearing Members shall be referred to as the Notice Day. The Notice Day shall be the second business day of the delivery month.

(E) NON-TRANSFERABLE. The Clearing Member who receives a Notice of Intention to Deliver or Notice of Intention to Accept from the Clearing House shall have agreed to accept or deliver product. Notices of Intention to Deliver or Notices of Intention to Accept are not transferable.

(F) DELIVERY DAY

(1) The Seller's Customer, upon receipt of payment, shall give the Buyer's Customer a bill of lading and the Certification of Analysis, or any other appropriate documents necessary to transfer ownership of the product to the Buyer's Customer. Shipment will be completed when product is delivered FAS the Buyer's Customer's warehouse or terminal; at such time the Buyer's Customer shall bear the risk of loss.

(2) The Buyer's Customer shall pay the Seller's Customer at the office of the Seller's Customer by certified check by 12:00 noon of the business day following the receipt of the product, or by 12:00

noon on the last business day of the delivery month, whichever is earlier. The amount of payment shall be based on quantity delivered as determined in Rule 599.02. Should the inspector, appointed under Rule 599.12, be unable to supply quantitative results prior to the time established herein for payment of the product, a pro forma payment based on 47,000 U.S. pounds per contract shall be made. Payment adjustments based on actual quantity transferred shall be completed between Clearing Members by 12:00 noon of the first business day after receipt of the telexed Inspector's report but no later than the third business day after transfer of physical product. Alternatively, buyer and seller may mutually agree to effect payment or adjustment, as otherwise prescribed in this Rule, by federal funds money wire as a substitution for a certified check.

(a) If the Buyer requires multiple delivery dates, multiple payment shall be required for each portion of product transferred.

(3) The day the Buyer's Customer receives the product shall be referred to as the Delivery Day.

599.11 Validity of Documents

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

599.12 Inspection

- (A) Inspection of product shall be made in accordance with Plastics industry practices.
- (B) The Buyer shall notify the Seller in the Delivery Instructions that a grade and quality or quantity inspection is requested. The Seller's Customer shall initiate inspection of the product to be delivered 24 hours prior to the nominated time and date specified in the delivery instructions. The Buyer may request the tests for any or all grade and quality specifications for the stated product listed in Rule 599.04. The Buyer may request a quantity inspection for all deliveries. If the Buyer does not request a quantity inspection, the Seller may request such inspection.
- (C) If the product meets quality specifications, the Buyer shall pay for the total cost of the inspection. If the product does not meet quality specifications, the Seller shall pay the cost of the inspection. The cost of verifying the quantity of product transferred shall be shared equally by Buyer and Seller.
- (D) If the product does not meet quantity or quality specifications, the Buyer shall deliver to the Exchange, not later than 11:00 a.m. on the next business day, a copy of the report of the inspection company. Within one business day of receipt of the report by the Exchange a Panel of the Delivery Committee shall meet to review the delivery if necessary, pursuant to the procedures set forth in Rule 599.15(C).

In addition, the Seller shall require its customer to post additional margin equal to 100% of the total contract value of all contracts listed in the Delivery Instructions. Such additional margin

shall be posted by the Seller with the Exchange not later than 11:00 a.m. on the next business day.

- (E) The inspection company shall not be affiliated with the parties to delivery. The inspection company must be capable of performing the quantity or quality tests requested by the Buyer or Seller in such a manner so as to assure that the product delivered conforms to these Rules. The inspection company shall determine the quantity or quality of product transferred by using the prevailing industry practices in effect at the time of delivery of the Buyer's facility at which product is received.

599.13 Exchange of Futures for Physical (EFP) and Exchange of Futures for Swaps (EFS)

Any exchange of futures for physical (EFP) or exchange of futures for swaps (EFS) involving the futures contract shall be governed by the provisions in Exchange Rules 6.21 and 6.21A, respectively.

599.14 Alternative Delivery Procedure

A Seller's Customer or Buyer's Customer may agree with the Buyer's Customer or Seller's Customer with which it has been matched by the Clearing House under Rule 599.05(B) to make and take delivery under terms or conditions which differ from the terms and conditions described by this section. In such a case, Clearing Members shall execute an Alternate Notice of Intention to Deliver on the form prescribed by the Clearing House and shall deliver a completed executed copy of such Notice to the Clearing House. The delivery of an executed Alternative Notice of Intention to Deliver to the Clearing House shall release the Clearing Members and the Clearing House from their respective obligations under the Clearing House contracts.

In executing such Notice, Clearing Members shall indemnify the Clearing House 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 thereunder. Upon receipt of an executed Alternative Notice of Intention to Deliver, the Clearing House will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

599.15 Force Majeure, Late Performance and Failure to Perform

(A) DEFINITION. As used in this Rule 599.15 the following terms, as well as variations thereof, shall have the meanings described below.

- 1) "Late Performance" means the failure of a Party to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, the Rules. No Late Performance may exceed the lesser of five continuous business days or eight consecutive calendar days.

- 2) "Failure to Perform" means the failure of a Party 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.
- 3) "Contract Value" means the amount equal to the Settlement Price in the contract times 47,000 the number of contracts to be delivered.
- 4)
 - a) "Party" means a Buyer or Seller. For the avoidance of doubt, the Buyer and Seller are each responsible to the Clearing House for their obligations under these Rules and further responsible to the Clearing House for the obligations of their respective customers under the Rules of this section.
 - b) "Other Party" means 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.
- 5) "Day of Late Performance" means the twenty-four hour period commencing twelve hours after a Party was to have performed, provided however, with respect to the obligations of a Party to submit documents to the Clearing House pursuant to the Rules in this section, "Day of Late Performance" means the twenty-four hour period commencing immediately after the time specified in the Rules in this section for the submission of a document. 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 is performed shall be a Day of Late Performance.
- 6) "Force Majeure" means any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, or act of God) which is beyond the control of a Party, and which prevents that Party from making or taking delivery of product when and as provided for in these Rules.

(B) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

- 1) The parties to a delivery shall make commercially reasonable efforts to perform their respective obligations at all times until a Party has failed to perform.

- 2) A Party which has failed to perform its obligations may no longer perform such obligations; provided, however, that abuser which has failed to make a payment shall make such payment.

(C) DELIVERY COMMITTEE

- 1) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Delivery Committee as set forth below. The Chairman of the Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:
 - a) when the Chairman is advised by the President or any person designated by the President that it appears that the performance of a Party to the delivery is late;
 - b) upon the written request of both Parties;
 - c) when the President or any person designated by the President requests such appointment; or
 - d) when either Party of the delivery notifies the Clearing House that circumstances exist constituting Force Majeure.
- 2) The Chairman 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 Clearing House Counsel shall serve as advisor to the Panel.
- 3) The Panel shall meet within one business day of notification as provided in these Rules. Unless good cause for delay exists, within one business day the Panel shall determine whether Force Majeure exists, whether a Party is late in performing or has failed to perform its obligations as provided in the Rules, and advise the Compliance 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.
- 4) Absent a declaration of a Force Majeure, the Panel may, with the consent of both Parties, take any one or combination of the following actions as it deems suitable:
 - a) grant an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth

business day of the calendar month following the delivery month or the last day of the period provided for late performance of the contract, whichever is earlier;

- b) change the delivery facility to a site in the Houston Area with public storage, provided that the Seller's Customer has product or will have product at such site in time for delivery; or,
- c) modify the method of taking delivery.

Nothing in this Subsection shall preclude a Party or the Clearing House from seeking the remedies set forth in Sections (D) and (E) of this Rule.

- 5) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable:
 - a) order an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth business day of the calendar month following the delivery month;
 - b) change the delivery facility to a site in the Houston Area with public storage, provided that the Seller's Customer has product or will have product at such site in time for delivery;
 - c) modify the method of taking delivery if such method is acceptable to the Buyer;
 - d) allocate deliveries; or,
 - e) refer to Board of Directors for emergency action as provided in Article 7.
- 6) The inspection company appointed by the Panel shall not be either of the two inspection companies listed in the Notice of Intention to Accept.

(D) CLEARING HOUSE ACTION

- 1) Whenever a Party is found by the Panel to be late in the performance of or to have failed to perform any of its obligations in relation to a delivery, the Clearing House, represented by its Compliance Department, shall issue a Notice of Assessment in accordance with subsections (2) and (3) of this Section, specifying the findings of the Panel with respect to the late or failed delivery.

- 2) Either one or both Parties shall be assessed a penalty to be paid to the Clearing House for each Day of Late Performance as follows:
- first Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - second Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - third Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - fourth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - fifth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - sixth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - seventh Day of Late Performance – 4% of Contract Value, but not less than \$1,500 per contract;
 - eighth Day of Late Performance – 5% of Contract Value, but not less than \$2,000 per contract;
- Such penalties shall be cumulative for each Day of Late Performance.

- 3) When a Party has failed to perform any of its obligations in relation to a delivery, the Compliance Department shall issue a Notice of Assessment assessing penalties of ten percent of the Contract Value, but not less than \$4,000 per contract, in addition to any penalties assessed pursuant to subparagraph (2) hereof, to be paid to the Clearing House.
- a) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Hearing Registrar of the Clearing House and by serving a copy of the same on the Clearing House's Compliance Counsel, within two business days of receipt of the Notice of Assessment from the Compliance Department. The Party filing the appeal ("Appellant") shall file, within twenty (20) days after filing the Notice of Appeal, 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 Clearing House's Compliance Counsel.
 - b) The Compliance Department may file with the Appellant and the Hearing Register 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)(4)(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 Clearing House. Failure to pay such penalties in accordance with this Rule shall subject the Party

to the sanctions set forth in Bylaw 106. In the event a Party fails to appeal, or waives the opportunity to appeal a Notice of Assessment the Assessment and findings of the Petroleum Delivery Committee shall constitute a final disciplinary action of the Clearing House.

- 4) Within ten (10) days after receipt of the Compliance 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 Clearing House that are to be relied on by the Compliance Department or are otherwise relevant to the matter.
- 5) In the event of an appeal by a Party, the Chairman of the Clearing House, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. The Panel shall be composed of three members of the Clearing House, at least one of whom shall be a member of the Board of Directors. 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 Chairman 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. Clearing House outside counsel shall advise the Panel.
- 6) 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 Compliance 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 Compliance 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 Compliance 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 Compliance Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

- e) The Compliance 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 Clearing House 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 therefor.
 - i) The decision of the Assessment Appeal Panel shall be a final decision of the Clearing House, and shall constitute a final disciplinary action of the Clearing House. 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 Commission.
- 7) The Assessment Appeal Panel shall consider, and make recommendations to the Board concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Board shall constitute the final disciplinary action of the Clearing House.

(E) ARBITRATION PROCEDURE

- 1) Any claim for damages arising between the Parties as a result of a delivery pursuant to this contract shall be settled by arbitration in accordance with these Rules.
- 2) Notice of Intent to Arbitrate must be submitted to the Secretary of the Clearing House within three business days of the occurrence upon which the claim is based or the decision of the 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 delivery dispute under the special or Regular Arbitration Rules.

- 3) The Arbitration will be governed by the Clearing House Arbitration Rules except that the Chairman of the Clearing House or his designee shall appoint an Arbitration Panel composed of three Members of the Clearing House, at least one of whom shall be a Member of the Board of Directors.

High Density Polyethylene (HDPE) Futures Contract

Rule	Subject
600.01	Scope
600.02	Definitions
600.03	Contract Unit
600.04	Grade and Quality Specifications
600.05	Delivery
600.06	Delivery Months
600.07	Prices and Fluctuations
600.08	Termination of Trading
600.09	Product Placement
600.10	Delivery Procedures
600.11	Validity of Documents
600.12	Inspection
600.13	EFP and EFS
600.14	Alternative Delivery Procedure
600.15	Late Performance and Failure to Perform

600.01 Scope

The provisions of these rules shall apply to all plastics bought or sold for physical delivery of High Density Polyethylene.

600.02 Definitions

- (A) The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member.
- (B) The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer, respectively, of the physical product.
- (C) The term “Notice Day” shall mean the business day after the day the Clearing House receives copies of the Notices of Intention to Deliver and Notices of Intention to Accept from the respective Clearing Members. The Notice Day shall be the second business day after the final day of trading in the expiring delivery month.
- (D) 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 on the last business day of the month preceding the delivery month.
- (E) The term “Houston Area” shall mean the terminals located in the following cities in Texas:

- a. Houston
- b. La Porte
- c. Morgan's Point

600.03 Contract Unit

The contract quantity shall be 47,000 pounds. Each contract shall be valued as the contract Quantity (47,000) multiplied by the settlement price.

600.04 Grade and Quality Specifications

Polyethylene of High Density blow molding grade. Melt Flow rate 0.30 (-0.02/+0.05). Density 0.95 (.05/+0.05) No additives.

600.05 Delivery

(A) Delivery shall be made Free Along Side (FAS) Buyer's terminal in the Houston Area with all duties, entitlements, taxes, fees and other charges imposed prior to delivery on or in respect to the product paid by the seller. Delivery shall be made in accordance with applicable Federal, State and local laws. The delivery shall be made by any of the following method

- 1) By delivery FAS Buyer's terminal by railcar or truck;
- 2) By stock transfer of title to the buyer if facility used by seller allows such transfer;
- 3) By book transfer if the seller agrees to such transfer.

(B) DELIVERY SIZES

For purposes of these rules, deliveries shall be made in the increment of four (4) contracts, which equals to 188,000 lbs, with a tolerance of five percent (5%).

(C) DELIVERY LOCATIONS

Delivery shall be made FAS Buyer's terminal in Houston Area. The approved terminals shall provide access for both rail and truck delivery. The following terminals are acceptable for delivery: Frontier Logistics - La Porte, TX; Katoen Natie (KTN) - La Porte, TX; Packwell Plastics Packing & Distribution Services - Houston, TX; United DC, Houston, TX.

(D) Timing of Delivery

The Seller shall schedule delivery of plastics during the delivery month so that delivery shall occur during the delivery window commencing on the seventh calendar day of the delivery month and not later than the 21st calendar day of the delivery month.

600.06 Delivery Months

Trading shall be conducted in contract months providing for delivery in such periods as shall be determined by the Board of Directors. Trading in the delivery periods shall commence on the day fixed by the Board of Directors.

600.07 Prices and Fluctuations

Prices shall be quoted in dollars and cents per pound. The minimum price fluctuation shall be 0.0001 cent per pound. There shall be no maximum price fluctuation.

600.08 Termination of Trading

Trading shall cease on the last business day of the month preceding the delivery month.

600.09 Product Placement

(A) Transportation Certification:

1) No customer holding an open position in the expiring month may make or take delivery unless, five (5) business days preceding the last trading day of the expiring contract, a Clearing Member has obtained a Transportation Certification from such customer in a form approved by the Exchange, which certifies that:

(a) If a seller, the customer has:

- (i) an existing contract with a railroad company to ship plastics to one or more eligible delivery terminals at which delivery may be made under this contract; or
- (ii) alternative contractual commitments to ensure that a delivery under the terms of this contract may be made.

(b) If a buyer, the customer has:

- (i) an existing contract with one or more eligible delivery terminals at which delivery may be made under this contract; or
- (ii) alternative contractual commitments to ensure that a delivery under the terms of this contract be made.

Provided, however, that for any position established fewer than five business days preceding the last trading day, a Clearing Member shall, by the close of business the day after the position is established, but in any event prior to the last trading day, obtain such Transportation Certification.

2) If a customer's Transportation Certification identifies alternative contractual commitments as specified in either subparagraphs (a)(ii) or (b)(ii) above, such customer

shall be required, upon request, to provide the Exchange and/or its Clearing Member with copies of such alternative contractual commitments.

(B) Delivery Certification:

- 1) No customer holding an open position in an expiring month may make or take delivery unless, prior to one hour before the time established for the beginning of the closing range on the last trading day of the expiring contract, a Clearing Member has obtained a Delivery Certification from such customer in a form approved by the Exchange, which certifies that:
 - a) If a seller, the customer has or will have in position, at one or more eligible delivery terminals at which delivery may be made under this contract, a quantity and quality of plastics sufficient to meet such customer's delivery obligations when and as prescribed under the terms of this contract; and
 - b) Whether a seller or buyer, the customer has a reasonable basis to believe that transportation service will be available to satisfy its delivery obligations when and as prescribed under the terms of this contract.

(C) In the event a customer fails to provide its Clearing Member and/or the Exchange with the Certifications and/or additional documentation as set forth in (A) and (B) above, such Clearing Member shall be required to ensure that, one hour prior to the beginning of the closing range on the final day of trading, it has received from such customer an order for the liquidation of all open futures positions in the expiring contract. The Clearing Member shall be required to ensure that such liquidation order is executed prior to the termination of trading on the last trading day in conformance with Exchange Rule 9.19.

(D) The receipt of such Certifications and/or additional documentation shall not relieve the seller or buyer, or their respective customers, of any obligations under any of the terms of this contract other than this Rule 600.09 (A), or any Exchange Rule other than Rule 9.19.

600.10 Delivery Procedures

(A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS (BUYERS)

(1) NOTICE OF INTENTION TO ACCEPT

By 3:00 p.m. on the first business day of the delivery month, 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, in the form prescribed by the Exchange, shall include: the name of the Buyer's Customer, the number of contracts to be accepted, name of delivery facility, the names of three inspection companies, and any additional information required by the Exchange.

(2) BUYER'S INITIAL DELIVERY INSTRUCTIONS

As soon as possible after receipt from the Exchange of a Notice of Intention to Deliver, but not later than 4:30 p.m. on a business day not later than the fifth business day of the delivery month, the Buyer shall deliver to the Seller identified in such Notice of Intention to Deliver, with a copy to the Exchange, properly completed and signed Initial Delivery Instructions, in the form prescribed by the Exchange, which shall include the following information:

- a) Name of Buyer's Customer;
- b) Tender Number;
- c) Number of Contracts;
- f) Names of three inspection companies, if so requested;
- g) Such additional information as may be required by the Exchange.

(3) DELIVERY INSTRUCTIONS

The Buyer may tender, at the office of the Seller, Delivery Instructions on any business day prior to 10:30 a.m. Delivery Instructions given after 10:30 a.m. on any business day shall be deemed to have been given on the following business day. A Buyer may not tender Delivery Instructions on the day on which Initial Delivery Instructions are tendered to the Seller under Rule 599.09(A)(2). The Buyer must give Delivery Instructions to the Seller not later than five calendar days prior to the time of the proposed delivery, or such earlier business day as is necessary to assure that the day on which Delivery Instructions are given is followed by a period that includes at least one business day and three subsequent calendar days ending on the day prior to the last business day of the delivery month. A copy of the Delivery Instructions must be given to the Exchange. Except as provided in Rule 599.09(A)(6) below, Delivery Instructions must conform to the Initial Delivery Instructions tendered by the Buyer to the Seller.

(4) FORM OF DELIVERY INSTRUCTIONS

The Buyer's Delivery Instructions must be properly completed and signed, in such form as prescribed by the Exchange, and shall contain the following information:

- (a) Name of Buyer's Customer;
- (b) Tender Number;
- (c) Number of Contracts;
- (d) Name of terminal or warehouse;
- (e) Names of three inspection companies, if so required;
- (f) Such additional information as may be required by the Exchange.

(5) AMENDMENT OF INITIAL DELIVERY INSTRUCTIONS OR OF DELIVERY INSTRUCTIONS

Neither initial delivery instructions nor delivery instructions may be amended after they have been given. However, upon mutual consent of the parties and upon written notice to the Exchange, the parties may change the delivery facility named by the Buyer, the method of delivery named by the Seller, or the delivery date named by the Seller.

(6) ACCEPTANCE OF PRODUCT

The Seller shall schedule delivery of plastics during the delivery month so that delivery shall occur during the delivery window commencing on the seventh calendar day of the delivery month and not later than the 21st calendar day of the delivery month.

(B) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN SHORT POSITIONS (SELLERS)

(1) NOTICE OF INTENTION TO DELIVER

By 3:00 p.m. on the first business day of the delivery month, 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 such form as prescribed by the Exchange and shall include:

- h) the name of the Seller's Customer;
- i) the number of contracts;
- j) Method of Delivery (rail or truck);
- k) date of delivery to take place between the 7th and 21st of the delivery month;
- l) Selection of inspection company, if required;
- m) Any additional information as may be required by the Exchange.

(C) SETTLEMENT PRICE. The last settlement price shall be the basis for delivery.

(D) NOTICE DAY. The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching size of positions to the extent possible. The Clearing House shall pass copies of the notices to the respective Clearing Members on the morning of the next business day. The day the notices are passed to the Clearing Members shall be referred to as the Notice Day. The Notice Day shall be the second business day of the delivery month.

(E) NON-TRANSFERABLE. The Clearing Member who receives a Notice of Intention to Deliver or Notice of Intention to Accept from the Clearing House shall have agreed to accept or deliver product. Notices of Intention to Deliver or Notices of Intention to Accept are not transferable.

(F) DELIVERY DAY

(1) The Seller's Customer, upon receipt of payment, shall give the Buyer's Customer a bill of lading and the Certification of Analysis, or any other appropriate documents necessary to transfer ownership of the product to the Buyer's Customer. Shipment will be completed when product is delivered FAS the Buyer's Customer's warehouse or terminal; at such time the Buyer's Customer shall bear the risk of loss.

(2) The Buyer's Customer shall pay the Seller's Customer at the office of the Seller's Customer by certified check by 12:00 noon of the business day following the receipt of the product, or by 12:00 noon on the last business day of the delivery month, whichever is earlier. The amount of payment shall be based on quantity delivered as determined in Rule 600.02. Should the inspector, appointed under Rule 600.12, be unable to supply quantitative results prior to the time established herein for payment of the product, a pro forma payment based on 47,000 U.S. pounds per contract shall be made. Payment adjustments based on actual quantity transferred shall be completed between Clearing Members by 12:00 noon of the first business day after receipt of the telexed Inspector's

report but no later than the third business day after transfer of physical product. Alternatively, buyer and seller may mutually agree to effect payment or adjustment, as otherwise prescribed in this Rule, by federal funds money wire as a substitution for a certified check.

(a) If the Buyer requires multiple delivery dates, multiple payment shall be required for each portion of product transferred.

(3) The day the Buyer's Customer receives the product shall be referred to as the Delivery Day.

600.11 Validity of Documents

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

600.12 Inspection

(A) Inspection of product shall be made in accordance with Plastics industry practices.

(B) The Buyer shall notify the Seller in the Delivery Instructions that a grade and quality or quantity inspection is requested. The Seller's Customer shall initiate inspection of the product to be delivered 24 hours prior to the nominated time and date specified in the delivery instructions. The Buyer may request the tests for any or all grade and quality specifications for the stated product listed in Rule 600.04. The Buyer may request a quantity inspection for all deliveries. If the Buyer does not request a quantity inspection, the Seller may request such inspection.

(C) If the product meets quality specifications, the Buyer shall pay for the total cost of the inspection. If the product does not meet quality specifications, the Seller shall pay the cost of the inspection. The cost of verifying the quantity of product transferred shall be shared equally by Buyer and Seller.

(D) If the product does not meet quantity or quality specifications, the Buyer shall deliver to the Exchange, not later than 11:00 a.m. on the next business day, a copy of the report of the inspection company. Within one business day of receipt of the report by the Exchange a Panel of the Delivery Committee shall meet to review the delivery if necessary, pursuant to the procedures set forth in Rule 600.15(C).

In addition, the Seller shall require its customer to post additional margin equal to 100% of the total contract value of all contracts listed in the Delivery Instructions. Such additional margin shall be posted by the Seller with the Exchange not later than 11:00 a.m. on the next business day.

(E) The inspection company shall not be affiliated with the parties to delivery. The inspection company must be capable of performing the quantity or quality tests requested by the Buyer or Seller in such a manner so as to assure that the product delivered conforms to these Rules.

The inspection company shall determine the quantity or quality of product transferred by using the prevailing industry practices in effect at the time of delivery of the Buyer's facility at which product is received.

600.13 Exchange of Futures for Physical (EFP) and Exchange of Futures for Swaps (EFS)

Any exchange of futures for physical (EFP) or exchange of futures for swaps (EFS) involving the futures contract shall be governed by the provisions in Exchange Rules 6.21 and 6.21A, respectively.

600.14 Alternative Delivery Procedure

A Seller's Customer or Buyer's Customer may agree with the Buyer's Customer or Seller's Customer with which it has been matched by the Clearing House under Rule 600.05(B) to make and take delivery under terms or conditions which differ from the terms and conditions described by this section. In such a case, Clearing Members shall execute an Alternate Notice of Intention to Deliver on the form prescribed by the Clearing House and shall deliver a completed executed copy of such Notice to the Clearing House. The delivery of an executed Alternative Notice of Intention to Deliver to the Clearing House shall release the Clearing Members and the Clearing House from their respective obligations under the Clearing House contracts.

In executing such Notice, Clearing Members shall indemnify the Clearing House 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 thereunder. Upon receipt of an executed Alternative Notice of Intention to Deliver, the Clearing House will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

600.15 Force Majeure, Late Performance and Failure to Perform

(A) DEFINITION. As used in this Rule 600.15 the following terms, as well as variations thereof, shall have the meanings described below.

- 1) "Late Performance" means the failure of a Party to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, the Rules. No Late Performance may exceed the lesser of five continuous business days or eight consecutive calendar days.
- 2) "Failure to Perform" means the failure of a Party 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.
- 3) "Contract Value" means the amount equal to the Settlement Price in the contract times 47,000 times the number of contracts to be delivered.

- 4)
 - a) "Party" means a Buyer or Seller. For the avoidance of doubt, the Buyer and Seller are each responsible to the Clearing House for their obligations under these Rules and further responsible to the Clearing House for the obligations of their respective customers under the Rules of this section.
 - b) "Other Party" means 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.
- 5) "Day of Late Performance" means the twenty-four hour period commencing twelve hours after a Party was to have performed, provided however, with respect to the obligations of a Party to submit documents to the Clearing House pursuant to the Rules in this section, "Day of Late Performance" means the twenty-four hour period commencing immediately after the time specified in the Rules in this section for the submission of a document. 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 is performed shall be a Day of Late Performance.
- 6) "Force Majeure" means any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, or act of God) which is beyond the control of a Party, and which prevents that Party from making or taking delivery of product when and as provided for in these Rules.

(B) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

- 1) The parties to a delivery shall make commercially reasonable efforts to perform their respective obligations at all times until a Party has failed to perform.
- 2) A Party which has failed to perform its obligations may no longer perform such obligations; provided, however, that abuser which has failed to make a payment shall make such payment.

(C) DELIVERY COMMITTEE

- 1) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Delivery Committee as set forth below. The Chairman of the Delivery Committee

shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

- a) when the Chairman is advised by the President or any person designated by the President that it appears that the performance of a Party to the delivery is late;
 - b) upon the written request of both Parties;
 - c) when the President or any person designated by the President requests such appointment; or
 - d) when either Party of the delivery notifies the Clearing House that circumstances exist constituting Force Majeure.
- 2) The Chairman 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 Clearing House Counsel shall serve as advisor to the Panel.
- 3) The Panel shall meet within one business day of notification as provided in these Rules. Unless good cause for delay exists, within one business day the Panel shall determine whether Force Majeure exists, whether a Party is late in performing or has failed to perform its obligations as provided in the Rules, and advise the Compliance 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.
- 4) Absent a declaration of a Force Majeure, the Panel may, with the consent of both Parties, take any one or combination of the following actions as it deems suitable:
- a) grant an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth business day of the calendar month following the delivery month or the last day of the period provided for late performance of the contract, whichever is earlier;
 - b) change the delivery facility to a site in the Houston Area with public storage, provided that the Seller's Customer has product or will have product at such site in time for delivery; or,

- c) modify the method of taking delivery.

Nothing in this Subsection shall preclude a Party or the Clearing House from seeking the remedies set forth in Sections (D) and (E) of this Rule.

- 5) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable:
 - a) order an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth business day of the calendar month following the delivery month;
 - b) change the delivery facility to a site in the Houston Area with public storage, provided that the Seller's Customer has product or will have product at such site in time for delivery;
 - c) modify the method of taking delivery if such method is acceptable to the Buyer;
 - d) allocate deliveries; or,
 - e) refer to Board of Directors for emergency action as provided in Article 7.
- 6) The inspection company appointed by the Panel shall not be either of the two inspection companies listed in the Notice of Intention to Accept.

(D) CLEARING HOUSE ACTION

- 1) Whenever a Party is found by the Panel to be late in the performance of or to have failed to perform any of its obligations in relation to a delivery, the Clearing House, represented by its Compliance Department, shall issue a Notice of Assessment in accordance with subsections (2) and (3) of this Section, specifying the findings of the Panel with respect to the late or failed delivery.
- 2) Either one or both Parties shall be assessed a penalty to be paid to the Clearing House for each Day of Late Performance as follows:
 - first Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - second Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - third Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;

- fourth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - fifth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - sixth Day of Late Performance – 3% of Contract Value, but not less than \$1000 per contract;
 - seventh Day of Late Performance – 4% of Contract Value, but not less than \$1,500 per contract;
 - eighth Day of Late Performance – 5% of Contract Value, but not less than \$2,000 per contract;
- Such penalties shall be cumulative for each Day of Late Performance.

- 3) When a Party has failed to perform any of its obligations in relation to a delivery, the Compliance Department shall issue a Notice of Assessment assessing penalties of ten percent of the Contract Value, but not less than \$4,000 per contract, in addition to any penalties assessed pursuant to subparagraph (2) hereof, to be paid to the Clearing House.
 - a) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Hearing Registrar of the Clearing House and by serving a copy of the same on the Clearing House's Compliance Counsel, within two business days of receipt of the Notice of Assessment from the Compliance Department. The Party filing the appeal ("Appellant") shall file, within twenty (20) days after filing the Notice of Appeal, 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 Clearing House's Compliance Counsel.
 - b) The Compliance Department may file with the Appellant and the Hearing Register 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)(4)(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 Clearing House. Failure to pay such penalties in accordance with this Rule shall subject the Party to the sanctions set forth in Bylaw 106. In the event a Party fails to appeal, or waives the opportunity to appeal a Notice of Assessment the Assessment and findings of the Petroleum Delivery Committee shall constitute a final disciplinary action of the Clearing House.
- 4) Within ten (10) days after receipt of the Compliance 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 Clearing House that are to be relied on by the Compliance Department or are otherwise relevant to the matter.

- 5) In the event of an appeal by a Party, the Chairman of the Clearing House, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. The Panel shall be composed of three members of the Clearing House, at least one of whom shall be a member of the Board of Directors. 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 Chairman 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. Clearing House outside counsel shall advise the Panel.
- 6) 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 Compliance 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 Compliance 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 Compliance 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 Compliance Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.
 - e) The Compliance 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 Clearing House 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 Clearing House, and shall constitute a final disciplinary action of the Clearing House. 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 Commission.
- 7) The Assessment Appeal Panel shall consider, and make recommendations to the Board concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Board shall constitute the final disciplinary action of the Clearing House.

(E) ARBITRATION PROCEDURE

- 1) Any claim for damages arising between the Parties as a result of a delivery pursuant to this contract shall be settled by arbitration in accordance with these Rules.
- 2) Notice of Intent to Arbitrate must be submitted to the Secretary of the Clearing House within three business days of the occurrence upon which the claim is based or the decision of the 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 delivery dispute under the special or Regular Arbitration Rules.
- 3) The Arbitration will be governed by the Clearing House Arbitration Rules except that the Chairman of the Clearing House or his designee shall appoint an Arbitration Panel composed of three Members of the Clearing House, at least one of whom shall be a Member of the Board of Directors.

Supplemental Information for New Plastics Contracts

<u>New Plastics Contracts</u>	<u>Code</u>	<u>Contract Size</u>	<u>Rule Chapter</u>
Polypropylene Futures Contract	P1	47,000 Pounds	599
Polyethylene Futures Contract	P6	47,000 Pounds	600

Plastics Market

The physical plastics market is a large global market of 300 million tons of plastics production with market value of more than \$100 billion. The Exchange will be listing two physically-delivered plastics contracts based on polypropylene (PP) and high-density polyethylene (HDPE), which are the two most common plastics products that are produced in the U.S. HDPE is the key input for the production of plastic bottles, garbage bags, and packaging containers. PP is used in the production of auto parts, textiles and films.

The delivery area is focused on the Houston trading hub near the production center for plastics. The oil refining and petrochemical companies are the main producers of plastics. According to the American Chemistry Council (ACC), the plastics industry trade association, the annual U.S. production of PP is approximately 20 billion pounds, with monthly deliverable supply of 1.7 billion pounds.

Further, according to the ACC data, the annual U.S. production of HDPE is approximately 18 billion pounds, with monthly deliverable supply of 1.5 billion pounds. The production statistics can be viewed at the following link:

http://www.americanchemistry.com/s_acc/sec_policyissues.asp?CID=996&DID=6872

In addition, the ACC publishes monthly inventory and capacity reports for PP and HDPE. These monthly reports are published by the ACC through their website which is linked below:

http://www.americanchemistry.com/s_acc/sec_acc_rcol.asp?CID=997&DID=3949

The plastics market has an actively traded cash market with the main trading hub in Houston where delivery against the futures contract will occur. There are two main electronic platforms that transact cash market and forward market transactions: the ICE Chemconnect platform and the Plastics Exchange system. The typical transaction size in the cash market is 47,000 pounds, which is equivalent to the contract size. The main modes of transportation for plastics are via railcar and truck. The market participation in the plastics market is diverse and includes industrial companies in the U.S.

In addition, the OTC swaps market is growing in liquidity. The London Metal Exchange (LME) lists several plastics contracts globally, with two U.S. contracts for physical delivery. The LME has listed contracts based on PP and linear low-density polyethylene (LLDPE) since 2006, with traded volumes of more than 1.6 billion pounds of PP and 1.4 billion pounds of LLDPE in its first two years of operation.

Further, there is a growing OTC swaps market transacted by telephone brokers and by the Houston Mercantile Exchange platform.

Plastics Market Participants

The market participation in the plastics market is diverse and includes many of the large industrial companies in the U.S. The plastics cash market and OTC market participants include 30 to 40 commercial companies. A partial listing is listed below:

<u>Refiners/Producers</u>	<u>End Users</u>	<u>Traders</u>	<u>Brokers</u>
Dow Chemical	General Mills	Sempra	Houston Merc
Chevron Phillips	Berry Plastics	Goldman Sachs	Plastics Exchange
Shell	BASF Chemical	Vinmar Trading	Man Financial
ExxonMobil	Kimberly Clark	Muehlstein Trading	ICAP
BP	Procter & Gamble		Amerex
Total	Basell		Prebon
Koch Petroleum	Heritage Bag company		TFS
Lyondell	ALCOA		
Koch	Tupperware		
Total	Clorox		
Hess	Birds Eye		
Sunoco	Coca Cola Bottling companies		
Formosa Plastics	Rubbermaid		
Huntsman	Kraft		
Dow Chemical	Nestle		

Speculative Limits for Plastics Contracts

The Exchange has set the spot month limit for the HDPE contract at 2000 contracts (of 47,000 pounds size) which is equivalent to around 100 million pounds, which is less than 8% of the monthly deliverable supply of HDPE in the U.S. market. Further, the Exchange has set the spot month limit for the PP contract at 1500 contracts (of 47,000 pounds size) which is equivalent to around 70 million pounds, which is less than 5% of the monthly deliverable supply of PP in the U.S. market.