

SUBMISSION COVER SHEET

IMPORTANT: Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 23-427

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a: DCM SEF DCO SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 10/13/23 Filing Description: Amendments to Rule XXX.02 ("Floating Price") of Two (2) EIA Flat Tax Futures Contracts and Harmonization Amendments to Three (3) EIA Flat Tax Futures and Option Contracts

SPECIFY FILING TYPE

Please note only ONE choice allowed per Submission.

Organization Rules and Rule Amendments

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers:

New Product

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Product Terms and Conditions (product related Rules and Rule Amendments)

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected: See filing.

Rule Numbers: See filing.

October 13, 2023

VIA ELECTRONIC PORTAL

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

Re: CFTC Regulation 40.6(a) Certification. Amendments to Rule XXX.02 (“Floating Price”) of Two (2) EIA Flat Tax Futures Contracts and Harmonization Amendments to Three (3) EIA Flat Tax Futures and Option Contracts. NYMEX Submission No. 23-427

Dear Mr. Kirkpatrick:

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) is certifying to the Commodity Futures Trading Commission (“CFTC” or “Commission”) amendments to the three (3) EIA Flat Tax futures and option noted in the table below (“the Contracts”) effective October 30, 2023.

Contract Title	Rulebook Chapter	CME ClearPort Code	CME Globex Code
EIA Flat Tax On-Highway Diesel Futures	301	A5	AA5
EIA Flat Tax U.S. Retail Gasoline Futures	313	JE	JE
EIA Flat Tax On-Highway Diesel Average Price Option	311	DAP	DAP

Specifically, the Exchange will:

1. amend Rule XXX.02 (“Floating Price”) of the EIA Flat Tax On-Highway Diesel Futures and the EIA Flat Tax U.S. Retail Gasoline Futures contracts to use an alternative price reporting agency in the calculation of the floating price in the event the U.S. Energy Information Administration (“EIA”) is unable to publish prices. These amendments are intended to codify the Exchange’s historical practice and advise market participants of the Exchange’s course of action within the rules; and
2. implement harmonization amendments to the Contracts to reflect the Exchange’s most current format of product rulebook chapters (collectively, the “Rule Amendments”).

The Rule Amendments are administrative in nature and will not impact the economic value of the Contracts. Appendix A provides the Rule Amendments in blackline format.

The Exchange reviewed the designated contract market core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the Rule Amendments may have some bearing on the following Core Principles:

- **Availability of General Information:** NYMEX will issue a Special Executive Report (“SER”) to the Marketplace regarding the Rule Amendments. The SER will also be posted on the CME Group website.
- **Daily Publication of Trading Information:** NYMEX will continue to comply with this Core Principle by making public daily information on settlement prices, volume, open interest, and opening and closing ranges for the Contracts which will be published daily on the Exchange’s website.
- **Compliance with Rules:** The Exchange shall continue its normal practice to establish, monitor, and enforce compliance with the rules of the Contracts.
- **Execution of Transactions:** The Exchange will continue its current practice of providing a competitive, open, and efficient market mechanism for executing transactions in the Contracts

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchange hereby certifies that the Rule Amendments comply with the Act, including regulations under the Act. There were no substantive opposing views to the proposal.

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

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2200 or via e-mail at CMEGSubmissionInquiry@cmegroup.com.

Sincerely,

/s/ Christopher Bowen
Managing Director and Chief Regulatory Counsel

Attachment: Appendix A – NYMEX Rulebook Chapters (blackline format)

APPENDIX A

NYMEX Rulebook

(additions underscored; deletions struck through)

Chapter 301 EIA Flat Tax On-Highway Diesel Futures

301.01 SCOPE

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

301.02 FLOATING PRICE

~~The Floating Price for each contract month is equal to the monthly arithmetic average of the weekly price published by the U.S. Department of Energy's Energy Information Administration ("EIA") Retail On-Highway Diesel Prices under the heading "Weekly Retail On-Highway Diesel Prices - Average All Types" for the entire U.S. adjusted for the tax rates in effect as of March 1, 2009. For purposes of this contract, the counterparties agree that the following Market Disruption Event shall apply: Tax Event, provided that such Tax Event shall be defined as follows: the imposition of, change in, or removal of, an excise, severance, sales, use, value added, environmental, emissions, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, diesel (other than a tax on, or measured by reference to overall gross or net income) by or at the direction of the federal government (or any agency or organ thereof) after the Trade Date, if the direct effect of such imposition, change or removal is to raise (a "Tax Increase") or lower (a "Tax Decrease") the Floating Price from what it would have been without that imposition, change or removal. If the Tax Event has occurred and exists, the following Reset Price shall apply: the Floating Price, plus any Tax Decrease or less any Tax Increase, as applicable.~~

301.03 CONTRACT QUANTITY AND VALUE

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

301.04 CONTRACT MONTHS

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

301.05 PRICES AND FLUCTUATIONS

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

301.06 TERMINATION OF TRADING

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

301.07 FINAL SETTLEMENT

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

301.08 RESERVED

301.09 DISCLAIMER

~~NEITHER NEW YORK MERCANTILE EXCHANGE, INC. ("NYMEX") AND ITS AFFILIATES NOR EIA GUARANTEES THE ACCURACY AND/OR COMPLETENESS OF THE ASSESSMENT OR ANY OF THE DATA INCLUDED THEREIN.~~

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301100. SCOPE OF CHAPTER

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

301101. CONTRACT SPECIFICATIONS

The Floating Price for each contract month is equal to the monthly arithmetic average of the weekly price published by the U.S. Department of Energy's Energy Information Administration ("EIA") Retail On-Highway Diesel Prices under the heading "Weekly Retail On-Highway Diesel Prices - Average All Types" for the entire U.S. adjusted for the tax rates in effect as of March 1, 2009. **In the event that the EIA does not publish a constituent weekly number on its regularly-scheduled release dates, NYMEX will utilize a corresponding weekly price from an alternative price reporting service with similar methodology to the EIA.** For purposes of this contract, the counterparties agree that the following Market Disruption Event shall apply: Tax Event, provided that such Tax Event shall be defined as follows: the imposition of, change in, or removal of, an excise, severance, sales, use, value-added, environmental, emissions, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, diesel (other than a tax on, or measured by reference to overall gross or net income) by or at the direction of the federal government (or any agency or organ thereof) after the Trade Date, if the direct effect of such imposition, change or removal is to raise (a "Tax Increase") or lower (a "Tax Decrease") the Floating Price from what it would have been without that imposition, change or removal. If the Tax Event has occurred and exists, the following Reset Price shall apply: the Floating Price, plus any Tax Decrease or less any Tax Increase, as applicable.

301102. TRADING SPECIFICATIONS

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

301102.A. Trading Schedule

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

301102.B. Trading Unit

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

301102.C. Price Increments

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon.

301102.D. Position Limits, Exemptions, Position Accountability and Reportable Levels

The applicable position limits and/or accountability levels, in addition to the reportable levels, are set forth in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.

A Person seeking an exemption from position limits for bona fide commercial purposes shall apply to the Market Regulation Department on forms provided by the Exchange, and the Market Regulation Department may grant qualified exemptions in its sole discretion.

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

301102.E. Termination of Trading

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

301103. FINAL SETTLEMENT

Final settlement under the contract shall be by cash settlement. The final settlement price will be the Floating Price calculated for each contract month.

301104. DISCLAIMER

NEITHER NEW YORK MERCANTILE EXCHANGE, INC. ("NYMEX") AND ITS AFFILIATES NOR EIA GUARANTEES THE ACCURACY AND/OR COMPLETENESS OF THE ASSESSMENT OR ANY OF THE DATA INCLUDED THEREIN.

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Chapter 313

EIA Flat Tax U.S. Retail Gasoline Futures

313.01 SCOPE

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

313.02 FLOATING PRICE

The Floating Price for each contract month is equal to the monthly arithmetic average of the weekly price published by the U.S. Department of Energy's Energy Information Administration ("EIA") for U.S. Regular Gasoline Prices under the heading "Weekly U.S. Retail Gasoline Prices, Regular Grade" for the entire U.S. adjusted for the tax rates in effect as of January 1, 2010. ~~In the event that the EIA does not publish the constituent weekly numbers on their regularly scheduled release dates, the NYMEX will utilize the corresponding weekly price from an alternative price reporting service with similar methodology to the EIA. NYMEX will not utilize any back dated pricing from the EIA to compute the floating price.~~ For purposes of this contract, the counterparties agree that the following Market Disruption Event shall apply: Tax Event, provided that such Tax Event shall be defined as follows: the imposition of, change in, or removal of, an excise, severance, sales, use, value-added, environmental, emissions, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, gasoline (other than a tax on, or measured by reference to overall gross or net income)

by or at the direction of the federal government (or any agency or organ thereof) after the Trade Date, if the direct effect of such imposition, change or removal is to raise (a "Tax Increase") or lower (a "Tax Decrease") the Floating Price from what it would have been without that imposition, change or removal. If the Tax Event has occurred and exists, the following Reset Price shall apply: the Floating Price, plus any Tax Decrease or less any Tax Increase, as applicable.

313.03 CONTRACT QUANTITY AND VALUE

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

313.04 CONTRACT MONTHS

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

313.05 PRICES AND FLUCTUATIONS

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

313.06 TERMINATION OF TRADING

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

313.07 FINAL SETTLEMENT

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

313.08 EXCHANGE FOR RELATED POSITION TRANSACTIONS

Any exchange for related position (EFRP) transactions shall be governed by the provisions of Exchange Rule 538.

313.09 DISCLAIMER

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313100. SCOPE OF CHAPTER

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

313101. CONTRACT SPECIFICATIONS

The Floating Price for each contract month is equal to the monthly arithmetic average of the weekly price published by the U.S. Department of Energy's Energy Information Administration ("EIA") for U.S. Regular Gasoline Prices under the heading "Weekly U.S. Retail Gasoline Prices, Regular

Grade" for the entire U.S. adjusted for the tax rates in effect as of January 1, 2010. **In the event that the EIA does not publish a constituent weekly number on its regularly-scheduled release dates, NYMEX will utilize a corresponding weekly price from an alternative price reporting service with similar methodology to the EIA.** For purposes of this contract, the counterparties agree that the following Market Disruption Event shall apply: Tax Event, provided that such Tax Event shall be defined as follows: the imposition of, change in, or removal of, an excise, severance, sales, use, value-added, environmental, emissions, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, gasoline (other than a tax on, or measured by reference to overall gross or net income) by or at the direction of the federal government (or any agency or organ thereof) after the Trade Date, if the direct effect of such imposition, change or removal is to raise (a "Tax Increase") or lower (a "Tax Decrease") the Floating Price from what it would have been without that imposition, change or removal. If the Tax Event has occurred and exists, the following Reset Price shall apply: the Floating Price, plus any Tax Decrease or less any Tax Increase, as applicable.

313102. TRADING SPECIFICATIONS

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

313102.A. Trading Schedule

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

313102.B. Trading Unit

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

313102.C. Price Increments

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon.

313102.D. Position Limits, Exemptions, Position Accountability and Reportable Levels

The applicable position limits and/or accountability levels, in addition to the reportable levels, are set forth in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.

A Person seeking an exemption from position limits for bona fide commercial purposes shall apply to the Market Regulation Department on forms provided by the Exchange, and the Market Regulation Department may grant qualified exemptions in its sole discretion.

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

313102.E. Termination of Trading

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

313103. FINAL SETTLEMENT

Final settlement under the contract shall be by cash settlement. The final settlement price will be the Floating Price calculated for each contract month.

313104. DISCLAIMER

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INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

Chapter 311

EIA Flat Tax On-Highway Diesel Average Price Option

311.01 EXPIRATION

~~An EIA Flat Tax On-Highway Diesel Average Price Option contract shall expire on the last business day of the contract month.~~

311.02 TYPE OF OPTION

~~An EIA Flat Tax On-Highway Diesel Average Price Option contract is a financially settled European-style option. The option cannot be exercised prior to expiration.~~

311.03 TRADING UNIT

~~On expiration of a call option, the option will be financially settled by subtracting the strike price from the underlying settlement price of the EIA Flat Tax On-Highway Diesel Swap Futures contract times 42,000 gallons, or zero, whichever is greater. On expiration of a put option, the option will be financially settled by subtracting the underlying settlement price of the EIA Flat Tax On-Highway Diesel Swap Futures contract from the strike price times 42,000 gallons, or zero, whichever is greater.~~

311.04 HOURS OF TRADING

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

311.05 STRIKE PRICES

~~Transactions shall be conducted for option contracts as set forth in Rule 300.20.~~

311.06 TRADING MONTHS

~~Trading shall be conducted in the months determined by the Exchange.~~

311.07 PRICES

~~Prices shall be quoted in dollars and cents per gallon. The minimum price increment will be one-hundredth cent (\$0.0001) per gallon.~~

311.08 ABSENCE OF PRICE FLUCTUATION LIMITATIONS

~~Trading in EIA Flat Tax On-Highway Diesel Average Price Option shall not be subject to price fluctuation limitations.~~

311100. SCOPE OF CHAPTER

This chapter is limited in application to EIA Flat Tax On-Highway Diesel Average Price put and call options on the EIA Flat Tax On-Highway Diesel futures contract. In addition to the rules of this chapter, transactions in the EIA Flat Tax On-Highway Diesel Average Price Option contract shall be subject to the general rules of the Exchange insofar as applicable.

311101. OPTION CHARACTERISTICS

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

311101.A. Trading Schedule

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

311101.B. Trading Unit

On expiration of a call option, the option will be financially settled by subtracting the strike price from the underlying settlement price of the EIA Flat Tax On-Highway Diesel Futures contract multiplied by 42,000 gallons, or zero, whichever is greater. On expiration of a put option, the option will be financially settled by subtracting the underlying settlement price of the EIA Flat Tax On-Highway Diesel Swap Futures contract from the strike price multiplied by 42,000 gallons, or zero, whichever is greater.

311101.C. Price Increments

Prices shall be quoted in dollars and cents per gallon. The minimum price increment will be one-hundredth cent (\$0.0001) per gallon.

311101.D. Position Limits, Exemptions, Position Accountability and Reportable Levels

The applicable position limits and/or accountability levels, in addition to the reportable levels, are set forth in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.

A Person seeking an exemption from position limits for bona fide commercial purposes shall apply to the Market Regulation Department on forms provided by the Exchange, and the Market Regulation Department may grant qualified exemptions in its sole discretion.

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

311101.E. Termination of Trading

An EIA Flat Tax On-Highway Diesel Average Price Option contract shall expire on the last business day of the contract month.

311101.F. Type Option

The option is a financially-settled European-style Option contract which cannot be exercised prior to expiration.

311102. EXERCISE PRICES AND CHARACTERISTICS

Transactions shall be conducted for option contracts as set forth in Rule 300.20.

311103. DISCLAIMER

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