

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

**Registered Entity Identifier Code (optional):** 24-061 (3 of 3)

**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):** 03/05/24 **Filing Description:** Initial Listing of Three (3) WTI Financial Futures Contracts (Quarterly, Semi-Annual, Annual)

**SPECIFY FILING TYPE**

**Please note only ONE choice allowed per Submission.**

**Organization Rules and Rule Amendments**

- |                          |                                     |            |
|--------------------------|-------------------------------------|------------|
| <input type="checkbox"/> | Certification                       | § 40.6(a)  |
| <input type="checkbox"/> | Approval                            | § 40.5(a)  |
| <input type="checkbox"/> | Notification                        | § 40.6(d)  |
| <input type="checkbox"/> | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/> | SIDCO Emergency Rule Change         | § 40.10(h) |

**Rule Numbers:**

**New Product**

**Please note only ONE product per Submission.**

- |                                     |                                       |            |
|-------------------------------------|---------------------------------------|------------|
| <input checked="" type="checkbox"/> | Certification                         | § 40.2(a)  |
| <input type="checkbox"/>            | Certification Security Futures        | § 41.23(a) |
| <input type="checkbox"/>            | Certification Swap Class              | § 40.2(d)  |
| <input type="checkbox"/>            | Approval                              | § 40.3(a)  |
| <input type="checkbox"/>            | Approval Security Futures             | § 41.23(b) |
| <input type="checkbox"/>            | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/>            | Swap Submission                       | § 39.5     |

**Official Product Name:** See filing.

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

- |                          |   |                      |
|--------------------------|---|----------------------|
| <input type="checkbox"/> | Certification   | § 40.6(a)            |
| <input type="checkbox"/> | Certification Made Available to Trade Determination     | § 40.6(a)            |
| <input type="checkbox"/> | Certification Security Futures                          | § 41.24(a)           |
| <input type="checkbox"/> | Delisting (No Open Interest)                            | § 40.6(a)            |
| <input type="checkbox"/> | Approval  | § 40.5(a)            |
| <input type="checkbox"/> | Approval Made Available to Trade Determination          | § 40.5(a)            |
| <input type="checkbox"/> | Approval Security Futures                               | § 41.24(c)           |
| <input type="checkbox"/> | Approval Amendments to enumerated agricultural products | § 40.4(a), § 40.5(a) |
| <input type="checkbox"/> | “Non-Material Agricultural Rule Change”                 | § 40.4(b)(5)         |
| <input type="checkbox"/> | Notification  | § 40.6(d)            |

**Official Name(s) of Product(s) Affected:**

**Rule Numbers:**

March 5, 2024

**VIA ELECTRONIC PORTAL**

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

**Re: CFTC Regulation 40.2(a) Certification. Initial Listing of Three (3) WTI  
 Financial Futures Contracts (Quarterly, Semi-Annual, Annual).  
 NYMEX Submission No. 24-061 (3 of 3)**

Dear Mr. Kirkpatrick:

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) is certifying to the Commodity Futures Trading Commission (“CFTC” or “Commission”) the initial listing of the three (3) crude oil financial futures contracts (the “Contracts”) for trading on the CME Globex electronic trading platform (“CME Globex”) and for submission for clearing via CME ClearPort effective Sunday, April 14, 2024, for trade date Monday, April 15, 2024 as described in the table below.

The Contracts will complement the Exchange’s existing WTI Financial Futures contract (CME Globex Code: CSX; CME ClearPort Code: CS).

<b>Contract Title</b>	<b>WTI Quarterly Financial Futures</b>	<b>WTI Semi-Annual Financial Futures</b>	<b>WTI Annual Financial Futures</b>
<b>Commodity Code</b>	QCS	HCS	ACS
<b>Rulebook Chapter</b>	510		
<b>Settlement Type</b>	Financial		
<b>Contract Size</b>	1,000 barrels		
<b>Price Quotation</b>	US dollars and cents per barrel		
<b>Minimum Price Fluctuation</b>	\$0.01		
<b>Value per Tick</b>	\$10.00		
<b>Listing Schedule</b>	List quarterly contracts for a new calendar year following the termination of trading of the December contract of the current year.	List semi-annual contracts for a new calendar year following the termination of trading of the December contract of the current year.	List a new annual contract following the termination of trading of the December contract of the current year.
<b>Initial Listing</b>	Jun-24 to Dec-29	Jun-24 to Dec-29	Dec-24 to Dec-29
<b>Floating Price</b>	The Floating Price for each contract month is equal to the arithmetic average of the NYMEX Light Sweet Crude Oil Futures first	The Floating Price for each contract month is equal to the arithmetic average of the NYMEX Light Sweet Crude Oil Futures first nearby	The Floating Price for each contract month is equal to the arithmetic average of the NYMEX Light Sweet Crude Oil Futures first nearby

	nearby contract settlement price for each business day that it is determined during the contract month and the preceding two months.	contract settlement price for each business day that it is determined during the contract month and the preceding five months.	contract settlement price for each business day that it is determined during the contract month and the preceding eleven months.
<b>Block Trade Minimum Threshold / Reporting Window</b>	5 contracts / subject to a 15-minute reporting window		
<b>Termination of Trading</b>	Trading terminates on the last business day of the contract month.		
<b>CME Globex Match Algorithm</b>	F - FIFO		
<b>Trading and Clearing Hours</b>	<b>CME Globex Pre-open:</b> Sunday 4:00 p.m. - 5:00 p.m. Central Time/CT Monday – Thursday 4:45 p.m. - 5:00 p.m. CT <b>CME Globex Open:</b> Sunday 5:00 p.m. – Friday 4:00 p.m. CT with a daily maintenance period from 4:00 p.m. - 5:00 p.m. CT <b>CME ClearPort:</b> Sunday 5:00 p.m. - Friday 4:00 p.m. CT with no reporting Monday - Thursday from 4:00 p.m. – 5:00 p.m. CT		

The Contracts are average price futures contracts that are based on the Exchange's Light Sweet Crude Oil Futures contract (Commodity Code: CL) settlement price, which is a core referenced futures contract.

Exhibit A provides amendments to NYMEX Rulebook Chapter 510 (“WTI Financial Futures”) to accommodate the new Contracts. Exhibit B provides amendments to the Position Limits, Position Accountability and Reportable Level table in Chapter 5 of the NYMEX Rulebook. Exhibit C provides the relevant Exchange transaction fees. Exhibit D provides amendments to NYMEX Rule 588.H. – (“Globex Non-Reviewable Trading Ranges”) table. Exhibit E provides the Contracts’ cash market overview and analysis of deliverable supply.

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 Contracts may have some bearing on the following core principles:

- **Compliance with Rules:** Trading in the Contracts will be subject to the rules in Rulebook Chapter 4 which includes prohibitions against fraudulent, noncompetitive, unfair and abusive practices. Additionally, trading in the Contracts will also be subject to the full panoply of trade practice rules, the majority of which are contained in Chapter 5 and Chapter 8 of the Rulebook. As with all products listed for trading on one of CME Group’s designated contract markets, activity in the new product will be subject to extensive monitoring and surveillance by CME Group’s Market Regulation Department. The Market Regulation Department has the authority to exercise its investigatory and enforcement power where potential rule violations are identified.
- **Contract Not Readily Subject to Manipulation:** The Contracts are not readily susceptible to manipulation and are based on the liquidity and robustness of the underlying cash market.
- **Prevention of Market Disruption:** Trading in the Contracts will be subject to the Rules of NYMEX which include prohibitions on manipulation, price distortion and disruptions of the delivery or cash-settlement process. As with all products listed for trading on one of CME Group’s designated contract markets, activity in the new products will be subject to extensive monitoring and surveillance by CME Group’s Market Regulation Department.
- **Position Limitations or Accountability:** The speculative position limits for the Contracts as demonstrated in this submission are consistent with the Commission’s guidance.
- **Availability of General Information:** The Exchange will publish on its website information regarding contract specifications, terms and conditions, as well as daily trading volume, open interest and price information for the Contracts.
- **Daily Publication of Trading Information:** The Exchange will publish the trading volumes, open interest levels, and price information daily on its website and through quote vendors for the Contracts.
- **Execution of Transactions:** The Contracts will be listed for trading on the CME Globex electronic trading and for clearing through CME ClearPort. The CME Globex trading venue provides for competitive and open execution of transactions. CME Globex affords the benefits of reliability and global connectivity.
- **Trade Information:** All required trade information for the Contracts will be included in the audit trail and is sufficient for the Market Regulation Department to monitor for market abuse.
- **Financial Integrity of Contract:** The Contracts will be cleared by the CME Clearing House which is a registered derivatives clearing organization with the Commission and is subject to all Commission regulations related thereto.
- **Protection of Market Participants:** NYMEX Rulebook Chapters 4 and 5 contain multiple prohibitions precluding intermediaries from disadvantaging their customers. These rules apply to trading on all of the Exchange’s competitive trading venues and will be applicable to transactions in the Contracts.
- **Disciplinary Procedures:** Chapter 4 of the Rulebook contains provisions that allow the Exchange to discipline, suspend or expel members or market participants that violate the rules. Trading in

the Contracts will be subject to Chapter 4, and the Market Regulation Department has the authority to exercise its enforcement power in the event rule violations in these Contracts is identified.

- **Dispute Resolution:** Disputes with respect to trading in the Contracts will be subject to the arbitration provisions set forth in Chapter 6 of the Rulebook. The rules in Chapter 6 allow all nonmembers to submit a claim for financial losses resulting from transactions on the Exchange to arbitration. A member named as a respondent in a claim submitted by a nonmember is required to participate in the arbitration pursuant to the rules in Chapter 6. Additionally, the Exchange requires that members resolve all disputes concerning transactions on the Exchange via arbitration.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchange hereby certifies that the Contracts 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 (312) 466-7478 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Timothy Elliott  
Managing Director and Chief Regulatory Counsel

Attachments: Exhibit A: NYMEX Rulebook Chapter 380 (blackline format)  
Exhibit B: Position Limits, Position Accountability and Reportable Level Table in Chapter 5 of the NYMEX Rulebook (attached under separate cover)  
Exhibit C: Exchange Fees  
Exhibit D: NYMEX Rule 588.H. – (“Globex Non-Reviewable Trading Ranges”) Table  
Exhibit E: Cash Market Overview and Analysis of Deliverable Supply

## Exhibit A

### **NYMEX Rulebook**

(additions underscored; deletions ~~struck through~~)

#### **Chapter 510 WTI Financial Futures**

##### **510100. 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~~ these monthly, quarterly, semi-annual, and annual contracts, and any other matters not specifically covered herein shall be governed by the general rules of the Exchange.

##### **510101. CONTRACT SPECIFICATIONS**

The Floating Price for each contract month is equal to the arithmetic average of the NYMEX Light Sweet Crude Oil Futures first nearby contract settlement price for each business day that it is determined during the ~~contract month~~ applicable period. The applicable period shall include the calendar month of the contract and any relevant preceding calendar months:

- WTI Financial Futures: applicable period shall include the calendar month of the contract
- WTI Quarterly Financial Futures: applicable period shall include the calendar month of the contract and the preceding two calendar months
- WTI Semi-Annual Financial Futures: applicable period shall include the calendar month of the contract and the preceding five calendar months
- WTI Annual Financial Futures: applicable period shall include the calendar month of the contract and the preceding eleven calendar months

##### **510102. TRADING SPECIFICATIONS**

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

###### **510101.A. Trading Schedule**

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

###### **510101.B. Trading Unit**

The Each contract's contract quantity shall be 1,000 U.S. barrels. Each contract shall be valued as the contract quantity (1,000) multiplied by the settlement price.

###### **510101.C. Price Increments**

Prices shall be quoted in dollars and cents per barrel and prices shall be in multiples of \$0.01 per barrel. The minimum price increment will be \$0.01.

###### **510101.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.

###### **510102.E. Termination of Trading**

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

##### **510103. FINAL SETTLEMENT**

Final settlement under the ~~contract~~ contracts 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 over the applicable period.

**Exhibit B**  
**NYMEX Rulebook**  
**Chapter 5**  
**(“Trading Qualifications and Practices”)**  
**Position Limits, Position Accountability and Reportable Level Table**  
(attached under separate cover)

**Exhibit C**  
**Exchange Fees**

	WTI Quarterly Financial Futures (QCS)		WTI Semi-Annual Financial Futures (HCS)		WTI Annual Financial Futures (ACS)	
	Member	Non-Member	Member	Non-Member	Member	Non-Member
CME Globex	\$2.55	\$4.05	\$5.10	\$8.10	\$10.20	\$16.20
EFP	\$2.55	\$4.05	\$5.10	\$8.10	\$10.20	\$16.20
Block	\$2.55	\$4.05	\$5.10	\$8.10	\$10.20	\$16.20
EFR/EOO	\$2.55	\$4.05	\$5.10	\$8.10	\$10.20	\$16.20
<b>Processing Fees (QCS, HCS, ACS)</b>						
			<b>Member</b>	<b>Non-Member</b>		
Cash Settlement			\$0.50	\$0.50		
Facilitation Fee			\$0.60			
Give-Up Surcharge			\$0.05			
Position Adjustment/Position Transfer			\$0.10			

**Exhibit D**  
**NYMEX Rulebook**  
**Chapter 5**  
**(“Trading Qualifications and Practices”)**

**Rule 588.H. (“Globex Non-Reviewable Trading Ranges”) Table**

(additions underscored)

Instrument	Globex Symbol	Outrights			Spreads	
		Globex Non-Reviewable Ranges (NRR)	NRR: Globex Format	NRR:Minimum Ticks	NRR: Globex Format	NRR: Minimum Ticks
<u>WTI Quarterly Financial Futures</u>	<u>QCS</u>	<u>\$0.50 per barrel</u>	<u>50</u>	<u>50</u>	<u>N/A</u>	
<u>WTI Semi-Annual Financial Futures</u>	<u>HCS</u>	<u>\$0.50 per barrel</u>	<u>50</u>	<u>50</u>	<u>N/A</u>	
<u>WTI Annual Financial Futures</u>	<u>ACS</u>	<u>\$0.50 per barrel</u>	<u>50</u>	<u>50</u>	<u>N/A</u>	

**Exhibit E**

**Cash Market Overview and Analysis of Deliverable Supply**

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) shall list three (3) new crude oil futures contracts for trading on the CME Globex electronic trading platform and for submission for clearing via CME ClearPort.

The Exchange conducted a review of the underlying cash markets and deliverable supply in the WTI Cushing, Oklahoma area.

**WTI at Cushing, Oklahoma**

In estimating deliverable supply for the underlying Light Sweet Crude Oil Futures, the Exchange relied on long-standing precedent, which provides that the key component in estimating deliverable supply is the portion of typical production and supply stocks that could reasonably be considered to be readily available for delivery. In its guidance on estimating deliverable supply, the Commodity Futures Trading Commission (“CFTC” or “Commission”) states:

In general, the term “deliverable supply” means the quantity of the commodity meeting a derivative contract’s delivery specifications that can reasonably be expected to be readily available to short traders and saleable by long traders at its market value in normal cash marketing channels at the derivative contract’s delivery points during the specified delivery period, barring abnormal movement in interstate commerce. Typically, deliverable supply reflects the quantity of the commodity that potentially could be made available for sale on a spot



basis at current prices at the contract's delivery points. For a non-financial physical-delivery commodity contract, this estimate might represent product which is in storage at the delivery point(s) specified in the futures contract or can be moved economically into or through such points consistent with the delivery procedures set forth in the contract and which is available for sale on a spot basis within the marketing channels that normally are tributary to the delivery point(s).

## **I. Methodology and Data Sources**

The Exchange considered three components in evaluating deliverable supply estimates of the Domestic Light Sweet Common Stream Crude Oil for the Cushing, Oklahoma delivery location of the Light Sweet Crude Oil Futures contract:

- (1) Crude Oil Production;
- (2) Crude Oil Flows to the delivery area; and
- (3) Crude Oil Storage in the delivery area.

While crude oil production information is, in part, available from other sources, particularly at the state level from energy or tax revenue authorities, the Exchange determined to use production information collected by the U.S. Department of Energy ("DOE") Energy Information Administration ("EIA"). Specifically, the Exchange has chosen to rely on the EIA production data because it constitutes a single source, employing common standards, across all states. The EIA data are highly regarded but they do not provide sufficient breakdown on the quality characteristics of the oil production to determine the subset of total production that would qualify as Domestic Light Sweet under the terms of the futures contract.

### **A. Crude Oil Flows to the Cushing Delivery Area**

To determine the flows of Domestic Light Sweet crude oil into the delivery area, NYMEX consulted with industry executives and professionals from pipeline and storage terminal operators in Cushing as well as other major industry participants. It is noteworthy that the estimates provided here are materially less than the production that can readily access the delivery mechanism and which *could* be delivered due to the fact that the sources we used were specifically knowledgeable about *actual* Cushing deliveries. Thus, the information provided is not what *could be* delivered — the standard which is in accordance with Commission's policy and precedent — but what *actually is* delivered. The Exchange believes that the Cushing delivery mechanism for light sweet crude oil and corresponding commercial secondary market constitutes such a sophisticated and highly-developed commercial market mechanism that, at any time, the actual flows to and stocks in the delivery area represent precisely the deliverable supply sufficient to support the mechanism. In other words, even though at any time there is additional production that *could* be delivered to the delivery mechanism, we are only including what *actually* flows in our estimate of deliverable supply.

### **B. Crude Oil Storage in the Cushing Delivery Area**

Storage data are provided on a weekly basis by EIA. Details are provided for the U.S. Petroleum Administration for Defense Districts ("PADDs") and Cushing. There are five PADDs and, in some cases, they correspond to broad regions. PADD 2 broadly includes the Midwest; PADD 3 broadly includes U.S. Gulf Coast states and New Mexico; PADD 4 contains the Rocky Mountain States excluding New Mexico. Cushing is the only single location where crude oil official inventory numbers are collected and publicly disseminated on a regular basis anywhere in the world. The actual geographic market that is consistently most applicable to the NYMEX crude oil futures contract would, therefore, include much of PADD 2, not just Cushing.

Nonetheless, NYMEX includes only inventories reported at Cushing, so these underestimate relevant storage. As with production, EIA does not provide details on the quality characteristics of stored crude oil, but the industry experts with whom NYMEX consulted consistently estimated that 60% to 70% of the crude oil stored at Cushing

qualified as Domestic Light Sweet Common Stream (to be conservative, the Exchange will discount 40% of inventory in its calculation of deliverable supply estimates).

## **II. The Cushing Physical Delivery Mechanism: Scope of Deliverable Crude Oil**

The Cushing physical delivery mechanism is comprised of a network of nearly two dozen pipelines and 12 storage terminals, with extensive inter-connectivity. Three of the storage facilities — Enterprise, Enbridge, and Plains — and their pipeline manifolds are the core of the Cushing physical delivery mechanism.<sup>1</sup> Physical volumes delivered against the Light Sweet Crude Oil Futures contract within the Enterprise, Enbridge, and Plains systems are at par value. Any deliveries made on futures contracts elsewhere in Cushing require the seller to compensate the buyer for the lower of the transportation netbacks from these facilities to where the delivery occurs. Detailed information about the inflowing and outflowing pipelines is contained below in Table 2.

Terminating obligations in the Light Sweet Crude Oil Futures contract are fulfilled by delivering WTI type light sweet crude oil designated as “Domestic Common Stream” by Enterprise Products LLC. Market participants commonly refer to the light sweet deliverable streams as “WTI.” In addition, the Domestic Common Stream includes a fungible blend of light sweet streams produced in the U.S. shale oil areas, including the Bakken, Niobrara, and Permian producing areas. Furthermore, each of these light sweet crude oil streams is fungibly blended and included as part of the “Domestic Common Stream” within the complex that comprises the Cushing delivery mechanism, as well as in the WTI physical market which calls for delivery in the Cushing delivery mechanism.

## **III. Physical Market Trading Structure and Term Contracts**

### **A. Physical Market Trading Structure**

Typically, there is a chronology of sales and purchases of crude oil in the onshore U.S. market that starts with a sale from producer and finishes with a purchase by an end-user to consume the crude oil. First-sales are from producers to aggregators or other middleman-type firms with delivery at the property where it is produced. The first-sale buyer transports oil downstream from the point of sale. Usually the first-sale buyer resells the oil to someone other than the end-user but sometimes sells directly to the end-user.

Final sales are sales to end-users who when they consume the oil remove it from the supply chain. End-users, however, also resell oil. Such end-user re-sales sometimes occur during the same commercial cycle in which they purchased it; other times, they occur during a later commercial cycle after the oil has been stored for a period of time. Like end-users, other buyers of oil also can either resell it immediately or store it first for some period of time and then resell it later. Thus, it is a common commercial practice that the first-sale and multiple subsequent re-sales occur in the same delivery cycle.

As discussed above, the Cushing delivery market is essentially a major reseller market where buyers either: resell the oil to someone else; store the oil and resell it later; store the oil and then consume it later; or transport it to consume it. The Cushing market is essentially downstream of first-sales. Most of the sales in the Cushing market are for resale and not for either storage or final-sale; in fact, the physical market in “WTI,” in which the standard form of delivery is within the pipeline system at Cushing, is estimated to be 10-20 times the multiple of “WTI” oil that flows to Cushing. As such, it is clear that most sales are for resale because they constitute the selling, over-and-over (thus, *re-selling*), of the base physical oil that flows to Cushing. *Argus Media* documents about 5-8 times the flow in “WTI” sales but does not capture all of the sales.<sup>2</sup>

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<sup>1</sup> Three of the major sources for the cash-market information provided herein are Plains All America, Enterprise and Enbridge. Enterprise oversees the vast majority of deliveries in the Cushing Delivery Market and, as indicated, Enterprise and Enbridge are the core delivery mechanism operators, with Plains added as a delivery option in February 2022. Plains and Enbridge account for about 60% of the storage available at Cushing.

<sup>2</sup> The commercial market for physical delivery of light sweet crude oil in Cushing is a *secondary* (or *spot*) market mechanism. The number of physical deliveries in this market each month is 240 million barrels or higher (240,000 futures contracts equivalent or higher).

## B. Term Contracts

The Exchange has spoken with and interviewed a number of market participants regarding common commercial practices with respect to the use of term contracts in the U.S. onshore crude oil market.<sup>3</sup> The responses we received were consistent and they can be summarized as follows:

- Almost all first-sales of production are sold term; as discussed in the previous section, typically for delivery on the property where it is produced (or nearest gathering pipeline or holding tank), and typically to middleman-firms or aggregators. These middleman-firms typically resell the crude oil to other middleman-firms (or participants performing that function) or to end-users. Typically, the first-sales contracts are “evergreen” contracts that can be discontinued by either party with notice. NYMEX is including evergreen contracts in the “term contracts” category.
- There are no restrictions applied to the resale of crude oil bought first-sale on a term basis from producers. In fact, that would clearly not be applicable because sales are typically to aggregators or others acting in a middleman-firm role with the expressed responsibility of reselling the oil.
- The Cushing market is downstream of first-sales; in other words, Cushing is downstream of any term sales from producers. Thus, even if barrels were sold term by the producer, in the Cushing market those barrels are re-sold and re-delivered by either the purchaser from the producer or a subsequent purchaser from that original purchaser. The Cushing market mechanism, which consists of trading and physical delivery of light sweet crude oil, is a commercial secondary (or *spot*) market which is extremely liquid, comprised of broad participation and results in a substantial quantity of physical delivery of crude oil.
- Some end-user refiners in the Cushing market purchase specific light sweet crude oil streams, such as Bakken or Niobrara Light Sweet crude oil, on a term basis, and these refiners tend to segregate a portion of the specific light sweet crude streams for processing at their refineries. Based on conversations with refiners in the Cushing market, the Exchange estimates that approximately 10% of the deliverable supply for Cushing is segregated and designated for use by end-user refiners, and therefore is not available for re-sale in the Cushing market. Consequently, the Exchange will reduce its estimate of deliverable supply in Cushing by 10% to account for the specific light sweet streams that are designated for processing and segregated by the end-user refiners.
- Our sources expressly advised us that any production sold long-term was available for potential re-sale, such as during periods of refinery maintenance, and this is especially the case in the Cushing market.

## C. Crude Oil Production

The production area that supplies crude oil to Cushing via pipeline and rail is comprised of the following eight (8) states: North Dakota, Montana, Wyoming, Colorado, New Mexico, Onshore Texas, Oklahoma, and Kansas.

In the three-year period of August 2020 through July 2023, the average production of crude oil available in the eight states was approximately 8.75 million barrels per day. Based on discussions with industry participants, our estimate of the portion of that average production which would qualify as Domestic Light Sweet Common Stream is 50% or higher— i.e., approximately 4.4 million barrels per day. The 4.4 million barrels per day of crude oil production is equivalent to approximately 131.3 million barrels per month, or 131,300 futures contracts equivalents (contract size: 1,000 barrels).

Table 1 below provides annual production data available for production in the eight states that supply the Cushing crude oil market for the period referenced above. The data show that production has been rising. As indicated above, the Exchange has determined to not utilize production data in its deliverable supply estimate, but the data demonstrates that production levels are more than sufficient to support the actual flows of deliverable product to the delivery location.

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<sup>3</sup> These include: Plains All America, a major Midcontinent aggregator and marketer and operator of pipeline and storage terminals including in Cushing; and an Energy Market Participant Group of several dozen market participants organized through Hunton & Williams LLP to discuss and comment on Regulatory issues.

#### **D. Crude Oil Flows to the Cushing Delivery Area**

As of October 2023, there is approximately 4.1 million b/d of inflow pipeline capacity to Cushing and 3.2 million barrels per day of outflow capacity.

The Exchange collects inbound Cushing crude oil flows periodically but not on an on-going or scheduled basis as such information is proprietary and non-public. Based on information provided by industry sources in Table 2 below, as of December 2020, actual flows of crude oil to Cushing have ranged from 2.3 million to 2.6 million barrels per day, with Domestic Light Sweet Common Stream Crude Oil averaging between 1.3 to 1.5 million barrels per day.<sup>4</sup> On a 30-day monthly basis, actual flows of Domestic Light Sweet Common Stream Crude Oil ranged from 39 to 46.5 million barrels per month, or 39,000 to 46,500 Light Sweet Crude Oil futures contract equivalents.

As of July 2018, actual flows of crude oil in-bound to Cushing have ranged from 2.2 million to 2.5 million barrels per day as shown in Table 3 below, with Domestic Light Sweet Common Stream Crude Oil averaging between 1.270 to 1.450 million barrels per day.<sup>5</sup> On a 30-day monthly basis, actual flows of Domestic Light Sweet Common Stream Crude Oil ranged from 38.0 to 43.5 million barrels per month, or 38,000 to 43,500 Light Sweet Crude Oil futures contract equivalents.

As of March 2015, estimated in-bound flows of Domestic Light Sweet Common Stream Crude Oil into Cushing averaged between 920,000 and 1,000,000 barrels per day as illustrated in Table 4 below. On a 30-day monthly basis, actual flows of Domestic Light Sweet Common Stream Crude Oil were 27.6 million to 30.0 million barrels per month or 27,600 to 30,000 Light Sweet Crude Oil futures contract equivalents.

Given that the Exchange only collects pipeline flow data on a periodic basis, the Exchange is unable to provide a three-year average of Domestic Light Sweet Common Stream Crude Oil flows into Cushing. As such, the Exchange determined to average the 2015, 2018 and 2020 estimated flows data collected. The average of the ranges for 2015, 2018 and 2020 for Domestic Light Sweet Common Stream Crude Oil flows into Cushing are 35,000 to 40,000 contract equivalents. The midpoint of the average of the ranges is approximately 37,500 contract equivalents.

#### **E. Crude Oil Storage in the Cushing Delivery Area**

As of March 2023, EIA reported that shell storage capacity at Cushing was 98.695 million barrels and working storage capacity was 77.99 million barrels.<sup>6</sup> Currently, there is substantial excess working capacity at Cushing (approximately 56 million barrels). Finally, it should be noted that, at least on a temporary basis, storage can exceed working capacity and it is common for an individual tank to reach 85-90% of shell capacity (which exceeds the 84.9% average underlying the EIA estimates).

Table 5 below provides monthly averages of weekly Cushing stocks for the inventory period beginning October 2, 2020 through September 29, 2023 (“the inventory period”) as published by the EIA. For the three-year average over the inventory period, stocks averaged 35.592 million barrels and on a weekly basis ranged from about 22 million to 60 million barrels. NYMEX asked operators of storage in Cushing if they would share specific data on quantities of Domestic Light Sweet Common Stream Crude Oil stored at their facilities and they responded that such data were confidential. As discussed above, the Exchange estimated that approximately 60% of the total oil stored at Cushing qualified as Domestic Light Sweet Common Stream Crude Oil. Based on the foregoing, for the inventory period, the monthly average Domestic Light Sweet Common Stream Crude Oil stored at Cushing was approximately 21.355 million barrels or 21,355 futures contract equivalents.

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<sup>4</sup> The sources were various pipeline operators and other industry sources.

<sup>5</sup> The sources were: Plains All America, an aggregator and marketer of crude oil production and pipeline and storage terminal operator at Cushing; and other industry sources.

<sup>6</sup> <https://www.eia.gov/petroleum/storagecapacity/storagecapacity.xlsx> - Table 2. Shell capacity is defined by EIA as the design capacity of a petroleum storage tank which is always greater than or equal to working storage capacity.

The Exchange has further evaluated both operational practices at storage facilities as well as commercial practices by customers of storage facilities to determine if some components of inventoried product could rightfully be considered *not* to be readily deliverable.

With respect to operational practices, based on discussions with some industry experts, the Exchange conservatively estimates that 6.75% of stored product, on average, is required for operational minimums.<sup>7</sup> This converts into discounting an estimated 1.44 million barrels of Domestic Light Sweet crude oil based on the three-year average storage level (or 1,440 contract equivalents). In applying a discount of 6.75% to account for operational minimums, average monthly Domestic Light Sweet Common Stream Crude Oil for the inventory period is further reduced to approximately 19,914 contract equivalents.

With respect to commercial practices, the Exchange specifically sought whether storage customers were expressly allotting any stored barrels at Cushing for refining that were, therefore, unavailable for secondary market delivery. We consistently heard from market participants that was not the case; that barrels stored at Cushing are not specifically targeted for scheduled refining. Rather, refiners typically store barrels targeted for scheduled refining in tanks on the premises at their respective refineries or at other storage facilities. However, we did hear from one refiner that they keep barrels stored at Cushing for the contingency that there could be some unexpected interruption in their refinery supply; and, rather than refine the barrels stored at Cushing, they use them to trade for other barrels they would refine. Thus, the Exchange determined to further reduce the average monthly Domestic Light Sweet Common Stream crude oil stored at Cushing to account for this *contingency storage* in our estimate of deliverable supply. We estimate this quantity to be 2 million barrels (or 2,000 contract equivalents) of Domestic Light Sweet crude oil. Therefore, for the inventory period, the Exchange estimates stored product at Cushing (adjusted for quality specifications, operational minimums and contingency storage) and which is readily available for delivery against the Light Sweet Crude Oil Futures contract to be approximately 17,914 contract equivalents.

### **Analysis of WTI Cushing Deliverable Supply**

Based on the above analysis, the Exchange determined at this time to base its estimates of deliverable supply on the sum of:

- Storage: 17,914 contract equivalents (which represents the average monthly inventory for the October 2, 2020 – September 29, 2023 period adjusted to account for quality specifications, operational minimums and contingency storage); and
- Inflow: 37,500 contract equivalents (which represents the midpoint of the average of the ranges of the 2015, 2018 and 2020 Domestic Light Sweet Common Stream Crude Oil flows into Cushing).

The total estimated deliverable supply, consisting of storage and pipeline inflows, 55,414 contract equivalents. Additionally, and as noted in the above analysis, the Exchange shall apply a 10% reduction to the sum of inventory storage and inflows into Cushing in order to discount segregated barrels that may be designated for processing by end-user refiners and typically not available for re-sale in the Cushing market. Therefore, after applying the 10% reduction, the Exchange has determined the estimated deliverable supply available for delivery against the Light Sweet Crude Oil Futures contract at approximately 49,872 futures contract equivalents per month.

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<sup>7</sup> We have been advised that, for older tanks, the operational minimum is 9% and, for newer tanks, it is 4.5%. Our assessment is that the majority of tanks at Cushing would qualify as newer. Nonetheless, to be conservative, we have applied the mid-point percentage—6.75%—for all of Cushing.

## Analysis of Spot-Month Position Limits

The Contracts are average price futures contracts that are based on the Exchange's Light Sweet Crude Oil Futures contract (Commodity Code: CL) settlement price, which is a core referenced futures contract. For the purposes of calculating compliance with position limits, the new Contracts will aggregate into themselves.

Based on the prior analysis for deliverable supply for WTI Cushing, the current spot month position limit for Light Sweet Crude Oil Futures contract of 6,000 contracts represents 12.0% of the total estimated monthly deliverable supply.

**Table 1**  
**U.S. Crude Oil Production<sup>8</sup>**  
**For Eight States that Supply Cushing, Oklahoma**  
**(in Thousands of Barrels per Day)**

Annual Averages based on Monthly EIA Data		Crude Oil Production
<i>From</i>	<i>To</i>	<i>Thousand Barrels/Day</i>
Aug-20	Jul-21	8079
Aug-21	Jul-22	8710
Aug-22	Jul-23	9469
<b>Three-Year Average</b>		8753

**Table 2**  
**Crude Oil Flows to Cushing (as of December 2020)**  
**(Barrels/Day)<sup>9</sup>**

Incoming Pipelines	Capacity	Owner	Estimated Flows (in Barrels/Day)
Keystone XL (from Steele City, NE)	760,000	Transcanada	400,000 – 450,000 BD (100% Heavy Sour)
Basin Pipeline (Permian)	550,000	Plains All American	250,000 – 325,000 (90% WTI, 10% Sour)
Centurion North Pipeline (Permian)	170,000	Occidental	40,000 – 50,000 (100% WTI)
Spearhead Pipeline (Canada)	195,000	Enbridge	180,000 – 195,000 (100% Heavy Sour)
Flanagan South (Canada/Bakken)	600,000	Enbridge	450,000 – 500,000 (10% WTI, 90% Heavy Sour)
White Cliffs Pipeline (Niobrara)	90,000	Rose Rock	85,000 – 90,000 (100% WTI)
Cashion, OK Pipeline	250,000	Plains All American	120,000 – 130,000 (100% WTI)
Mississippian Lime Pipeline	150,000	Plains All American	70,000 – 80,000 (100% WTI)
Pony Express Pipeline (Niobrara)	400,000	Tallgrass	350,000 – 375,000 (100% WTI)
Saddlehorn/Grand Mesa	450,000	Magellan/Plains	225,000 – 300,000 (100% WTI)
Glass Mountain	210,000	Navigator	50,000 – 60,000 (100% WTI)
Hawthorn (Stroud to Cushing)	90,000	Hawthorn	25,000 – 30,000 (100% WTI)
SCOOP Pipeline	70,000	Magellan	45,000 – 50,000 (100% WTI)
Great Salt Plains	35,000	Parnon	25,000 – 30,000 (100% WTI)
Eagle North	25,000	Blueknight	4,000 – 7,000 (100% WTI)
Red River	35,000	Plains All American	1,000 – 5,000 (100% WTI)

**TOTAL In-Bound Capacity                      4.1 Million Capacity                      WTI Flow: 1,310,000 – 1,550,000 B/D**

Outgoing Pipelines	Capacity (B/D)	Owner
Seaway Pipeline	950,000	Enterprise
Keystone MarketLink	750,000	Transcanada
BP#1 (to Chicago)	180,000	BP
Ozark (to Wood River, IL)	360,000	Enbridge
Osage (to Eldorado, KS)	165,000	Magellan/NCRA

<sup>8</sup> As of 10/17/23: The production listed here includes North Dakota, Montana, Wyoming, Colorado, New Mexico, Onshore Texas, Oklahoma, and Kansas. The web link is: [http://www.eia.gov/dnav/pet/pet\\_crd\\_crpdn\\_adc\\_mbbldpd\\_a.htm](http://www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbbldpd_a.htm)

<sup>9</sup> Sources: pipeline operators and other industry sources.

Coffeyville CVR pipeline	110,000	CVR Energy
Phillips (to Ponca City, OK)	122,000	ConocoPhillips
Phillips (to Borger, TX)	59,000	NuStar
Plains Red River (to Longview)	235,000	Plains All American
Diamond Pipeline (to Memphis)	200,000	Plains All American
Sunoco (twin lines to Tulsa)	70,000	Sunoco
Magellan Tulsa	30,000	Magellan

**TOTAL Out-bound Capacity 3.2 Million B/D**

**Table 3  
Crude Oil Flows to Cushing (as of July 2018)  
(Barrels/Day)<sup>10</sup>**

<b>Incoming Pipelines</b>	<b>Capacity</b>	<b>Owner</b>	<b>Estimated Flows (in Barrels/Day)</b>
Keystone XL (from Steele City, NE)	590,000	Transcanada	350,000 - 400,000 BD (100% Heavy Sour)
Basin Pipeline (Permian)	450,000	Plains	350,000 - 400,000 (80% WTI, 20% Sour)
Centurion North Pipeline (Permian)	170,000	Occidental	120,000 - 140,000 (100% WTI)
Spearhead Pipeline (Canada)	195,000	Enbridge	150,000 - 175,000 (100% Heavy Sour)
Flanagan South (Canada/Bakken)	600,000	Enbridge	400,000 - 450,000 (10% WTI, 90% Heavy Sour)
White Cliffs Pipeline (Niobrara)	215,000	Rose Rock	100,000 - 120,000 (100% WTI)
Plains Cashion, OK Pipeline	250,000	Plains	120,000 - 145,000 (100% WTI)
Mississippian Lime Pipeline	150,000	Plains	95,000 - 100,000 (100% WTI)
Pony Express Pipeline (Niobrara)	325,000	Tallgrass	300,000 - 325,000 (100% WTI)
Saddlehorn-Grand Mesa	340,000	Magellan/Plains	140,000 - 150,000 (100% WTI)
Glass Mountain	210,000	Sem Group	30,000 - 40,000 (100% WTI)
Hawthorn (Stroud to Cushing)	90,000	Hawthorn	10,000 - 20,000 (100% WTI)
Great Salt Plains	35,000	Parnon	30,000 - 35,000 (100% WTI)
Eagle North	20,000	Blueknight	5,000 - 10,000 (100% WTI)

**TOTAL In-Bound Capacity 3.6 Million Capacity**

**WTI Flow: 1,270,000 - 1,450,000 B/D**

<b>Outgoing Pipelines</b>	<b>Capacity (B/D)</b>	<b>Owner</b>
Seaway Pipeline	850,000	Enterprise
Keystone MarketLink	700,000	Transcanada
BP#1 (to Chicago)	180,000	BP
Ozark (to Wood River, IL)	345,000	Enbridge
Osage (to Eldorado, KS)	165,000	Magellan/NCRA
Coffeyville CVR pipeline	110,000	CVR Energy
Phillips (to Ponca City, OK)	122,000	ConocoPhillips
Phillips (to Borger, TX)	59,000	NuStar
Plains Red River Pipeline (to Longview)	125,000	Plains All American
Plains Red River Pipeline	25,000	Plains All American
Sunoco (twin lines to Tulsa)	70,000	Sunoco
Plains Cherokee	20,000	Plains All American
Magellan Tulsa	30,000	Magellan
Diamond Pipeline (to Memphis)	200,000	Plains

**TOTAL Out-bound Capacity 3.0 Million B/D**

<sup>10</sup> Sources: Plains All American Pipeline Company, and other industry sources.

**Table 4**  
**Crude Oil Flows to Cushing (as of March 2015)**  
**(Barrels/Day)<sup>11</sup>**

<b>Incoming Pipelines</b>	<b>Capacity</b>	<b>Owner</b>	<b>Estimated Flows (in Barrels/Day)</b>
Keystone XL (from Steele City, NE)	575,000	Transcanada	200,000 - 250,000 BD (Heavy sour)
Basin Pipeline (Permian)	450,000	Plains	250,000 (80% WTI)
Centurion North Pipeline (Permian)	120,000	Occidental	95,000 - 100,000 (100% WTI)
Spearhead Pipeline (Canada)	210,000	Enbridge	150,000 - 175,000 (Canadian sour)
Flanagan South (Canada/Bakken)	585,000	Enbridge	400,000 - 450,000 (10% WTI, 90% Sour)
White Cliffs Pipeline (Niobrara)	150,000	Rose Rock	100,000 - 120,000 (100% WTI)
Plains Cashion, OK Pipeline	100,000	Plains	80,000 (100% WTI)
Mississippi Lime Pipeline	175,000	Plains	110,000 (100% WTI)
Pony Express Pipeline (Niobrara)	320,000	Tallgrass	180,000 – 200,000 (100% WTI)
Hawthorn (Stroud to Cushing)	90,000	Hawthorn	20,000 – 25,000 (100% WTI)
Great Salt Plains	30,000	JP Energy	15,000 – 20,000 (100% WTI)
Northern Cimarron	30,000	Rose Rock	15,000 – 20,000 (100% WTI)
Midcontinent Pipeline	30,000	Sunoco Logistics	25,000 – 30,000 (100% WTI)
Glass Mountain Pipeline	140,000	Rose Rock	40,000 – 50,000 (100% WTI)
<b>TOTAL In-Bound Capacity</b>	<b>3.0 Million Capacity</b>		<b>WTI Flow: 920,000 – 1,000,000 B/D</b>

<sup>11</sup> Sources: Plains All American Pipeline Company, JSK consulting, and other industry sources.



**Table 5**  
**Cushing Storage<sup>12</sup>**  
**Monthly Average of Weekly EIA Stocks Data**  
**(in Thousand Barrels)**

<b>Month</b>	<b>Stock</b>
Sep-23	23,866
Aug-23	32,069
Jul-23	37,452
Jun-23	42,167
May-23	36,391
Apr-23	33,317
Mar-23	36,811
Feb-23	39,973
Jan-23	33,228
Dec-22	24,765
Nov-22	25,476
Oct-22	26,735
Sep-22	25,212
Aug-22	25,415
Jul-22	22,754
Jun-22	22,340
May-22	25,973
Apr-22	26,931
Mar-22	23,926
Feb-22	25,035
Jan-22	32,648
Dec-21	33,767
Nov-21	27,227
Oct-21	30,810
Sep-21	34,887
Aug-21	34,084
Jul-21	36,952
Jun-21	42,810
May-21	45,491
Apr-21	46,148
Mar-21	47,594
Feb-21	47,298
Jan-21	53,570
Dec-20	58,353
Nov-20	60,373
Oct-20	59,464
<b>3-yr Average</b>	<b>35,592</b>

<sup>12</sup> [http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=W\\_EPC0\\_SAX\\_YCUOK\\_MBBL&f=W](http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=W_EPC0_SAX_YCUOK_MBBL&f=W) as of 4/21/2023