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OFFICE OF THE SECRETARIAT

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December 8, 2009

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

**RE: CBOT Ethanol Futures Rules: 16101., 16103., 16109.A. and 16110.  
CBOT Submission No. 09-304**

Dear Mr. Stawick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), the Board of Trade of the City of Chicago, Inc. ("CBOT" or "Exchange") certifies changes to the Rules setting forth the terms and conditions of the CBOT Ethanol futures contract designed to keep the futures market consistent with cash market practices.

The changes include:

- The CBOT Ethanol futures contract specifications indicate that the deliverable grade of ethanol should meet current ASTM standard D4806 specifications, but also includes a table detailing the D4806 standard. Since the ASTM D4806 standard is updated regularly, the specifications spelled out in Rule 16101 are often out-of-date. The table with ASTM D4806 standards has been removed and the Rule simply references the latest version of ASTM D4806.
- ASTM standard D4806 allows maximum Denaturant content of 4.76 percent. However, the tax status of fuel ethanol containing more than 2 percent denaturant has changed. Based on industry feedback, most ethanol consumers require that denaturant content not exceed 2.49 percent. A requirement that Denaturant not exceed a maximum of 2.49 percent has been added to the Rules so ethanol deliveries remain consistent with cash market practices.
- Current contract specifications require a Certificate of Analysis for all ethanol deliveries that includes ethanol, water content, denaturant content, acidity, pH, appearance, and sulfur. Today, more ethanol trade follows RFA Guidelines for Quality Assurance and Quality Control. Those guidelines require a Certificate of Analysis to also include methanol, chloride, copper, sulfate, and unwashed gum. These additional requirements with respect to the Certificate of Analysis have been added to remain consistent with cash market practices.
- When the ethanol contract was first launched, the exchange was concerned with attracting enough deliverable supply to ensure a successful contract. To that end, the specifications gave a seller 17 days to complete load-out of a cancelled shipping certificate. However, for buyers, it is important to receive physical ethanol within the

same month in which a shipping certificate is delivered. With a 17-day load-out period, the buyer often does not receive the physical ethanol in the month of delivery. Now that it is clear that there is more than sufficient regular capacity, the load-out period will be reduced from 17 days to 10 days.

- The Renewable Fuels Standard (RFS) requires Renewable Identification Numbers (RINs) be transferred with all ethanol transfers. RINs are used for compliance with the RFS during the year they are issued and the following year. However, RINs issued in a previous year often lose value compared to RINs issued in a current year. Cash market practices allow RINs to be delivered in the current year and in January and February of the following year. Current Ethanol rules are inconsistent with cash market practices and allow previous year RINs to be delivered through the end of June. The rule change will make the Ethanol rules consistent with cash market practices. Since no 2010 RINs have yet been created, it is not possible to measure the difference in value between 2009 and 2010 RINs. Prices for OTC swaps for Chicago ethanol delivery in the second quarter of 2010 as reported by the Oil Price Information Service are consistent with April, May, and June 2010 CBOT Ethanol futures prices. Thus, there is currently no evidence that a price difference between 2009 RINs and 2010 RINs has been discovered in the CBOT Ethanol futures contract relative to the forward OTC market and implementing this rule change prior to June 2010 should not materially affect prices.

Because previous- and current-year RIN price differences are not apparently imbedded in 2<sup>nd</sup> quarter 2010 CBOT Ethanol futures prices, implementation for all the above rule changes is scheduled for April 1, 2010.

Market participants largely support these changes and no substantive opposing views were expressed.

CBOT certifies that these amendments comply with the Commodity Exchange Act and the rules thereunder.

The amendments are attached with additions **bold and underscored** and deletions ~~bracketed with strikethrough~~.

If you require any additional information, please contact David Lehman at 312-930-1875 or via e-mail at [David.Lehman@cmegroup.com](mailto:David.Lehman@cmegroup.com); Fred Seamon at 312-634-1587 or via e-mail at [Fred.Seamon@cmegroup.com](mailto:Fred.Seamon@cmegroup.com); or contact me at 312-648-5422. Please reference our CBOT Submission No. 09-304 in any related correspondence.

Sincerely,

/s/ Stephen M. Szarmack  
Director and Associate General Counsel

**16101. CONTRACT SPECIFICATIONS**

The contract grade for delivery on futures contracts shall be Renewable Denatured Fuel Ethanol specified in the latest version of The American Society for Testing and Materials (A.S.T.M.) standard D4806 for "Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel", with the exception of Denaturant, which shall not exceed 2.49 percent, and be in conformance with all applicable Federal, State, and local laws and regulations. In addition, delivery grade ethanol shall meet the California specification for lower sulfur content and California limits on other compounds. ~~The standard specifications are:~~

<u>Property</u>	<u>Specification</u>	<u>A.S.T.M. Test Method</u>
Ethanol volume %, min	92.1	D 5501
Methanol, volume %, max	0.5	
Solvent washed gum, mg/100 ml, max	5.0	D384
Water content, volume %, max	1.0	E203
Denaturant content, volume %, min	1.96	
Denaturant content, volume %, max	4.76	
Inorganic Chloride content, mass ppm (mg/L), max	40	D542
Copper content, mg/kg, max	0.1	D1688
Acidity (as acetic acid CH <sub>2</sub> COOH), mass percent (mg/L), max	0.007	D1613
pHe	6.5—9.0	D6423
Appearance	Visibly free of suspended or precipitated contaminants (clear & bright)	
Sulfur, ppm, max	10	D5453
Benzene, vol %, max	0.06	D5580
Olefins, vol %, max	0.5	D6550
Aromatics, vol %, max	1.7	D5580

Ethanol not meeting A.S.T.M. standard D4806 or any further amended version of such standard or California limits on Sulfur, Benzene, Olefins, and Aromatics shall not be deliverable.

**16103. SAMPLING**

The seller shall provide to the buyer a Certificate of Analysis based on a sample taken from the tank from which ethanol is loaded-out in fulfillment of CBOT Denatured Fuel Ethanol shipping certificates. The tank

sample must be drawn in accordance with official methods for sampling denatured fuel ethanol. The Certificate of Analysis shall specify 1) Ethanol, volume %, 2) Water content, volume %, 3) Denaturant content, volume %, 4) Acidity, mass percent (mg/L), 5) pH, 6) Appearance, and 7) ~~[Sulfur, ppm]~~ **Sulfate, ppm (wt/wt)**. **In addition, the Certificate of Analysis shall specify testing results, completed within one month of completed load-out, for 8) Methanol, volume %, 9) Sulfur, ppm, and 10) Chloride, (mg/L), and specify testing results completed within three months of completed load-out for 11) Copper (mg/L), and 12) Existent Unwashed Gum (mg/100mL). A Certificate of Analysis is not required for in-tank transfers at Kinder Morgan Argo.**

The buyer may choose to perform additional quality testing on any or all of the specifications listed in Rule 16101, at destination. For the buyer performing destination quality testing, a representative sample shall be obtained at destination by a licensed petroleum inspector mutually agreed upon by the buyer and seller. Such destination sample must be obtained within 24 hours of arrival and prior to unloading. "Constructive placement" shall be considered arrival at destination. The destination sample shall be evaluated by the licensed petroleum inspector. The result of his analysis of the destination sample shall be binding on both parties for final settlement. The expense of such sampling and analysis shall be borne by the buyer.

#### 16109.A. Regularity Requirements

In addition to the conditions set forth in Rule 703. A., Conditions for Approval, the following shall constitute requirements and conditions for regularity:

- (a) The operator of a storage facility or shipping plant (hereafter both referred to as shippers) issuing Denatured Fuel Ethanol Shipping Certificates shall limit the number of Shipping Certificates issued to an amount not in excess of 15 times its registered total daily rate of loading plus the amount of denatured fuel ethanol in store. All such ethanol in store must be stored in facilities for which the capacity has been registered with the Board of Trade and which have been inspected by the Registrar. A shipper shall register its total daily rate of loading railcars at not less than 40% nor more than 100% of its maximum 24-hour ethanol production capacity. A shipper located in the Chicago District shall register its total daily rate of loading trucks. Each shipper must be regular for a minimum total daily rate of loading of 58,000 gallons per day.
- (b) Each regular shipper shall be required to complete load-out of ethanol against cancelled Shipping Certificates within ~~[seventeen]~~ **ten** calendar days following the date of cancellation. The date of completed load-out shall be the bill of lading date.
- (c) The shipper shall assess a premium charge not in excess of \$0.0007 per gallon per day for each day a Denatured Fuel Ethanol Shipping Certificate is outstanding starting the day after the date of registration by the Registrar. When rail loading orders specify shipment within ~~[seventeen]~~ **ten** calendar days, the premium charge shall continue through the business day following the receipt of loading orders. Otherwise, the premium charge shall continue through the day of rail loading. "Business days" are those on which the Exchange is open for trading Denatured Fuel Ethanol futures.
- (d) The shipper shall maintain, in the immediate vicinity of the Exchange, either an office, or a duly authorized representative or agent approved by the Exchange, where owners of Shipping Certificates may file loading orders and shipping instructions.
- (e) Rail Loading Procedures
  1. The buyer requesting rail load-out will furnish written rail loading orders and shipping instructions to the shipper by the close of business on the first business day following the date of cancellation of the Shipping Certificates. The shipper is responsible for providing railcars, loading ethanol in the railcars, and transporting the ethanol to the buyer's destination. The shipper shall privately negotiate with the

buyer for freight charges. Privately negotiated freight charges must be agreed upon by both buyer and shipper within two business days following the receipt of shipping instructions by the shipper.

2. Should private negotiations fail between buyer and shipper regarding freight charges, the shipper shall consider the destination of the ethanol to be in-tank at the buyer's Chicago, IL District terminal. The Chicago, IL District shall be defined as on or inside the arc created by the Elgin, Joliet and Eastern Railway Company line from Pine Junction, IN, to Griffith, IN, to Park Forest, IL, to Joliet, IL, to Normantown, IL, to West Chicago, IL, to Leithton, IL, to Waukegan, IL to the line terminus. The shipper shall supply ethanol to the buyer's Chicago, IL District terminal via rail, barge, truck, or book transfer provided the buyer's terminal supports these conveyances. The buyer's terminal must accept rail and truck load-in of ethanol. Book transfers must be completed within ~~seventeen~~ **ten** calendar days following the date of cancellation of Shipping Certificates. For non-book transfers, the shipper is responsible for all transportation charges up to 48 hours after constructive placement of the conveyance. The buyer is responsible for any demurrage charges 48 hours after constructive placement.
3. Loadings will be in bulk, and shipments will be subject to the existing freight tariff Rules and Regulations of the railroads on file with the Interstate Commerce Commission at the time of loading. The shipper is responsible for loading suitable owned or leased railcars.
4. All loading orders and shipping instructions received prior to 2:00 p.m. on a given business day shall be considered dated that day and shall be entitled to equal treatment. Orders received after 2:00 p.m. on a business day shall be considered dated the following business day.
5. When rail loading orders and shipping instructions are received by 2:00 p.m. of any given business day, the shipper will advise the owner by 10:00 a.m. the following business day of loading dates and tonnage due. Notification will be by telephone or email.
6. The shipper shall load cars at the shipping plant or storage facility designated in the Shipping Certificate. If it becomes impossible to load at the designated shipping plant or storage facility because of an Act of God, fire, flood, wind, explosion, war, embargo, civil commotion, sabotage, law, act of government, labor difficulties or unavoidable mechanical breakdown or other force majeure, the shipper will arrange for railcars to be loaded at another regular shipping plant or storage facility in conformance with the Shipping Certificate and will compensate the owner for any transportation loss resulting from the change in the location of the shipping plant or storage facility. If the aforementioned condition of impossibility prevails at a majority of regular shippers, then shipment may be delayed for the number of days that such impossibility prevails at a majority of regular shipping plants or storage facilities.
  7. Rail loading orders involving one or more Shipping Certificates shall be considered as one lot. The minimum amount shipped against each loading order shall be the number of Shipping Certificates specified therein times 29,000 gallons. A tolerance of 1,000 gallons over or under the total may be shipped to be settled at the market price at the time of shipment of the last car of the order.
  8. Rail cars must be loaded to "full visible capacity".
- (f) Such shipping plant or storage facility shall be connected by railroad tracks with one or more railway lines. Regular facilities in the Chicago District are not required to provide rail load-out, however they must load out trucks at the facility's registered daily rate of loading.

#### **16110. DELIVERY OF GALLON-RINs UPON PHYSICAL LOAD-OUT OF ETHANOL**

- (a) Upon completion of load-out each regular shipper will be required to transfer ethanol gallon-RINs of a total quantity that is not less than the total amount of gallons of ethanol that have been loaded out (adjusted for over-and/or under-fills). The gallon-RINs are to be transferred to the buyer requesting load out.
- (b) The gallon-RINs transferred as per 16110.(a) for load-outs completed during January or February

may be dated either the current year or the previous year. [shall be valid for at least six (6) months from the date of transfer.] However, load-outs completed in March through December must be accompanied with RINs dated in the current year. For example, load-outs completed during January and February 2010 could be accompanied with either 2009 or 2010 RINs while load-outs completed during March 2010 and December 2010 must be accompanied with 2010 RINs.

- (c) The transfer of gallon-RINs shall take place within 48 hours after the load-out procedure has been completed. The date of completed load-out shall be the bill of lading date. In the case of book transfers the RINs transfer shall take place within 48 hours after the title to the ethanol has passed from the shipper to the buyer.
- (d) Any buyer requesting load-out of ethanol must hold a valid EPA registration number allowing gallon-RIN's to be transferred from the shipper to the buyer requesting load-out. The buyer requesting load-out of ethanol shall include the applicable EPA registration numbers in the written loading orders and shipping instructions as per 16109.A.(e)(1).
- (e) Transfer of gallon-RINs from the regular shipper to the buyer requesting load-out shall be done in accordance with the guidelines of the Environmental Protection Agency (EPA) for such RIN transfer. The Exchange does not prescribe a format that the shipper needs to adhere to in regard to the transfer of gallon-RINs.