

Chapter 220

Natural Gas Futures Contract

220.01. SCOPE

The provisions of these rules shall apply to all natural gas bought and sold for future delivery on the Exchange with delivery at the Henry Hub.

220.02. DEFINITIONS

For the purpose of this Chapter, the terms set forth below shall mean:

(A) Natural Gas: means any mixture of hydrocarbons or of hydrocarbons and noncombustible gases, in a gaseous state, consisting essentially of methane.

(B) The term Btu: (British thermal unit) means the amount of heat required to raise the temperature of one (1) pound of avoirdupois pure water from fifty-eight and five tenth degrees (58.5) Fahrenheit to fifty-nine and five tenths degrees (59.5) Fahrenheit at a constant pressure of 14.73 pounds per square inch absolute. MMBtu shall mean one million (1,000,000) Btu.

(C) Henry Hub: refers to piping and related facilities owned and/or leased by Sabine Pipe Line Company at Texaco Inc.'s Henry Gas processing Plant near Erath, Louisiana.

(D) All times referred to in these rules shall be New York time.

220.03. NATURAL GAS ADVISORY COMMITTEE

The Board of Directors shall appoint a Natural Gas Advisory Committee whose duty it shall be to advise the Board with respect to the futures contracts traded under these rules.

220.04. REFERENCE TO SELLER AND BUYER

(A) Except with respect to Rules 220.17 and 220.17A, the term "seller" and "buyer" shall mean the short clearing Member and the long Clearing Member respectively.

(B) In Rules 220.17 and 220.17A, the terms "seller" and "buyer" shall mean the seller and buyer of the physical product.

220.05. CONTRACT UNIT

The contract unit shall be 10,000 MMBtu. A delivery tolerance of two percent (2%) above or below the contract unit is permitted.

220.06. GRADE AND QUALITY SPECIFICATION

Natural Gas meeting the specifications set forth in the FERC-approved tariff of Sabine Pipe Line Company as then in effect at the time of delivery shall be deliverable in satisfaction of futures contract delivery obligations.

220.07. DELIVERY MONTHS

Trading shall be conducted in contracts providing for delivery in such months as shall be determined by the Board of Directors. Trading of a delivery month shall commence on the day fixed by resolution of the Board of Directors..

220.08. PRICES AND MINIMUM FLUCTUATION SIZE

(A) Prices shall be quoted in dollars and cents per million British thermal units (MMBtu). The

minimum price fluctuation shall be \$.001 per MMBtu.

220.08A Special Price Fluctuation Limits for Natural Gas Futures

(A) Initial Price Fluctuation Limits for All Contract Months. At the commencement of each trading day, there shall be price fluctuation limits in effect for each contract month of this futures contract of \$3.00 per MMBtu above or below the previous day's settlement price for such contract month.

(B)

(1) Triggering Event and Temporary Trading Halt Related to Trading on Globex®.

If a market for any of the first nine (9) contract months is bid or offered at the upper or lower price fluctuation limit, as applicable, on Globex it will be considered a Triggering Event which will halt trading for a five (5) minute period in all contract months of the NG futures contract, as well as all contract months in all products cited in the Associated Product Appendix of this rule. Trading in any option related to this contract or in an option contract related to any products cited in the Associated Product Appendix which may be available for trading on either Globex or on the Trading Floor shall additionally be subject to a coordinated trading halt.

(2) Expansion of Limits Following Temporary Trading Halt.

Following the end of the 5-minute Temporary Trading Halt, the affected markets shall re-open simultaneously in all contract months of these futures contracts. When trading resumes, price fluctuation limits for each contract month shall be expanded an additional increment of the price fluctuation limits, above and below the previous day's settlement price for each contract month in the affected contracts on Globex and on the trading floor (as applicable).

(3) Each instance in which a Triggering Event occurs, a Temporary Trading Halt will commence as provided by Sub-Sections (1)-(2) above and the price fluctuation limits for all contract months shall be expanded by an additional increment of the price fluctuation limits for NG as well as all products cited in the Associated Products Appendix in this rule.

(4) End of Day Lifting of Price Fluctuation Limits.

On any Exchange business day, regardless of any prior action concerning price fluctuation limits during the trading session, commencing sixty (60) minutes before the close of the Regular Trading Hours (RTH) session, there shall be no price fluctuation limits on any contract month in NG and all products cited in the Associated Products Appendix of this rule. The Price Fluctuation Limits shall be reinstated after the close of RTH for trading on Globex and shall be in effect through to the conclusion of the current trading day's Globex trading session.

(C) Price Fluctuation Limits on the Trading Floor (Floor Trading)

(1) The price fluctuation limits cited in section (A) of this rule shall be applicable on the Trading Floor (Floor Trading). However, all markets on the trading floor shall be limited to trading at these price levels (locked limit) and shall not constitute a Triggering Event for purposes of a Temporary Trading Halt on Globex.

(2) In all instances when a Triggering Event in NG occurs on Globex, Floor Trading in NG and any products cited in the Associated Products Appendix of this rule shall immediately halt. Additionally, trading in any option related to this contract or in an option contract related to any products cited in the Associated Product Appendix shall be subject to a coordinated trading halt.

(3) Whenever Globex markets are expanded and re-opened pursuant to the provisions of Section (B) of this rule, effected markets on the Trading Floor shall re-open with the expanded limits in place.

(D) Associated Products Appendix

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220.09. TERMINATION OF TRADING

Trading of any delivery month shall cease three (3) business days prior to the first day of the delivery month. In the event that the official Exchange holiday schedule changes subsequent to the listing of a Natural Gas futures, the originally listed expiration date shall remain in effect. In the event that the originally listed expiration day is declared a holiday, expiration will move to the business day immediately prior.

220.10. DELIVERY

(A) Delivery shall be F.O.B. the Buyer's interconnection point at the Henry Hub. Delivery shall be made in accordance with all applicable Federal executive orders and all applicable Federal, State and Local laws and regulations. Delivery shall have occurred when product passes through the buyer's interconnection point, at such time the buyer shall bear the risk of loss.

The seller shall provide natural gas which is free from all liens, encumbrances, unpaid taxes, fees and other charges.

(B) All deliveries made in accordance with these rules shall be final and there shall be no appeal.

220.11. DELIVERY PROCEDURE

(A) NOTICES OF INTENTION TO DELIVER AND NOTICES OF INTENTION TO ACCEPT

By 11:30 a.m. on the first business day after the final day of trading:

(1) Each member holding an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver. The Notice of Intention to Deliver shall be in the form prescribed by the Exchange and shall include: the name of the seller's customer, the pipeline(s) through which the seller will transport the product to the Henry Hub, the number of contracts, and such additional information as may be required by the Exchange.

Each member holding 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, and such additional information as may be required by the Exchange.

(B) NOTICE DAY

The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching size of positions, and the designated delivery and receiving pipelines to the extent possible. The Clearing House shall pass copies of the notices to the respective Clearing Members by 2:00 p.m. on the first business day after the final day of trading. The day the notices are passed to the Clearing Members shall be referred to as the Notice Day. Thereafter, a buyer or seller may amend the names of its pipeline(s) by providing a Notice of Revision and Clearance to the counterparty, in the form prescribed by the Exchange, with a copy to the Exchange.

(C) NOTICE OF CLEARANCE; NOTICE OF NON-CLEARANCE

(1) NOTICE OF CLEARANCE

Not later than 10:30 a.m. on the last business day prior to the Delivery month, the Seller shall give the Buyer a properly completed and signed Notice of Clearance in the form prescribed by the Exchange, with a copy to the Exchange, stating that the product and transportation are in place to enable the delivery to occur in accordance with the provisions of the Notice of Intention to Deliver and Notice of Intention to Accept.

(2) NOTICE OF NON-CLEARANCE/REVISED NOTICES OF INTENTION TO DELIVERY AND NOTICES OF INTENTION TO ACCEPT

(i) In the event that the Seller is unable to make delivery in accordance with the Notice of Intention to Deliver and Notice of Intention to Accept because of a good faith inability to receive clearance

from the Henry Hub facility, the Seller shall, not later than 10:30 a.m. on the last business day prior to the Delivery Month, give to the Buyer a Notice of Non-Clearance in the form prescribed by the Exchange, with a copy to the Exchange, and state the reasons for such inability. The Seller, may at its option, in the Notice of Non-Clearance suggest an alternate or preferred delivery site.

(ii) If the reason for the Non-Clearance is the Seller's inability to transport the product through the Henry Hub facilities, the Seller shall require its customer, at the time the Notice of Non-Clearance is given, to post additional original margin equal to 25% of the total contract value of all contracts listed in such Notices. Such additional margin shall be posted by the Seller with the Exchange on the next business day. In addition, the Seller shall, not later than 4:00 p.m. on the last business day prior to the delivery month, file with the Exchange with a copy to the Buyer, a Revised Notice of Intention to Deliver setting forth a revised designation of the pipeline(s) through which Seller will transport the product to Buyer's pipeline interconnection(s), and give the Buyer, with a copy to the Exchange, a Notice of Clearance or a Second Notice of Non-Clearance stating the reasons for the second Non-Clearance.

(iii) If the reason for the non-clearance is the Buyer's inability to secure transportation from the Henry Hub facilities, the Buyer shall, no later than 4:00 p.m. on the last business day prior to the delivery month, file with the Exchange with a copy to the Seller, a Revised Notice of Intention to Accept Delivery, setting forth a revised designation of the pipeline interconnection(s) at the Henry Hub from which the Buyer will accept the product and a certification that delivery shall occur pursuant to the terms of the Notice of Intention to Deliver and Revised Notice of Intention to Accept Delivery or a Second Notice of Non-Clearance stating the reasons for the second Non-Clearance.

(D) SETTLEMENT PRICE

The last settlement price shall be the basis for delivery.

220.12. TIMING OF DELIVERY

(1) Delivery shall take place no earlier than the first calendar day of the delivery month and shall be completed no later than the last calendar day of the delivery month.

(2) All deliveries shall be at as uniform an hourly and daily rate of flow over the course of the delivery month as is possible under the operating procedures and conditions of the transporting pipelines. Deliveries shall be subject to the transporting pipelines' variation in daily flow rate and balancing of receipts and deliveries of the transporting pipelines.

(3) The seller shall give the buyer, on request, within one business day, copies of Henry Hub transportation confirmations and invoices issued by Sabine Pipe Line Co. which are related to a standard delivery involving both parties.

(4) The seller shall give the buyer all appropriate documents to transfer title of product upon receipt of payment.

220.13. MEASUREMENT

(1) The gas delivered hereunder shall be measured at the buyer's point of interconnection at the Henry Hub in accordance with transporting pipeline practices.

220.14. DELIVERY MARGINS AND PAYMENTS

(A) For the purposes of this Rule 220.14,

(1) "Payment Date" shall mean the twentieth day of the month following the delivery month or if such date is a Saturday or an Exchange or New York bank holiday other than Monday, payment shall be made on the preceding day which is not an Exchange or New York bank holiday. If such day is a Sunday or an Exchange or New York bank holiday which occurs on a Monday, payment shall be made on the next day which is not an Exchange or New York bank holiday;

(2) "Long" shall mean the customer of a long clearing member or the long clearing member if such

clearing member is acting for its own account;

(3) "Short" shall mean the customer of a short clearing member or the short clearing member if such member is acting for its own account.

(B) On the third business day following the last day of trading, the long clearing member shall obtain from the Long margin equal to the full value of the product to be delivered. Such margin shall consist of cash, securities issued by the United States Treasury Department maturing within ten (10) years from the date of deposit and guaranteed as to principal and interest by the United States Government or a letter of credit. Any Treasury securities so deposited shall be valued at ninety percent (90%) of the par value of such instruments. Any letter of credit so deposited shall be in a form approved by the Exchange, shall be issued or confirmed by an Exchange approved original margin depository, and, shall be drawn in favor of the Exchange.

(C) The short clearing member shall obtain from the Short margin in the amount fixed, from time to time, by the Board.

(D) The long clearing member and the short clearing member shall deposit with the Clearing House margins in such amounts and in such form as required by the Exchange. Such margins, which shall not be greater than the margins charged to the Longs and the Shorts respectively, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.

(E) Not later than 12:00 o'clock noon on the third business day prior to the payment date, the Short shall advise, by telex, the short clearing member of the name and address of the bank, and the name of the account to which payment shall be made. The short clearing member shall advise the long clearing member who shall advise the Long. On the payment date, the Long shall pay the Short by federal funds wire transfer to the account of the short at the bank nominated by the Short. Not later than 12:00 noon the Long shall advise, by telex, the long clearing member of the federal funds wire transfer number and the name of the sending bank. The long clearing member shall advise, by telex, the short clearing member who shall similarly advise the Short.

(F) Not later than the business day following the payment date, the Short, shall advise the short clearing member of receipt of payment. The short clearing member shall deliver a notice of payment to the long clearing member with a copy to the Clearing House not later than the business day following the payment date. Upon receipt of such notice by the long clearing member, the delivery shall be complete.

(G) Any payment made on payment date shall be based on Btu's actually delivered. If a determination of Btu's actually delivered is unavailable prior to the time established in the Rules for payment, a pro-forma payment based on 10,000 MMBtu per contract shall be made. Payment adjustments based on the amount of Btu's actually delivered shall be completed by 12:00 noon on the tenth business day after initial payment.

(H) In the event that the short clearing member receives notification that payment has not been received, it shall advise the Exchange and the long clearing member in writing. On the following business day, unless the Long or long clearing member has advised the Exchange in writing that the Short failed to deliver, the Exchange shall liquidate the margins held and, when the liquidation is complete, shall pay the short clearing member which shall pay the Short. If the Long or the long clearing member has advised the Exchange in writing that the Short failed to deliver, the matter shall be referred to the Petroleum Delivery Committee for resolution.

220.15. VALIDITY OF DOCUMENTS

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

220.16 INSPECTION

Inspection of product shall be conducted in accordance with the practices of the transporting pipelines.

220.17. EXCHANGE OF FUTURES FOR OR IN CONNECTION WITH PRODUCT

(A) An exchange of futures for or in connection with the product (EFP) consists of two discrete, but related, transactions; a cash transaction and a futures transaction. At the time such transaction is effected, the buyer and seller of the futures must be the seller and buyer of the quantity of the physical product covered by this Section (or any derivative, by-product or related product.) The quantity of physical product must be approximately equivalent to the quantity covered by the futures contracts.

(B) Except as provided below, an EFP must take place during the hours of futures trading for the Natural Gas futures contract. An EFP is permitted in the expiring futures contract until two hours after trading terminates on the last day of trading of the expiring futures contract. An EFP which establishes a futures position for both the buyer and the seller shall not be permitted during the two hour period following the termination of trading of expired futures contract.

(C) Any Exchange of Futures for, or in Connection with Product (EFP) shall be governed by the provisions of Rule 538.

(D) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFP transaction. All documentary evidence relating to the exchange, including, without limitation, evidence as to change of ownership of the cash commodity or a commitment therefore shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange upon request.

(E) A report of such EFP transaction shall be given, and notice thereof shall be posted on the floor of the Exchange, on the day that the transaction thereto was made or if such agreement was made after the close of trading, then on the next business day. EFP transactions shall be cleared through the exchange in accordance with normal procedures, shall be clearly identified as EFP transactions, and shall be recorded as such by the Exchange and by the Clearing Members involved.

220.17A Exchange of Futures for, or in Connection with, Swap Transactions

(A) An exchange of futures for, or in connection with, a swap (EFS) consists of two discrete, but related, transactions; a swap transaction and a futures transaction. At the time such transaction is effected, the buyer and seller of the futures must be the seller and buyer of a quantity of the swap. The swap component shall involve the commodity underlying the futures contract (or any derivative, by-product or related product). The swap component of an EFS transaction must comply with the applicable CFTC swap regulatory requirements.

(B) Except as provided below, an EFS must take place during the hours of futures trading for the Natural Gas futures contract. An EFS is permitted in the expiring futures contract until two hours after trading terminates on the last day of trading of the expiring futures contract. An EFS which establishes a futures position for both the buyer and the seller shall not be permitted during the two hour period following the termination of trading of expired futures contract.

(C) Any Exchange of Futures for, or in Connection with, Swap (EFS) shall be governed by the provisions of Rule 538.A.

(D) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFS transaction. All documentary evidence relating to the EFS, including a master swap agreement and any supplements thereto, shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange upon request. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such persons.

220.17B Alternative Delivery Procedure

A seller or buyer may agree with the buyer or seller with which it has been matched by the Exchange under Rule 220.11(B) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Chapter. In such a case, Clearing Members shall execute an Alternative Notice of Intention to Deliver on the form prescribed by the Exchange and shall deliver a completed executed copy of such Notice to the Exchange. The delivery of an executed Alternative Notice of Intention to Deliver to the Exchange shall release the Clearing Members and the Exchange from their respective obligations under the Exchange contracts.

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

220.18. FORCE MAJEURE, LATE PERFORMANCE AND FAILURE TO PERFORM

(A) DEFINITIONS. As used in this Rule 220.18 the following terms, as well as variations thereof, shall have the meanings described below.

(1) "Force Majeure" shall mean any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, or act of God) which is beyond the control of the buyer or seller, and which prevents the buyer or seller from making or taking delivery of product or effecting payment when and as provided for in this Chapter. Whether circumstances exist constituting force majeure shall be determined by a panel of the Petroleum Delivery committee as provided for in these rules, provided, however, that absent other circumstances constituting force majeure, the non-clearance of any nomination for transportation service pursuant to an interruptible transportation service agreement, or the bump or interruption of service pursuant to an interruptible service agreement shall not constitute force majeure.

(2) "Late Performance" shall mean the failure of a long, as defined in Rule 220.14(A), to make payment on the payment date as defined in Rule 220.14.

(3) "Failure to Perform" shall mean the failure of the seller to make or the buyer to receive delivery of product in accordance with the requirements set forth in these Rules.

(4) "Contract Value" means the amount equal to the settlement price on the last day of trading in a futures contract times ten thousand (10,000) times the number of contracts to be delivered.

(5) "Party" means a buyer or seller;

(6) "Other party" means the corresponding buyer when a seller has failed to perform and the corresponding seller when a buyer has failed to perform.

(B) Responsibilities of Parties to the Delivery

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

(2) Upon the occurrence of events which prevent or threaten to prevent delivery from a seller to a buyer pursuant to the terms of this Chapter, the seller and the buyer, immediately shall inform the Exchange Compliance Department's Director of Market Surveillance of such events.

(3) A party which has failed to perform its obligations may no longer perform such obligations;

(4) When a long, as defined in Rule 220.14, is late in performance, the buyer shall be liable to the seller for any damages awarded pursuant to Section (E) of this Rule and to the Exchange for any assessments made pursuant to Section (D) of this Rule.

(5) When a buyer or a seller has failed to perform, the buyer or the seller, respectively, through which the delivery is effected shall be liable to the other party for any damages awarded pursuant to Section (E) of this Rule and to the Exchange for any assessments made pursuant to Section (D) of this Rule.

(C) Delivery Committee

(1) Force Majeure and Failure to Perform shall be determined by a Panel of the Delivery Committee as set forth below.

(2) 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 a party to the delivery has failed or may fail to perform;

(b) upon the written request of both the buyer and seller;

(c) when the President or any person designated by the President requests such appointment;

(d) if either party to the delivery notifies the Exchange that circumstances constituting force majeure prevent the performance of delivery obligations at the time and site designated by the parties; or

(e) upon receipt by the Exchange of a Second Notice of Non-Clearance.

(3) The Chairman shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Each Panel Member shall disclose to the Chairman any such interest which might preclude such Panel Member from rendering a fair and impartial determination. 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. Exchange Counsel shall serve as Advisor to the Panel.

(4) The Panel shall meet within one business day, or as soon thereafter as is reasonably practicable, of its notification of the circumstances set forth in Section (2). Unless good cause for delay exists, within five business days the Panel shall determine whether force majeure exists or whether a buyer or a seller 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.

(5) Upon a finding of a failed performance, the Panel shall:

(a) in the case of a failure to perform by a seller: (i) notify the President of its determination, who shall instruct the Exchange's Clearing House to retain all delivery margins deposited by the seller for the delivery until any amounts determined to be due to the Exchange or the buyer pursuant to sections (D) or (E) of this rule have been paid; and (ii) apprise the buyer of the remedies provided pursuant to Section (E) of this Rule.

(b) in the case of a failure to perform by a buyer: (i) notify the President of its determination, who shall instruct the Exchange's Clearing House to issue a delivery margin call to the buyer in an amount equal to the original margin then in effect for a Natural Gas futures contract carried at the Clearing House on the last day of trading in such contract times the number of contracts to be delivered and to retain such delivery margin until any amounts determined to be due to the Exchange or the seller pursuant to Sections (D) and (E) of this Rule have been paid; and (ii) apprise the seller of the remedies provided pursuant to Section (E) of this Rule.

(6) Upon a finding of force majeure, the Panel may take any one or combination of the following actions as it deems suitable.

- (a) grant an extension of time for delivery up to two months from the scheduled time;
- (b) change the Buyer's or Seller's pipelines, provided that the Seller has deliverable product at the new site or will have deliverable product at such site in time for delivery, and provided further, that the Buyer and Seller can arrange to secure transportation for such delivery;
- (c) allocate deliveries,
- (d) modify the method or timing of payment; or
- (e) refer the matter to the Board of Directors for consideration of emergency action pursuant to Article 7.

(D) EXCHANGE ACTION

- (1) Whenever a buyer or a seller is found by the Panel to have failed to perform a delivery, the Exchange, represented by the Compliance Department, shall issue a Notice of Assessment specifying the findings of the Panel with respect to the failed delivery and assessing a penalty of twenty percent of the contract value against such party to be paid to the Exchange.
- (2) Whenever a long is late in performance, the Compliance Department shall issue a Notice of Assessment assessing a penalty to the buyer of \$1,000.
- (3) (a) A party may appeal a Notice of Assessment by filing a Notice of Appeal with the Hearing Registrar of the Exchange and by serving a copy of the same on the Exchange's Compliance Counsel, within two business days of receipt of 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 Exchange's Compliance Counsel.
 - (b) The Compliance Department may file with the Appellant and the Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.
 - (c) Failure by the party to file a Notice of Appeal or a Memorandum of Appeal within the time specified in subsection (D)(3)(a) of this Rule shall constitute a waiver, and the penalties shall be paid within five (5) days to the Exchange. 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 Exchange.
- (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 Exchange 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 Exchange, 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 Exchange, 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. Exchange 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 Exchange and whose actions impede the progress of a hearing.
- (h) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce or waive the charges assessed against the Appellant and shall state the reasons therefor.
- (i) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange, and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective date of the decision or as specified. The effective date 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 Exchange.

(E) ARBITRATION PROCEDURE

- (1) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this contract shall be settled by arbitration in accordance with these Rules.
- (2) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three business days of the occurrence upon which the claim is based or the decision of the Petroleum Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a party's rights to arbitrate such a delivery dispute under the Special or Regular Arbitration Rules.
- (3) The Arbitration will be governed by Chapter 5 of the Rules except that the Chairman of the Exchange or his designee shall appoint an Arbitration Panel composed of three Members of the Exchange, at least one of whom shall be a Member of the Board of Directors.

220.19-20. RESERVED

220.21. TIME REFERENCES

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