

January 14, 2004

Via Fax and US Mail

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

Re: Rule Certification. NYMEX Submission 04.03 - Notification of Amendments to NYMEX Division Rules 6.21 (C) and (G), 6.21A (C) and (E), 150.14(C), 190.14(C), 200.20(C), 220.17(C), 230.17(C) and 260.19(C)

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("CFTC") of amendments to NYMEX Division Rule 6.21 (C) and (G), Exchange of Futures for, or in Connection with, Product, and Rule 6.21A (C) and (E), Exchange of Futures for, or in Connection with, Swap Transactions. In addition, notification of amendments is also provided for the following applicable NYMEX contracts that allow EFP and/or EFS transactions: 150.14(C), 190.14(C), 200.20(C), 220.17(C), 230.17(C) and 260.19(C).

The amendments will become effective on Thursday, January 22, 2004. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy M. Minett
Vice President
Compliance Department

cc: Thomas LaSala
Brian Regan

Amendments to Rules 6.21 and 6.21 A
(**Bold** indicates additions; ~~Strikethrough~~ indicates deletions)

6.21 Exchange of Futures for, or in Connection with, Product

(A) An exchange of futures for, or in connection with, 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 the buyer of a 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) Eligible Contracts and Transactions.

(1) EFP transactions may be effected in all futures contracts offered for trading on the Exchange. Additionally, EFP transactions may be effected for any contract executed off the Exchange which the Exchange has designated as eligible for clearing.

(2) EFP transactions may be posted according to the following procedures:

EFP Procedures for Futures Contracts Traded during RTH. The posting of any EFP in any futures market traded on the Exchange shall be made during the hours of futures trading and otherwise in accordance with Rule 6.90. Each EFP transaction shall be posted, immediately when relevant cash terms are determined, but in no event later than the earlier of the next business day or the end of the permissible posting period for EFPs following the expiration of the underlying futures contract, by the Floor Members and cleared through the Exchange in accordance with normal procedures and by the Clearing Members involved except that EFP transactions in PJM electricity futures contracts listed for trading on the Exchange may be posted on the Floor of the Exchange during the hours of futures trading or may be posted by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. EFP transactions in these contracts transacted must be posted on the Exchange within one business day of the EFP transaction. With regard to the final deadline for EFPs in PJM electricity futures contracts in an expiring contract month, such EFP transactions must be posted no later than the close of the posting period on the last trade date of the expiring contract month.

(ii) EFP Procedures for Futures Contracts Not Listed for Trading on the Exchange. The posting of any EFP transaction for contracts executed off the Exchange, but designated as eligible for clearing, shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFP transactions must be posted no later than the close of the posting period on the last trade date on the expiring contract month except that EFP transactions in electricity contracts shall be permitted until the close of the posting period of the business day following the last trade date of the regular posting period of an expiring contract month, provided, however, that an EFP in an electricity contract that establishes a futures position for both the buyer and the seller shall not be permitted on the first business day following the expired contract.

(iii) EFP Procedures for Futures Contracts Listed Only for Trading on NYMEX ACCESS®. The posting of any EFP transaction for contracts listed for trading only on NYMEX ACCESS® shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFP transactions must be posted no later than the close of the posting period on the last trade date on the expiring contract month.

(iv) EFP Procedures for Futures Contracts Listed Only for Trading on an Alternative Electronic Trading System. For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS® on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®. The posting of any EFP transaction for contracts listed for trading only on "Alternative Electronic Trading System" shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFP transactions must be posted no later than the close of the posting period on the last trade date on the expiring contract month.

(C) A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. ~~Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared.~~

(D) (1) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFP transaction. Upon the request of the Exchange, all documentary evidence relating to the EFP, 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. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such person(s).

(2) Failure by a buyer or seller, or its Clearing Member, to satisfy the Exchange that an EFP transaction is bona fide, shall subject such buyer or seller if a Member/Member Firm, or the Clearing Member to disciplinary action. Such disciplinary action, depending on the gravity of the offense, may be deemed to be a major offense of the Exchange's rules. Further, if the buyer or seller is not a Member/Member Firm, the Exchange may conduct a hearing before the Business Conduct Committee to limit, condition or deny access to the market.

(E) Each EFP transaction shall be posted, immediately when relevant cash terms are determined, but in no event later than the earlier of the next business day or the end of the permissible posting

period for EFPs following the expiration of the underlying futures contracts, by the Floor Members and cleared through the Exchange in accordance with normal procedures and by the Clearing Members involved.

(F) The following provisions shall apply to EFP transactions which involve a non-commercial market participant:

(1) The Exchange shall presume that any EFP which does not involve commercial market participants as both buyer and seller is not a bona fide transaction. In order to overcome the presumption, upon request of the Compliance Department, the Clearing Members shall obtain from the buyer and seller for examination by the Exchange, documentation clearly demonstrating that the cash transaction underlying the EFP is independent and not contingent upon a contemporaneous offsetting cash transaction (commonly referred to as an "ABA" or transitory trade), and would have involved a cash market risk if not hedged by a futures contract. A delivery of product from the seller to the buyer will satisfactorily overcome the presumption if confirmed by credible documentation.

(2) For purposes of this subsection (F), a "commercial market participant" shall be defined as a person or entity which transacts business in the normal channels of commerce in the cash commodity or related commodity underlying the EFP posted on the Exchange.

(G) All omnibus accounts and foreign brokers shall submit a signed EFP reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFP pursuant to Rule 6.21(C), shall supply the name of its customer and such other information as the Exchange may require. ~~Such information shall be submitted to the Exchange's Compliance Department by 12:00 noon no later than two (2) Exchange business days after the day of posting the EFP on the floor of the Exchange.~~ **A report of EFP transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared.** Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFP information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

6.21A Exchange of Futures for, or in Connection with, Swap Transactions (Pilot Program)

(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, respectively, the seller and the buyer of the swap. The swap component shall involve the commodity underlying the futures contract (or a derivative, by-product or related product of such commodity). The quantity covered by the swap must be approximately equivalent to the quantity covered by the futures contracts. The swap component of an EFS transaction must comply with the applicable CFTC swap regulatory requirements. The initial term of the pilot program shall be three years from the effective date of this Rule 6.21A. [This rule was implemented on September 5, 2001.]

(B) Eligible Contracts and Transactions.

(1) Eligible contracts shall include Natural Gas futures, Brent Crude Oil futures, any contract executed off the Exchange that the Exchange has designated as eligible for clearing at the Exchange, and any contract that is listed for trading only on NYMEX ACCESS® or that is listed for trading only on an Alternative Electronic Trading System. For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS® on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®.

(2) EFS transactions may be posted according to the following procedures:

(i) Natural Gas and NYMEX Brent Crude Oil. The posting of any Natural Gas or NYMEX Brent Crude Oil EFS transaction shall be given on the floor of the Exchange by the Floor Members during the hours of futures trading for such contract and otherwise in accordance with Rule 6.90. Each EFS transaction shall be posted, immediately when the relevant swap terms are determined, but in no event later than the earlier of the next business day or the end of the following permissible posting periods for EFS transactions (following the expiration of the underlying futures contract):

(a) EFS transactions involving the NYMEX Brent contract are permitted until the close of trading on the last trading day in the expiring contract month; and

(b) EFS transactions involving the Natural Gas contract are permitted until two hours after trading terminates on the last day of trading in the expiring contract month.

These EFS transactions will be cleared through the Exchange in accordance with normal procedures and by the Clearing Members involved.

(ii) Contracts Executed Off the Exchange. The posting of any EFS transaction for contracts executed off the Exchange, but designated as eligible for clearing, shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFS transactions must be posted no later than the close of the posting period on the last trade date of the expiring contract month.

(iii) EFS Procedures for Futures Contracts Listed Only for Trading on NYMEX ACCESS®. The posting of any EFP transaction for contracts listed for trading only on NYMEX ACCESS® shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFP transactions must be posted no later than the close of the posting period on the last trade date on the expiring contract month.

(iv) EFS Procedures for Futures Contracts Listed Only for Trading on an Alternative Electronic Trading System. The posting of any EFS transaction for contracts listed for trading only on "Alternative Electronic Trading System" shall be accomplished by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. Such EFS transactions must be posted no later than the close of the posting period on the last trade date on the expiring contract month.

(v) PJM Electricity Futures Contracts Listed for Trading on the Exchange. EFS transactions in PJM electricity futures contracts listed for trading on the Exchange may be posted on the Floor of the Exchange during the hours of futures trading or may be posted by submission of reports to the NYMEX Customer Service Center in accordance with its procedures. EFS transactions in these contracts transacted must be posted on the Exchange within one business day of the EFS transaction. With regard to the final deadline for EFS transactions in PJM electricity futures contracts in an expiring contract month, such EFS transactions must be posted no later than the close of the posting period on the last trade date of the expiring contract month.

(C) A report of ~~such~~ EFS transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. ~~Such report shall identify the EFS as made under this Rule and shall contain the following information: a statement that the swap component of the EFS complied with the applicable CFTC swap regulatory requirements at the time the EFS was entered into between the buyer and seller, a statement that the EFS has resulted or will result in a change of payments or other such change, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFS on the Floor of the Exchange. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared.~~

(D)(1) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFS transaction. Upon the request of the Exchange, 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. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such person(s).

(2) Failure by a buyer or seller, or its Clearing Member to satisfy the Exchange that an EFS transaction is bona fide shall subject such buyer or seller, if a Member/Member firm, or the clearing member to disciplinary action. Such disciplinary action, depending on the gravity of the offense, may be deemed to be a major offense of the Exchange's rules. Further, if the buyer or

seller is not a Member/Member Firm, the Exchange may conduct a hearing before the Business Conduct Committee to limit, condition or deny access to the market.

(E) All omnibus accounts and foreign brokers shall submit a signed EFS reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFS pursuant to Rule 6.21A(C), shall supply the name of its customer and such other information as the Exchange may require. ~~Such information shall be submitted to the Exchange's Compliance Department by 12:00 noon no later than two (2) Exchange business days after the day of posting the EFS on the Floor of the Exchange.~~ **A report of EFS transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared.** Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFS information to the Exchange may result in a hearing by the Business Conduct Committee to limit condition, or deny access of such omnibus account or foreign broker to the market.

Amendments to Rules 150.14, 190.14, 200.20, 220.17, 230.17, 260.19
(Bold indicates additions and Strikethrough indicates deletions)

New York Harbor No. 2 Heating Oil

150.14 Exchange of Futures for, or in Connection with, Product

~~(C) A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange. Any Exchange of Futures for, or in Connection with, Product (EFP) shall be governed by the provisions of Rule 6.21.~~

Petroleum Product Futures Contracts – New York Harbor

190.14 Exchange of Futures for, or in Connection with, Product

~~(C) A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange. Any Exchange of Futures for, or in Connection with, Product (EFP) shall be governed by the provisions of Rule 6.21.~~

Light “Sweet” Crude Oil Futures Contract

200.20 Exchange of Futures for, or in Connection with, Product

~~(C) A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange. Any Exchange of Futures for, or in Connection with, Product (EFP) shall be governed by the provisions of Rule 6.21.~~

Natural Gas Futures Contract**220.17 Exchange of Futures for, or in Connection with, Product**

(C) ~~A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange.~~ **Any Exchange of Futures for, or in Connection with Product (EFP) or Exchange of Futures for, or in Connection with Swap Transactions (EFS) shall be governed by the provisions of Rule 6.21 and 6.21A, respectively.**

Liquefied Propane Gas Futures Contract**230.17 Exchange of Futures for, or in Connection with, Product**

(C) ~~A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange.~~ **Any Exchange of Futures for, or in Connection with, Product (EFP) shall be governed by the provisions of Rule 6.21.**

Central Appalachian Coal Futures Contract**260.19 Exchange of Futures for, or in Connection with, Product**

(C) ~~A report of such EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFP as made under this Rule and shall contain the following information: a statement that the EFP has resulted or will result in a change of ownership, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFP on the Floor of the Exchange.~~ **Any Exchange of Futures for, or in Connection with, Product (EFP) shall be governed by the provisions of Rule 6.21.**