

exempt commodities on exempt commercial markets pursuant to section 2(h)(3) of the Act if such entities are either eligible contract participants or have obtained a financial guarantee for such transactions from a clearing member that is both a member of a CFTC-registered derivatives clearing organization and an eligible contract participant. The Commission has considered the costs and benefits of the order in light of the specific provisions of section 15(a) of the Act.

A. Protection of Market Participants and the Public

The order would permit CFTC-registered floor brokers and floor traders who are eligible contract participants, or who have guarantees from clearing members that are members of CFTC-registered derivatives clearing organizations and are eligible contract participants, to enter into proprietary transactions in exempt commodities on exempt commercial markets. Under the Act, eligible commercial entities involve sophisticated investors who have the financial wherewithal or trading expertise to participate in these markets. Accordingly, there should be no effect on the Commission's ability to protect market participants and the public.

B. Efficiency and Competition

The order is expected to benefit efficiency and competition by, among other things, increasing the flow of trading information between contract markets and exempt commercial markets, increasing the pool of potential counterparties for participants trading on exempt commercial markets, and providing essential trading expertise to the market that enhances price discovery through both the speed and efficiency of market adjustment to new fundamentals.

C. Financial Integrity of Futures Markets and Price Discovery

The order should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity of the futures and options markets. The order should enhance the price discovery function of such markets.

D. Sound Risk Management Practices

The order should have no effect, from the standpoint of imposing costs, on the risk management practices of the futures and options industry. Where the floor broker or floor trader is qualified as an eligible contract participant, the entity has been deemed to be sufficiently responsible to execute trades by the Act, and no further mitigation of credit risk

is necessary. Where the floor broker or floor trader does not qualify as an eligible contract participant, the order requires that a clearing member of a registered derivatives clearing organization that is itself an eligible contract participant guarantee the trades in order to mitigate the credit and collection risk.

E. Other Public Interest Considerations

The order is consistent with one of the purposes of the Act as articulated in section 3 in that it would promote responsible innovation and fair competition among boards of trade, other markets and market participants.

V. Order

Upon due consideration, and pursuant to its authority under section 1a(11)(C) of the Act, the Commission hereby determines that floor brokers or floor traders who are registered with the Commission, when acting in a proprietary trading capacity, are appropriate persons as defined in section 1a(11)(C) and, thus, are deemed to be eligible commercial entities and may enter into contracts, agreements or transactions in an exempt commodity on an exempt commercial market under the following conditions:

1. Transactions must be executed on an exempt commercial market that meets the requirements of section 2(h)(3)–(5) of the Act.
2. The floor broker or floor trader must be a member of a designated contract market or otherwise have trading privileges on a designated contract market.
3. The floor broker or floor trader must have as a part of its business the business of acting as a floor broker or floor trader on a designated contract market's open outcry market or performing an equivalent function on a designated contract market's electronic market.
4. The floor broker or floor trader must either be an eligible contract participant or have its trades on the exempt commercial market guaranteed by a clearing member that is a member of a Commission-registered derivatives clearing organization and is an eligible contract participant.

Issued in Washington, DC, on January 9, 2003, by the Commission.

Jean A. Webb,

Secretary of the Commission.

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DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission ("Commission") will hold an informal conference followed by a public hearing on Wednesday, January 29, 2003. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 9:30 a.m. Topics of discussion include: a progress report on development of the Commission's new comprehensive plan; a progress report on the Tri-State Water Management Plan; a status report on the PCB TMDL for the Delaware Estuary; an opportunity for stakeholder comment on the structure and mandate of the TMDL Implementation Advisory Committee; a report on the activities of the Flow Management Technical Advisory Committee; a discussion regarding the Commission's fee structure for project review under Section 3.8 of the Delaware River Basin Compact; and a presentation on stormwater management approaches in Chester County.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the dockets listed below, a resolution approving the Commission's budgets for the fiscal year ending June 30, 2004.

1. *Merrill Creek Owners Group D-77-110 CP (Amendment 15)*. A resolution to amend Table A (Revised) of Docket D-77-110 CP (Amendment 14) to include the addition of the PPL Corporation, PPL Global, LLC and Lower Mount Bethel Energy, LLC facility in Lower Mount Bethel Township, Northampton County, Pennsylvania as a "Designated Unit." The power facility is a 600 megawatt independent power project approved via Docket D-99-54 on March 7, 2000. The project is subject to curtailment unless its consumptive water use during DRBC lower basin drought conditions can be made up by releases from storage. The Merrill Creek reservoir will provide the storage and is located in Harmony Township, Warren County, New Jersey.

2. *Covanta Warren Energy Resource Co., L.P. D-85-90 RENEWAL*. A renewal of a ground water withdrawal project to continue an allocation of 17 million