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Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 05-9198 Filed 5-10-05; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038-AC24

Revision of Federal Speculative Position Limits

AGENCY: Commodity Futures Trading
Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending Commission regulation 150.2 to increase the speculative position limit levels for all single-month and all-months-combined positions subject to such limits. In addition, the Commission is making other clarifying amendments concerning the aggregation of positions when a Designated Contract Market (DCM) trades two or more contracts with substantially identical terms, and is deleting several obsolete provisions in part 150 that relate to contracts that are no longer listed for trading or to DCMs that no longer exist.

DATES: Effective June 10, 2005.

FOR FURTHER INFORMATION CONTACT:

Clarence Sanders, Attorney, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5068, facsimile number (202) 418-5507, electronic mail csanders@cftc.gov; or Martin Murray, Economist, Division of Market Oversight, telephone (202) 418-5276, facsimile number (202) 418-5507, electronic mail mmurray@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 15, 2005 (70 FR 12621), the Commission published proposed amendments to Commission regulation 150.2 to increase the speculative

position limit levels for single-month and all-months-combined positions for CBT Corn, Oats, Soybeans, Wheat, Soybean Oil, and Soybean Meal; MGE Hard Red Spring Wheat; KCBT Hard Winter Wheat, and NYBOT Cotton No. 2.¹ The spot month limits for all of these commodities would remain unchanged. The Commission also proposed to clarify in regulation 150.2 its practice of aggregating traders' positions for purposes of ascertaining compliance with Federal speculative position limits when a DCM lists for trading two or more contracts with substantially identical terms based on the same underlying commodity characteristics. Finally, the Commission proposed to delete several obsolete provisions in part 150 that relate to contracts that are no longer listed for trading or to DCMs that no longer exist.²

II. Final Rules

The Commission is adopting as final rules without additional amendment the revisions to the speculative position limit levels that were set forth in the proposed rulemaking. This action is based upon its experience in administering these limits and after carefully considering the comments received in response to the notice of proposed rulemaking.

Thirteen comment letters were received in response to the proposed rulemaking, all but one of which was in favor. Favorable comments were submitted by representatives of agricultural trade or producer organizations, in particular the American Farm Bureau Federation (AFBF) and the National Farmers Union (NFU) who filed a joint statement, the National Grain Trade Council, and the National Grain and Feed Association; two DCMs, the Minneapolis Grain Exchange and the Chicago Board of Trade; and several entities representing the views of hedge fund managers, particularly the Managed Funds Association, Eclipse Capital, Campbell & Company, Rotella Capital Management, Chesapeake Capital Corporation, John W. Henry & Co., and

¹ Commission regulation 150.2 imposes three types of position limits for each specified contract: a spot-month limit, a single-month limit that applies to each non-spot month, and an all-months-combined limit.

² Commission regulation 150.2 currently includes Federal speculative position limits for agricultural commodities traded on the MidAmerica Commodity Exchange (MidAm) and for the white wheat futures contract traded on MGE. These provisions relating to the MidAm and the MGE white wheat futures contract are obsolete and will be repealed as part of this action. In addition, reference to the New York Cotton Exchange is being changed to NYBOT to reflect a change in corporate organization.

Graham Capital Management. Most of the favorable comments supported the proposed higher limits as a desirable interim step towards the ultimate abolition of Federal limits, although the AFBF and NFU supported both the higher limits and the continued retention of Federal limits indefinitely. In this regard, as the Commission noted in its proposed rulemaking, while the Commission has determined at this time to retain Federal speculative position limits at the increased levels contained herein, the Commission intends to continue its review of its current policies regarding the administration of speculative position limits, including a further evaluation of the merits of retaining Federal speculative limits.

The American Cotton Shippers Association (ACSA) opposed the proposed increase in the single-month and all-months combined limits for cotton. In particular, ACSA noted that the NYBOT has proposed, in consultation with its cotton committee, the establishment of its own, exchange-set speculative position limits for the cotton No. 2 futures and option contracts. The NYBOT's proposed limits of 2,500 futures-equivalent contracts for single months and 4,000 futures-equivalent contracts for all months combined are lower than those to be adopted by the Commission in this rulemaking. Accordingly, ACSA expressed the view that the Commission should adopt in part 150 of the Commission's regulations the NYBOT's proposed lower levels.³

The Commission has taken this view into account but nevertheless believes that the limit levels it has proposed for the NYBOT cotton No. 2 futures and option contracts under part 150 of the Commission's regulations are appropriate and that no change from its proposed rulemaking is necessary for several reasons. First, the Commission has applied consistent criteria in setting Federal speculative limits for all commodities subject to those limits, and it believes that it should continue this policy. Accordingly, the all-months-combined speculative position limit levels adopted herein, including the limit for the cotton No. 2 futures contract, were set according to the Commission's long standing and well-established formula that takes into

³ In an August 3, 2004, letter, the NYBOT submitted for Commission approval proposed speculative position limit rules for the cotton No. 2 futures and option contracts pursuant to Section 5c(c)(2) of the Commodity Exchange Act, and Commission regulation 40.4. At that time, the NYBOT also agreed to extend the Commission's time to review and approve the amendments until such time as the Commission should implement amendments to Commission regulation 150.2.

account open interest levels in the underlying futures and option markets, and the single-month levels adopted herein for each commodity were set to maintain the existing ratio between all-months-combined and single-month levels. In addition, the Commission notes that most comments made to the proposed rulemaking endorsed the Commission's approach for setting the single-month and all-months-combined speculative position limit levels. Finally, the Commission notes that DCMs may set speculative position limits at levels lower than Commission-specified levels, and that such lower levels would necessarily apply to all position holders. Thus, for the cotton No. 2 contracts, the applicable limits would be the lower levels that the NYBOT proposes to adopt, consistent with the comments expressed by the ACSA. In this regard, it is the Commission's expressed policy to review and approve, where appropriate, all speculative position limit provisions adopted by DCMs, and furthermore that a violation of contract market position limits that have been approved by the Commission is also a violation of section 4a(e) of the Act.⁴

In addition, the Commission is making other clarifying amendments concerning the aggregation of positions when a Designated Contract Market (DCM) trades two or more contracts with substantially identical terms. No comments were received in opposition to this clarification.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires Federal agencies, in proposing rules, to consider the impact of those rules on small businesses. The Commission believes that the rule amendments to raise Commission speculative position limits would only impact large traders. The Commission has previously determined that large traders are not small entities for purposes of the RFA.⁵ Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The Commission also notes in this regard that the final rules will raise speculative limit levels and thereby reduce the regulatory burden on all affected entities.

B. Paperwork Reduction Act

The final rule and its associated information collection requirements have been reviewed and approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), under control numbers 3038-0009 and 3038-0013. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. In the notice of

proposed rulemaking, the Commission estimated the paperwork burden that would be imposed by the rules and sought comments on the estimates. No comments were received in response to this request.

List of Subjects in 17 CFR Part 150

Agricultural commodities, Bona fide hedge positions, Commodity futures, Cotton, Grains, Position limits, Spread exemptions.

■ In consideration of the foregoing, pursuant to the authority contained in the Commodity Exchange Act, the Commission hereby proposes to amend part 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 150—LIMITS ON POSITIONS

■ 1. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5), as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

■ 2. Section 150.2 is revised to read as follows:

§ 150.2 Position limits.

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures-equivalent basis, options thereon, in excess of the following:

SPECULATIVE POSITION LIMITS

[In contract units]

Contract	Spot month	Single month	All months
Chicago Board of Trade			
Corn and Mini-Corn ¹	600	13,500	22,000
Oats	600	1,400	2,000
Soybeans and Mini-Soybeans ¹	600	6,500	10,000
Wheat and Mini-Wheat ¹	600	5,000	6,500
Soybean Oil	540	5,000	6,500
Soybean Meal	720	5,000	6,500
Minneapolis Grain Exchange			
Hard Red Spring Wheat	600	5,000	6,500
New York Board of Trade			
Cotton No. 2	300	3,500	5,000
Kansas City Board of Trade			
Hard Winter Wheat	600	5,000	6,500

¹ For purposes of compliance with these limits, positions in the regular sized and mini-sized contracts shall be aggregated.

⁵ 47 FR 18618 (April 30, 1982).

⁴ See Appendix B to part 38 of the Commission's regulations, pertaining to Acceptable Practices under Core Principle 5 for DCMs.

Issued by the Commission this 6th day of May, 2005, in Washington, DC.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05-9383 Filed 5-10-05; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 150

[USCG-2005-21111]

RIN 1625-AA00

Safety Zone; Gulf Gateway Deepwater Port, Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard is establishing an interim safety zone around the primary component of the Gulf Gateway Deepwater Port, Gulf of Mexico, and its accompanying systems. The purpose of this safety zone is to protect vessels and mariners from the potential safety hazards associated with deepwater port operations. All vessels, with the exception of deepwater port support vessels, are prohibited from entering into or moving within this safety zone.

DATES: This interim rule is effective May 11, 2005. Comments and related material must reach the Docket Management Facility on or before July 11, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [USCG-2005-21111]. Docket information can be examined on the Department of Transportation docket management system Web site at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander (LCDR) Kevin Tone, Coast Guard Office of Operating and Environmental Standards, at (202) 267-0226, e-mail: ktone@comdt.uscg.mil. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All

comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2005-21111), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rulemaking. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest, since there is not sufficient time to publish a proposed

rule in advance of the next transfer operation and immediate action is needed to protect persons and vessels against the hazards associated with deepwater port operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. While there is a 60 day public comment period, delaying its effective date would be contrary to public interest since immediate action is needed to respond to the potential hazards posed to local marine traffic and personnel involved in maritime operations by deepwater port operations.

Background and Purpose

The Gulf Gateway Deepwater Port (DWP) is located approximately 116 miles off the Louisiana coast at West Cameron Area, South Addition Block 603 "A", 28°05'16" N, 093°03'07" W. The DWP operator plans to offload liquefied natural gas (LNG) vessels by regasifying the LNG on board vessels. The regasified natural gas is then transferred through a submerged loading turret buoy (STL), to a flexible riser leading to a seabed pipeline to a metering platform. From the platform the natural gas feeds into two separate downstream seabed pipelines to connect with the Southeastern United States natural gas network. In order to improve safety and security at the port while regasification and transfer operations are occurring, several routing measures have been implemented. In July 2004, the Coast Guard forwarded a proposal to the International Maritime Organization (IMO) requesting the establishment of an Area To Be Avoided (ATBA) and a mandatory No Anchoring Area for the Excelerate Gulf Gateway (formerly the El Paso Energy Bridge) deepwater port. These two routing measures will promote safety, security, and vessel traffic management in the vicinity of the DWP.

The ATBA has a radius of 2 nautical miles, is recommendatory in nature and does not restrict vessels from transiting the area. However vessel operators are strongly urged to seek alternate routes outside the ATBA and away from the DWP. The No Anchoring Area has a radius of one and one half nautical miles from the STL buoy and compliance is mandatory. It is required to protect the anchoring system securing the port and vessels from potential damage by sub-surface fishing operations (e.g., trawling). These routing measures were adopted by IMO in December 2004 and will be implemented on July 1, 2005. A safety