

**Applicability:** All Model Fan Jet Falcon series airplanes and Model Mystere-Falcon 20 series airplanes, certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the window frames in the flight compartment, which could result in rapid depressurization of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

#### Inspection and Test of Flight Compartment Window Frames

(a) Do an inspection and test for stress corrosion and cracking as specified in paragraphs (a)(1) and (a)(2) of this AD, at the applicable time specified in paragraph (b) of this AD.

(1) For airplanes that have not accomplished the actions specified in Dassault Service Bulletin FJF-701, dated March 25, 1986; or Revision 1 dated October 22, 1987; Do a detailed inspection (using an endoscope) to detect stress corrosion and cracking of the window frames in the flight compartment, including the pilot, co-pilot, and front windows. Do the inspection in accordance with Dassault Aviation Work Card 53-30-12, titled "Endoscopic Inspection of the Frames of Pilot, Co-Pilot, and Front Glass Panels (Aircraft Not Changed Per SB No. 701)," of the Dassault Aviation Fan Jet Falcon Maintenance Manual, dated November 2001.

(2) For all airplanes: Do an ultrasonic test for cracking in the posts of window frames 2, 5, 7, 8, and 10. Do the test in accordance with Dassault Aviation Work Card 53-30-07, titled "Non-Destructive Ultrasonic Testing of Vertical Posts on Screw-Mounted Windows," of the Dassault Aviation Fan Jet Falcon Maintenance Manual, dated November 2001.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(b) Do the inspection and test required by paragraph (a) of this AD, at the times specified in paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes having 35 or more years since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first; or having accumulated 20,000 or more total flight cycles as of the effective date of this AD: Within 7 months after the effective date of this AD.

(2) For airplanes not identified in paragraph (b)(1) of this AD: Within 25 months or 2,500 flight cycles after the effective date of this AD, whichever is first.

#### Repair

(c) If any stress corrosion or cracking is found during any inspection or test required

by paragraph (a) of this AD: Before further flight, repair per a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

#### Reporting Requirement

(d) At the applicable time specified in paragraph (d)(1) or (d)(2) of this AD: Submit a report of the findings (positive and negative) of the inspection required by paragraph (a) of this AD to: Dassault Falcon Jet, Attn: Service Engineering/Falcon 20, fax: (201) 541-4706, at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. The report must include the airplane serial number, number of landings, number of flight hours, airplane age, and the number and length of any cracks found. Submission of the Charts of Records (part of French airworthiness directive 2001-600-028(B), dated December 12, 2001), is an acceptable method of complying with this requirement. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120-0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 5 days after the inspection.

(2) If the inspection was done prior to the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

#### Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in French airworthiness directive 2001-600-028(B), dated December 12, 2001.

Issued in Renton, Washington, on June 9, 2004.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-13702 Filed 6-16-04; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 150

#### Petitions of the Chicago Board of Trade, the Kansas City Board of Trade, and the Minneapolis Grain Exchange Pursuant to Commission Regulation 13.2 for Repeal or Amendment of Speculative Position Limits in Commission Regulation 150.2

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of petitions for amendment, or repeal of a rule, and request for comment on the petitions.

**SUMMARY:** The Chicago Board of Trade (CBT), the Kansas City Board of Trade (KCBT), and the Minneapolis Grain Exchange (MGE) have submitted separate petitions to the Commodity Futures Trading Commission (Commission) seeking repeal or amendment of the speculative position limits set out in Commission regulation 150.2 (Federal speculative position limits). In addition, the New York Board of Trade, while not submitting a formal petition of its own, has submitted a letter in support of the CBT petition. The Commission believes that publication of the petitions for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the Commodity Exchange Act (Act) and Commission regulations. Copies of the petitions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, or on the Commission's website at <http://www.cftc.gov>. Copies of the proposed amendments can also be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418-5100.

**DATES:** Comments must be received on or before August 16, 2004.

**ADDRESSES:** Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments also may be sent by facsimile to (202) 418-5521, or by electronic mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Petitions for Repeal or Amendment of Federal Speculative Position Limits." Comments may also be submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following comment submission instructions.

#### 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](mailto:csanders@cftc.gov); or Martin Murray, Industry Economist, Division of Market Oversight, telephone (202) 418-5276, facsimile number (202) 418-5507, electronic mail [mmurray@cftc.gov](mailto:mmurray@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

## I. Introduction

Speculative position limits have been a tool for the regulation of the futures markets for over a half-century. The current regulatory framework is two-pronged. Under the first prong, the Commission establishes and enforces speculative position limits for futures contracts on various agricultural commodities. These Federal limits are enumerated in Commission regulation 150.2, and apply to the following futures and option markets: CBT corn, oats, soybeans, wheat, soybean oil, and soybean meal; MGE hard red spring wheat and white wheat; New York Cotton Exchange (NYCE) cotton No. 2; and KCBT hard winter wheat.<sup>1</sup> Under the second prong, individual designated contract markets (DCMs) establish and enforce their own speculative position limits or position accountability provisions, subject to Commission oversight and separate authority to enforce exchange-set speculative position limits that the Commission has approved.

The CBT, by letters dated March 26, 2004, and April 27, 2004, the KCBT, by a letter dated April 27, 2004, and the MGE, by a letter dated May 20, 2004, submitted petitions to the Commission pursuant to Commission regulation 13.2.<sup>2</sup> Specifically, the CBT petition requests that the Commission repeal regulation 150.2 and thereby eliminate the Federal speculative position limits for all commodity markets enumerated under that rule. The KCBT petition requests that the Commission repeal only that part of regulation 150.2 pertaining to Federal speculative position limits for the KCBT commodity markets (*i.e.*, hard winter wheat). The MGE petition also seeks repeal of the regulation 150.2 as it relates to Federal speculative limits for the MGE market in hard red spring wheat but does not address that DCM's market in white wheat, which is currently dormant. In addition, the New York Board of Trade (NYBOT), the parent company of NYCE, while not submitting a formal petition of its own, submitted a May 27, 2004, letter stating that it "fully supports the CBOT petition."

Under all three petitions, in place of the repealed speculative position limits, designated contract markets would bear the sole responsibility for setting their

own position limits or position accountability standards, subject to Commission oversight and enforcement. In this regard, the CBT has previously established its own exchange-set speculative position limits that are independent of, but set at the same or lower levels as, the Federal limits. The MGE and NYCE incorporate the existing Federal limits by reference in their respective rulebooks; they have not established independent limits on speculative positions for these commodity futures markets. Likewise, the KCBT currently has no provisions pertaining to speculative position limits for hard winter wheat. Therefore, if Federal limits were abolished, these exchanges would need to adopt speculative position limits or position accountability provisions, as appropriate, to comply with Core Principle 5 and the acceptable practices thereunder.

Although the CBT, KCBT, and MGE petitions differ in scope, they are similar in topical substance and for this reason are being combined for purposes of publishing notice and requesting comment.

## II. Background

### A. Statutory Framework

During the past half-century, Congress consistently has expressed confidence in the use of speculative position limits as an effective means of preventing unreasonable or unwarranted price fluctuations. See H.R. Rep. No. 421, 74th Cong., 1st Sess. 1 (1935). In this regard, section 4a(a) of the Act, 7 U.S.C. 6a(a), states that:

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, section 4a(a) provides the Commission with the authority to:

Fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

This longstanding statutory framework providing for Federal speculative position limits was supplemented with the passage of the Futures Trading Act of 1982, which acknowledged the role of exchanges in

setting their own speculative position limits. The 1982 legislation also provided, under section 4a(e) of the Act, that limits set by exchanges and approved by the Commission were subject to Commission enforcement.

Finally, the Commodity Futures Modernization Act (CFMA) of 2000 established designation criteria and core principles with which a DCM must comply to maintain designation. Among these, Core Principle 5 in section 5(d) of the Act states:

Position Limitations or Accountability—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

### B. Regulatory Framework

As noted above, the current regulatory framework of speculative position limits is two-pronged: (1) For a limited number of agricultural commodities, Federal speculative position limits have been set and are enforced by the Commission; and (2) for virtually all other commodities under Commission jurisdiction, speculative position limits or position accountability provisions have been established and enforced by individual DCMs, subject to Commission oversight and enforcement. An abbreviated history of the regulatory framework follows.

Federal speculative position limits were first promulgated by the Commodity Exchange Commission (CEC),<sup>3</sup> a predecessor of the Commission, for futures contracts in grains (then defined as wheat, corn, oats, barley, flaxseed, grain sorghums, and rye) on December 22, 1938 (3 FR 4136). A Federal speculative position limit was established for cotton on August 26, 1940 (5 FR 3198), and for soybeans on August 13, 1951 (16 FR 8107). The CEC also established Federal speculative position limits for fats and oils, including soybean oil, on April 1, 1953, but soon suspended the enforcement of those limits and eventually revoked them (33 FR 7624, May 23, 1968). At various other times, the CEC also established Federal speculative position limits on lard, onions, eggs, and potatoes.

The CEC never established Federal speculative position limits for many of

<sup>1</sup> For each of these markets, regulation 150.2 establishes a spot month limit, a non-spot individual month limit, and an all-months-combined speculative position limit.

<sup>2</sup> Commission regulation 13.2 states in pertinent part that "any person may file a petition with the Secretariat of the Commission for the issuance, amendment, or repeal of a rule of general application."

<sup>3</sup> Prior to the CFTC's creation in 1974, the Commodity Exchange Authority administered the Commodity Exchange Act under the direction of the Secretary of Agriculture and the Commodity Exchange Commission, which was composed of the Secretaries of Agriculture and Commerce and the Attorney General.

the agricultural commodities subject to its jurisdiction, including butter, wool, wool tops, livestock, and livestock products. It is worth noting that the Chicago Mercantile Exchange (CME) began trading pork belly futures in 1961, live cattle futures in 1964, and live hog futures in 1966. Even before those contracts were added to the list of regulated commodities in 1968, the CME, under its own authority, established speculative position limits for those contracts. While the record is unclear on this matter, the existence of exchange-set speculative position limits may explain why the CEC (and its successor, the Commission) never determined that Federal speculative position limits were necessary in livestock futures contracts.

The Commodity Futures Trading Commission Act of 1974 (CFTC Act) created the Commission and granted it exclusive jurisdiction over futures trading in all commodities, not just specifically enumerated agricultural commodities. The CFTC Act transferred authority over Federal limits to the Commission from the CEC, but did not otherwise substantively amend section 4a. The CFTC Act also gave the Commission the authority to oversee, and, if necessary, to amend, exchange rules, including speculative position limit provisions proposed by exchanges. In 1981, the Commission, for the first time, required exchanges to establish speculative position limits for all commodities not subject to Federal limits (see 45 FR 50938, October 16, 1981). Provisions for the establishment of exchange-set speculative position limits are contained in Commission regulation 150.5.<sup>4</sup> In addition, as noted above, the Futures Trading Act of 1982 modified section 4a of the Act to provide the Commission with the authority to separately enforce exchange-set limits that have been approved by the Commission.

Since the Commission's founding, it has retained Federal speculative position limits on those commodities where such limits had previously been established by the CEC. For other commodities, the Commission has allowed exchanges to set speculative position limits or position accountability provisions, subject to Commission oversight and enforcement.

<sup>4</sup> Provisions regarding the establishment of exchange-set speculative position limits were originally set forth in CFTC regulation 1.61. In 1999, the Commission simplified and reorganized its rules by relocating the substance of regulation 1.61's requirements to part 150 of the Commission's rules, thereby incorporating within part 150 provisions for both Federal speculative position limits and exchange-set speculative position limits (see 64 FR 24038, May 5, 1999).

The one exception is that the Commission established Federal speculative position limits in 1987 on soybean oil and soybean meal (52 FR 38914, October 20, 1987), at the request of the CBT, in order to make the regulatory treatment of soybean products consistent with the regulatory treatment of soybeans.

In 2000, the enactment of the CFMA resulted in the establishment of designation criteria and core principles with which a DCM must comply to maintain its designation, including Core Principle 5, as noted above. To implement these new statutory provisions, the Commission adopted part 38 to the Commission's regulations, which provides guidance and acceptable practices concerning the core principles under section 5(d) of the Act (66 FR 42256, August 10, 2001).<sup>5</sup> Regarding compliance with Core Principle 5 (position limitations or accountability), the acceptable practices provide, in relevant part, that spot-month limits should be adopted for markets based on commodities having more limited deliverable supplies or where otherwise necessary to minimize the susceptibility of the market to manipulation or price distortions, and that markets may elect not to provide all-months-combined and non-spot individual month limits. In addition, under part 38, the existing provisions governing the establishment of exchange-set speculative position limits contained in regulation 150.5 may still serve as acceptable practices.

### III. The Exchange Petitions for Repeal or Amendment of the Speculative Position Limits in Commission Regulation 150.2

#### A. Introduction

As noted above, the CBT, KCBT, and MGE petitions essentially seek to repeal, in whole or in part, the Federal limits set out in regulation 150.2. In place of the repealed speculative position limits, DCMs would bear the sole responsibility for setting their own position limits or position accountability standards, subject to Commission oversight. In this regard, as noted above, the CBT currently specifies speculative position limits independently of, but at the same or lower levels as, the existing Federal speculative position limits. However, should the Commission repeal Federal speculative position limits, then the exchange would be free to retain those limits or to adjust them, as long as the

<sup>5</sup> Part 38 specifically notes, however, that "The guidance \* \* \* is illustrative only of the types of matters a board of trade may address, as applicable, and is not intended to be a mandatory checklist."

exchange-set speculative position limits or position accountability standards comply with Core Principle 5. In contrast, the MGE and NYCE specify speculative position limits for their respective commodity markets that are currently subject to Federal limits only by reference to the provisions of regulation 150.2, and the KCBT does not have any specifications regarding speculative position limits for hard winter wheat. Consequently, if the Commission were to repeal Federal limits, the MGE (for hard red spring wheat and white wheat), the NYCE (for cotton No. 2), and the KCBT (for hard winter wheat) would need to adopt speculative position limits or position accountability provisions to comply with Core Principle 5 and the acceptable practices set forth in Part 38 of the Commission's regulations.

As discussed below, the CBT, KCBT, and MGE petitions include analytical information in support of their respective propositions and, additionally, seek other action either as a supplement, or an alternative, to the requested repeal of the limits in regulation 150.2.

#### B. The CBT Petition

Fundamentally, the CBT petition seeks to have the Commission repeal the Federal limits set out in regulation 150.2 and to allow designated contract markets to bear the sole responsibility for setting their own position limits, subject to Commission oversight. In support of this initiative, the CBT notes that the CFMA has substituted a more flexible regulatory model, based upon core principles, for the former rules-based approach to regulation. In this respect, the CBT notes that Core Principle 5 of section 5(d) of the Act states that:

To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

The CBT acknowledges that the Commission retains authority under section 4a(a) of the Act to establish speculative position limits, but concludes that Core Principle 5 of the CFMA should be interpreted to place that responsibility upon the exchanges.

As a secondary initiative, the CBT asks that, if the Commission determines to retain Federal spot month speculative position limits, at a minimum it should consider eliminating the single-month and all-months-combined limits from regulation 150.2. In support of this proposition, the CBT cites the

discussion of acceptable practices for spot-month limits under Core Principle 5 in appendix B to part 38 of the Commission's regulations. For markets having limited deliverable supplies, the CBT notes that the acceptable practices state "[m]arkets may elect not to provide all-months-combined and non-spot month limits."

Finally, as an alternative to repeal of all or part of the limits included in regulation 150.2, the CBT requests that the Commission amend that regulation to increase the single-month and all-months-combined speculative position limits for the corn, soybeans, wheat, soybean oil, and soybean meal contracts traded at the CBT. Under this part of the petition, the CBT seeks to increase the speculative position limit levels as set out below.

CBT contract	Current level	CBT-proposed level
<b>Single Month Limit</b>		
Corn .....	5,500	10,000
Soybeans .....	3,500	6,500
Wheat .....	3,000	4,500
Soybean Oil .....	3,000	4,500
Soybean Meal .....	3,000	4,500
<b>All-Months-Combined Limit</b>		
Corn .....	9,000	17,000
Soybeans .....	5,500	10,000
Wheat .....	4,000	5,500
Soybean Oil .....	4,000	6,500
Soybean Meal .....	4,000	6,000

The CBT cites several criteria in support of the levels proposed in this part of the petition. Among these, the CBT notes that it conducted a survey of the agricultural trading community and found that a majority of respondents supported an increase in single-month and/or all-months-combined limits. Additionally, the CBT notes that most respondents supporting an increase in limits also sought to retain the same approximate ratio of single-month to all-months-combined limits. The CBT asserts that the higher levels conform to this standard and preserve the same approximate ratio as sought by supporting survey respondents.

The CBT also comments that the proposed increases are consistent with the percentage of open interest formula included in regulation 150.5.<sup>6</sup> In this

regard, the CBT acknowledges that the formula applies to exchange-set limits not enumerated in Regulation 150.2 but also observes that the Commission applied this same formula when it initiated action to increase CBT agricultural commodity limits to their present levels (57 FR 12766, April 13, 1992).

Finally, the CBT asserts that the proposed increases are supported by the distribution of large trader positions in the relevant markets. In support of this, the CBT contends that the Commission has acknowledged that the distribution of speculative traders is a relevant consideration in determining limit levels and could conceivably support higher limits than justified under the open interest formula where such levels "would constrain the normal pattern of speculative trading." (57 FR 12766, April 13, 1992).

#### C. The KCBT Petition

As with the CBT petition, the KCBT seeks the repeal of Federal limits for the KCBT wheat contract as set out in regulation 150.2, but in contrast to the CBT petition, the KCBT seeks to operate its hard winter wheat contract without any exchange-set speculative position limits. Like the CBT, the KCBT finds support for this initiative in Core Principle 5 of the CFMA, and emphasizes the core principle's focus on the role of speculative limits in reducing the potential threat of manipulation.

In discussing this aspect of its petition, the KCBT notes that Core Principle 5 of section 5(d) of the Act requires DCMs to adopt speculative position limits or position accountability provisions to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, where necessary and appropriate. The KCBT further notes that the acceptable practices for speculative position limits under Core Principle 5 in appendix B to part 38 of the Commission's regulations instructs that spot-month limits should be adopted for commodity markets "having more limited deliverable supplies," and are to be based upon an analysis of deliverable supplies and the history of spot-month liquidations for the applicable contract. In this respect, the KCBT notes, among other things, that

option month-end open interest for the most recent calendar year up to 25,000 contracts with a marginal increase of 2.5% thereafter, or be based on position sizes customarily held by speculative traders on the contract market, which shall not be extraordinarily large relative to total open positions in the contract, the breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures markets and the cash market.

gross underlying supply represents about 45 percent of U.S. wheat production. The KCBT concludes that the supply characteristics of its wheat contract, in combination with its surveillance practices, including heightened surveillance of spot-month liquidations, justify the elimination of spot-month limits from regulation 150.2, as well as single-month, and all-months-combined limits.

If the Commission chooses to retain Federal speculative position limits, the KCBT petition also includes a request that the Commission continue to maintain "parity" in speculative position limit levels across wheat exchanges. In support of this portion of its petition, the KCBT includes a discussion of the volume and composition of trading in its wheat contract. Here, KCBT notes that significant trading volume is generated from arbitrage opportunities that exist between markets, and that differing limits between exchanges could affect the growth potential for inter-market spread volume. Following on this, the KCBT notes that growth in trading volume has been strong in recent years, and attributes this growth to the maintenance of parity in speculative limits between exchanges. In this respect, the KCBT also observes that the increased growth in volume since 1999 has also attracted commodity fund business to the KCBT wheat market, and again observes that, if parity in speculative limits is not maintained, fund business could be lost to other markets with higher limits.

Finally, the KCBT comments that reportable commercial traders continue to hold the majority of open interest in KCBT wheat futures, and that increasing speculative limits would permit an increase in speculative activity and in turn increase liquidity to the benefit of commercial users.

#### D. The MGE Petition

In its petition, the MGE seeks the repeal of Federal limits for trading in MGE hard red spring wheat, and acknowledges its intention to establish speculative position limits for the MGE hard red spring wheat contract pursuant to Core Principle 5. Like the other petitioning DCMs, the MGE finds support for this initiative in Core Principle 5, and it also emphasizes that core principle's focus on speculative limits as a means of reducing the potential threat of manipulation.

In this part of its petition, the MGE notes that Federal speculative limits for wheat were most recently increased during 1999, and concludes that this increase was intended to recognize the

<sup>6</sup> Regulation 150.5 stipulates that individual, non-spot month or all-months-combined limit levels should be set at no greater than 1,000 contracts at the time of initial listing of agricultural commodities. The regulation further provides that adjustments to those levels may be made provided that the resultant levels are no greater than 10% of the average combined futures and delta-adjusted

greater interest and activity in wheat futures trading, including the hard red spring wheat contract at the MGE. The MGE states that it has not observed any increased susceptibility to manipulation or price distortion in the hard red spring wheat contract during the period following the 1999 increase in Federal speculative limits. Rather, the MGE remarks that the increase in Federal speculative limits appears to have added liquidity and stability to the marketplace.

The MGE observes that Core Principle 5 requires DCMs to adopt position limits or position accountability for speculators where necessary and appropriate. The MGE further notes that the acceptable practices for under Core Principle 5 set forth in appendix B to part 38 of the Commission's regulations provides that spot-month limits adopted for physical delivery markets are to be based upon an analysis of deliverable supplies and the history of spot-month liquidations for the applicable contract. In addressing this provision, the MGE notes that its review of the hard red spring wheat contract confirms the presence of an adequate deliverable supply before and during each delivery period, and that the largest position holders have been commercial traders. Thus, the MGE concludes that the hard red spring wheat contract's susceptibility to manipulation by speculators is limited by these characteristics. The MGE also observes that the current speculative limits mandated under regulation 150.2 have the effect of limiting MGE's ability to exercise its self-regulatory duties under Core Principle 5.

Should Federal speculative position limits not be repealed, the MGE requests that the Commission continue to maintain "parity" in speculative limits for its hard red spring wheat contract with the comparable speculative limits for the wheat contracts at the CBT and KCBT. The MGE notes that speculative limits historically have been uniform at the three domestic DCMs trading wheat contracts and that failure to maintain this equality would be unfairly discriminatory, not only to the MGE, but also to its market participants. In this regard, the MGE observes that many traders at the MGE, and in particular the commodity funds, utilize arbitrage opportunities among the wheat markets, and that any disparate treatment in speculative limits could drive away participants and reduce market liquidity.

#### *E. The NYBOT Letter of Support*

As noted above, NYBOT did not submit a petition of its own, but

submitted a letter stating that it "fully supports the CBOT petition." In particular, NYBOT expressed support for the repeal of Regulation 150.2 in its entirety. If the Commission does not repeal Regulation 150.2, NYBOT supports the elimination of all non-spot, individual month and all-months-combined limits. In support of its position, NYBOT expresses its belief that the provisions of the Commodity Futures Modernization Act of 2000 place the responsibility of establishing any appropriate position limits on exchanges. Furthermore, NYBOT observes, "There appears to be no compelling reason to have the Commission set speculative position limits for a narrow segment of agricultural products, while directing the exchanges to set limits for all other agricultural products," which NYBOT contends is "more the result of historical development rather than market regulatory considerations." Accordingly, NYBOT concludes that exchanges should have sole responsibility for establishing speculative position limits, subject to Commission oversight.

#### **IV. Request for Comments**

The Commission requests comment on all aspects of the CBT, KCBT, and MGE petitions, including the issues identified below.

(1) Should the Commission continue to impose Federal speculative position limits for all of the agricultural commodities enumerated in regulation 150.2? If Federal limits were repealed, then the exchanges would be required to adopt speculative position limits or position accountability provisions for these commodities in accordance with Core Principle 5 and the acceptable practices thereunder, subject to Commission oversight and enforcement.

(2) If recommending that Federal limits be retained for the agricultural commodities enumerated in regulation 150.2, please explain why these commodities should be treated differently, for speculative limit purposes, from other agricultural and non-agricultural commodities where the Commission does not impose Federal speculative position limits.

(3) If recommending that regulation 150.2 not be repealed, please address whether that regulation should nevertheless be modified to eliminate the non-spot, individual-month limits or the all-months-combined limits, as requested in the petitions.

(4) If recommending that the non-spot, individual-month limits and/or the all-months-combined limits be retained in regulation 150.2, what criteria should

be considered in determining the acceptable levels? Should the existing criteria in regulation 150.5, based on open interest, be retained, or, if not, what other criteria should be adopted by the Commission?

(5) If Federal speculative position limits are retained, should the increases requested by the CBT in the non-spot, individual month and all-months-combined limits pertaining to the CBT commodity markets be granted? If the increases to the CBT commodity markets are granted, should the KCBT and MGE requests for continuing parity in setting Federal limits also be granted?

(6) If Federal speculative position limits were eliminated, should the Commission modify its acceptable practices for Core Principle 5 to provide greater clarity as to the types of markets for which spot-month speculative position limits are necessary? Should these acceptable practices also include criteria to be considered regarding the setting of non-spot, individual-month limits and all-months-combined limits by the exchanges? If so, what criteria should be adopted by the Commission? Should the Commission require the setting of non-spot, individual-month and all-months-combined limits by the exchanges, in general and for the specific commodities enumerated in Regulation 150.2 in particular?

#### **V. Conclusion**

As noted above, the full text of the exchange petitions are available through the Commission's Office of the Secretariat, and are posted on the Commission's Web site.

Issued by the Commission this 9th day of June, 2004, in Washington, DC.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 04-13678 Filed 6-16-04; 8:45 am]

**BILLING CODE 6351-01-P**

## **OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

### **29 CFR Part 2200**

#### **Revisions To Procedural Rules Governing Practice Before the Occupational Safety and Health Review Commission**

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This document solicits recommendations for amendments to the Commission's rules of procedure.