

Dated: December 8, 2000.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 32

RIN 3038-AB61

#### Trade Options on Enumerated Agricultural Commodities

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend the exemption from its agricultural trade option rule, to clarify its operation in light of amendments to the exemption for bilateral transactions, published elsewhere in this issue of the **Federal Register**.

**DATES:** Comments must be received by December 28, 2000.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418-5521 or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Amendment to Rule 32.13(g)."

**FOR FURTHER INFORMATION CONTACT:** Paul M. Architzel, Chief Counsel, or Nancy E. Yanofsky, Assistant Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5260. E-mail: [PArchitzel@cftc.gov](mailto:PArchitzel@cftc.gov) or [NYanofsky@cftc.gov](mailto:NYanofsky@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Commission is proposing a technical revision to its agricultural trade option rule to clarify the requirements for an exemption therefrom. As revised, the exemption from the agricultural trade option rule will be based only on the net worth requirement in the current rule. See Rule 32.13(g)(1)(iii).<sup>1</sup> A revised part 35,

<sup>1</sup> The Commission's agricultural trade option rule currently provides a three-prong test for an

published elsewhere in this issue of the **Federal Register**, establishes an exemption from the regulatory requirements of the Commodity Exchange Act (Act) and the Commission's regulations for certain bilateral transactions between eligible participants. In adopting part 35, however, the Commission reserved the applicability of rule 32.13. Today's proposal is designed to make the operation of the exemption from rule 32.13 consistent with the broader exemption of part 35. Transactions between counterparties meeting the net worth requirement although not subject to the requirements of rule 32.13 remain subject to the provisions of part 35.

##### II. Related Matters

###### A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires that agencies consider the impact of their rules on small businesses. The proposed rule amendment simply clarifies the scope of an existing regulatory exemption available to high net worth entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this proposed amendment will not have a significant economic impact on a substantial number of small entities.

###### B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3504(h) (PRA), which imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to the proposed amendment to this rule. The Commission believes the proposed amendment does not contain information collection requirements which require the approval of the Office of Management and Budget. The purpose of the proposed amendment is to clarify the scope of an existing regulatory exemption.

exemption therefrom. In addition to the net worth requirement, the rule requires that: (a) the option be offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the option transaction, or the products or byproducts thereof; and (b) such producer, processor, commercial user of or merchant is offered or enters into the option solely for purposes related to its business as such. See Rule 32.13(g)(1)(i) and (ii). The Commission is proposing to remove these latter two requirements and make the exemption from the agricultural trade option rule available to parties based solely on their ability to meet the net worth requirement.

##### List of Subjects in 17 CFR Part 32

Commodity futures, Commodity options, Prohibited transactions, Trade options.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 2(a)(1)(A), 4c and 8a of the Act, 7 U.S.C. 2, 6c and 12a, as amended, the Commission hereby proposes to amend Chapter I, Part 32 of Title 17 of the Code of Federal Regulations as follows:

#### PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

1. The authority section for part 32 continues to read as follows:

**Authority:** 7 U.S.C. 2, 6c and 12a.

2. Section 32.13 is proposed to be amended by revising paragraph (g) to read as follows:

##### § 32.13 Exemption from prohibition of commodity option transactions for trade options on certain agricultural commodities.

\* \* \* \* \*

(g) *Exemption.* The provisions of this section shall not apply to a commodity option entered into between counterparties that have a reasonable basis to believe that each has a net worth of not less than \$10 million or the party's obligations on the option are guaranteed by a person which has a net worth of \$10 million and has a majority ownership interest in, is owned by, or is under common ownership with, the party to the option; *provided, however*, that part 35 of this chapter and § 32.9 apply to such option transactions.

Issued in Washington, D.C., this 7th day of December, 2000, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1271

[Docket No. 00N-1380]

#### Human Bone Allograft: Manipulation and Homologous Use in Spine and Other Orthopedic Reconstruction and Repair; Public Meeting; Reopening of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting; reopening of comment period.