

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

#### Trading Hours

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is proposing to amend Commission Regulation 1.41(k) to allow additional changes in trading hours to be deemed approved by the Commission one business day after receipt of written notice of a change in accordance with the regulation. The Commission is publishing notice of the proposed rulemaking and requesting public comment.

**DATES:** Comments on the proposed rulemaking must be made by May 18, 1998.

**ADDRESSES:** Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; transmitted by facsimile to (202) 418-5521; or transmitted electronically to (secretary@cftc.gov).

**FOR FURTHER INFORMATION CONTACT:** Lois J. Gregory, Attorney, Contract Markets, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418-5483.

#### SUPPLEMENTARY INFORMATION:

Regulation 1.41(k) allows a change in trading hours which does not permit trading to open before 7:00 a.m. or close after 6:00 p.m. local time in the city where the contract market is located to be deemed approved by the Commission at the close of business one business day after properly labeled written notice of the change is received by the Commission if the change is not inconsistent with the Commodity Exchange Act or the Commission's other regulations. Trading hour changes which do permit trading to open before 7:00 a.m. or close after 6:00 p.m. local time must be submitted to the Commission for approval pursuant to Regulation 1.41(b).

The Commission is proposing to amend Regulation 1.41(k) to allow additional changes in trading hours to be deemed approved by the Commission one business day after receipt of written notice of a change in accordance with the subsection. Specifically, under the rule as proposed to be amended, if a contract market had previously received

Commission approval for trading between 6:00 p.m. and 7:00 a.m. in at least one of its designated contracts, it could submit all subsequent changes in trading hours pursuant to regulation 1.41(k). Thus, under 1.41(k) as proposed to be revised, the first time a contract market proposed changing trading hours for any of its designated contracts to fall between the hours of 6:00 p.m. and 7:00 a.m., the proposal would have to be submitted to the Commission for approval pursuant to Regulation 1.41(b). The Commission would review such initial proposal to ensure that adequate systems and procedures were in place to accommodate the expanded trading hours. Matters to be addressed would include, among other matters, clearing, margin, market date, and surveillance programs. Any subsequent change to trading hours could then be approved under the expedited procedures of revised Regulation 1.41(k).

The Commission is proposing to amend Regulation 1.41(k) in the manner described as a result of its recent efforts to modernize and streamline its regulatory framework. Growth, technological developments, and around-the-clock trading have altered the marketplace. The proposed amendment to Regulation 1.41(k) is part of the Commission's efforts to ensure that its rules have adapted to these changes.

With respect to electronic trading, the proposed amendments to Regulations 1.41(k) contemplate that listing a contract for trading on an automated trading system would constitute more than a change in trading hours. It would also be a change in the method of trading. Accordingly, neither the initial establishment of an electronic trading system nor the subsequent listing of additional contracts would be eligible for treatment under Regulation 1.41(k). However, changes in the trading hours of a contract that was already listed on an electronic system would be eligible for treatment under revised Regulation 1.41(k).

#### Related Matters

##### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 [Pub. L. 104-13 (May 13, 1995)] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. While this proposed regulation has no burden, the group of regulations (3038-0022), of which this is a part has the following burden:

|                                    |              |
|------------------------------------|--------------|
| Average burden hours per response. | 3,546.26     |
| Number of Respondents .....        | 10,971       |
| Frequency of response .....        | On occasion. |

Copies of the OMB approved information collection package associated with this regulation may be obtained from the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington DC 20503, (202) 395-7340.

##### B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact on small businesses. The only entity this rulemaking would affect would be contract markets. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, (47 FR 18618 (April 30, 1982)). Therefore, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein would not have a significant economic impact on a substantial number of small entities.

##### List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements, Segregation requirements.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular Section 8a thereof, 7 U.S.C. 12a, the Commission hereby proposes to amend Part 1 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

#### PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

**Authority:** 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24.

2. Section 1.41 is amended by revising paragraph (k)(1) to read as follows:

##### 1.41 Contract market rules; submission of rules of the Commission; exemption of certain rules.

\* \* \* \* \*

(k) *Trading hours.* (1) Notwithstanding the provisions of paragraph (b) of this section and except in connection with an initial listing of a contract on an automated trading system, all changes in trading hours shall be deemed approved by the Commission at the close of business one

business day after written notice of such a change is received by the Commission if:

(i) The change is not inconsistent with any provision of the Act or the Commission's regulations;

(ii) For a change that permits trading anytime between 6 p.m. and 7 a.m. local time in the city where the contract market is located, the contract market has previously received Commission approval for trading between such hours in at least one of its designated contracts; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (k) of this section.

\* \* \* \* \*

Issued in Washington D.C. on April 28, 1998, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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BILLING CODE 6351-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 206

RIN 3067-AC69

### Disaster Assistance; Hazard Mitigation Grant Program

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the categories of projects currently eligible for funding under the Hazard Mitigation Grant Program (HMGP) by defining eligible mitigation activities under the HMGP to include nonstructural flood hazard mitigation measures and minor flood control projects that do not duplicate the efforts and authorities of other Federal agencies.

**DATES:** We invite comments on this proposed rule, which may be submitted on or before June 30, 1998.

**ADDRESSES:** Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) (202) 646-4536, or (email) rules@fema.gov.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3619, (facsimile) (202) 646-3104.

## SUPPLEMENTARY INFORMATION:

### Background

In December 1993, the President signed the Hazard Mitigation and Relocation Assistance Act, which amended § 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5170c. This amendment provides legislative authority to use the majority of mitigation funding available from flood disasters to undertake nonstructural floodplain management measures.

### Nonstructural Measures

Authorized by § 404 of the Stafford Act, the HMGP provides States and local governments financial assistance to implement measures that permanently reduce or eliminate future damages and losses from natural hazards. In response nonstructural measures are FEMA's first priority when grantees use Hazard Mitigation Grant Program funds to address a flood hazard. Our experience with the use of nonstructural flood hazard mitigation measures by acquiring, elevating, and floodproofing high-risk structures sharply reduces the number of structures in harm's way. Advantages of this approach include substantial environmental and hydrologic benefits.

This proposed rule would modify the list of eligible types of projects and clarify types of activities that are eligible under the program, and would reflect FEMA's multi-hazard program objectives and priorities. FEMA would include development and initial implementation of vegetation management programs for wildfire hazard mitigation and erosion hazard mitigation in the list of eligible activities. Routine maintenance and landscaping activities would not be eligible. Vegetation management can reduce the volume and continuity of flammable vegetation in order to slow or prevent the spread of wildfire from vegetation to developed properties and to improve the potential effectiveness of wildfire suppression activities. Vegetation management can also reduce costs associated with erosion from floods and severe storms.

Vegetation management programs often require significant regular maintenance in order to preserve their hazard mitigation benefits. Such maintenance would be the responsibility of the subgrantee. Before approving a grant FEMA or the State may require a maintenance plan and commitment by the subgrantee accepting responsibility for the maintenance.

The list of eligible HMGP projects provided for under subsection (c) is not all-inclusive, but provides a general overview of potential project categories and clarifies that major structural flood control projects would not be considered for funding under the HMGP. Applicants may propose project types not listed for funding consideration.

### Warning Systems

While "Development or improvement of warning systems" has been removed from the list of eligible project type examples in the rule, FEMA will continue to entertain applications for such projects under the Five Percent Initiative. The five percent initiative provides the State greater flexibility over the approval of HMGP projects up to five percent of the available program funding. FEMA's guidance for implementing the initiative specifically indicates that warning systems, which are difficult to evaluate against HMGP eligibility criteria, are appropriately funded within the five percent initiative.

### Structural Assistance

FEMA recognizes that dikes, levees, dams, channelization, channel widening, stream realignment, seawalls, groins, and jetties continue to serve as a means to minimize vulnerability to hazards under certain circumstances. These structures fall traditionally under the water resources design and construction authorities of the U.S. Army Corps of Engineers and the Natural Resources Conservation Service of the U.S. Department of Agriculture. Both of those agencies have extensive experience assisting in the planning, design, and construction of major structural projects. FEMA has limited experience with major structural flood control projects. Rather than duplicate assistance available from other Federal agencies, FEMA limits its flood control assistance to minor flood control projects and localized protection of critical facilities that generally do not fall under the authority of other Federal agencies.

### Minor Flood Control Projects

The most common activities under the minor flood control project category include modification of existing culverts and bridges; upgrades of storm drainage systems; installation of floodgates; and creation of small retention or detention basins. Based on these types of projects, the term "minor flood control projects" refers to the limited scope of a project's impact upon the floodplain that would lessen the frequency or severity of