

**SUPPORTING STATEMENT FOR NEW AND
REVISED INFORMATION COLLECTIONS
OMB CONTROL NUMBER 3038-0019**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

As noted in another submission concerning large trader reports, approved under OMB Number 3038-0009, the Commodity Exchange Act (Act) proscribes attempted or actual price manipulation, and the Commission maintains a market surveillance program to identify the elements and conditions constituting a threat of market manipulation. In addition to large trader position data, one such element identified in the other submission is knowledge of the supply of a commodity available for delivery. In order to enable the Commission to obtain information on the amount of a commodity available for delivery, the Act specifies that, as a criteria of designation, a board of trade shall have the capacity to prevent market manipulation through market surveillance. In addition, the board of trade shall establish rules to obtain any necessary information to perform this function (7 U.S.C. §7(b)(2) and §7(b)(8)). See Attachment A. The Commission has established reporting and recordkeeping requirements concerning warehouses under §1.44 of the regulations. See Attachment B.

It should also be noted that the Act requires contract markets, as a matter of continuing designation, to provide for the delivery of a commodity of such grade, at such points, and at such quality and locational differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of a commodity in interstate commerce (7 U.S.C. §7a(10)). See Attachment A. The information collected from warehouses and contract markets pursuant to Commission rule 1.44 provides a basis for enforcement of this provision of the Act.

- 2. Indicate how, by whom, and for what purpose the data would be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information is used by economists in the surveillance section to detect potential problem market situations and by economists in the market analysis section to review contract market rules. Without this information, the Commission would not be aware of the amount of deliverable grain and ungraded grains in federally licensed warehouses. Detection of potential market problems in grain futures would be impossible.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The exchanges now collect the data and are responsible for the means used to collect it.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The Commission has eliminated routine collection of this data, since the exchanges now voluntarily collect and provide data to the Commission and to the public. The information is available only from warehouses.

5. **If the collection of information involves small business or other small entities (item 5 of OMB Form 83-I), describe the methods used to minimize burden.**

This information collection does not involve any small organizations.

6. **Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.**

Weekly changes in stocks of grain are required for maturing futures analyses. During periods when market problems occur, changes in stocks may influence decisions on courses of action the Commission may take. These actions may range from notifying traders to declaring a formal emergency requiring trading for liquidation only.

7. **Explain any special circumstances that require the collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly.**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.**
- **Requiring respondents to submit more than an original and two copies of any document.**
- **Requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records, for more than three years.**

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.**
- **Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This question does not apply. Since the exchanges now collect the data, there are no special circumstances.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping disclosure, or reporting format (if any, and on the data elements to be recorded, disclosed, or reported).

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Opportunity for public comment is provided when regulations are initiated or amended. Notice of intent to renew this collection was published in the *Federal Register* on December 27, 2006 at 71 FR 77740-01 (attached). No comments have been received in response to that notice.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

This question does not apply.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

This information is not considered confidential.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The data collection requirements relating to this requirement contain no sensitive questions as that term is used in this paragraph.

- 12. Provide estimates of the hour burden of the collection of information. The Statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

The estimated cost to respondents in preparing stocks of grain reports: Three exchanges provide data weekly to the CFTC and to the public. It is estimated that each report requires approximately one hour to complete. This implies an annual cost of about \$3,000 to respondents to provide the information to the exchanges.

Estimated number of respondents	3
Reports annually by each respondent	52
Total annual responses	156
Estimated number of hours per response	1.0
Annual burden in fiscal year	156

13. **Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**
- **The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment, and record storage facilities.**
 - **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
 - **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**
- (a) This question does not apply.
- (b) All applicable costs are shown in the answer to question 12. The information is generated as part of their normal accounting operations.

- 14. Provide estimates of the annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

As noted above, the exchanges collect and tabulate the data for their own surveillance purposes and provide a copy of the results on their websites. Cost to the federal government is incurred only when data are analyzed. This estimated cost is \$50,000 annually. This includes salaries and benefits for persons directly involved in the data collection effort; prorated salaries and benefits for surveillance and market analysis economists based on time spent analyzing the information; and prorated cost for space for employees.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

There are no changes in burden from material previously submitted.

- 16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The data are not published.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

This question does not apply.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

This question does not apply.

COMMODITY EXCHANGE ACT Sec. 5

SEC. 5. [7 U.S.C. 7] DESIGNATION OF BOARDS OF TRADE AS CONTRACT MARKETS.

(a) APPLICATIONS.—A board of trade applying to the Commission for designation as a contract market shall submit an application to the Commission that includes any relevant materials and records the Commission may require consistent with this Act.

1(b) CRITERIA FOR DESIGNATION.—

2(1) IN GENERAL.—To be designated as a contract market, the board of trade shall demonstrate to the Commission that the board of trade meets the criteria specified in this subsection.

3(2) PREVENTION OF MARKET MANIPULATION.—The board of trade shall have the capacity to prevent market manipulation through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

1(3) FAIR AND EQUITABLE TRADING.—The board of trade shall establish and enforce trading rules to ensure fair and equitable trading through the facilities of the contract market, and the capacity to detect, investigate, and discipline any person that violates the rules. The rules may authorize—

2(A) transfer trades or office trades;

3(B) an exchange of—

0 (i) futures in connection with a cash commodity transaction;

1 (ii) futures for cash commodities; or

2 (iii) futures for swaps; or

4(C) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.

5(4) TRADE EXECUTION FACILITY.—The board of trade shall—

6(A) establish and enforce rules defining, or specifications detailing, the manner of operation of the trade execution facility maintained by the board of trade, including rules or specifications describing the operation of any electronic matching platform; and

7(B) demonstrate that the trade execution facility operates in accordance with the rules or specifications.

8(5) FINANCIAL INTEGRITY OF TRANSACTIONS.—The board of trade shall establish and enforce rules and procedures for ensuring the financial integrity of transactions entered into by or through the facilities of the contract market, including the clearance and settlement of the transactions with a derivatives clearing organization.

9 (6) DISCIPLINARY PROCEDURES.—The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

10 (7) PUBLIC ACCESS.—The board of trade shall provide the public with access to the rules, regulations, and contract specifications of the board of trade.

1(8) ABILITY TO OBTAIN INFORMATION.—The board of trade shall establish and enforce rules that will allow the board of trade to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.