

**SUPPORTING STATEMENT FOR NEW
AND REVISED INFORMATION COLLECTIONS**

OMB CONTROL NUMBER 3038-0048

A. Justification

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.

Generally, the offer or sale of commodity options is prohibited except on designated contract markets. 17 CFR 32.11. One of several specified exceptions to the general prohibition on off-exchange options is for "trade options." Trade options are off-exchange options "offered by a person having a reasonable basis to believe that the option is offered to" a person or entity within the categories of commercial users specified in the rule, where such commercial user "is offered or enters into the commodity option transaction solely for purposes related to its business as such." 17 CFR 32.4(a). Historically, trade options were prohibited on the agricultural commodities that are enumerated in the Commodity Exchange Act (Act), 7 U.S.C. 1a(4).

In April 1998, the Commodity Futures Trading Commission (Commission or CFTC) removed the prohibition on off-exchange trade options on the enumerated agricultural commodities subject to a number of regulatory conditions. 63 FR 18821 (April 16, 1998). Thereafter, the Commission streamlined the regulatory or paperwork burdens in order to increase the utility of agricultural trade options while maintaining basic customer protections. 64 FR 68011 (Dec. 6, 1999).

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.

Registration, recordkeeping, and financial requirements are deemed necessary to provide safeguards to customers. Commission staff also analyzes data from annual reports and special calls to evaluate the operation of the program. To date, one firm registered as an agricultural trade option merchant under the rules and later withdrew its registration. Several other firms have expressed interest in registering but have not yet applied.

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 collection of information does not anticipate any methods for collection. Reports are filed with the National Futures Association (NFA), which determines reporting methods.

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 rules allow the first purchase and sale of agricultural trade options since their ban a number of years ago. Therefore, data is available only under the rules.

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

The Commission has certified that the rules would not have a significant economic impact on a substantial number of small entities based on the fact that the rules removed a complete ban on the offer or sale of trade options on the agricultural commodities enumerated under the Act.

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.

Not applicable – done upon request as needed.

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; or

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.

For enforcement purposes, Commission rule 1.31 requires that:

"All books and records required to be kept by the (Commodity Exchange) Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily-accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice."

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.

The Commission published its notice of intention to renew this collection in the Federal Register. 70 FR 59319 (Oct. 12, 2005). No comments were received. The Commission also receives the views of a cross-section of the agricultural sector through its Agricultural Advisory Committee.

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration 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, regulation, or agency policy.

Section 8(a) of the Act provides for data confidentiality except under limited circumstances, none of which apply here.

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.

None of the proposed regulations require the giving of sensitive information, as that term is used here.

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 this 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 hour 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.

17 CFR	Annual Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Responses	Total Hours
17 CFR Part 32	36	On Occasion	41	5.59	230

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.

Generally, firms that register as trade option merchants are in the business of writing forward or other types of contracts with customers. Modification of their operations to purchase and sell trade options will be made primarily to provide customary and usual business practices. Three items may be attributed to the regulations. These are preparation of a disclosure document, preparing contracts that have standard language reflecting information that must be included in the contract pursuant to part 32 and preparing an internal controls document. Costs for these items are computed in terms of professional hours at \$50 per hour as follows:

- Total capital and startup cost component.
 - Disclosure Document - 40 x \$50 = \$2,000
 - Standardized Contract - 40 x \$50 = \$2,000
 - Internal Controls Document - 80 x \$50 = \$4,000

This implies a total cost to 10 firms of \$80,000. Assuming a period of ten years before major revisions are made, the annualized cost for the 10 firms is \$8,000 per year.

- (b) Total operation and maintenance and purchase of services components.

Costs in this category principally involve purchase of services. The NFA will be responsible for registration. We anticipate that fees will be as follows:

ITEM	CHARGE	NUMBER OF PERSONS	TOTAL
NFA Membership	\$500/firm	10	\$5,000
Registration of Firms	\$100/firm	10	\$1,000
Registration of APs	\$50/AP	30	\$1,500
TOTAL			\$7,500

14. Provide estimates of the annualized cost 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.

Costs incurred by the Commission should be restricted to an evaluation of the required data collected by NFA. We anticipate the use of one programmer/analyst and one economist to do the principle parts of the evaluation. This should require about one-half man-month per quarter to evaluate the routine reports and six man-months to evaluate data from each of two special calls for information. Over the three-year life of the program, evaluations will require 18 man-months or about six man-months per year. Assuming salary costs of \$130,000 per year, costs to the government should be approximately \$65,000 per year.

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

Estimates have been lowered due to lower than anticipated participation in the program.

16. For collections 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.

Does not apply.

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.

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.

Does not apply.