

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

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.

A. Summary

The notice of rulemaking proposes to re-establish speculative position limits on regulated derivatives based on four major energy commodities. The Commodity Exchange Act of 1936 (“CEA” or “Act”), under sections 4(a) and 8(a)(5), gives the Commodity Futures Trading Commission (“Commission” or “CFTC”) the authority to establish limits on trader positions to diminish, eliminate or prevent excessive speculation causing sudden or unreasonable fluctuations in the price of a commodity, or unwarranted changes in the price of a commodity.

The proposed regulations cover contracts based on four major energy commodities—(i) Henry Hub natural gas, (ii) Cushing light sweet crude oil, (iii) New York Harbor No. 2 heating oil, and (iv) New York Harbor gasoline blendstock. The proposed regulations apply to all CFTC-regulated exchanges. Currently, these four referenced energy commodity contracts are traded on the New York Mercantile Exchange (“NYMEX”) and the IntercontinentalExchange (“ICE”) located in Atlanta, Georgia.

The proposal would apply all-months-combined (“AMC”) and single-month speculative position limits both to classes of contracts (defined by the proposed regulations to include all contracts on a single exchange that are based on the same commodity and that settle in the same manner) and to positions in referenced energy contracts held across all reporting markets.

The aggregate limits are set by formula based on open interest. The AMC speculative position limit would be 10% of the first 25,000 contracts of open interest and 2.5% of open interest beyond 25,000 contracts. The single-month position limit, in turn, would be set at 2/3 of the AMC position limit.

To promote competition, for newer exchanges and contracts with low or no open interest, the AMC position limit for any one class of contracts would be the greater of 30% of a contract’s total open interest on a specific exchange, 5,000 contracts or 1% of all open interest in a referenced energy contract across all markets.

Spot-month position limits for physically-settled referenced energy contracts would be based on the number of contracts that correspond to 25% of the supply of a commodity that is deliverable under the terms and conditions of a referenced energy contract. A trader holding cash-settled contracts would be subject to a conditional-spot-month speculative position limit of 5 times the level fixed for the cash-settled contract’s physically-settled counterpart if the trader holds no physically-settled contracts. Otherwise, the trader would be subject to the same limit fixed for a contract’s physically-settled counterpart.

The proposal includes three types of exemptions: (i) a *bona fide* hedging exemption (currently applied to positions covered by the Federal agricultural limits in part 150 of the Commission's regulations) for traders with inventory or anticipatory purchase or sale transactions in the physical energy commodity markets; (ii) a new limited risk management exemption for swap dealers, in lieu of an exemption for a *bona fide* hedging transaction; and (iii) a position limit exemption for positions that are under an applicable limit when adjusted by a demonstrably appropriate and contemporaneous risk factor.

Traders hedging commercial risks (for example, airlines purchasing futures contracts to hedge the cost of fuel) would qualify for the *bona fide* hedging exemption from the proposed speculative position limits to the extent of their demonstrated hedging needs. *Bona fide* hedge exemptions would be processed by the exchanges subject to CFTC audits. Swap dealers establishing positions to offset customer initiated swap positions would qualify for the swap dealer limited risk management exemption for positions held outside the spot month. The limited risk management exemption for swap dealers would be administered by the CFTC and capped at two times an otherwise applicable proposed position limit (i.e., an AMC or single-month limit). The exemption for risk adjusted positions would be self-executing but would require certain reports to be filed with the Commission.

B. Collection of Information

Certain provisions of the proposed regulations would result in new collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA"). The Commission therefore is submitting this request for a new control number to the Office of Management and Budget ("OMB"), along with proposed new CFTC Form 404, for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

If approved, the title for this proposed collection of information would be "Regulation 1.45 and Parts 20 and 151—Position Limit Framework For Referenced Energy Contracts" (OMB control number 3038-NEW).

The necessity for a collection of information arises from the Commission's responsibility for properly administering the proposed limits and the need to process or monitor the processing and use of granted exemptions from the proposed speculative position limits. The necessity for a collection of information also arises from the Commission's responsibility for ensuring orderly markets, a responsibility that is facilitated by having access to trader information that is relevant to the proposed limits and exemptions therefrom.

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 required information under the proposed regulations relates to identifying data and trading information relating to the cash and derivatives positions of traders that exceed the spot and non-spot-month position limits, whether unlawfully or pursuant to an exemption from otherwise

applicable limits. The information would primarily be used by surveillance staff in the Commission's Division of Market Oversight to monitor compliance with the proposed limits and the proposed conditions that allow certain traders to exceed the position limits. The data would be used to monitor the trading activity of the largest traders in futures and option contracts for the major energy commodities. The data would most likely be submitted electronically and would be subject to extensive analysis and automated processing.

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.

As proposed, the manner of collection is subject to Commission discretion. The required information would be collected electronically in every case if at all possible in accordance with long standing Commission and industry practice.

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.

Information of the type that is required under the proposed regulations, if adopted, would not be duplicative of information acquired by the Commission through other means.

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

Information of the type that is required does not involve any small entities.

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.

The monitoring of market activities generally requires constant and continued surveillance because market disruptions can develop quickly. The collection requirements of the proposed regulations generally require the submission of data on a monthly basis from swap dealers and traders that are *bona fide* hedgers. Certain other initial and supplemental reporting requirements, for example, from swap dealers or *bona fide* hedgers that require additional positions to offset or manage price risks than previously justified in prior filings or reports, or traders that hold positions pursuant to the conditional-spot-month position limit or the exemption for risk adjusted positions, are triggered by specific trading activity. These initial and supplemental filings could be required on a more frequent than monthly basis. In the case of the conditional-spot-month position limit, reports would be required at the end of the month in which the trading occurred. T+1 reporting would be required in the case of supplemental reports.

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.**

The Commission regulates the trading of commodity futures and options contracts that impact a vast array of commodity prices vital to national and international commerce. The exercise of regulatory oversight for the purpose of conducting market surveillance, financial surveillance, and monitoring of trading patterns, by necessity, requires the submission of transactional and product related information on a basis that may be more frequent than 30-days.

- **Requiring respondents to submit more than an original and two copies of any document.**

Respondents are required to submit only single copies to the Commission.

- **Requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records, for more than three years.**

For the purpose of enforcing the provisions of the Act and the Commission's regulations thereunder, Commission regulation 1.31 (17 CFR § 1.31) requires that “[a]ll 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 two years of the five-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.”

- **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.**

The notice of proposed rulemaking does not involve statistical surveys.

- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.**

The notice of proposed rulemaking does not involve statistical data classifications.

- **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.**

Swap dealers can perform an important economic function by taking on risks to accommodate the specific hedging and risk management needs of various customers. Proposed regulation 1.45

sets forth the application procedure for swap dealers that would seek an exemption from the proposed Commission-set speculative position limits.

Proposed regulation 1.45 would require the applicant to consent to the publication of the fact that such person received a swap dealer exemption from the Commission. Such publication would be made only once a year and would not include the identity of a swap dealer that first received an exemption within the six calendar months preceding a publication. Furthermore, the publication would not include any information that would disclose the specific commodities for which the swap dealer has sought an exemption.

In this regard, the Commission reiterated in the preamble of the notice of proposed rulemaking, that it will protect all proprietary information in accordance with the Freedom of Information Act and part 145 of the Commission's regulations, headed "Commission Records and Information." In addition, the Commission emphasizes in proposed regulation 1.45 that section 8(a)(1) of the Act strictly prohibits the Commission, unless specifically authorized otherwise by the Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."

- **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.**

Certain provisions of proposed regulations require the submission of transactional and commercial data that may involve confidential information or proprietary trade secrets. The Commission will protect sensitive information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, the Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."

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.

A copy of the notice of proposed rulemaking is attached for OMB's review. It has been published in the Federal Register at 75 FR 4144 (January 26, 2010).

- **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).**

Opportunity for public comment is provided when regulations are initiated or amended. Contact with derivatives markets and market participants is maintained on a continuous and on an ongoing basis to resolve reporting problems and address concerns. The notice of proposed rulemaking that involves this submission to OMB provides a 90-day comment period. The Commission has, and plans to continue, to solicit comments through publication of proposed regulations in the Federal Register. The Commission will also, on an ongoing basis, solicit public comments through the notice required by 5 CFR 1320.8(d).

- **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.**

No such circumstances are anticipated.

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.

The Commission provides the assurances of confidentiality that are provided by the agency's Freedom of Information Act regulations, 17 CFR part 145. In addition, the Commission fully complies with section 8(a)(1) of the Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."

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.

This question does not apply.

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 burden figures provided below are the estimates of Commission staff (also included in Attachment 1). The estimates are based on Commission staff experience with administering the Federal agricultural speculative position limits, collecting and processing market and large trader data under parts 15 to 21 of the Commission's regulations, and issuing special calls to large traders under part 18 of the Commission's regulations.

In arriving at a wage rate for the hourly costs imposed, Commission staff used the Management & Professional Earnings in the Securities Industry Report, published in 2008 by the Securities Industry and Financial Markets Association (2008 Report).

Unless stated otherwise, Commission staff used a composite (blended) wage rate by averaging the mean annual salaries of an Assistant/Associate General Counsel, an Assistant Compliance Director, and a Programmer (Senior), as published in the 2008 Report, and dividing that figure by 1800 annual working hours to arrive at an hourly wage rate of \$80.75. In order to account for inflation since 2008, that hourly wage rate has been multiplied by a factor of 1.08 (an increase of 8%) to arrive at the hourly wage rate of \$87.21 for the purpose of conducting the cost analysis required in this Supporting Statement. Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collections of information under the proposed regulations. It is important to note that although the hourly wage referenced above does take bonuses into account, it does not consider certain variables such as employee benefits which can increase the cost of labor.

A. Conditional-spot-month Limits

For physically-delivered contracts, a spot-month position limit would be fixed by the Commission at one-quarter of the estimated deliverable supply for a spot-month class of contracts. This proposed formula is consistent with current regulation 150.5(b) and the Acceptable Practices for Core Principle 5, in Appendix B to part 38 of the Commission's regulations, and the Commission's Guideline No. 1, in Appendix A to part 40 of the Commission's regulations.

For cash-settled contracts based on the prices of physically-delivered futures contracts, the proposed regulations would establish a default spot-month position limit equal to that of the cash-settled contract's physically-delivered counterpart. The proposed regulations would allow a trader to acquire or hold positions in a spot-month class of contracts, pursuant to reporting market rules specifically implemented to address such positions, that is five times greater than the default spot-month limit upon satisfying certain conditions. A trader would be permitted to hold positions under this conditional-spot-month limit only if that trader does not hold a position in any physically-delivered referenced energy contract to which its cash-settled positions are linked in the spot month and satisfies the reporting requirements of proposed regulation 20.00.

Proposed regulation 20.00 sets forth reporting requirements for persons that would acquire positions in a referenced energy contract pursuant to the conditional-spot-month position limit of proposed regulation 151.2(a)(2). Specifically, this regulation would require such persons to file a completed CFTC Form 40 and Part A of new CFTC Form 404. CFTC Form 40, among other things, facilitates the Commission's identification of the persons controlling the trading of an account. Part A of new CFTC Form 404 would collect information on: a trader's spot and forward positions priced in relation to the relevant referenced energy contract or the contract's underlying commodity; the trader's spot and forward positions in contracts priced to a cash market index that includes quotations or prices for spot or forward contracts in the referenced energy contract's underlying commodity; the trader's positions in swaps priced in relation to the referenced energy contract or the contract's underlying commodity; and the trader's positions in other physically or financially settled contracts related to positions that are held pursuant to the conditional-spot-month position limit.

The collection of this information would facilitate the Commission's surveillance program with respect to detecting and deterring trading activity that may tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of the referenced energy contracts and their underlying commodities during the spot-month.

The reporting or recordkeeping burden associated with acquiring positions in excess of a spot-month position limit pursuant to the proposed conditional-spot-month position limit involves the compilation and submission of the required information discussed above to the Commission. The Commission staff estimates that each trader would expend approximately 4 hours of professional time to maintain, verify, and submit and update the required data per report. The Commission staff estimates that 7 traders would each submit 12 conditional-spot-month reports annually under proposed regulation 20.00. Accordingly, the aggregate annual hourly burden would be 336 hours resulting in an aggregate annualized cost of \$29,303.

B. *Bona Fide* Hedgers

Proposed regulation 151.3(a) would establish three exemptions for the following transactions and positions: (i) *bona fide* hedging transactions generally consistent with paragraphs (1) and (2) of regulation 1.3(z); (ii) swap dealer risk management transactions outside of the spot-month that are held to offset risks associated with certain swap agreements; and (iii) positions that would be in compliance with the speculative position limits when adjusted by an appropriate contemporaneous risk factor.

Proposed regulation 20.01 sets forth reporting requirements for persons that would acquire positions pursuant to the *bona fide* hedge exemption of proposed regulation 151.3(a)(1). Specifically, this section would require such persons to file a completed CFTC Form 40 and Part B of new CFTC Form 404. Part B of CFTC Form 404 would collect information on: the quantity of stocks owned of the commodity that underlies the relevant referenced energy contract and its products and by-products; the ownership of shares of an investment vehicle that holds or owns the referenced energy contract or the commodity that underlies the referenced energy contract and its products and by-products; the quantity of fixed price purchase and sale commitments on the relevant referenced energy contract's commodity; and, for anticipatory hedging transactions, annual sales or requirements for the preceding three complete fiscal years and anticipated sales or requirements of such commodity for the period hedged.

For cross-hedge positions, traders would be required to report the relevant commercial activity in terms of the actual or anticipated quantity of the cross-hedged commodity, and on a converted basis, equivalent positions in the relevant referenced energy contract. The Commission notes that this proposed data collection is consistent with data currently collected in grain and cotton markets using CFTC Forms 204 and 304, respectively, pursuant to part 19 of the Commission's regulations.

The reporting or recordkeeping burden associated with acquiring positions in excess of a proposed speculative position limit pursuant to the proposed *bona fide* hedge exemption involves the compilation, updating, and submission of the required information discussed above. Based on the Commission's large trader data, the Commission staff estimates that 5 traders would each submit 12 reports annually under proposed regulation 20.01. Each trader would expend approximately 4 hours of professional time to maintain, verify, and process the required data per report. Accordingly, the aggregate annual hourly burden would be 240 hours resulting in an aggregate annualized cost of \$20,931.

C. Swap Dealers

Proposed regulation 1.45 sets forth the application procedure for swap dealers that would seek an exemption from the proposed Commission-set speculative position limits. Specifically, this regulation would require a person to file a completed CFTC Form 40, an initial application and an annual update to certify that the person remains a swap dealer, as defined in proposed regulation 151.1. Commission staff estimates that such initial filings would not result in any additional appreciable response burden or cost.

Proposed regulation 20.02 sets forth reporting requirements for persons who would receive a swap dealer limited risk management exemption pursuant to proposed regulation 151.3(a)(2). Specifically, the proposed regulation would require swap dealers to file monthly a completed Form 404 Part C with the Commission and with any registered entity on which the swap dealer's referenced energy contract positions are listed. The monthly report would include, for each day, swap positions based upon the commodity underlying the referenced energy contracts that are held in proprietary and customer accounts and a summary of dealing and trading activity in

swaps based upon the commodity underlying the referenced energy contracts. Furthermore, proposed regulation 20.02 would require the swap dealer to file a supplemental report whenever it establishes a larger position in referenced energy contracts than previously reported. In addition to the above reporting requirements, traders that receive a swap dealer limited risk management exemption must also maintain complete books and records relating to their swap dealing activities (including transaction data) and make such books and records, along with a list of counterparties to customer swap agreements that support and substantiate the need to offset swap agreement risks on reporting markets, available to the Commission upon request.

The reporting or recordkeeping burden associated with acquiring positions in excess of a non-spot-month position limit pursuant to the proposed swap dealer limited risk management exemption involves the compilation and submission of the required information discussed above to the Commission. Based on the Commission's large trader data, the Commission staff estimates that 4 traders would each submit 12 reports annually under proposed regulation 20.01. Each trader would expend approximately 4 hours of professional time to maintain, verify, and update the required data per report. Accordingly, the aggregate annual hourly burden would be 192 hours resulting in an aggregate annualized cost of \$16,745.

D. Exemptions for Delta-Adjusted Positions

Proposed regulations 151.3(a)(3) and 20.03 would set forth the exemption and reporting requirements for persons whose positions would have exceeded the Federal speculative position limit for a referenced energy contract when adjusted by the previous day's risk factors (deltas), but that would not exceed such a limit when positions are calculated using an appropriate contemporaneous risk factor. The reporting requirements (filing Form 40 and part D of Form 404), as proposed, would include the submission of complete position data to demonstrate that such positions remained within an otherwise applicable speculative position limit when adjusted by an appropriate and contemporaneous risk factor.

The reporting or recordkeeping burden associated with acquiring positions that may initially be viewed as positions in excess of a proposed position limit pursuant to the delta adjusted exemption involves the compilation and submission of the required information discussed above. Because the proposed position limits are at the outrebounds of the largest positions in the referenced energy contract, and because of the definition of contracts of the same class, Commission staff estimates that 2 traders would each submit 4 reports annually under proposed regulation 20.03. Each trader would expend approximately 4 hours of professional time to maintain, verify, and update the required data per report. Accordingly, the aggregate annual hourly burden would be 32 hours resulting in an aggregate annualized cost of \$2,791.

E. Supplemental Reports and Estimated Deliverable Supply Estimates

Under the proposed regulations, traders could be required to submit supplemental filings pursuant to the *bona fide hedge* and swap dealer limited risk management exemptions. Commission staff estimates that such supplemental filings would be infrequent and would not result in any additional appreciable response burden or cost.

Proposed regulation 151.2(d) would require a reporting market listing physically-delivered contracts to submit to the Commission an estimate of deliverable supply for its contracts by December 31st of each calendar year.

The Commission, in setting the spot-month limits, would take into consideration the estimates of deliverable supply provided by the reporting markets and would base its own determination of deliverable supply on data submitted by the reporting markets unless the Commission has a basis for questioning the accuracy of the submitted data, in which case the Commission would derive its own estimates of deliverable supply.

Exchanges are self-regulatory organizations with independent statutory and regulatory responsibilities. As part of listing contracts for trading, Commission-regulated exchanges are required to, among other things, comply with Core Principles 3 and 5. Core Principle 3 requires exchanges to list only contracts that are not readily susceptible to manipulation. Core Principle 5 requires exchanges to establish position limit and accountability rules. Exchanges, pursuant to their statutory obligations as self-regulatory organizations, are required to conduct a thorough analysis of estimated deliverable supply of a commodity when listing physically-settled contracts. Accordingly, exchanges would be expected to maintain such information. The transmission of such information to the Commission, pursuant to proposed regulation 151.2(d), would not lead to any additional appreciable response burden or cost.

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 costs 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.

Commission staff believes that the relevant costs are addressed in the answers to question 12.

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.

Under the proposed regulations, the Commission would be required to determine whether newly listed contracts are referenced energy contracts for the purpose of arriving at and applying the proposed speculative position limits. Commission staff estimates the receipt of 120 candidate new energy contracts annually. The referenced energy contract analysis for each contract would take approximately ½ hour per contract and therefore require a total of 60 staff hours annually.

The proposed regulations would require the Commission to fix estimated deliverable supply and AMC and single-month speculative position limits annually. In doing so, the Commission would be required to conduct in-depth deliverable supply analyses, open interest analyses, and industry interviews. The Commission would also double-check all calculated or collected data prior to any fixing. The Commission would be required to undertake these fixings separately for futures and option contracts based on light sweet crude oil, natural gas, and heating oil and gasoline. Commission staff estimates that the fixing of deliverable supply and position limits would require 160 hours for futures and option contracts based on light sweet crude oil and natural gas each, and 160 hours for futures and option contracts based on heating oil and gasoline collectively. Accordingly, the fixings for all referenced energy contracts would require 640 staff hours annually.

The proposed regulations would permit the exchanges to continue to process *bona fide* hedge exemptions. The Commission, however, would directly process requests for exemptions from swap dealers. The Commission anticipates 4 such requests annually and that such requests would require 8 hours to review per request for a total annual requirement of 32 staff hours.

Under proposed part 20 of the Commission's regulations, the Commission would receive 200 reports annually from traders that avail themselves of the conditional-spot-month limit, bona fide hedge exemption, swap dealer limited risk management exemption, and risk adjusted position exemption. Each report would be subject to an initial review that would require 1 hour per report for a total annual requirement of 200 staff hours.

The Commission would closely review all granted swap dealer exemptions and a sample set of all exchange-granted bona-fide hedge exemptions and reports and filings submitted to the Commission under proposed part 20 of the Commission's regulations to validate the submitted data. Commission staff estimates that such validation would require 1600 staff hours annually. Commission staff also estimates detecting 4 violations annually which would require staff follow

up. Commission staff estimates that such follow up would require 40 staff hours per possible violation resulting in an estimated annual requirement of 160 staff hours.

Accordingly, Commission staff estimates that the total hourly burden expended by the Commission would be 2,692 hours and that, at an average salary rate of \$55 per hour for a full-time employee, the total cost to the government of the proposed regulations would be \$148,060 annually.

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

This question does not apply because this statement is provided in support of a request for a new OMB control number.

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.

This question 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.

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.

Exhibit A

Regulation 1.45 and Parts 20 and 151—Position Limit Framework For Referenced Energy Contracts (Question 12)

a	b	c	d	e ¹	f	g ²
Type of Respondent	Estimated Number of Respondents	Report or Record	Average Reports Annually by Each Respondent	Total Annual Responses	Estimated Number of Hours Per Response	Annual Burden in Fiscal Year
Trader	7	Reg. 20.00 – Conditional-spot-month position limit; Form 40; part A Form 404	12	84	4	336
Trader	5	Reg. 20.01 – <i>Bona fide</i> hedge exemptions; Form 40; part B Form 404	12	60	4	240
Trader	4	Reg. 20.02 – Swap dealer limited risk management exemptions; Form 40; part C Form 404	12	48	4	192
Trader	2	Reg. 20.03; Delta-adjusted positions; Form 40; part D Form 404	4	8	4	32
Total	10 distinct traders			200		800

¹ Column b times column d.

² Column e times column f.