

**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)). 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.**

Information concerning changes in stocks of grain is 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 April 13, 2010 at 75 FR 18824 (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.**

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). Commission staff used a composite (blended) wage rate by averaging the mean annual salaries of a Compliance Manager and a Programmer as published in the 2008 Report, and divided that figure by 1800 annual working hours to arrive at the hourly wage rate of \$51.

Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information. 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.

Three exchanges keep records showing the stocks of commodities traded on their contract markets that are in store in warehouses, depositories, and other similar entities. This data is made available to the CFTC and the public via the exchanges' websites and through other means. There is no report or data file required to be transmitted specifically to the Commission on a recurring basis. CFTC staff makes use of this data as necessity arises but generally this occurs on average weekly. Therefore, the estimated costs below assume a need for a weekly report. It is estimated that 1 hour is needed to produce each report. This results in an annual cost of about \$8,000 for the respondents. The calculation of this estimated cost is as follows:

Estimated number of respondents	3
Reports annually by each respondents	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 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.**

(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. The Commission estimates that staff would expend approximately 936 hours reviewing the data. At an average salary rate of \$55 per hour for a full-time employee, the Commission estimates that the cost to the government would be \$51,480.

- 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.

Attachment A

§ 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 chapter.

(b) Criteria for designation

(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.

(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.

(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—

(A) transfer trades or office trades;

(B) an exchange of—

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

(ii) futures for cash commodities; or

(iii) futures for swaps; or

(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.

(4) Trade execution facility

The board of trade shall—

(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

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

(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.

(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.

(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.

(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.

Attachment B

§ 1.44 Records and reports of warehouses, depositories, and other similar entities; visitation of premises.

Each contract market shall require the operators of warehouses, depositories and other similar entities whose receipts are deliverable in satisfaction of commodity futures contracts or options on physicals made on or subject to the rules of such contract market:

- (a) To keep records showing the stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market in store in such warehouses, depositories and other similar entities by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased space of the warehouse, depository or other similar entity;
- (b) Upon call from the Commission, to report the stocks of commodities in such warehouses, depositories and other similar entities and to furnish information concerning stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market about to be transferred or in the process of being transferred or otherwise moved into or out of such warehouses, depositories and other similar entities, as well as any other information concerning commodities stored in such warehouse, depositories and other similar entities and which are or may be available for delivery on futures contracts or options on physicals; and
- (c) To permit visitation of the premises and inspection of the books and records of such warehouses, depositories and other similar entities by duly authorized representatives of the Commission or the Department of Justice, and to keep all books, records, papers, and memoranda relating to the storage and warehousing of commodities in such warehouse, depository or other similar entity for a period of 5 years from the date thereof.

(Approved by the Office of Management and Budget under control number 3038-0019)