

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

**OMB CONTROL NUMBER 3038-0013**

**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.**

Section 4a(a) of the Commodity Exchange Act (Act) allows the Commission to set speculative limits in any commodity for future delivery in order to prevent excessive speculation. Certain sections of the Act and/or the Commission's regulations thereunder allow exemptions from the speculative limits for persons using the market for hedging and, under certain circumstances, commodity pool operators (CPOs) and similar traders. Copies of relevant sections of the Act and the Commission's regulations are included as attachments.

**Hedging Exemptions** – Section 4a(c) of the Act provides that bona fide hedging positions or transactions, as defined by the Commission, shall not be subject to such limits. The Commission has defined bona fide hedging in section 1.3(z) of its regulations for the purposes of limits which it has established in the grains, soybean complex, and cotton. Among other transactions or positions, the Commission has defined the following as hedging.

1. Twelve months' unsold anticipated production of a commodity (17 CFR §1.3(z)(2)(i)(B));
2. twelve months' anticipated processing or feeding requirements (17 CFR §1.3(z)(2)(ii)(C)); and
3. transactions or positions not specifically enumerated in rule 1.3(z)(2) which are approved by the Commission in accordance with rule 1.47 (17 CFR §1.3(z)(3)).

In order to determine the quantities of a commodity for future delivery which a person can classify as hedging under 1, 2, or 3 above, the Commission requires that persons file a statement pursuant to rules 1.47 or 1.48 (17 CFR §§1.47 and 1.48).

**Eligible Entity Exemption** – Effective enforcement of speculative position limits is dependent, in part, on a clear understanding of what positions are to be counted together in determining whether the applicable limit has been breached. Congress recognized this requirement by including within section 4a of the Act a standard for the aggregation of positions based on both ownership and control of futures positions.

CPOs, CTAs, banks, and insurance companies have sought and the Commission has granted a method of relief from the ownership provisions of the aggregation standards set forth in section 4a for positions of these types of similar entities (referred to as eligible entities) which are held in the separate accounts of independent account controllers. The exemption is self-effectuating for eligible entities, and involves no routine collection of information. However, upon call by the Commission, any person claiming an exemption from speculative position limits

under part 150 of the Commission's regulations must provide to the Commission such information as specified in the call related to the exempted position.

**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.**

Surveillance economists use this information to determine the extent, if any, to which traders may exceed speculative limits. Persons not filing these reports whose futures positions exceed Commission limits may be found in violation of section 4a(a) of the Act.

**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.**

Because of the small number of reports submitted through this information collection, it does not appear that improved information technology would be useful in reducing burden hours.

**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.**

This information is not collected by any other agency.

**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 information collection does not involve 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.**

Adequate enforcement of speculative limits would be impossible. Information is collected only as needed for this purpose.

**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.**

Notice of intent to renew this collection was published in the Federal Register on January 22, 2002 (67 FR 2859) (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.**

Does not apply.

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

Public disclosure of information concerning the positions and business information of individual traders is prohibited by section 8(a) of the Commodity Exchange Act (7 USC 12(a)), except under such circumstances as specified in the Act. Further, persons may petition the Commission for confidential treatment under 17 C.F.R. §145.9.

**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 regulations require the giving of sensitive information, as that term is used in 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.

Estimated Annual Burden					
Regulations (17 CFR)	Estimated Number of Respondents	Reports Annually by Each Respondent	Total Annual Responses	Estimated Number of Hours Per Response	Annual Burden
Rule 1.47 and 1.48	7	2	14	3	42
Part 150	2	1	2	3	6

Approximately 7 hedgers per year file reports under rules 1.47 and 1.48. We expect that the Commission will make two calls per year for information related to exemptions under Part 150 of the regulations. It is estimated that these reports may require as many as three hours per report to prepare and file. Estimated annual burden hours for this information collection, therefore, are 42 hours for hedgers and 6 hours for special calls for a total of 48 hours.

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 appropriate Compliance and Information Technology staff as published in the 2008 Report, and divided that figure by 1800 annual working hours to arrive at the hourly wage rate of \$51.

Using a professional wage rate category of \$51/hour, annual cost to respondents is \$2448.

**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.**

Total costs to respondents is provided in the answer to question 12.

**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.**

The Commission estimates that staff would expend approximately 64 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 \$3,520.

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

Adjustments in the dollar value of burden were caused by an update to industry wage rates.

**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.**

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.**

This question does not apply