The FAA agrees and has incorporated the ultrasonic inspections into the compliance requirements of this AD.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves approximately 2,153 engines, and the approximate fleet cost would be $160,000 annually. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected, since this rule affects only operators using aircraft in which CF6-50/-45 series engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

General Electric Company: Applies to General Electric Company (GE) CF6-50/-45 series turbofan engines installed on, but not limited to, McDonnell Douglas DC-10, Boeing 747 and Airbus A300 type aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent turbine mid frame (TMF) cracks which could cause the release of hot gas, increased nacelle temperature, activation of the fire warning indication system, and an inflight shudown, accomplish the following:

(a) Inspect the TMF, Part Numbers (P/N) 9128M52 and 9137M92, in accordance with GE Service Bulletin (SB) 72-957, Revision 1, dated April 18, 1989, as follows:

(1) Inspect TMF cases with 1,050 or greater cycles in service since new (CSN) on the effective date of this AD, at the next TMF exposure prior to return to service, or prior to accumulating the next 450 cycles in service (CIS) after the effective date of this AD, whichever occurs first.

(2) Inspect TMF cases with less than 1,050 CSN on the effective date of this AD, prior to accumulating 1,500 CSN.

(3) Remove from service, prior to further flight, and replace with serviceable parts, TMF cases which exceed the serviceable limits specified in Tables 1-4 inclusive of the above noted GE SB.

(4) Thereafter, reinspect TMF cases with no cracks or indications at intervals not to exceed 450 CIS since previous inspection. Reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of the above noted GE SB.

Note: For the purpose of this AD, exposure of the TMF is defined as any uninstalled engine or uninstalled TMF module.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternative method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The TMF inspections shall be done in accordance with GE SB 72-957, Rev. 1, dated April 18, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company, 1 Neumann Way, Cincinnati, Ohio 45215. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20591.

This amendment becomes effective on April 9, 1990.

Issued in Burlington, Massachusetts, on December 20, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-5138 Filed 3-6-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-181-AD; Amdt. 39-6533]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive inspections to detect cracks in the main landing gear (MLG) fittings on the rear wing spar, and repair, if necessary. This amendment is prompted by results of the manufacturer's full-scale fatigue testing which revealed cracks in the rear spar emanating from certain bolt holes at the attachment of the MLG forward pick-up fitting and the MLG rib 5 aft. This condition, if not corrected, could result in reduced structural capability of the rear wing spar.

EFFECTIVE DATE: April 13, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive inspections to detect cracks in the main landing gear (MLG) fittings on the rear wing spar, and repair, if necessary, was published in the Federal

Register on September 26, 1989 (54 FR 39394).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters requested that the proposed rule not be adopted because the provisions of the proposed rule are included in the Supplemental Structural Inspection Program (SSIP). The FAA does not concur. The FAA acknowledges that the service bulletin is a part of the SSIP; however, when the Notice was issued, the SSIP document was under preparation and its date of issuance was not known. Now that the SSIP has been issued, the FAA may consider further, separate rulemaking to address it. Since some operators may currently have airplanes which are approaching the specified number of cycles where the actions described in the service bulletin are necessary, the FAA has determined that it is appropriate to proceed with this rulemaking to require those actions.

Another commenter objected to the proposed rule in its present form since it would require the use of a specific kind of high frequency eddy current inspection (rototest). The commenter requested that only a high frequency eddy current inspection be specified in the adopted rule. The FAA does not concur. Since the purpose of the test is to detect cracks in specific materials at a precise location, the type of high frequency eddy current needs to be specified to ensure that all cracks are detected; the FAA has determined that the rototest technique is the most effective method of ensuring this. However, if the operator desires to use an alternative test method that will provide an equivalent level of safety, the operator may apply for an alternative means of compliance under paragraph E. of this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 66 airplanes of U.S. registry will be affected by this AD, that it will take approximately 180 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $475,200.

The regulations adopted herein will not have substantial direct effects on the States, on the relationships between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13—[Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletin A300–57–157, dated January 30, 1989, certified in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the rear wing spar, accomplish the following:

A. Perform a high frequency eddy current (HFEC) rototest inspection of certain bolt holes where the main landing gear (MLG) forward pick-up fitting and MLG rib 5 aft are attached to the rear wing spar, in accordance with Airbus Industrie Service Bulletin A300–57–157, dated January 30, 1989, as follows:

1. Model A300 B2, B4–2C, and B4–100 series airplanes:

a. For airplanes that have accumulated less than 20,000 landings, the initial inspection must be performed prior to the accumulation of 22,000 landings.

b. For airplanes that have accumulated at least 20,000 landings but not more than 25,000 landings, the initial inspection must be performed within 2,000 landings after the effective date of this AD.

c. For airplanes that have accumulated 25,000 or more landings, the initial inspection must be performed within 1,000 landings after the effective date of this AD.

2. Model A300 B4–200 series airplanes:

a. For airplanes that have accumulated less than 17,000 landings, the initial inspection must be performed prior to the accumulation of 19,000 landings.

b. For airplanes that have accumulated at least 17,000 landings but not more than 21,000 landings, the initial inspection must be performed within 1,500 landings after the effective date of this AD.

c. For airplanes that have accumulated 21,000 or more landings, the initial inspection must be performed within 750 landings after the effective date of this AD.

B. If no cracks are found and no oversizing of the holes concerned is accomplished, repeat the inspection required by paragraph A., above, at the following intervals:

1. For Model A300 B2 series airplanes, repeat the inspection at intervals not to exceed 7,000 landings:

2. For Model A300 B4–2C and B4–100 series airplanes, repeat the inspection at intervals not to exceed 5,800 landings;

3. For Model A300 B4–200 series airplanes, repeat the inspection at intervals not to exceed 5,000 landings.

C. If no cracks are found and a spar life extension by oversizing of the holes concerned has been accomplished in accordance with Airbus Industrie Service Bulletin A300–57–157, dated January 30, 1989, repeat the inspection required by paragraph A., above, at the following intervals:

1. For Model A300 B2 series airplanes, repeat the inspection at intervals not to exceed 20,000 landings;

2. For the Model A300 B4–2C and B4–100 series airplanes, repeat the inspection at intervals not to exceed, 17,000 landings; and

3. For the Model A300 B4–200 series airplanes, repeat the inspection at intervals not to exceed 15,000 landings.

D. If cracks are found, repair prior to further flight, and determine repeat inspections at intervals in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive

who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective April 13, 1990.

Issued in Seattle, Washington, on February 27, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-5143 Filed 3-6-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 90-ASO-1]

Amend Time of Designation for Restricted Area, R-2931; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reduces the time of designation for Restricted Area R-2931, Cape Canaveral, FL, from "Continuous" to "By NOTAM 24 hours in advance." The United States Air Force no longer requires this airspace on a continuous-use basis. Future use of the airspace can be accommodated by issuance of a NOTAM 24 hours in advance.

EFFECTIVE DATE: 0901 U.t.c., May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Itchy Sell, Military Operations Branch (ATO-140), Operations Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7685.

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the time of designation for Restricted Area R-2931, Cape Canaveral, FL, from "Continuous" to "By NOTAM 24 hours in advance." The United States Air Force has deactivated the Tethered Aerostat Radar System and therefore no longer requires the area on a continuous-use basis. A requirement exists to periodically utilize the airspace to conduct aerostat balloon flight tests. These tests can be accomplished by activating R-2931 by NOTAM 24 hours in advance. Because this action reduces the amount of time R-2931 is active and lessens the burden on the flying public, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.29 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.29 [Amended]

2. Section 73.29 is amended as follows:

R-2931 Cape Canaveral, FL [Amended]

By removing the present time of designation and substituting the following: Time of designation. By NOTAM 24 hours in advance.

Issued in Washington, DC, on February 27, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-5140 Filed 3-6-90; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Trading Cards and Submission of Trading Records; Amendments to Commission Regulation 1.35

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has amended Commission Regulation 1.35, 17 CFR 1.35, to limit the opportunity for the fabrication or alteration of trade records, to assure accountability for trading cards and to enhance exchange audit trails and trade surveillance. These final amendments require, among other things, the collection of trading records within specified time frames; the timestamping of trading cards upon collection; the use of pre-printed sequentially-numbered trading cards which are unique to each member of the contract market and distinguishable from any other trading cards used by the member for a period of not less than one week; the recording of trades on both trading cards and order tickets in non-erasable ink; and the designation of the opening and closing periods on trading cards. The final amendments to Regulation 1.35 impose these and other obligations directly on contract market members and require each contract market to promulgate implementing rules to that effect. A contract market, however, may petition the Commission for an exemption from these requirements based upon the demonstrated current availability of hand-held terminals or other automated means for trade recordation which can eliminate improper alteration or fabrication of such records.

EFFECTIVE DATE: Commission Regulations 1.35(a), (a-1) (2) and (4), (d)(1)-(3), (5), (7)-(8), (j) (1)-(4) and (7)-(8), (k) and (l) are effective 60 days after publication. Commission Regulations 1.35(d) (4) and (6), and (j)(5)-(6) are effective 90 days after publication.

FOR FURTHER INFORMATION CONTACT: Ann H. Sulzberg, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Burden

The public reporting burden for this collection of information is estimated to average 80.83 hours per response, including the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, and the Office of Management and Budget, Paperwork Reduction Project (3038–0022), Washington, DC 20503.

I. Introduction

On September 7, 1989, the Commission published for public comment in the **Federal Register** proposed amendments to Regulation 1.35, 54 FR 37117, September 7, 1989. Regulation 1.35 governs the records of cash commodity, futures, and options transactions which must be prepared and maintained for all purchases and sales of commodities for future delivery or commodity options on designated contract markets. Regulation 1.35, among other things, imposes various obligations on a contract market and its members to ensure that members prepare accurate and complete trading records.

The Commission has found, based upon its oversight activities and the prosecutions resulting from the joint Commission/Department of Justice undercover investigation of trading practices on the Chicago Mercantile Exchange ("CME") and the Chicago Board of Trade ("CBOT"), instances where members have not prepared accurate and complete trading records in accordance with existing regulatory standards. In particular, it appears that members have altered or created fictitious trading records to facilitate illegal purposes. Such alterations of trading records are evidenced by recent plea agreements entered into by defendants in the criminal actions stemming from the investigation of trading on the Chicago exchanges. As demonstrated by these plea agreements, floor traders and brokers, who under current practices can at times retain control of trading records well after trades have been executed, have altered the price or quantity originally recorded for a trade in order to defraud customers or accommodate illegal transactions by others. They also have used retained trading cards to fabricate trades by inserting notations on the cards as if trades had been executed by open outcry, often doing so after the close of trading.

Indeed, defendants entering guilty pleas generally have admitted to participating in a scheme to convert customer funds and market opportunities by, among other means, "illegally changing the price of previously executed orders * * * to the detriment of the broker's customer." [1] For example, one defendant admitted to buying a Treasury Bond futures contract on behalf of a customer at a price of 89 and $^{14}/_{32}$. When the market then fell by one tick ($^{1}/_{32}$ of a point), the defendant immediately told the opposite trader to change the price of the trade to 89 and $^{15}/_{32}$, thus furthering the customer's loss and benefiting the opposite trader. "Plea Agreement" at p. 5–6, *United States* v. *Goberstein*, No. 89 CR 667–1 (N.D. Ill. January 22, 1990). Similarly, another defendant admitted to altering trading records to raise the execution price of a 10-contract customer fill in the Japanese Yen futures contract in order to benefit the opposite trader. "Plea Agreement" at p. 2, *United States* v. *Callahan*, No. 89 CR 668–5 (N.D. Ill. August 25, 1989).

The plea agreements also contain admissions by defendants of fabricating trades during the course of trading or after the close, and then using retained records to record the trades for clearing. In one instance, the defendant admitted to approaching an FBI undercover agent 24 minutes after the close of trading, and requesting the agent to insert on trading cards used earlier in the day a purchase and sale of 25 soybean futures contracts, and to record falsely that the trades were executed during a time bracket approximately one hour earlier. "Plea Agreement" at pp. 1–2, *United States* v. *Eggum*, No. 89 CR 666–7 (N.D. Ill. October 2, 1989). Another plea agreement describes defendants using retained trading records to falsify a trade in order to settle a loss on an earlier outtrade. After the close of trading, the defendant who entered into the plea agreement was instructed by a co-defendant to record the purchase of 15 soybean contracts from a customer order and the sale opposite a second customer at a higher price. Thus, neither customer's order was filled by open outcry, and the first defendant received a profit to compensate for his earlier loss in connection with the outtrade. "Plea Agreement" at 2–3, *United States* v. *Gillen*, 89 CR 666–15 (N.D. Ill. August 1989).

The Commission proposed various amendments to Regulation 1.35 to establish more stringent document collection and recordkeeping requirements which would limit the opportunity of members to engage in abusive trading activity. Toward that end, the proposed amendments, in general, would have required more frequent collection of trading cards, timestamping of such cards upon completion or submission, pre-printed and pre-sequenced trading cards unique to each member, specific procedures for completing trading cards, and members to be accountable for all trading cards. The Commission intended that each of these proposals would provide increased customer protection with respect to order execution, while taking into account that trading practices differ across contract markets. In this manner, the Commission sought to reduce the degree of individual trader control over trading records without unduly affecting trading or mandating electronic trading or automated trade recordation systems. Although such systems may provide superior customer protection from trade record alteration and falsification, they currently are in the developmental or testing stages and, therefore, have not yet been implemented on the contract markets. [2]

II. Comments Received

The Commission received letters from 36 commenters on the proposed amendments,[3] including eight futures exchanges,[4] two trade associations, two grain elevators, seven local traders, and seven futures commission merchants ("FCMs"). Although most commenters agreed with the Commission that there is a need to enhance the integrity and verifiability of trading records, the commenters nevertheless stated that certain proposed amendments were impracticable or otherwise would

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[1] *See, e.g.*, "Plea Agreement" at pp. 4–5, *United States* v. *Parz*, No. 89 CR 668–15 (N.D. Ill. February 2, 1990); "Plea Agreement" at p. 3, *United States* v. *Furhman*, No. 89 CR 669–3 (N.D. Ill. August 10, 1989); "Plea Agreement" at p. 5, *United States* v. *Kosar*, No. 89 CR 667–2 (N.D. Ill. December 5, 1989); "Plea Agreement" at p. 4, *United States* v. *Eggum*, No. 89 CR 666–10 (N.D. Ill. October 2, 1989).

[2] For example, the Commission has approved GLOBEX and Amex ACCESS, the electronic trading systems developed by the CME and Amex Commodities Corporation, respectively. Neither system is in operation. The CME and CBOT have announced a joint effort for the development of hand-held terminals to allow members to record trades upon execution. This system, the Exchanges have indicated, is to be ready for testing in the third quarter of 1990. The Commodity Exchange, Inc. ("Comex") also is developing such a terminal.

[3] This figure includes four identical letters from partners of the same clearing firm.

[4] The exchanges are: the CBOT; CME; Coffee, Sugar & Cocoa Exchange, Inc. ("CSCE"); Comex; Kansas City Board of Trade ("KCBT"); Minneapolis Grain Exchange ("MGE"); New York Cotton Exchange ("NYCE"); and New York Mercantile Exchange ("NYMEX"). The CBOT and CSCE each responded to the proposed amendments on two occasions.

impose unnecessary burdens on contract market members. In particular, many commenters objected to the Commission's proposal to require that trading cards be timestamped upon completion. Several commenters also generally objected to the proposed requirements that beginning 90 days after the amendments became effective, trading records be collected every 15 minutes, and that trading records be collected within five minutes following the close. In addition, commenters requested clarification with respect to certain aspects of the proposed amendments. For example, some commenters inquired as to what trading records would be subject to the proposed collection and pre-printing and sequencing requirements.

The Commission has carefully reviewed the comments received. As a result, the Commission has modified and clarified the proposed amendments to Regulation 1.35. Comments addressing specific amendments and an explanation of the Commission's revisions are discussed below.

III. Amendments to Regulation 1.35

Both the proposed and final regulations impose obligations directly upon contract market members with regard to the content, completion, collection, and timestamping of trading records. These final regulations also require that each contract market implement rules to that effect.

A. Collection of Trading Records

1. Proposed Regulations 1.35(j) (1) and (2)

Proposed Regulation 1.35(j)(1) would have required each contract market to have rules requiring its members to submit their trading records [5] to either the contract market or the clearing member at intervals not to exceed 30 minutes. In addition, members of contract markets would have been required to submit their trading records within five minutes of the close of trading. Proposed Regulation 1.35(j)(2) would have required each contract market to have rules providing that, 90 days after proposed Regulation 1.35(j)(1) became effective, the designated interval for collection purposes could not exceed 15 minutes.

The purpose of these proposed regulations was to transfer control of trading records from the executing member to either the clearing member or the contract market within a limited period of time after execution in order to lessen the opportunity for alteration or fabrication of trading records. The Commission believed that the proposed collection periods would be sufficiently long for members to record and confirm their trades and submit them to the clearing member or contract market without impeding trade executions.

2. Comments Received

Commenters, including five exchanges,[6] objected to the length of the proposed time frames for the submission of trading records. These commenters stated that the designated 15-minute interval for the intra-day submission of trading records was impracticable, but differed with respect to whether submission at the end of a 30-minute interval was feasible.[7] Some of these commenters noted that clearing members might need to increase the size of their floor staffs to collect trading cards on time and that having such additional people on the floor would disrupt trading. Commenters also argued that in fast markets members would not have sufficient time to complete all necessary information on their trading cards and, therefore, the number of outtrades would increase. Several commenters, including the MGE and KCBT, expressed concern about the impact of the proposed collection requirements on members whose trading cards contained partially-filled orders at the end of a designated interval.[8]

Six commenters, including four exchanges,[9] questioned whether the collection of trading cards should occur by the end of the designated interval (*e.g.*, the 30-minute interval upon which collection initially would be based) or, instead, should take place during a specific time period following the end of that interval. In that connection, the CME proposed that trading cards be turned in every half-hour for trades executed during the previous half-hour. In contrast, the NYCE, MGE, and KCBT recommended that trade data be entered for clearing within a specified time following execution rather than at designated intervals.

Almost all commenters objected to the proposed requirement that trading records be collected within five minutes of the close of trading. This provision, they argued, would make it difficult for members to confirm every trade executed during the close because of the greater volume which typically occurs during that period.[10] An increase in the number of outtrades, therefore, might result. One CBOT member noted that "locals," [11] to facilitate confirmation of trades, might choose to trade during the close only with those members standing nearby or using the same clearing member. Three commenters suggested that locals might choose to be inactive during the close to avoid noncompliance with the proposed five-minute collection requirement.[12]

Commenters differed with regard to what would be a sufficient time frame for the collection of trading cards after the close. The CBOT, for example, proposed that the Commission extend this time frame to 15 minutes and thereafter evaluate the operation of the trade submission process in light of the purposes of the regulation. The Comex, CME, CSCE, and three other commenters also recommended an expansion of the time frame to 15 minutes.[13] One member suggested a 20-minute time frame; two FCMs suggested at least 30 minutes; and several commenters noted that in their experience brokers may not complete confirmation of trades until 30 minutes after the close.

3. Regulations 1.35(j)(1), 1.35(k), 1.35(l), and 1.35(d)(7)(i)

After full consideration of the comments, the Commission believes that it is appropriate to provide additional

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[5] The term "trading records," for purposes of proposed regulation (j)(1) and the final regulations, refers to order tickets prepared under Regulations 1.35(a–1) (2) and (4), trading cards prepared under Commission Regulation 1.35(d), and trading records prepared for "flashed" orders. *See* the discussion of flashing *infra* p. 21.

[6] Those exchanges are the CBOT, CME, CSCE, MGE and NYMEX. As discussed *infra* p. 20, the CSCE and NYMEX objected to the collection of order tickets and trading cards at their exchanges, respectively.

[7] Of the five Exchanges commenting on the time intervals, the CME, CBOT, and MGE indicated that a 30-minute interval was feasible.

[8] The MGE, for example, requested that there be an exception to the collection requirements for a trading card containing a partially-filled order. The Exchange proposed that, in such circumstances, members submit those trading cards during the first collection period following completion of the order's execution.

[9] Those exchanges are the CME, KCBT, MGE, and NYCE.

[10] Trade confirmation or checking consists of executing members and/or their clerks comparing the essential terms of a trade, such as the price and quantity.

[11] The term "local" refers to a member who trades for his own account or an account which he controls.

[12] This observation was made by one FCM, one clearing member, and one member.

[13] The CME also proposed that floor officials be permitted to extend the 15-minute period in exceptional circumstances. The NYCE stated that the period should provide sufficient time to accommodate the calculation of average prices pursuant to the Exchange's average price order procedure.

time for the collection of trading records. As a result, Regulation 1.35(j)(1) [14] provides for a 15-minute time frame after the designated 30-minute interval to permit members to confirm those trades that occurred at or near the end of the 30-minute interval and to accommodate the logistics of collection, particularly in higher-volume markets.

Pursuant to Regulation 1.35(j)(1), collection of trading records [15] prepared during an exchange-designated 30-minute interval would have to be completed by contract market personnel or the clearing member within 15 minutes after the end of that preceding designated 30-minute interval.[16] Notwithstanding the additional 15 minutes provided for collection, the Commission expects that contract market collection procedures should be designed to encourage collection of trading records throughout the preceding 30-minute interval. Trading records should be removed from a member's control as early as possible to promote overall compliance with collection requirements. Toward this end, Regulation 1.35(j)(1) requires that those trading records subject to collection be collected as often as is practicable. Contract markets may choose to stagger the collection periods among their markets so as to enhance collection efficiency, as long as they meet the standard set by the regulation.

The Commission has extended the period for the collection of trading cards after the close from five to 15 minutes. The Commission believes that, as a consequence, all collection times will be consistent and that the collection requirement during the closing period will not affect trading or result in increased outtrades. This requirement establishes the maximum permissible time for collection after the close. The contract markets should require cards to be collected as soon as possible but no later than 15 minutes after the close.

Pursuant to Regulation 1.35(j)(1), all trading cards reflecting trades executed within a designated 30-minute interval must be collected no later than the end of the subsequent 15-minute period. This requirement applies to a trade reflected on a trading card which constitutes a partial fill of a customer order. However, any order ticket reflecting a partial fill need not be submitted until the order is completely executed, the broker has determined that he is unable to fill any remaining quantity, or the unexecuted remainder has been cancelled.[17]

The Commission considered current contract market practices in determining the time frames for collection. Generally, the time frames for trading card collection on many of the New York futures exchanges are consistent with the regulation. The Comex rules currently require the collection of trading cards and order tickets 15 minutes after the conclusion of designated half-hour bracket periods,[18] although the Exchange has represented in its comment that collection actually occurs within 15 minutes following a preceding 15-minute (rather than 30-minute) period. The NYFE requires that the top copy of multi-ply trading cards be submitted to the Exchange promptly at the end of each 30-minute bracket, but no later than 15 minutes after the end of such bracket.[19] The CSCE, collects the top copy of multi-ply trading cards at the end of each 30-minute bracket.[20] The NYMEX pit card system requires the immediate submission of trade information for each transaction.[21] Finally at the NYCE, trades must be submitted by the clearing member to the clearing house within one-half hour after the bracket in which the trade occurred.

In Chicago, the CBOT is implementing a requirement that trading cards be collected within the hour following the hour in which trades were executed.[22] The CME is implementing a requirement that trading cards be collected every hour on the half-hour for trades executed during the preceding hour.[23]

With respect to the previously proposed requirement that the designated interval upon which collection is based be reduced from 30 minutes to 15 minutes, the Commission believes it is prudent to determine the practicability of the shorter time frame after evaluating the operation of the 30-minute time frame.[24] In this regard,

[14] Regulation 1.35(d)(7)(i) requires a member to submit his trading cards in accordance with contract market rules adopted pursuant to paragraph (j)(1).

[15] The order tickets which must be submitted in accordance with this requirement include any records of customer orders used on the floor of an exchange, whether prepared on the floor or transmitted via wire.

[16] The schedule below is a model of how the Commission intends the contract markets to implement the collection requirement.

For trades executed during	Collection no later than
2:30:00 p.m.-3:00:00 p.m.	3:15:00 p.m.
3:00:01 p.m.-3:10:00 p.m. (market closes) (closing period: 3:09-3:10).	3:25:00 p.m.

In this example, the close falls within a collection period for the preceding 30-minute interval. In such a situation, the Commission would consider a proposed contract market rule permitting the collection of all trading records for both the 30-minute interval and the closing period to be accomplished within 15 minutes following the close of trading (3:25:00 p.m. in the example). This would extend the time for completing collection as to the preceding 30-minute interval in order to address the potential for disruption of trading during the close.

[17] The Commission believes that the use of multi-ply cards by members may be helpful to keep track of executed trades; provided, however, that the top copy of the card be turned in at the appropriate time and no further trades be recorded on the copies remaining in the member's possession. The CSCE currently requires its members to record their trades on three-ply carbon trading cards and submit the original copy to the Exchange. CSCE Rule 3.18. The NYCE also requires a multi-ply carbon trading card. NYCE Rule 5.10. The Commission, however, does not agree with the commenter that the use of multi-ply cards should be an alternative to the Commission's proposal, discussed *infra* Section III.C.1, that a member not skip lines when recording trades.

[18] Comex Rule 4.83(a).

[19] NYFE Regulatory Memo 84-11 (December 21, 1984).

[20] CSCE Rule 3.18.

[21] NYMEX Rule 6.10.

[22] On July 25, 1989, the Division of Trading and Markets approved, pursuant to Regulation 1.41a(a)(3), amended CBOT Rule 332.05 which provides for the intra-day collection of trading cards at times specified by the Board of Directors. In its comment letter of October 9, 1989, the CBOT indicated that it passed rules regarding the hourly pick-up of trading cards. The CBOT requested that the 30-minute interval be phased in between between January 1990 and July 1990 in order to adjust the trade reconciliation and outtrade procedures as necessary and to evaluate whether this shorter time period would further the Commission's objectives.

[23] For example, trading cards reflecting trades executed between 8:00 a.m. and 9:00 a.m. would be collected by 9:30 a.m. On December 14, 1989, the Commission, pursuant to Commission Regulation 1.41(b), approved, *inter alia*, proposed amendments to CME Rule 536.A (Records for Orders and Personal Transactions) and proposed Interpretations which included the hourly schedule, subject to any subsequently imposed Commission requirements.

[24] The CSCE stated that if the Commission required collection at 15-minute intervals, it would be able to change its bracket periods upon 90-120 days notice. The Exchange, however, expressed its reservations about the need for more frequent collection of cards if the final Commission regulations were not mandating the use of trading cards for all trades in exact chronological order.

Continued

Regulation 1.35(j)(1) requires that each contract market, no later than nine months after the regulation becomes effective, submit a written report to the Commission describing with particularity its systems in place to comply therewith and the level of compliance to date. Based upon those reports and other available information, the Commission, in its discretion, may determine a schedule for reducing the designated interval upon which collection is based from 30 minutes to 15 minutes. Should the schedule become effective for a contract market, collection would be required to be completed within 15 minutes after the end of the preceding designated 15-minute interval. Pursuant to Regulation 1.35(k), this schedule will be published in the Federal Register, no earlier than 11 months after the 30-minute time frame under Regulation 1.35(j)(1) becomes effective. A published schedule would establish deferred effective date(s) to provide an opportunity for public comment and Commission consideration of those comments.

The Commission believes that trading records should be removed from the member's control as soon as possible. The Commission recognizes, however, that the CBOT and CME (jointly) and the Comex are developing hand-held computer terminals for use by floor members. These devices are intended to enable members to record all trades promptly upon execution, time such transactions, and transmit data for matching and clearing purposes. The demonstrated availability of such technology for use on a contract market may obviate the need to continue to comply with the Regulations, as appropriate. That is, the potentially unalterable and contemporaneous trade record that would be generated may eliminate the need to collect trading records and even may eliminate the currently generated trading records themselves. Regulation 1.35(l), therefore provides that a contract market which can demonstrate that it currently has available hand-held terminals or other automated means for the recordation of trades which can eliminate the opportunity for improper alteration or fabrication of trading records, may petition the Commission for an exemption from Regulations 1.35(a–1) (2) and (4), (d), (j), or (k). This provision may encourage contract markets to develop automated trade recordation systems which would further reduce opportunities for improper alteration of trading records, improve trade timing data, and overall, limit trading abuses.[25]

B. Types of Trading Records to be Collected

1. Proposed Regulations 1.35(j) (1) and (2)

Proposed Regulations 1.35(j) (1) and (2) required that "trading records" prepared pursuant to 1.35(a–1) (2) and (4) and 1.35(d), *i.e.*, customer order tickets and trading cards, be collected within the designated time frames. Currently, Regulation 1.35(a–1)(4), 17 CFR 1.35(a–1)(4), requires that order tickets be timestamped upon report of execution, which should be as soon as possible after an order has been filled. The Commission decided to include order tickets in the proposed regulations to assure that under no circumstances would order tickets be held by a broker longer than the time periods provided for the collection of trading cards.

2. Comments Received

Commenters requested that the Commission clarify which trading records would be subject to the collection requirements of proposed Regulations 1.35(j) (1) and (2). As discussed in more detail below, commenters noted, that pursuant to contract market rules, members may prepare certain trading records which are not relied upon by either the contract market or the clearing member for submission of trade information to clearing. These commenters stated that Commission-required collection of these documents, in certain circumstances, may alter current contract market practices.

At the NYMEX, for example, the pit card is the document submitted to begin the clearing process for a trade. The selling member prepares a pit card and indicates the commodity, month, quantity, price, and buying and selling members. Pit cards must be submitted to an Exchange employee upon execution and thereafter are timestamped by the Exchange. The NYMEX also requires that both members prepare a trading card, but the information recorded on the trading card ordinarily is not submitted to clearing. The NYMEX, therefore, stated that proposed Regulations 1.35(j) (1) and (2) should not apply to its markets.

Unlike some other contract markets, the CSCE requires that its members record all trades on trading cards, including those executed for customer orders, rather than only personal trades. Information from the trading cards is recorded onto brokerage submission sheets for entry into clearing. The customer order tickets prepared pursuant to Regulations 1.35(a–1) (2) and (4) ordinarily would not be used for clearing purposes. The CSCE requested that these tickets not be subject to the collection requirements of proposed Regulations 1.35(j) (1) and (2).

At the CME and CBOT, the practice of "flashing," the handsignalling of order, price and fill information, is used in financial instrument contact markets, especially for arbitrage orders. In general, a phone clerk flashes an order to a broker or his clerk in the pit. The phone clerk contemporaneously prepares and timestamps an order ticket reflecting the flashed order, and the broker generally records the order information, usually on a trading card. Upon execution, the broker handsignals the price and quantity back to the order desk. That execution information is written on both the trading card in the pit and the order ticket at the desk.[26]

At both of those Exchanges, the order ticket ordinarily is the record used for submitting the trade to clearing, whereas the trading card generally is used to facilitate the flashing process. However, the trading card also may be referred to by members in determining the information to be submitted to clearing. Both Exchanges questioned whether the trading cards generated in connection with a flashed order, which are not required to be created by contract market rules, should be subject to the collection requirements of the proposed regulations.

3. Regulations 1.35(a), (a–l)(4), (j)(1) and (d)(5)

The Commission, in response to the comments received, has clarified the trading documents which will be subject to the collection requirements. The Commission has revised proposed

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The CSCE also argued that more frequent collection of trading cards than its current 30-minute time frame would not provide an additional safeguard against alteration or fabrication of trading cards if they are pre-numbered, unique to a broker, contain all trades recorded sequentially with no skipped lines, and the cards are in sequential order. The Commission disagrees with the CSCE because removing trading records from a member's control as soon as possible is of paramount importance. Placing both personal and customer trades on trading cards provides enhanced audit trail information, but is not a substitute for collection.

[25] The exemption provision also is consistent with the recommendations of a recent General Accounting Office ("GAO") study, U.S. GENERAL ACCOUNTING OFFICE, Report to the Chairman and the Ranking Minority Member, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Futures Markets: Strengthening Trade Practice Oversight, (B-236443, September 7, 1989) at 23–24 (hereinafter cited as "GAO Report"), and pending legislation, S. 1729, 101st Cong., 1st Sess. § 201 (1989).

[26] At the CME, the original trading card ultimately is stapled to the order ticket.

Regulation 1.35(j)(1) to require collection of those trading records on which the contract market or clearing member relies as an "original source document" for clearing submission purposes.[27] Amended Regulation 1.35(a) defines an "original source document" as a document on which a member originally records trade information, whether or not Commission regulations or contract market rules require the member to prepare the document.[28]

Therefore, for example, order tickets which cannot be relied upon as the original source document for submissions to clearing would not be subject to the collection requirement of Regulation 1.35(j)(1) but would continue to be subject to the prompt reporting requirement for order executions under Regulation 1.35(a–l)(4).[29] In that situation, the trading cards, which contain a complete record of all transactions executed by a member, would be the original source document for collection. In contrast, at contract-markets where order tickets are used as original source documents for submissions to clearing, the order tickets would be subject to collection no later than is required by the collection schedule in the regulation.

Notably, there may be situations where both an order ticket and trading card reflecting a trade are original source documents for clearing. For example, at the CME and CBOT, trading cards and order tickets created in connection with flashed orders both may be relied on to clear a trade. At NYMEX, although the pit card is the primary record submitted for clearing purposes, there may be instances where a trading card or order ticket subsequently is relied upon to determine the terms of a trade. This may occur when a member submits a late pit card or fails to submit a pit card.

Therefore, unless an exchange expressly requires that trading cards and/or order tickets cannot be relied upon for determining the terms of a trade, the exchange would have to require the collection of such documents. Notwithstanding the foregoing, the Commission would consider a request from a contract market for exemption from the collection requirements where such a request demonstrates, at a minimum, that the relevant trading records are relied upon only for clearing in an identifiable small number of instances, and that the contract market will establish substantial alternative safeguards to assure protection against trading record alteration or fabrication.[30]

The Commission emphasizes that Regulation 1.35(j)(1) requires that collection be accomplished by submission of trading records to a clearing member or contract market personnel. Accordingly, where a member's clerk initially collects a trading record, that record must be submitted either to a clearing member or a contract market within the designated time frames.

C. Requirements for Recording Trades

In proposed Regulation 1.35, the Commission specified several requirements for recording trades on trading cards. These requirements were: recording the trades in exact chronological sequence without skipping lines; identifying specified opening and closing periods on trading cards; and marking through any lines remaining after the last execution recorded on trading cards. The Commission proposed these regulations to lessen the opportunity for a member to alter or fabricate a trading card and to obtain a better record of the sequence in which a member executed trades. Ten commenters, including the CBOT, CME, and three members, stated that certain aspects of these proposed regulations were overly burdensome and would interfere with the efficient operation of the open outcry system without sufficiently improving trade surveillance.

1. Sequential Recording of Trades Without Skipping Lines and Marking Through of Remaining Lines: Regulations 1.35 (d)(2) and (j)(4)

Several commenters, including the CME and four members, argued that the requirement that members sequentially record their trades without skipping lines could cause difficulty in trade recordation. Specifically, three of the commenting members stated that the requirement would be inconsistent with the common practice of quickly recording trades as they occurred in any existing space on a trading card.[31] The CME and one member expressed concern about trades executed by a local opposite a floor broker representing multiple clearing members. In such a trade the local must leave space on his trading card to record information later obtained from the opposite broker. Two other FCM commenters claimed that this requirement might cause keypunch and trade-checking errors because of illegible entries, thus possibly causing outtrades. Finally, three commenters suggested that, as an alternative to this proposed requirement, any unused lines be crossed out or that a contemporaneous explanation be recorded for any unused lines.[32]

The Commission, after reviewing these comments, continues to believe that it is essential that lines on trading cards not be skipped because of the potential for improper insertion of trades. The Commission also believes that compliance with a requirement that lines not be skipped and that remaining lines be marked through is readily achievable. This is evidenced by the fact that four exchanges, the NYCE, NYFE, NYMEX, and CSCE, currently have such requirements in effect.[33]

The contract markets and their members may enhance their ability to comply with these requirements by redesigning trading cards to contain wider lines for the recording of trades. Such redesigned cards, which currently are in use in some of the futures markets, should provide adequate space

[27] An original source document is relied on for clearing purposes if it provides the terms of a trade for clearing, including with respect to the resolution of outtrades. Regulation (a–l)(4), as amended, requires that written records of customer orders be submitted to the contract market or clearing member as required by the contract market rules adopted in accordance with paragraph (j)(1).

[28] Documents upon which trade information is transcribed for clearing purposes from other trading records are not original source documents. In addition, *see* note 42 regarding retention of original source documents.

[29] *See* note 27. The CSCE, NYCE, NYFE, KCBT, and MGE require all trades to be recorded on trading cards. Those trading cards would be considered original source documents subject to the collection requirements. If any of these exchanges provides by rule that order tickets cannot be relied upon as original source documents for clearing, those tickets would not have to be collected pursuant to the regulations. As noted earlier, however, the existing order ticket timestamping and reporting requirements of Regulation 1.35(a–l) would continue to apply.

[30] Such safeguards may include, but should not necessarily be limited to, independent review (*e.g.*, by exchange personnel), before the subject trade clears, of all available trading records reflecting both sides of that trade, time and sales data, and other relevant trade data, such as those reflecting the sequence and timing relationship between the trade and other trades executed by each of the executing members. In addition, the requesting contract market must collect and retain in an orderly condition the relevant trading records as part of the above process and demonstrate surveillance procedures for subsequent analysis of such trades.

[31] Those commenters included two FCMs and one member.

[32] These commenters were the CBT, CME and a member of one of the Chicago exchanges.

[33] NYCE Rule 5.10(d)(4), NYFE Rule 409, NYMEX Rule 6.90, and CSCE Rule 3.18. The NYCE rules, however, permit a member to skip lines if he has advised the Compliance Department in writing that this is his practice and that it does not result in trades being recorded out of sequence.

for recording all necessary trade data. For example, in instances where locals have executed trades opposite floor brokers representing multiple clearing members, there should be sufficient space to record the relevant trade data.

With regard to the marking through of remaining lines on trading cards, the regulation requires that all lines remaining open on a trading card when the member has completed it or at the end of a designated interval upon which collection is based, whichever occurs first, be marked through by the executing member. This requirement can be met regardless of whether a member records trades on a one-sided trading card, used in the New York markets, or a two-sided trading card, used in the Chicago markets.

In the former instance, where buys and sells are recorded on one side of the trading card, the executing member will mark through only those lines remaining after the last trade is entered on the card. The member need not mark through other unused lines to the left or right of trades on the trading card which, by necessity, will exist when a buy or sell is recorded in exact chronological order.[34] An executing member using a two-sided trading card, *i.e.*, buys on one side and sells on the other, will be required to mark through any remaining lines on *both* sides of the card. For example, when one side of a card is completely filled out and the other side is blank, the entire blank side must be marked through.[35]

2. Designation of Trades Executed During Opening and Closing Periods: Regulations 1.35 (d)(3) and (j)(7)

As previously stated, the Commission believes that requiring contract markets to designate opening and closing periods for each market and requiring each member to identify on trading cards trades executed during these periods would enhance the ability of exchange and Commission staff to monitor these trades for potential abuses with no increased costs and no material increase in the time needed to prepare the records. FR 37117, 37122, September 7, 1989. Generally, the comments addressing this proposal suggested that existing contract market rules satisfactorily address the need to identify such trades. For example, the CBOT argued that its rule designating a specific opening and closing bracket (as opposed to the period upon which the opening and closing ranges are based) would meet the Commission's objective of identifying trades during these periods for surveillance purposes. The Comex requested that the Commission indicate that its rule requiring members on each side of a trade to record to the nearest minute the time of execution would meet the requirements of the proposed regulation. The NYMEX, MGE and CSCE currently require floor members to identify all trades executed during the opening and closing ranges.[36]

The Commission has decided, as previously proposed, to require designation of opening and closing periods and the identification of trades executed during those periods in the final amendments. For this purpose, opening and closing periods refer to those trading periods which determine the opening and closing ranges, respectively. The opening and closing periods commonly are the most active periods of the trading day and, as a result, there is an increased potential for abuse of customer orders. The rules of most contract markets currently provide for the advance designation of the opening and closing periods by contract markets so that members of those contract markets should be able to comply with the regulation without any material changes in the contract market rules identifying those periods.[37] The regulations do not provide for any exceptions to the requirement that members so designate their trades because the Commission believes none are warranted and because the required designation of trades during the opening and close is likely to be more effective than one-minute trade times for this purpose.

3. Use of Non-erasable Ink: Regulation 1.35(a–1) (2) and (4), (d)(7)(ii), and (j)(8)

In their comments, two exchange members suggested that members be required to use ink in completing their trading cards. One of those commenters suggested that such a requirement could serve as an alternative to requiring that trading card lines not be skipped. Notably, members of various exchanges currently record trades in ink.[38]

The Commission believes that recording trades in ink will serve as an added protection against improper alteration of trading records through erasures. Accordingly, the Commission has added to the Regulations paragraphs (d)(7)(ii) and (j)(8). Errors on trading cards may be corrected by either crossing out the erroneous information or rewriting the trading card. A member would be fully accountable for any such rewritten card pursuant to Regulation 1.35(d)(6). Similarly, the Commission has amended Regulations 1.35(a–1) (2) and (4) to require that customer order tickets prepared pursuant to those regulations be written in non-erasable ink.

D. Timestamping of Trading Cards

1. Proposed Regulation 1.35(d)(4)

The Commission proposed that trading cards be timestamped to the nearest minute with the earlier of the time the card is completed or collected. The Commission intended that this proposal would provide an objective indicator of when a member ceased using a trading card so that any subsequent entries on the card could be detected more readily.

2. Comments Received

Commenters presented a two-fold objection to this proposed regulation. First, commenters contended that timestamping within one minute of completion would be physically difficult to accomplish. The commenters stated that the most likely alternatives—placing time stamp machines in the pits or requiring members to leave the pit to timestamp their cards—would be physically hazardous to those on the trading floor and would disrupt trading. The commenters added that although some contract markets have employees who timestamp trading cards, that approach may not be feasible for the high-volume exchanges. Second, the commenters stated that timestamping upon completion would do little to enhance the audit trail because it may not always be clear to the trader when he has completed a trading card. For example, the trader may hold onto a card with unused lines in anticipation of making additional trades. In this regard, ten commenters requested clarification of when a trading card or order ticket would be considered complete.

[34] On one-sided trading cards only cross trades and spreads can be recorded on the buy and sell side of a single line.

[35] Although the regulations do not require the use of a one-sided trading card, the Commission believes that one-sided trading cards improve the audit trail by sequencing all trades recorded thereon. Those exchanges which do not now use one-sided trading cards may wish to consider introducing such cards in connection with any revisions to trading cards which will result from the regulations.

[36] NYMEX Rule 6.90, MGE Regulation 2059, and CSCE Rule 3.18.

[37] Such designation of opening and closing periods also enables members to determine when orders designated for execution during those periods, such as "market-on-close" and "opening-only" orders, should be filled.

[38] *E.g.*, Comex Rules 4.80 and 4.81 (requiring members to make entries on trading records in ink).

3. Regulations 1.35 (d)(5) and (j)(2)

The Commission is persuaded that requiring trading cards to be timestamped upon completion could disrupt trading. The Commission, therefore, has required in the regulations that trading cards be timestamped upon collection by either the contract market or the relevant clearing member. Since trading cards will be required to be timestamped only after they have been collected pursuant to the time intervals discussed in section III.A.3. above, this provision should not affect trading activity. Further, the Commission believes that timestamping upon collection is readily achievable given that Regulation 1.35(a–1)(4) currently requires that order tickets be timestamped upon report. Trading cards generally could be timestamped upon collection in the same manner, and, in fact, some clearing members currently do so.[39]

E. Pre-Printed Sequence Numbers and Identifying Information

1. Proposed Regulation 1.35(d)(3)

The Commission proposed that trading cards contain a preprinted sequence number which would permit the sequencing of such records at least intra-day. The proposed regulations also would have required that trading cards contain information to identify the member and to distinguish each of that member's trading cards from other trading cards the member prepares for a period of one week. The Commission left to the discretion of each contract market the method of implementation.[40] The Commission, in proposing these amendments, noted that the CBOT, CME, and CSCE, as part of their computerized audit trail systems, currently require that a card sequence number be submitted with other data for clearing. These sequence numbers aid the sequencing of trades on the exchanges where they are required.

2. Comments Received

Several commenters requested that the Commission clarify how compliance with the requirements could be achieved. For example, the Comex suggested that the Exchange issue pre-sequenced trading cards of a series long enough to assure that no number would repeat within a period of one week and no two members would have the same numbered cards within the same week. The NYMEX proposed that the Exchange issue cards to members, keeping a record of which numbers are issued to which members. When numbers are repeated, they would be distinguishable by the use of a single letter as a prefix or suffix. Members could continue their current practice of handstamping trading cards with an identifying acronym.

Four commenters specifically requested that the Commission clarify what trading records are subject to the pre-printing and pre-sequencing requirements. These commenters inquired whether the requirements apply only to members executing trades for their personal accounts or to trading cards upon which customer orders are entered as well. Further, these commenters objected to the application of the proposed regulation to brokers executing orders on behalf of public customers or other members because of the way in which such orders are handled. For example, brokers may combine multiple orders and execute them as quickly as possible as a block. The commenters argued that distinguishing such trades through the sequencing of cards would be unnecessarily burdensome. The CBOT and CME stated that the requirement should not apply to trading cards prepared in connection with "flashed" orders because compliance would not be feasible given how such trades are executed.[41]

3. Regulations 1.35 (d)(4) and (j)(5)

The Commission has added to the regulations the requirement that any information on a trading card used to distinguish trading within a one-week period must be pre-printed on trading cards when pre-printed numbers alone are insufficient to meet that requirement. The regulations have been modified to provide that only those trading cards that the member must prepare pursuant to contract market rules are subject to the pre-printing and pre-sequencing requirements of Regulation 1.35(d)(4). As a result of this modification, Regulation 1.35(d)(4) would not apply if a trading card were used to record trade information to facilitate flashing and such a card was not required to be prepared by exchange rule, such as at the CBOT and CME. Significantly, however, the order ticket prepared in that process must be timestamped in accordance with Regulations 1.35(a–1) (2) and (4), and those timing data serve the same purpose as does the trading card sequence information. On the NYMEX, where trading cards are required to be prepared by Exchange rule, those cards would be subject to Regulation 1.35(d)(4).

The proposals made by the Comex and NYMEX in their respective comments for compliance with the proposed pre-printing requirements appear consistent with the design of the regulations. Of course, however, the Commission would have to evaluate the specifics of each exchange-proposed method for compliance when reviewing the implementing rules submitted by the contract markets.

F. Accountability for Trading Cards

1. Proposed Regulations 1.35 (d)(5) and (j)(3)

Proposed Regulations 1.35(d)(5) and 1.35(j)(3) specified that pursuant to contract market rule, each contract market member would be accountable for all trading cards prepared pursuant to Regulation 1.35(d) in exact numerical sequence, whether or not such trading cards were used in the submission of trades for clearing purposes. For this purpose, accountability means that the member must be able to produce all sequentially-numbered trading cards or provide an acceptable explanation as to why a trading card is missing. A member does not necessarily have to use all of his trading cards, but must be able to account for such records. As the Commission previously stated, if a member's clearing member ordinarily retains the member's trading cards, the clearing member would be responsible for those trading cards. 54 FR 37117, 37122, September 7, 1989.

2. Comments Received

Three commenters requested clarification as to the potential liability of the clearing member in connection with the proposed accountability requirement. Three other commenters stated that the existing audit trail systems and exchange-proposed enhancements adequately provide for the accountability of trading cards. Finally, two commenters asked what procedures could be implemented to cover situations in which trading cards were lost or inadvertently placed out of sequence.

3. Regulations 1.35 (d)(6) and (j)(6)

The Commission believes that the member should be responsible for

[39] Further, in December 1989, the Division of Trading and Markets, pursuant to the authority delegated by Commission Regulation 1.41(b), approved an Interpretation of CME Rule 536.A which requires clearing members to timestamp trading cards upon pick-up.

[40] In its notice of proposed rulemaking, the Commission illustrated several means by which the contract markets and their members could comply with these requirements. 54 FR 37117, 37121, September 7, 1989.

[41] *See* discussion of flashing, *supra* p. 21.

retaining the trading cards.[42] If a member has arranged with his clearing member for that clearing member to retain all of his clearing records, the clearing member also would be responsible for retaining any of the sequenced trading cards which were given to it by the member. The clearing member, in such circumstances, is not directly obligated under the regulations to review these documents and, therefore, should not ordinarily be liable if the trading records prepared by the member are not consistent with the requirements of Regulation 1.35(d)(4). Nonetheless, the regulations would not alter any existing supervisory or other legal responsibilities which the clearing member may have pursuant to the Commodity Exchange Act, other laws, other Commission regulations, or contract market rules.

Based on Regulations 1.35 (d)(6) and (j)(6), the Commission and the contract markets should be assured that trading cards which may assist in determining whether improper activity has occurred are available. The regulations also establish who must retain and make the trading cards available for inspection. When the contract markets implement rules regarding the accountability for trading cards, they should include appropriate procedures for assuring compliance, specifically addressing, among other things, lost or missequenced trading cards.

G. Use of New Trading Card: Regulations 1.35 (d)(8) and (j)(3)

In order to provide an additional means for assuring compliance with the trading card collection requirements set forth in the regulations, Regulation 1.35(d)(8) requires that members use a new trading card at the beginning of each designated 30-minute period. Should the period be changed by the Commission to 15 minutes, this requirement would apply to that shorter period.

H. Compliance

The Commission underscores that it is critical for contract markets to develop effective and vigorous surveillance and compliance procedures to assure that the final regulations are enforced. Given the nature of the requirements, it is essential that contract market programs require inspection of trading records on a regular basis. Toward that end as well as to facilitate prompt Commission inspection, contract markets and their members must keep their records in orderly condition at a readily accessible location.[43]

III. Effective Dates

The amendments to Commission Regulation 1.35 will become effective 60 days after publication in the **Federal Register**. However, the requirements of Commission Regulation 1.35 (d)(4) and (j)(5), that trading cards contain pre-printed sequence and identifying information, and of Regulations 1.35 (d)(6) and (j)(5), that members be accountable for all such trading cards, will not become effective until 90 days after publication of the Regulations. The 90-day implementation period for these requirements is intended to give the contract markets and the members sufficient time to make the applicable changes to existing practices.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of the rules on small businesses. The amendments to Commission Regulation 1.35 are intended to enhance the accuracy and reliability of trading records and to enable the contract markets and the Commission to enforce various trade data submission requirements. Specifically, the amendments impose a variety of requirements on members of contract markets with respect to preparation of trading cards and collection of trading records. Corresponding obligations are imposed on contract markets to adopt rules implementing those requirements.

The amendments to Commission Regulation 1.35 will affect contract markets. The Commission previously has determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of a proposed regulation on contract markets in relation to the RFA. 47 FR 18618, 18619, April 30, 1982.[44]

The amendments to Commission Regulation 1.35 also may affect clearing members and other FCMs. However, the Commission previously has determined that FCMs should be excluded from the definition of "small entity" based upon the fiduciary nature of the relationship between the FCM and its customers as well as the fact that FCMs must meet minimum financial requirements. 47 FR 18618, 18619, April 30, 1982. The Commission has determined that clearing members, by contract market or clearing house rule, are subject to minimum capital requirements which are at least as great as that imposed on FCMs, and, therefore, are not small entities for purposes of the RFA. Further, many clearing members are also FCMs. As a result, the Commission need not consider the effect of Commission Regulation 1.35 as amended on clearing members and other FCMs.

With respect to contract market members, the Commission has stated that it is appropriate to evaluate within the context of a particular proposed regulation whether some or all members that would be affected by the rule should be considered small entities and, if so, to analyze the economic impact on such entities at that time. 47 FR 18618, 18620, April 30, 1982. The contract market members affected by the amendments to Commission Regulation 1.35, other than clearing members and FCMs, would be floor brokers and local traders. The Commission recognizes that certain floor brokers and local traders could be considered to be small entities for purposes of the RFA. The Commission believes, however, that the amendments to Regulation 1.35 are designed so that they can be implemented without imposing a significant economic burden on a substantial number of small entities. In this connection, the Commission has modified the proposed rules, based upon the comments received and further analysis, so as to reduce further any potential economic burden on small entities which may result from the regulations. These modifications more fully take into account existing trading practices and the logistical considerations of implementing the regulations.

In promulgating the amendments to Regulation 1.35, the Commission intends to improve compliance by contract market members with existing statutory and regulatory prohibitions as to improper alteration or fabrication of currently required trading records. The

[42] Regulation 1.35(a) requires that members retain and produce for inspection all documents on which trade information originally is recorded. Therefore, the trading cards which are not used for trade submission, *i.e.*, which are not original source documents, need not be turned in routinely at the collection times, but must be available upon request.

[43] Retention of these records is required by Commission Regulations 1.31 and 1.35(a).

[44] Compliance with the regulations will not pose any greater economic burden on the smaller contract markets than it will on higher-volume markets because floor participants on all exchanges will continue to be obligated to create accurate trading records and there will be no change in the manner in which members execute trades. The regulations also do not mandate that compliance be achieved in any specific manner—the contract markets can limit the potential impact on their members by implementing systems which are most consistent with their existing market practices.

regulations will do so by establishing additional requirements for the preparation and submission of trading cards and order tickets. The regulations also will improve timing information and trade sequencing. Significantly, several of the requirements set forth in the regulation are already in effect at one or more of the contract markets.

The Commission intends that these regulations provide immediate and substantial improvement in regulatory controls over the creation of trading records in a manner compatible with existing trading practices under the open outcry system of trading. The Commission believes that the regulations are essential to limit the opportunity of members to achieve or facilitate illegal trading activity by altering or fabricating records and will accomplish that purpose through the least intrusive method currently available. Should automated means for accomplishing the purposes of the regulations become available, the regulations provide that a contract market may apply for an exemption from relevant requirements.[45]

The Commission modified its proposal, making significant changes to those aspects which commenters argued would impose the greatest burden. Specifically, commenters objected to the proposed schedule for collection of trading records intra-day and within five minutes of the close and to the timestamping of trading cards upon completion. They stated that these requirements, if implemented as proposed, could disrupt trading and cause increased outtrades. The commenters also expressed concern about the cost of additional personnel that may be needed by contract markets or clearing members, and, in limited instances, by individual members, to comply with the proposed requirements. Commenters stressed that timestamping trading cards upon completion of a trade would be physically difficult to accomplish and likely would interrupt a member's trading activity. Each of these proposals has been modified materially as discussed in detail above and highlighted below.

1. Collection Requirements

The Commission intended that the collection requirements of proposed Regulations 1.35(j) (1) and (2) would limit the opportunity for floor participants to alter trading records by having these records removed from their possession as quickly as possible. Specifically, the proposal would have required that trading records be submitted during the trading day at 30-minute intervals, and, after 90 days, at 15-minute intervals, and within five minutes after the close of trading. As noted above, commenters raised logistical and financial concerns regarding the costs of the proposed collection requirements.

The Commission has determined to provide for a 15-minute period for the collection of trading records following the end of each designated 30-minute trading interval in order to provide adequate time for personnel to collect those documents, and for members to obtain all necessary information from the opposite member to verify their trades. The Commission also has extended the time period for the collection of documents after the close from five to 15 minutes.

These modifications should permit members, clearing members, and contract markets to implement the collection requirements without disrupting trading activity and with minimal or no increase in current staffing levels. Moreover, a number of exchanges currently have collection requirements which either meet or approximate the requirements of the regulations. For example, at the Comex, CSCE, and NYFE, trading records are submitted at 30-minute intervals, and the time period for submission does not exceed 15 minutes following the end of a 30-minute bracket period. The Chicago exchanges recently implemented rules requiring the hourly submission of trading cards. Other exchanges likewise have periodic record submission requirements which can be modified to comply with the Commission's regulations.

These existing practices indicate that the contract markets and their members already have recognized the importance of measures to reduce the potential for trading abuse through alteration or fabrication of records, and that those objectives can be met without a significant economic impact on members. Moreover, the contract market or clearing member personnel who currently are performing these functions can continue to do so under the regulations.

Finally, the Commission has delayed the implementation of the requirement that intra-day collections take place at the end of designated 15-minute intervals until contract markets have submitted reports on their compliance with the regulations. In this regard, the Commission, in its discretion, may publish a schedule for implementation of a shorter interval. The Commission's schedule would provide for a deferred implementation date for the shorter interval so as to provide an opportunity for Commission consideration of any comments received thereon.[46] As is the case with the 30-minute interval, the 15-minute interval would be followed by an additional 15 minutes in which to complete collection.

2. Printing Costs

Regulations 1.35 (d)(4) and (j)(5) require that trading records prepared pursuant to contract market rules contain pre-printed sequence numbers and other pre-printed identifying information. The Commission has neither specified any particular method for compliance nor stated who is responsible for printing the cards. The cost for these pre-printed cards, however, should not be great, since trading cards already are necessary, and there should be only a modest incremental increase, if any, in the cost of printing those records with the additional required information. Since pre-printed sequence numbers already are required at the CBOT and CSCE only the other required pre-printed information will have to be added to the documents. Four exchanges either currently provide trading cards for their members or have indicated their intention to do so upon the Commission's issuance of the regulations. At three other exchanges trading cards generally are provided by the clearing members. In those cases where an exchange elects to be responsible for obtaining pre-printed trading cards for its members, trading card printing costs could be lower than those now incurred by floor members and clearing members individually.

3. Timestamping Requirements

The timestamping requirement of the proposed amendments was intended to provide additional information on the time of execution and sequence of trades to improve the audit trail and to enhance enforcement of the trading card collection requirements. The proposal would have required timestamping of trading cards upon completion or collection, whichever occurred first. The

[45] *Cf.* GAO Report at 23–24 (recommending that contract markets provide for independently, precisely and completely timed trades); S. 1729 101st Cong., 1st Sess., § 201 (1989) (essentially implementing GAO's recommendation within three years); and H.R. 2869, 101st Cong., 1st Sess., § 201 (September 18, 1989) (requiring that trades be timed to the nearest 30 seconds within three years).

[46] Regulation 1.35(j)(1) (requiring contract markets to submit reports within nine months of the effective date) and Regulation 1.35(k) (providing that the Commission issue such a schedule no earlier than 11 months after Regulation 1.35(j)(1) becomes effective).

Commission has modified the proposal materially by requiring that trading cards be timestamped only upon submission to the clearing member or contract market employee who collects the trading cards in accordance with Regulation 1.35(j)(1).

This requirement will not impose any additional obligations on floor participants, who will be required to submit their trading cards at the end of collection intervals, and, therefore, should have no effect on trading activity. Since Commission regulations currently provide for the timestamping of order tickets, the mechanisms for the timestamping of trading cards upon collection currently exist and easily could be extended to trading cards, particularly if the trading cards are collected by clearing members, which is the case at most exchanges. Because timestamping can be accomplished by the employees of either the contract market or the clearing firm which is responsible for collecting the cards, the requirement should not result in materially increased personnel costs.

4. Other Costs

The Commission does not believe that the other requirements set forth in the regulations should create any additional costs for floor members. The requirement that members be accountable for all trading cards that must be pre-sequenced does not impose any additional requirements because Commission Regulation 1.31(a)(1) already requires members to maintain trading cards for a period of five years. To the extent that rewritten trading cards would have to be retained under the regulations, those records should be relatively few in number, since errors may instead be corrected by crossing out and re-recording information on the same card. Retaining these records with others currently required to be retained should involve no increase in costs. The requirement that a new trading card be used at the beginning of each 30-minute interval also should have no financial impact on members. Finally, the use of non-erasable ink to record trades will not alter the method of executing trades and, therefore, should not result in any additional costs.

5. Conclusion

Based on the foregoing discussion the certification made by the Chairman, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), regarding the proposed regulations remains in effect as to the final regulations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, ("Act") 44 U.S.C. 3501 *et. seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on June 6, 1989 and assigned OMB control number 3038-0022 to the rule. The burden associated with this entire collection, including this final rule, is as follows:

Average Burden Hours per Response	80.83
Number of Respondents	339
Frequency of Response	on occasion

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

PART I—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part I continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a,.6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 61, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Regulation 1.35 is amended by revising paragraph (a) to read as follows:

§ 1.35 Records of Cash Commodity, Futures, and Option Transactions.

(a) *Futures commission merchants, introducing brokers, and members of contract markets.* Each futures commission merchant, introducing broker, and member of a contract market shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to its business of dealing in commodity futures, commodity options, and cash commodities. Each futures commission merchant, introducing broker, and member of a contract market shall retain the required records, data, and memoranda in accordance with the requirements of § 1.31, and produce them for inspection and furnish true and correct information and reports as to the contents or the meaning thereof, when and as requested by an authorized representative of the Commission or the United States Department of Justice. Included among such records shall be all orders (filled, unfilled, or canceled), trading cards, signature cards, street books, journals, ledgers, canceled checks, copies of confirmations, copies of statements of purchase and sale, and all other records, data and memoranda, which have been prepared in the course of its business of dealing in commodity futures, commodity options, and cash commodities. Among such records each member of a contract market must retain and produce for inspection are all documents on which trade information is originally recorded, whether or not such documents must be prepared pursuant to the rules or regulations of either the Commission or the contract market. For purposes of this section, such documents are referred to as "original source documents."

3. Regulation 1.35 is amended by revising paragraph (a-1)(2) to read as follows:

(a-1) * * *

(2) Except as provided in paragraph (a)(3) of this section, each member of a contract market who on the floor of such contract market receives a customer's or option customer's order which is not in the form of a written record including the account identification, order number, and the date and time, to the nearest minute, such order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of such order in non-erasable ink, including the account identification and order number and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received.

4. Regulation 1.35 is amended by revising paragraph (a-1)(4) to read as follows:

(a-1) * * *

(4) Each member of a contract market reporting the execution of a customer's or option customer's order from the floor of a contract market shall record on a written record of such order, including the account identification and order number, by time-stamp or other timing device, the date and time, to the nearest minute, such report of execution is made. Each member of a contract market shall submit the written records of customer orders to contract market personnel or the clearing member responsible for the collection of orders prepared pursuant to this paragraph as required by contract market rules

adopted in accordance with paragraph (j)(1) of this section. The execution price and other information reported on such order tickets must be written in non-erasable ink.

5. Regulation 1.35 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) *Members of contract markets.* (1) Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or other record showing such purchases and sales. Such trading card or record shall show the member's name, the name of the clearing member, transaction date, time (as specified in rules of the contract market which comply with the requirements of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call and strike price. Such trading card or other record shall also clearly identify the opposite floor broker or floor trader with whom the transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market, such opposite clearing member is made known to the member).

(2) Each member of a contract market recording purchases and sales on trading cards must record such purchases and sales in exact chronological order of execution on sequential lines of the trading card without skipping lines between trades; Provided, however; That if lines remain after the last execution recorded on a trading card, the remaining lines must be marked through.

(3) Each member of a contract market must identify on his trading cards in the manner prescribed by the rules of the contract market the purchases and sales executed during the opening and closing periods designated by the contract market pursuant to paragraph (j)(7) of this section.

(4) Trading cards prepared by a member of a contract market pursuant to contract market rules must contain:

(i) Pre-printed member identification or other unique identifying information which would permit the trading cards of one member to be distinguished from those of all other members;

(ii) Pre-printed sequence numbers to permit the intra-day sequencing of the cards; and

(iii) Unique and pre-printed identifying information which would distinguish each of the trading cards prepared by the member from other such trading cards for no less than a one-week period.

(5) Trading cards prepared by a member of a contract market and collected pursuant to paragraph (j)(1) of this section must be timestamped promptly to the nearest minute upon collection by either the contract market or the relevant clearing member.

(6) Each member of a contract market shall be accountable for all trading cards prepared pursuant to contract market rules in exact numerical sequence, whether or not such trading cards are relied on as original source documents.

(7) Trading cards prepared by a member of a contract market pursuant to contract market rules must:

(i) Be submitted in accordance with contract market rules adopted pursuant to paragraph (j)(1) of this section; and

(ii) Be completed in non-erasable ink. A member of a contract market may correct any errors by crossing out erroneous information or rewriting the trading card; provided, however, that the member is accountable pursuant to paragraph (d)(6) of this section for any card that is subsequently rewritten.

(8) Each member of a contract market must use a new trading card at the beginning of each designated 30-minute interval required by paragraph (j)(1) of this section (or such lesser interval as may be determined appropriate by the applicable contract market) or as may be required pursuant hereto.

* * * * *

6. Regulation 1.35 is amended by adding paragraph (j) to read as follows:

* * * * *

(j) *Contract markets.* Each contract market must maintain in effect rules which require that:

(1) Trading records prepared by a member of the contract market pursuant to paragraphs (a–1) and (d) of this section be submitted to contract market personnel or the clearing member within 15 minutes of designated intervals not to exceed 30 minutes, commencing with the beginning of each trading session. The time period permitted for the submission of trading records after the close of trading in each market shall not exceed 15 minutes from the close. Such documents should nevertheless be collected as often as is practicable by the contract market or relevant clearing member. Such contract market rules need not, however, require that those original source documents which cannot be relied upon by the contract market or clearing member for clearing purposes be submitted pursuant to this paragraph. Each contract market shall submit a written report to the Commission no later than nine months after the effective date of this paragraph describing with particularity the contract market's system(s) in place to comply with this paragraph and the level of compliance achieved to date.

(2) Trading cards collected pursuant to this paragraph must be timestamped promptly to the nearest minute upon collection by either the contract market or relevant clearing member.

(3) A member of the contract market must use a new trading card at the beginning of each designated 30-minute interval required by paragraph (j)(1) of this section.

(4) A member of the contract market must record trades in the manner prescribed by paragraph (d)(2) of this section.

(5) Trading cards prepared by a member of the contract market must contain the identifying information prescribed by paragraph (d)(4) of this section.

(6) A member of the contract market must be accountable for all trading cards prepared pursuant to contract market rules in exact numerical sequence, whether or not such trading cards are relied on as original source documents.

(7) A member of the contract market must identify on his trading cards trades executed during opening and closing periods either by drawing a line on the trading card to separate those trades from others recorded thereon or by some other method. Each contract market must designate as opening and closing periods for this purpose those periods upon which the opening and closing trading ranges are based for each of its markets.

(8) A member of the contract market must complete trades in non-erasable ink in the manner prescribed by paragraph (d)(7)(ii) of this section.

* * * * *

7. Regulation 1.35 is amended by adding paragraph (k) to read as follows:

* * * * *

(k) *Collection of trading cards in intervals not to exceed 15 minutes.* The Commission, in its discretion, may publish a schedule in the **Federal Register** no earlier than 11 months after paragraph (j)(1) of this section becomes effective, indicating when the records required to be submitted pursuant to that paragraph must be submitted to contract market personnel or the clearing member within 15 minutes of designated intervals not to exceed 15 minutes, commencing with the beginning of each trading session.

* * * * *

8. Regulation 1.35 is amended by adding paragraph (l) to read as follows:

* * * * *

(l) A contract market which can demonstrate that it currently has available hand-held terminals or such other automated means for the recordation of trades which can eliminate the opportunity for improper alteration or fabrication of trading records, may petition the Commission for an exemption from Regulations 1.35(a–1) (2) and (4), (d), (j) or (k), as appropriate.

Dated: March 1, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90–5087 Filed 3–6–90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 89F–0050]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a polymeric reaction product of poly(*N*-vinyl-*N*-methylamine), *N,N'*-bis(3-aminopropyl)ethylenediamine, 1,3-benzenedicarbonyl dichloride and 1,3,5-benzenetricarbonyl trichloride as a reverse osmosis membrane intended for use in contact with food. This action is in response to a petition filed by Stork Friesland B.V.

DATES: Effective March 7, 1990; written objections and requests for a hearing by April 6, 1990.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 8, 1989 (54 FR 9897), FDA announced that a food additive petition (FAP 9B4128) had been filed by Stork Friesland B.V., c/o Suite 200, 1029 Vermont Avenue NW., Washington, DC 20005–3517, proposing that § 177.2250 *Reverse osmosis membranes* (21 CFR 177.2550) be amended to provide for the safe use of a polymeric reaction product of poly(*N*-vinyl-*N*-methylamine), *N,N'*-bis-(3-aminopropyl)ethylenediamine, 1,3-benzenedicarbonyl chloride and 1,3,5-benzenetricarbonyl chloride as a reverse osmosis membrane intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency finds that 1,3-benzenedicarbonyl dichloride and 1,3,5-benzenetricarbonyl trichloride are the preferred names for the two acid chloride reactants used to make this substance, and the agency is adopting this nomenclature in the identity of the cross-linked polyamide. The agency concludes that the proposed food additive use is safe, and that 21 CFR 177.2550 should be amended by adding new paragraph (a)(4), by revising paragraph (d)(1), by redesignating paragraphs (d)(2) and (d)(3) as paragraphs (d)(3) and (d)(4), respectively, and by adding new paragraph (d)(2) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before April 6, 1990 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulations to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 376).

2. Section 177.2550 is amended by adding new paragraph (a)(4), by revising paragraph (d)(1), by redesignating paragraphs (d)(2) and (d)(3) as paragraphs (d)(3) and (d)(4), respectively, and by adding new paragraph (d)(2) to read as follows:

§ 177.2550 Reverse osmosis membranes.

* * * * *

(a) * * *

(4) A cross-linked high molecular weight polyamide reaction product of poly(*N*-vinyl-*N*-methylamine) (CAS Reg. No. 31245–56–4), *N,N'*-bis(3-aminopropyl)ethylenediamine (CAS Reg. No. 10563–26–5), 1,3-benzenedicarbonyl dichloride (CAS Reg. No. 99–63–8) and 1,3,5-benzenetricarbonyl trichloride (CAS

Reg. No. 4422–95–1). The membrane is the food-contact surface. Its maximum weight is 20 milligrams per square decimeter (1.3 milligrams per square inch) as a thin film composite on a suitable support.

* * * * *

(d) * * *

(1) Reverse osmosis membranes described in paragraphs (a)(1), (2), and (3) of this section may be used in contact with all types of liquid food at temperatures up to 80 °C (176 °F).

(2) Reverse osmosis membranes described in paragraph (a)(4) of this section may be used in contact wit all types of liquid food, except food containing more than 8 percent alcohol, at temperatures up to 80 °C (176 °F).

* * * * *

Dated: March 1, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–5122 Filed 3–6–90; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1612

Government in the Sunshine Act of 1976

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is amending its regulations to set forth the new location in which the Commission will post public announcements of Commission meetings.

EFFECTIVE DATE: March 7, 1990.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, or Wendy L. Adams, Attorney, at (202) 663–4669.

For the Commission.

Clarence Thomas,

Chairman.

List of Subjects in 29 CFR Part 1612: Sunshine Act.

Accordingly, 29 CFR part 1612 is amended as follows:

PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

1. The authority citation for part 1612 continues to read:

Authority: 5 U.S.C. 552b, sec. 713, 78 Stat. 265; 42 U.S.C. 2000e–12.

§ 1612.7 [Amended]

2. Section 1612.7(a) is amended as follows:

After "telephone message at telephone number" delete "202–634–6748" and insert "202–663–7100". After "posting such announcement" delete "on the agency's bulletin board located near the entrance of the Second Floor of the Columbia Plaza Building at 2401 E Street NW., Washington, DC 20506" and insert "in the lobby of the Commission's headquarters at 1801 L Street NW., Washington, DC 20507".

[FR Doc. 90–5156 Filed 3–6–90; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AE25

Exchange Rates for Foreign Currencies

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations to establish a procedure for converting foreign currencies into U.S. dollar equivalents. This action is necessary because some beneficiaries receive income or pay expenses affecting their entitlement in foreign currencies. The intended effect of this amendment is to establish a regulatory method for calculating the rates or amounts due those beneficiaries.

EFFECTIVE DATE: April 6, 1990.

FOR FURTHER INFORMATION CONTACT: Don England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: On pages 46629–46631 of the **Federal Register** of November 6, 1989, VA published a proposed regulatory amendment concerning the conversion of foreign currencies into U.S. dollar equivalents for the purpose of determining entitlement to VA benefits. Interested persons were invited to submit written comments, suggestions or objections on or before December 6, 1989. Since no comments, suggestions or objections were received, the regulation has been adopted as proposed.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pension, Veterans.

Approved: February 9, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is amended by adding § 3.32 to read as follows:

§ 3.32 Exchange rates for foreign currencies.

When determining the rates of pension of parents' DIC or the amounts of burial, plot or headstone allowances or accrued benefits to which a claimant or beneficiary may be entitled, income received or expenses paid in a foreign currency shall be converted into U.S. dollar equivalents employing quarterly exchange rates established by the Department of the Treasury.

(a) *Pension and parents' DIC.* (1) Because exchange rates for foreign currencies cannot be determined in advance, rates of pension and parents' DIC shall be projected using the most recent quarterly exchange rate and shall be adjusted retroactively based upon actual exchange rates when an annual eligibility verification report is filed.