

(1) At all times have on their premises and make available upon request to representatives of the Commission or the Department of Justice:

(i) Facilities for easily readable projection of the microfilm or microfiche, or display of information stored on optical disk, that allow immediate examination of their records;

(ii) If the records are preserved on microfilm or microfiche, facilities for immediately producing complete, accurate and easily readable facsimile enlargements of the records; and

(iii) If the records are preserved on optical disk, facilities for immediately producing complete, accurate and easily readable hard copies of the records and the means to provide, immediately upon request, any Commission or Department of Justice representative with copies of the records on Commission compatible machine-readable media as defined in § 15.00(l) (1) and (2).

(2) In order to permit the immediate location of any particular record:

(i) Arrange, index and file microfilm or microfiche and preserve the index and file in such a manner as to permit the immediate location of any particular record; and

(ii) Create a directory structure for files of records and an index for records on optical disk, and preserve the files, index and directory structure in such a manner as to permit the immediate location of any particular record. Directory structures must organize and locate computer files and an index must distinguish, identify and locate records in the same file. In addition, persons must maintain on their premises at all times current, accurate and complete hard copies of such directory structures and indices for examination by representatives of the Commission or the Department of Justice. Such hard copies must be preserved for 5 years.

(3) Be ready at all times to provide, and immediately provide, at the expense of the person required to keep such records, any hard copy or facsimile enlargement of such records, and for records stored on optical disk, copies of such records on approved machine-readable media as defined in § 15.00(l) (1) and (2) which any representative of the Commission or U.S. Department of Justice may request. Records on machine-readable media must use a format and coding structure specified in the request; and

(4) Keep only Commission-required records on the same disk. Storage of a non-Commission-required record on the same disk with a Commission-required record shall be deemed a waiver of any privilege, claim of confidentiality, or other objection to disclosure with

respect to the non-Commission-required record.

(d) Optical Storage Systems—Any optical storage system used to preserve records under paragraph (b) of this section must allow for the preservation of the records required under this Section using non-rewritable, WORM (write once read many) media. All records preserved on optical media pursuant to paragraph (b) of this section must be preserved on non-rewritable WORM media. The technology must have write-verify capabilities that continuously and automatically verifies the quality and accuracy of the information stored and automatically corrects quality and accuracy defects.

(1) The system must:

(i) Use removable disks;

(ii) Serialize the disks;

(iii) Using a permanent and non-erasable time-date, it must time-date all files of information placed on the disk, reflecting the computer run time of the file of information; and

(iv) Write files in ASCII or EBCDIC format.

(2) Persons using optical storage systems must maintain on their premises, keep current, grant access to and surrender promptly, upon request by representatives of the Commission or the Department of Justice, all information necessary to read, convert to hard copy and download records stored in optical storage units, including directory structures and indices. This shall include but not be limited to a copy of logical file formats and field formats of all different files written on optical disks, the hardware make and model and operating system software version and release level of the computer system hosting the storage device and identity of the device driver used to write the optical media, including the release level, and if records are written in an ASCII or EBCDIC format other than standard non-compressed ASCII or EBCDIC, documentation of the method used to encode data providing a thorough descriptions of any compression algorithm, including the physical file format and conversion routines to transform the records to a non-compressed ASCII or EBCDIC format.

3. Section 1.35 is amended by revising the paragraph that follows (b)(3)(iii) to read as follows:

**§ 1.35 Records of cash commodity, futures and options contracts.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) \* \* \*

Provided, however, that where reproductions on microfilm, microfiche

or optical disk are substituted for hard copy in accordance with the provisions of § 1.31(b) of this part, the requirements of paragraphs (b)(1) and (b)(2) of this section will be considered met if the person required to keep such records is ready at all times to provide, and immediately provides in the same city as that in which such person's commodity or commodity option books and records are maintained, at the expense of such person, reproduced copies which show the records as specified in paragraphs (b)(1) and (b)(2) of this section, on request of any representatives of the Commission or the U.S. Department of Justice.

\* \* \* \* \*

Issued in Washington, DC, this 4th day of May 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-10864 Filed 5-7-93; 8:45 am]

BILLING CODE 8351-01-M

## 17 CFR Part 1

### Recordkeeping

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (Commission) is amending its general recordkeeping requirements set forth in 17 CFR 1.31 to stipulate that trading cards and order tickets required pursuant to § 1.35(a-1)(1), (a-1)(2), and (d) be retained in hard-copy form for five years. This is intended to conform Commission regulations to current industry practice.

**EFFECTIVE DATE:** August 9, 1993.

#### FOR FURTHER INFORMATION CONTACT:

Lamont L. Reese, Supervisory Statistician, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-3310.

**SUPPLEMENTARY INFORMATION:** On October 26, 1992, the Commission published in the Federal Register (57 FR 48480) a notice of proposed rulemaking to amend its general recordkeeping rule, 17 CFR § 1.31, which would allow computer-generated reports written on optical disk to be immediately substituted for hard-copy reports. Currently paragraph (b) of Rule 1.31 allows only substitution of microfilm for source documents for



purposes of records storage.<sup>1</sup> Microfilm may be substituted immediately for computer, accounting machine or business machine generated records. For records produced by other means, the rule allows immediate microfilming of source documents; but requires that source documents be retained in hard-copy form for the first two years of a five-year retention period.

Aside from requesting comment on specific proposed rule amendments concerning the immediate substitution of records on optical storage for computer-generated reports, the Commission also sought initial comment on possible further amendments to its recordkeeping requirements which might allow for optical storage of digital records produced through electronic imaging. Imaging is a technique used to create digital replicas of paper records.<sup>2</sup> The Commission noted that many of the criteria it had specified for optical storage of computer-generated records might also apply to storage of imaged digital records and sought comment concerning additional specific conditions, restrictions and safeguards that might be instituted before allowing substitution of imaged records for source documents. In this respect, the Commission requested comment on specific additional technical criteria for scanning equipment, as well as limiting the time period during which reproductions of paper records stored on optical disks can be substituted for source documents.

Thirty-five persons commented on the Commission's proposed rulemaking. Eight comment letters were sent by the Association for Information and Image Management ("AIIM") or its members. Twenty-five comment letters were sent by self-regulatory organizations and by interested firms. In addition, the Futures Industry Association conducted a survey which was completed by sixteen persons. The results of this survey were compiled and submitted as a comment on the proposed rule. In a separate notice of final rulemaking, the Commission adopted amendments to Rule 1.31 which allow the immediate substitution of records stored on optical disk for hard-copy of computer-generated records. This amendment is

effective thirty days from its publication in the Federal Register.

The Commission, in the preamble to the proposed rule changes published on October 26, 1992, noted that its own experience indicates there are limitations in the usefulness of reproductions of paper records stored through both microfilm and the newer technology involving electronic imaging. Indeed, problems with the newer technology may be more acute simply because optical disk storage promises lower costs, and thus a wider use, than microfilm storage. In this respect, microfilm reproductions generally do not capture erasures or differences that may indicate that notations were made by different writing instruments or other evidence that may be critical in investigations. For this reason, although current regulations do not foreclose a firm from immediately microfilming paper documents, the paper documents must be retained for the first two years of the required five-year retention period.

In view of the problems with microfilming, the Commission requested comment on whether source documents, with the exception of trading cards and order tickets, that were imaged should also be maintained for a two-year period. With respect to trading cards and written records of customer orders, the Commission sought comment on a requirement that such documents would have to be preserved in original form for the full five-year period. The Commission noted that it would consider applying this requirement both to substitution of records preserved on optical disk and microfilm.<sup>3</sup>

Four persons commented on the issue of record retention periods for paper records. Three of the commenters, all exchanges, confirmed the Commission's view that optical scanning may have limited application to customer order tickets and trading cards for reasons cited by the Commission, and agreed that these documents should be retained for the full five-year period.<sup>4</sup>

The Commission recognizes that costs are associated with its recordkeeping requirements. The length of time that

documents must be stored and, of course, the media upon which records are stored are factors affecting this cost. The current five-year retention period for trading cards and order tickets is not affected by this rulemaking. The proposed amendments to Rule 1.31 would require, however, that the originals of such documents be retained for the full five-year period, precluding the possibility that persons may microfilm the documents and preserve only the microfilm for the final three years of the five-year period. To the Commission's knowledge, no one in the futures industry now microfilms these documents. Rather, the current industry practice is to maintain them in original form for five years.<sup>5</sup> In view of this prevailing industry practice, the Commission is amending Rule 1.31 to provide that the trading cards and order tickets required pursuant to Rules 1.35(a)-(1), 1.35(a)-(2), and 1.35(d) be retained for five years.

The Commission fully supports the introduction of new information technologies that reduce costs associated with production, transfer, and storage of paper documents, provided there are sufficient safeguards to protect the public's interest. Currently, exchanges have instituted, and the Commission has approved, rules which provide for electronic trading systems. Exchanges are also testing the use of electronic trading cards and developing and implementing, in a limited manner, electronic order routing systems. In order to access the systems, firms in the industry are developing and testing electronic order entry systems. These systems are anticipated to be cost-effective alternatives to the production and transfer of paper documents, and may enhance audit trails, which are necessary for effective regulation. In addition, computer records produced by these systems can be stored on optical disk pursuant to newly-adopted amendments to Commission Rule 1.31. This can result in significant savings in storage and retrieval costs. Certain regulations, however, may require that firms prepare written documents. In light of the above developments in information technology, Commission staff are now reviewing regulations which require the production of written

<sup>1</sup> Rule 1.31 provides that books and records must be kept for five years and be readily accessible during the first two years of this time period.

<sup>2</sup> Creating an electronic image of paper records involves the conversion of paper formats to digital formats using an electronic scanner or camera. Facsimile machines capture and transmit replicas of documents using this technique. After a digital image is created, the digital bits of information may be written to an optical storage device.

<sup>3</sup> In proposing this requirement the Commission stated that these documents are essential to investigations which involve the reconstruction of intraday trading over some period of time. Such investigations are labor intensive and generally lengthy, at times continuing for several years. The documents themselves are usually multi-ply, color coded and are created daily in large numbers.

<sup>4</sup> The Commission noted in its October Federal Register release that exchanges currently do not microfilm trading cards and order tickets. The industry standard, in practice, appears to be to retain these documents for the full five-year period.

<sup>5</sup> Commission rules have allowed the substitution of microfilm for paper documents during the last three years of the five-year retention period since 1972. Apparently, it is more cost-effective to store source documents rather than microfilm order tickets and trading cards. In any event, it does not appear likely that the Commission's amendments will result in additional recordkeeping costs for registrants.



documents to determine conditions under which the paper documents may no longer be necessary.

# I. Related Matters

## A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments principally affect contract markets and futures commission merchants (FCMs). The Commission has previously defined "small entities" in evaluating the impact of its rule in accordance with the RFA, 47 FR 18618-18621 (April 30, 1982). In that statement, the Commission concluded that contract markets and FCMs are not considered to be small entities for purposes of the RFA. Other Commission registrants such as introducing brokers and floor brokers may also be affected. In this respect, the Commission believes that its amendments to Rule 1.31 conform this rule to current industry practice. As such, the amendments should not increase recordkeeping costs for any Commission registrant. Pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission certified that the proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission, however, sought comments from anyone who believed that these rules would have a significant economic impact upon its operations. No comments concerning the RFA were received.

## 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. The Commission believes that this final rule does not increase the burden hours. While the industry has the ability to microfilm records after two years it is general industry practice to keep them the entire five years. The Commission currently estimates the recordkeeping burden associated with these documents as if the documents were retained for the entire five-years. The burden associated with this entire collection, including this final rule, is as follows:

Average burden hours per response: 612.26

Number of Respondents: 4,281

Frequency of response: On occasion

The burden associated with Rule 1.31, which does not change due to this rule, is as follows:

Average burden hours per response: 50.40

Number of Respondents: 3,212

Frequency of response: On occasion

Persons wishing to comment on the information required by this rule should contact Gary Waxman, Office of Management and Budget, Room 3220, NEOB Washington DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254-9735.

## List of Subjects in 17 CFR Part 1

Contract markets, Futures commission merchants, Recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4, 4g, 4i, 5 and 5a of the Act, 7 U.S.C. 6, 6g, 6i, 7 and 7a (1988), the Commission hereby amends part 1 of chapter I of title 17 of the Code of Federal Regulations as follows:

## PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT.

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

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

2. Section 1.31 is amended by revising paragraph (b)(2) to read as follows:

### § 1.31 Books and records: Keeping and inspection.

\* \* \* \* \*

(b) \* \* \*

(2) Except as provided herein, for all other books and records, microfilm or microfiche reproductions thereof may be substituted for the hard copies for the final three years of the 5 year period. Trading cards and written customer orders, required to be kept pursuant to § 1.35(a-1)(1), (a-1)(2) and (d), must be retained in hard-copy form for the full five-year period.

\* \* \* \* \*

Issued in Washington, DC, May 4, 1993, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 93-10865 Filed 5-7-93; 8:45 am]

BILLING CODE 6351-01-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 228, 229

[Release Nos. 33-6998; 34-32255; 35-25807; 39-2307; IC-19451]

RIN 3235-AC48

### Rulemaking for EDGAR System; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to interim rules.

**SUMMARY:** This document contains corrections to the interim rules that were published Thursday, March 18, 1993 (58 FR 14628). Those rules relate to the implementation of the Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system.

**EFFECTIVE DATE:** These rules are effective April 26, 1993, except entry number 27 in the Exhibit Tables to Item 601 of Regulations S-K and Regulation S-B, relating to the Financial Data Schedule, which will be effective on November 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** James R. Budge, Office of Disclosure Policy, Division of Corporation Finance at (202) 272-2589.

### SUPPLEMENTARY INFORMATION:

#### Background

The interim rules that are the subject of these corrections become effective on April 26, 1993 and implement mandated electronic filing on the EDGAR system for registrants whose filings are processed by the Divisions of Corporation Finance and Investment Management and for those making filings with respect to such registrants. Development and implementation of the EDGAR system was effected pursuant to Section 35A of the Securities and Exchange Act of 1934 (15 U.S.C. 781).

#### Need for Corrections

This action is necessary to ensure that the entries in the Exhibit Tables in Regulations S-K and S-B coincide with the descriptions of the exhibits found in paragraph (b) of Item 601 of Regulations S-K and S-B.

#### Correction of Publication

Accordingly, the publication on March 18, 1993 of the interim rules, which were the subject of FR Doc. 93-4805, is corrected as follows:

#### § 228.601 [Corrected]

1. On page 14660, second column, amendatory instruction No. 13, beginning in the fourth line, "in the



Exhibit Table, remove entry number 29, revise entry numbers (2), (3), (10), (27), and (28), add and reserve entry numbers

(29) through (98), and add entry number (99) and Footnote 5;" should read "revise the Exhibit Table,"; and the

Exhibit Table should read as set forth below:

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- 3 -  
EXHIBIT TABLE

	Securities Act Forms					Exchange Act Forms			
	S-2	S-2	S-3	S-4***	S-8	10-SB	8-K	10-QSB	10-KSB
(1) Underwriting agreement	x	x	x	x	-----	-----	x	-----	-----
(2) Plan of acquisition, reorganization, arrangement, liquidation, or succession	x	x	x	x	-----	x	x	x	x
(3) (i) Articles of incorporation	x	-----	-----	x	-----	x	-----	-----	x
(ii) By-laws	x	-----	-----	x	-----	x	-----	-----	x
(4) Instruments defining the rights of holders, incl. indentures	x	x	x	x	x	x	x	x	x
(5) Opinion re: legality	x	x	x	x	x	-----	-----	-----	-----
(6) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(7) Opinion re: liquidation preference	x	x	-----	x	-----	x	-----	-----	-----
(8) Opinion re: tax matters	x	x	x	x	-----	-----	-----	-----	-----
(9) Voting trust agreement	x	-----	-----	x	-----	x	-----	-----	x
(10) Material contracts	x	x	-----	x	-----	x	-----	x	x
(11) Statement re: computation of per share earnings	x	x	-----	x	-----	x	-----	x	x
(12) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(13) Annual or quarterly reports, Form 10-Q *	-----	x	-----	x	-----	-----	-----	-----	x
(14) Material foreign patents	x	-----	-----	x	-----	x	-----	-----	-----
(15) Letter on unaudited interim financial information	x	x	x	x	x	-----	-----	x	-----
(16) Letter on change in certifying accountant****	x	x	-----	x	-----	x	x	-----	x
(17) Letter on director resignation	-----	-----	-----	-----	-----	-----	x	-----	-----
(18) Letter on change in accounting principles	-----	-----	-----	-----	-----	-----	-----	x	x
(19) Reports furnished to securityholders	-----	-----	-----	-----	-----	-----	-----	x	-----
(20) Other documents or statements to securityholders	-----	-----	-----	-----	-----	-----	x	-----	-----
(21) Subsidiaries of the registrant	x	-----	-----	x	-----	x	-----	-----	x
(22) Published report regarding matters submitted to vote	-----	-----	-----	-----	-----	-----	-----	x	x
(23) Consent of experts and counsel	x	x	x	x	x	-----	x**	x**	x**
(24) Power of attorney	x	x	x	x	x	x	x	x	x
(25) Statement of eligibility of trustee	x	x	x	x	-----	-----	-----	-----	-----
(26) Invitations for competitive bids	x	x	x	x	-----	-----	-----	-----	-----
(27) Financial Data Schedule*****	x	x	x	x	x	x	x	x	x
(28) Information from reports furnished to state insurance regulatory authorities	x	x	x	x	x	x	-----	-----	x
(29) through (98) [Reserved]	-----	-----	-----	-----	-----	-----	-----	-----	-----
(99) Additional Exhibits	x	x	x	x	x	x	x	x	x

\* Only if incorporated by reference into a prospectus and delivered to holders along with the prospectus as permitted by the registration statement; or in the case of a Form 10-KSB, where the annual report is incorporated by reference into the text of the Form 10-KSB.

\*\* Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

\*\*\* An issuer need not provide an exhibit if: (1) an election was made under Form S-4 to provide S-2 or S-3 disclosure; and (2) the form selected (S-2 or S-3) would not require the company to provide the exhibit.

\*\*\*\* If required under Item 304 of Regulation S-B.

\*\*\*\*\* Financial Data Schedules shall be filed by electronic filers only. Such schedule shall be filed only when a filing includes annual and/or interim financial statements that have not been previously included in a filing with the Commission. See Item 601(c) of Regulation S-B.



## § 229.601 [Corrected]

2. On page 14665, first column, amendatory instruction No. 18, beginning in the fourth line, "in the Exhibit Table remove entry number (29),

revise entry numbers (2), (3), (10), (27), and (28), add and reserve entry numbers (29) through (98), and add entry number (99) and Footnote 5;" should read "revise the Exhibit Table;" and the

Exhibit Table should read as set forth below:

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## EXHIBIT TABLE

## Securities Act Forms

## Exchange Act Forms

	S-1	S-2	S-3	S-4 <sup>3</sup>	S-8	S-11	F-1	F-2	F-3	F-4 <sup>3</sup>	10	8-K	10-Q	10-K
(1) Underwriting agreement	X	X	X	X	----	X	X	X	X	X	----	X	----	----
(2) Plan of acquisition, reorganization, arrangement, liquidation, or succession	X	X	X	X	----	X	X	X	X	X	X	X	X	X
(3) (i) Articles of incorporation	X	----	----	X	----	X	X	----	----	X	X	----	----	X
(ii) By-laws	X	----	----	X	----	X	X	----	----	X	X	----	----	X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X	X	X	----	----	----	----
(6) Opinion re discount on capital shares	X	X	----	X	----	X	X	X	----	X	X	----	----	----
(7) Opinion re liquidation preference	X	X	----	X	----	X	X	X	----	X	X	----	----	----
(8) Opinion re tax matters	X	X	X	X	----	X	X	X	X	X	----	----	----	----
(9) Voting trust agreement	X	----	----	X	----	X	X	----	----	X	X	----	----	X
(10) Material contracts	X	X	----	X	----	X	X	X	----	X	X	----	X	X
(11) Statement re computation of per share earnings	X	X	----	X	----	X	X	X	----	X	X	----	X	X
(12) Statements re computation of ratios	X	X	X	X	----	X	X	X	----	X	X	----	----	X
(13) Annual report to security holders, Form 10-Q or quarterly report to security holders <sup>1</sup>	----	X	----	X	----	----	----	----	----	----	----	----	----	X
(14) Material foreign patents	X	----	----	X	----	----	X	----	----	X	X	----	----	----
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X	X	X	X	----	----	X	----
(16) Letter re change in certifying accountant <sup>4</sup>	X	X	----	X	----	X	----	----	----	----	X	X	----	X
(17) Letter re director resignation	----	----	----	----	----	----	----	----	----	----	----	X	----	----
(18) Letter re change in accounting principles	----	----	----	----	----	----	----	----	----	----	----	----	X	X
(19) Report furnished to security holders	----	----	----	----	----	----	----	----	----	----	----	----	X	----
(20) Other documents or statements to security holders	----	----	----	----	----	----	----	----	----	----	----	X	----	----
(21) Subsidiaries of the registrant	X	----	----	X	----	X	X	----	----	X	X	----	----	X
(22) Published report regarding matters submitted to vote of security holders	----	----	----	----	----	----	----	----	----	----	----	----	X	X
(23) Consent of experts and counsel	X	X	X	X	X	X	X	X	X	X	----	X <sup>2</sup>	X <sup>2</sup>	X <sup>2</sup>
(24) Power of attorney	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(25) Statement of eligibility of trustee	X	X	X	X	----	X	X	X	X	X	----	----	----	----
(26) Invitations for competitive bids	X	X	X	X	----	----	X	X	X	X	----	----	----	----
(27) Financial Data Schedule <sup>5</sup>	X	X	X	X	X	X	----	----	----	----	X	X	X	X
(28) Information from reports furnished to state insurance regulatory authorities	X	X	X	X	X	----	----	----	----	----	X	----	----	X
(29) through (98) [Reserved]	----	----	----	----	----	----	----	----	----	----	----	----	----	----
(99) Additional Exhibits	X	X	X	X	X	X	X	X	X	X	X	X	X	X

<sup>1</sup> Where incorporated by reference into the text of the prospectus and delivered to security holders along with the prospectus as permitted by the registration statement; or, in the case of the Form 10-K, where the annual report to security holders is incorporated by reference into the text of the Form 10-K.

<sup>2</sup> Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

<sup>3</sup> An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Forms S-4 or F-4 to provide information about such company at a level prescribed by Forms S-2, S-3, F-2 or F-3 and (2) the form, the level of which has been elected under Forms S-4 or F-4, would not require such company to provide such exhibit if it were registering a primary offering.

<sup>4</sup> If required pursuant to Item 304 of Regulation S-K.

<sup>5</sup> Financial Data Schedules shall be filed by electronic filers only. Such schedule shall be filed only when a filing includes annual and/or interim financial statements that have not been previously included in a filing with the Commission. See Item 601(c) of Regulation S-K.



Dated: May 4, 1993.

Jonathan G. Katz,  
Secretary.

[FR Doc. 93-10938 Filed 5-7-93; 8:45 am]

BILLING CODE 8010-01-M

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 9**

[FRL-4653-5]

**OMB Approval Numbers Under the  
Paperwork Reduction Act**AGENCY: Environmental Protection  
Agency.

ACTION: Final rule.

**SUMMARY:** EPA is adding a new Part to consolidate the display of Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for various EPA regulations with information collection request requirements.

**EFFECTIVE DATE:** This final rule is effective on May 10, 1993.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at (202) 260-2740.

**SUPPLEMENTARY INFORMATION:** EPA is continuing to examine its management of the PRA. As part of that review, EPA is today publishing the current information collection request (ICR) control numbers issued by OMB for various regulations promulgated under the Safe Drinking Water Act and the Clean Air Act. The affected regulations are codified at 40 CFR parts 61, 82, 141, and 142. EPA is presenting the OMB control numbers in a consolidated table format to be codified in part 9 of the agency's title 40 regulations, and in each CFR volume containing EPA regulations. The table lists the part and Section numbers with reporting and recordkeeping requirements, and the current OMB control number.

The ICRs were previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to issue this table without prior notice and comment. Due to the technical nature of the table, further notice and public comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

For additional information, see 58 FR 18014, April 7, 1993.

**List of Subjects in 40 CFR Part 9**

Reporting and recordkeeping requirements.

Dated: May 4, 1993.

Carol M. Browner,  
Administrator.

For the reasons set out in the preamble Chapter I, title 40 of the Code of Federal Regulations is amended by adding part 9 to read as follows:

**PART 9—OMB APPROVALS UNDER  
THE PAPERWORK REDUCTION ACT**

**Authority:** 42 U.S.C. 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, 7401, 7412, 7414, 7416, 7601, 7671-7671g.

**§ 9.1 OMB approvals under the Paperwork  
Reduction Act.**

This part consolidates the display of control numbers assigned to collections of information in certain EPA regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This part fulfills the requirements of section 3507(f) of the PRA.

40 CFR citation	OMB control No.
<b>National Emission Standards for Hazardous Air Pollutants</b>	
61.24-61.25 .....	2060-0191.
61.93-61.95 .....	2060-0191.
61.103-61.105 .....	2060-0191.
61.107 .....	2060-0191.
61.123-61.124 .....	2060-0191.
61.126 .....	2060-0191.
61.203 .....	2060-0191.
61.206-61.209 .....	2060-0191.
61.223-61.224 .....	2060-0191.
61.253-61.255 .....	2060-0191.
<b>Protection of Stratospheric Ozone</b>	
82.9-82.13 .....	2060-0170.
82.36 .....	2060-0247.
82.38 .....	2060-0247.
82.40 .....	2060-0247.
82.42 .....	2060-0247.
<b>National Primary Drinking Water Regulations</b>	
141.2 .....	2040-0090.
141.4 .....	2040-0090.
141.11-141.15 .....	2040-0090.
141.21-141.22 .....	2040-0090.
141.23-141.24 .....	2040-0090, as amended by 2040-0155.
141.25-141.30 .....	2040-0090.
141.31-141.32 .....	2040-0090, as amended by 2040-0155.
141.33-141.35 .....	2040-0090.
141.40 .....	2040-0090, as amended by 2040-0155.
141.41-141.43 .....	2040-0090.
141.50-141.52 .....	2040-0090.
141.60-141.63 .....	2040-0090.
141.70-141.75 .....	2040-0090.
141.80-141.91 .....	2040-0090.
141.100 .....	2040-0090.
141.110-141.111 .....	2040-0090.
<b>National Primary Drinking Water Regulations Implementation</b>	
142.2-142.3 .....	2040-0090.

40 CFR citation	OMB control No.
142.10-142.15 .....	2040-0090.
142.16 .....	2060-0090, as amended by 2040-0155.
142.17-142.24 .....	2040-0090.
142.56-142.57 .....	2040-0090.
142.60-142.61 .....	2040-0090.
142.62 .....	2040-0090, as amended by 2040-0155.
142.63-142.64 .....	2040-0090.
142.70-142.78 .....	2040-0090.
142.81-142.81 .....	2040-0090.

[FR Doc. 93-10990 Filed 5-7-93; 8:45 am]

BILLING CODE 8580-50-M

**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 1**

[FCC 93-195]

**Forfeiture Proceedings**AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

**SUMMARY:** By this action, the Commission amends § 1.80(d) of the rules to reflect amendments to section 503(b)(5) of the Communications Act of 1934, as amended. Section 503(b)(5) was recently amended by Congress to provide that nonlicensee tower owners may be subject to forfeiture for violations of the painting and/or illumination requirements without a prior citation under certain conditions. The amendment to § 1.80(d) merely restates the statutory language of amended section 503(b)(5) to conform the Commission's forfeiture rules to the statute.

**EFFECTIVE DATE:** May 10, 1993.

**FOR FURTHER INFORMATION CONTACT:** Douglas Cooper, Office of General Counsel, Federal Communications Commission, (202) 632-6990.

**SUPPLEMENTARY INFORMATION:**

In the matter of Amendment of Section 1.80(d) of the Commission's Rules

**Order**

Adopted: April 13, 1993.

Released: May 3, 1993.

By the Commission:

1. Congress recently amended section 503(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(5), to provide that nonlicensee tower owners may be subject to forfeiture for violations of the painting and/or illumination requirements for radio



towers as prescribed by the Commission without a prior citation under certain conditions. Public Law No. 102-538, 106 stat. 3533, enacted October 27, 1992. By this Order we amend section 1.80(d) of our rules, 47 CFR 1.80(d), to reflect the amended statute.

2. Specifically, the amendment to section 503(b)(5) allows the Commission to assess forfeitures for violations of section 303(q) if the nonlicensee tower owner has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses the tower.

3. The changes to § 1.80(d) of our rules adopted herein merely restates in our rules the statutory language of 47 U.S.C. 503(b)(5). Therefore, the Commission for good cause finds that compliance with the notice and comment and effective date provisions of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(B), 553(d)(3).

4. Accordingly, pursuant to sections 4(i), 303(r) and 503(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 503(b)(5), *It is ordered* that 47 CFR § 1.80(d) is Amended as set forth in the Rule Changes, Effective upon publication in the Federal Register.

#### List of Subjects in 47 CFR Part 1

Penalties.  
Federal Communications Commission.  
Donna R. Searcy,  
Secretary.

#### Rule Changes

Title 47 of the Code of Federal Regulations, part 1, is amended as follows:

#### PART 1—PRACTICE AND PROCEDURE.

1. The authority citation for Part 1 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 503(b)(5); 5 U.S.C. 552; 21 U.S.C. 853a, unless otherwise noted.

2. Section 1.80 is amended by revising the second sentence of paragraph (d) to read as follows.

#### Miscellaneous Proceedings

##### § 1.80 Forfeiture proceedings.

(d) Preliminary procedure in some cases; citations. \* \* \* However, a forfeiture penalty may be imposed, if such person is engaged in (and the violation relates to) activities for which a license, permit, certificate, or other authorization is required or if such person is a cable television operator, or

in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower. \* \* \*

[FR Doc. 93-10758 Filed 5-7-93; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 92-292; RM-8135]

#### Radio Broadcasting Services; Milton-Freewater, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Alexandra Communications, substitutes Channel 250C2 for Channel 250C3 at Milton-Freewater, Oregon, and modifies Station KLKY(FM)'s construction permit to specify operation on the higher class channel. See 57 F.R. 61037, December 23, 1992. Channel 250C2 can be allotted to Milton-Freewater in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.8 kilometers (11 miles) northeast to accommodate petitioner's desired transmitter site, at coordinates North Latitude 45-59-04 and West Longitude 118-10-08. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 18, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-292, adopted April 26, 1993, and released May 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 250C3 and adding Channel 250C2 at Milton-Freewater.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10877 Filed 5-7-93; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 93-11; RM-8164]

#### Radio Broadcasting Services; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Melinda Boucher Read, substitutes Channel 245C3 for Channel 245A at Spokane, Washington, and modifies the Station KSPO (FM)'s construction permit accordingly. See 58 FR 7815, February 10, 1993. Channel 245C3 can be allotted to Spokane in compliance with the Commission's minimum distance separation requirements for domestic allotments at petitioner's specified site. The coordinates for Channel 245C3 at Spokane are North Latitude 47-41-39 and West Longitude 117-20-03. Since Spokane is located within 320 kilometers (200 miles) of the U.S.-Canadian border and the allotment is short-spaced to a vacant Canadian allotment, Canadian concurrence has been obtained for Channel 245C3 at Spokane as a specially negotiated allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 18, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-11, adopted April 26, 1993, and released May 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.