

A. Classification Under Executive Order 12866

These proposed regulations establish procedures and criteria for certifying that certain actions to modernize NWS will not result in any degradation of weather services to the affected service area. They will not result in any direct or indirect economic impacts, and have been determined not to be significant for purposes of E.O. 12866.

B. Regulatory Flexibility Act Analysis

These regulations set forth the criteria for certifying that certain modernization actions will not result in a degradation of service to the affected area. These criteria will be appended to the Weather Service Modernization regulations. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these criteria, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. These proposed criteria are intended for internal agency use, and will not directly affect small business. The proposed criteria do not directly affect "small government jurisdictions" as defined by Pub. L. 96-354, the Regulatory Flexibility Act. Accordingly, no initial regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act of 1980

These regulations will impose no information collection requirements of the type covered by Pub. L. 96-511, the Paperwork Reduction Act of 1980.

D. E.O. 12612

This rule does not contain policies with sufficient Federalism implications to warrant preparation of a Federalism assessment under Executive Order 12612.

E. National Environmental Policy Act

NOAA has concluded that publication of this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. A programmatic Environmental Impact Statement (EIS) regarding NEXRAD was prepared in November 1984, and an Environmental Assessment to update the portion of the EIS dealing with the bioeffects of NEXRAD non-ionizing radiation was issued in 1993.

List of Subjects in 15 CFR Part 946

Administrative practice and procedure, Certification,

Commissioning, Decommissioning, National Weather Service, Weather service modernization.

Dated: June 1, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

For the reasons set out in the preamble, 15 CFR part 946 is proposed to be amended as follows:

PART 946—[AMENDED]

1. The authority citation for part 946 continues to read as follows:

Authority: Title VII of Pub. L. 102-567, 106 Stat 4303 (15 U.S.C. 313n).

Appendix A to Part 946—[Amended]

2. Appendix A to part 946 is amended by adding a new Subsection (E) under Section II. Criteria for Modernization Actions Requiring Certification, to read as follows:

(E) Proposed Modernization Criteria Unique to Closure Certifications.

1. Consolidation Certification: If the field office proposed for closure has or will be consolidated, as defined in § 946.2 of the basic modernization regulations, this action has been completed as evidenced by the approved certification or can be completed as evidenced by all of the documentation that all of the requirements of sections II.A. and II.B. of this Annex have been completed.

2. Automation Certification: If the field office proposed for closure has or will be automated, as defined in § 946.2 of the basic modernization regulations, this action has been completed as evidenced by the approved certification or can be completed as evidenced by documentation that all of the requirements of sections II.A. and II.C. of this Annex have been completed.

3. Remaining Services and/or Observations: All remaining service and/or observational responsibilities, if applicable to the field office proposed for closure, have been transitioned as addressed in the MIC's recommendation for certification.

4. User Confirmation of Services: Any valid user complaints received related to provision of weather services have been satisfactorily resolved and the issues addressed in the MIC's recommendation for certification.

5. Warning and Forecast Verification: Warning and forecast verification statistics, produced in accordance with the Closure Certification Verification Plan, have been utilized in support of the MIC's recommendation for certification.

Attachment 1

Appendix A to Part 946—National Weather Service Modernization Criteria (Relevant portions)

II. Criteria for Modernization Actions Requiring Certification

(A). *Criteria Common to all Types of Certifications (except as noted)*

1. Notification: Advanced notification and the expected date of the proposed certification have been provided in the National Implementation Plan.

2. Local Weather Characteristics and Weather Related Concerns: A description of local weather characteristics and weather related concerns which affect the weather services provided to the affected service area is provided.

3. Comparison of Services: A comparison of services before and after the proposed action demonstrates that all services currently provided to the affected service area will continue to be provided.

4. Recent or Expected Modernization of NWS Operations in the Affected Service Area: A description of recent or expected modernization of NWS operations in the affected service area is provided.

5. NEXRAD Network Coverage: NEXRAD network coverage or gaps in coverage at 10 feet over the affected service area are identified.

6. Air Safety Appraisal (applies only to relocation and closure of field offices at an airport): Verification that there will be no degradation of service that affects aircraft safety has been made by conducting an air safety appraisal in consultation with the Federal Aviation Administration.

7. Evaluation of Service to In-state Users (applies only to relocation and closure of the only field office in a state): Verification that there will be no degradation of weather services provided to the state has been made by evaluating the effects on weather services provided to in-State users.

8. Liaison Officer: Arrangements have been made to retain a Liaison Officer in the affected service area for at least two years to provide timely information regarding the activities of the NWS which may affect service to the community, including modernization and restructuring; and to work with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

9. Meteorologist-In-Charge's (MIC) Recommendation to Certify: The MIC of the future WFO that will have responsibility for the affected service area has recommended certification in accordance with 15 CFR 946.7(a).

10. Regional Director's Certification: The cognizant Regional Director has approved the MIC's recommended certification of no degradation of service to the affected service area in accordance with 15 CFR 946.8.

[FR Doc. 96-14254 Filed 6-5-96; 8:45 am]

BILLING CODE 3510-12-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Rule Amendment Concerning Trading Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commodity Futures Trading Commission ("Commission")

proposes to amend its Regulation to clarify a procedure specified for the correction of erroneous information on trading cards and to make that procedure applicable to other trading records. The amendment would specify that a member of a contract market who needs to correct an error on a trading record may do so only by crossing out the erroneous information with no more than a single line through each character, without obliterating or otherwise making illegible any of the originally recorded information. Contract markets would be required to maintain rules that require errors on trading records to be corrected in the prescribed manner.

DATES: Comments on the proposed amendment must be submitted on or before July 8, 1996.

ADDRESSES: Comments on the proposed amendment should be sent to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 7, 1990 the Commission published in the Federal Register a number of final amendments to Regulation 1.35,¹ which 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. These amendments were intended, among other things, to limit the opportunity for the fabrication or alteration of trading records and to enhance exchange audit trails and trade surveillance. The amendments imposed obligations directly on contract market members and required each contract market to promulgate implementing rules to that effect.

Although many of the amendments' provisions were targeted to trading cards, other provisions were made specifically applicable to all trading records in order to limit the opportunity to alter or fabricate such trading records. The trading record collection requirement of Regulation 1.35(j)(1), designed to expeditiously transfer

control of the documents from the executing members, is applicable to all trading records on which the contract market or clearing member relies as an original source document for clearing submission purposes.² The requirement that trades be recorded in non-erasable ink, designed to provide added protection against improper alteration of trading records through erasures, is applicable to customer order tickets,³ as well as trading cards.⁴

Notwithstanding these provisions, the Commission has found, based upon its oversight activities, instances in which it appears that members have altered or created fictitious trading records to facilitate illegal purposes. It appears that, in some instances, trade prices and quantities have been altered subsequent to trade execution to the detriment of customers and favorable trades for customers have been allocated to traders' personal accounts. The Commission believes that this type of activity may be facilitated by the manner in which traders, under the guise of correcting erroneous information on a trading record, obscure the information originally recorded. This practice, which has been observed to occur with respect to both trading cards and order tickets, also makes it more difficult to detect potentially fraudulent activity.

The Commission believes that obscuring the trade information originally recorded can be used to facilitate or itself constitute illegal fraudulent conduct. As previously stated, the amendments to Regulation 1.35 were intended, among other things, to limit the opportunity for fabrication or alteration of trading records and to enhance exchange audit trails and trade surveillance. Correcting erroneous information by obliteration of the original data enhances the opportunity to facilitate illegal purposes and increases the difficulty involved in creating and maintaining adequate audit trail and trade practice surveillance programs. Nonetheless, in order to eliminate any ambiguity in this area, the

² Regulation 1.35(j)(1) requires that each contract market maintain in effect rules which require, among other things, that trading records prepared 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. Paragraph (a-1) requires the creation of order tickets; paragraph (d) requires the preparation of trading cards or other records showing purchases or sales executed on or subject to the rules of a contract market.

³ Regulation 1.35(a-1) (2) and (4).

⁴ Regulation 1.35(d)(7)(ii) and (j)(8). Regulation 1.35(j)(8) requires that each contract market maintain in effect rules which require that members complete trades in non-erasable ink as prescribed by paragraph (d)(7)(ii).

Commission is now proposing to expressly address the issue by amending the method by which a member of a contract market may correct errors on a hard copy trading record.

II. Proposed Amendment

In light of the foregoing, the Commission proposes to amend Regulation 1.35 in two respects. First, paragraph (d)(7), which addresses, among other things, the preparation of trading cards, would be made applicable to all trading records. Second, paragraph (d)(7)(ii), which requires the use of non-erasable ink and addresses correction of errors, would be modified to require that erroneous trade information be crossed out with no more than a single line through each character, without obliterating or otherwise making illegible any of the originally recorded information.

A. Proposed Paragraph (d)(7)

The Commission proposes to amend paragraph (d)(7) to make it applicable to all trading records. In so doing, the Commission is making the error correction provisions of paragraph (d)(7)(ii) applicable to all trading records, not just trading cards. Thus, this amendment places other trading records under the same standards currently in existence with regard to the correction of errors on trading cards.⁵ Further, it requires contract markets to maintain in effect rules that require errors on other trading records to be corrected in the manner prescribed by paragraph (d)(7)(ii).

The other trading records to which this provision applies include order tickets prepared under Regulation 1.35(a-1), as well as order tickets received on the floor through electronic order routing systems and trading records prepared for "flashed" orders. It is the Commission's belief that preventing the obliteration of data is effectively a prophylactic requirement intended to prevent fraudulent alteration of trading records.

B. Proposed Paragraph (d)(7)(ii)

The Commission proposes to amend paragraph (d)(7)(ii) to require that erroneous information crossed out on a trading record must be crossed out with no more than a single line through each character, without obliterating or otherwise making illegible any of the

⁵ With regard to trading cards only, the member could still correct erroneous information by rewriting the trading card. Pursuant to paragraph (d)(6), the member would remain accountable for any trading card that is subsequently rewritten. The Commission requests comments regarding the continued advisability of this provision.

¹ 55 FR 8127 (March 7, 1990).

originally recorded information. Thus, the erroneous information being crossed out would not be obliterated and an audit should reveal the original information recorded on the trading record, as well as any information subsequently recorded. Because the amendment to paragraph (d)(7) would make this provision applicable to all trading records, the Commission believes that this amendment would further limit the opportunity for the fabrication or alteration of trading records.

The Commission believes that erroneous data normally should be crossed out using the same or a similar pen as is used by the member to record trade executions. In any event, the use of a felt pen or marker that obliterates the original recorded information, even if the information is crossed out with no more than a single line, would not be in compliance with this amended regulation. Overwriting erroneous information with corrected information, rather than crossing out the erroneous information in the prescribed manner, also would not be in compliance with this amended regulation.

III. Other 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 those rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission need not, therefore, consider the effect of proposed amendments on contract markets in relation to the RFA. 47 FR 18618, 18619 (April 30, 1982). The Commission has also determined that FCMs should be excluded from the definition of "small entity" based upon the fiduciary nature of the FCM/customer relationships as well as the fact that FCMs must meet minimum financial requirements. 47 FR 18618, 18619 (April 30, 1982).

With respect to contract market members, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal 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 proposed amendment, other than clearing members, would be floor brokers and floor traders.

The Commission recognizes that contract market members would be subject to the proposed amendments and that certain contract market members could be considered to be small entities for the purposes of the RFA. However, the Commission believes that the proposed amendment, as designed, would not impose a significant economic burden on members.

Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act: Comment Request

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 Act.

While this proposed rule has no burden, the group of rules (3038-0022) of which this is a part has the following burden:

Average burden hours per response—3,546.

Number of Respondents—15,286.

Frequency of Response—On occasion.

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5170.

List of Subjects in 17 CFR Part 1

Commodity futures, Commodity options, Contract markets, Customers, Members of contract markets, Noncompetitive trading, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 5, 5a, 5b, 6(a), 6b, 8a(7), 8a(9) and 8c, 7 U.S.C. 7, 7a, 7b, 8(a), 8b, 12a(7), 12a(9), and 12c, the Commission hereby proposes to amend 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, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.35 is proposed to be amended by revising paragraph (d)(7) to read as follows:

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

* * * * *

(d) * * *

(7) Trading records 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 may correct any errors (A) by crossing out erroneous information with no more than a single line through each character, without obliterating or otherwise making illegible any of the originally recorded information or (B) with regard to trading cards only, by rewriting the trading card; provided, however, that the member is accountable pursuant to paragraph (d)(6) of this section for any trading card that is subsequently rewritten.

* * * * *

Issued in Washington, DC on May 31, 1996 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-14129 Filed 6-05-96; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 19, 113 and 144

RIN 1515-AB86

Duty-Free Stores

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations principally with respect to duty-free stores in order to reduce the overall paperwork burden for proprietors thereof as well as for Customs. In particular, for purposes of Customs audit of, and control over, such facilities, greater reliance would be placed on the use of records generated and maintained by proprietors and importers in the ordinary course of business, instead of on the use of specially prepared Customs forms. The proposed amendments would provide