

the futures or option contracts specified in the call a copy of each notice of delivery issued by any member thereof subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made. For the purposes of this paragraph the Commission hereby delegates to the Director of the Division of Economic Analysis, or to such other person designated by the Director, authority to issue calls for information contained in this section.

(b) Any contract market may provide the required delivery notice information on compatible data processing punched cards, magnetic tapes, magnetic discs, computer printouts, or other means: *Provided*, That the format and coding structure and the nature of the information contained thereon have been approved in writing by the Commission. A complete and accurate computer listing of any information supplied via data processing media must also be provided by an officer of the contract market at the time information via data processing media is supplied.

(c) For the purposes of this section, the term "delivery" includes the exercise of a commodity option on a physical but does not include any futures contract or option on a physical which is settled in cash rather than by delivery of the underlying commodity or underlying physical.

(Approved by the Office of Management and Budget under control number 3038-0020)

(Secs. 4g(1), 4i, 5(b), 8a(5), Commodity Exchange Act 7 U.S.C. 6g(1), 6i, 7(b), 12a(5) (Supp. V, 1975))

[41 FR 48112, Nov. 2, 1976, as amended at 42 FR 12375, Mar. 3, 1977; 46 FR 63035, Dec. 30, 1981; 47 FR 57009, Dec. 22, 1982; 52 FR 18910, May 20, 1987]

#### § 1.43 Information required concerning warehouses.

Each contract market shall file upon request by the Commission a list of all warehouses, depositories and other similar entities, in which or out of which commodities are deliverable in satisfaction of futures contracts or options on physicals made on or subject

to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, depository or other similar entity, together with the name and business address of the operator thereof. Each contract market shall require the operator of such warehouse, depository or, other similar entity to furnish, upon request by the Commission, a schedule of storage charges, handling charges, and the annual fire insurance rate applicable to such warehouse, depository or other similar entity.

[57 FR 20637, May 14, 1992]

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

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

(a) To keep records showing the stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market in store in such warehouses, depositories and other similar entities by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased space of the warehouse, depository or other similar entity;

(b) Upon call from the Commission, to report the stocks of commodities in such warehouses, depositories and other similar entities and to furnish information concerning stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market about to be transferred or in the process of being transferred or otherwise moved into or out of such warehouses, depositories and other similar entities, as well as any other information concerning commodities stored in such warehouse, depositories and other similar entities and which are or may be available for delivery on futures contracts or options on physicals; and

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(c) To permit visitation of the premises and inspection of the books and records of such warehouses, depositories and other similar entities by duly authorized representatives of the Commission or the Department of Justice, and to keep all books, records, papers, and memoranda relating to the storage and warehousing of commodities in such warehouse, depository or other similar entity for a period of 5 years from the date thereof.

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(Sec. 5a, 49 Stat. 1497; 7 U.S.C. 7a)

[41 FR 3194, Jan. 21, 1976, as amended at 46 FR 63035, Dec. 30, 1981; 47 FR 57009, Dec. 22, 1982]

### § 1.45 Delivery of commodities conforming to United States standards.

Each contract market shall require that all contracts of sale of any commodity for future delivery on or subject to the rules of such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards if such standards shall have been officially promulgated and adopted by the Commission. In the event of a change in United States standards, all contracts made on and after the effective date of the adoption of the revised standard by the Commission shall be made on the basis of the standards as changed: *Provided*, That this shall not be construed to prevent the closing of trades made prior to the effective date of such adoption by the Commission.

(Sec. 5a, 49 Stat. 1498; 7 U.S.C. 7a)

### § 1.46 Application and closing out of offsetting long and short positions.

(a) *Application of purchases and sales.* Except with respect to purchases or sales which are for omnibus accounts, any futures commission merchant who, on or subject to the rules of a contract market:

(1) Purchases any commodity for future delivery for the account of any customer when the account of such customer at the time of such purchase has a short position in the same future of the same commodity on the same market;

(2) Sells any commodity for future delivery for the account of any customer when the account of such customer at the time of such sale has a long position in the same future of the same commodity on the same market;

(3) Purchases a put or call option for the account of any option customer when the account of such option customer at the time of such purchase has a short put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that purchased; or

(4) Sells a put or call option for the account of any option customer when the account of such option customer at the time of such sale has a long put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that sold shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall, for futures transactions, promptly furnish such customer a statement showing the financial result of the transactions involved and, if applicable, that the account was introduced to the futures commission merchant by an introducing broker and the names of the futures commission merchant and introducing broker.

(b) *Close-out against oldest open position.* In all instances wherein the short or long futures or option position in such customer's or option customer's account immediately prior to such offsetting purchase or sale is greater than the quantity purchased or sold, the futures commission merchant shall apply such offsetting purchase or sale to the oldest portion of the previously held short or long position: *Provided*, That upon specific instructions from the customer or option customer the offsetting transaction shall be applied as specified by the customer or option customer without regard to the date of acquisition of the previously held position. Such instructions may also be accepted from any person who, by power of attorney or otherwise, actually directs trading in the customer's or option customer's account unless the person directing the trading is the futures