

156 F.3d 1206, 1213, 48 USPQ2d 1010, 1016 (Fed. Cir. 1998) ("lever moving element for moving the lever" and "movable link member for holding the lever * * * and for releasing the lever" were construed as means-plus-function limitations invoking 35 U.S.C. 112, ¶ 6 since the claimed limitations were described in terms of their function, not their mechanical structure).

7. See 35 U.S.C. 112, ¶ 6. See also *B. Braun Medical, Inc. v. Abbott Lab.*, 124 F.3d 1419, 1424, 43 USPQ2d 1896, 1899 (Fed. Cir. 1997).

8. See *Donaldson*, 16 F.3d at 1195, 29 USPQ2d at 1850; see also *B. Braun Medical*, 124 F.3d at 1425, 43 USPQ2d at 1900; and *In re Dossel*, 115 F.3d 942, 946, 42 USPQ2d 1881, 1884–85 (Fed. Cir. 1997).

9. See *In re Noll*, 545 F.2d 141, 149, 191 USPQ 721, 727 (CCPA 1976) (unless the means-plus-function language is itself unclear, a claim limitation written in means-plus-function language meets the definiteness requirement in 35 U.S.C. 112, ¶ 2 so long as the specification meets the written description requirement in 35 U.S.C. 112, ¶ 1).

10. See *In re Knowlton*, 481 F.2d 1357, 1366, 178 USPQ 486, 492–93 (CCPA 1973).

11. See *Donaldson*, 16 F.3d at 1195, 29 USPQ2d at 1850; *Knowlton*, 481 F.2d at 1366, 178 USPQ at 493.

12. See *Dossel*, 115 F.3d at 946, 42 USPQ2d at 1885. Under proper circumstances, drawings may provide a written description of an invention as required by 35 U.S.C. 112. *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (Fed. Cir. 1991).

13. See *Atmel Corp. v. Information Storage Devices Inc.*, 198 F.3d 1374, 1379, 53 USPQ2d 1225, 1228 (Fed. Cir. 1999) (stating that the "one skilled in the art" analysis should apply in determining whether sufficient structure has been disclosed to support a means-plus-function limitation and that the USPTO's recently issued proposed Supplemental Guidelines are consistent with the court's holding on this point); *Dossel*, 115 F.3d at 946–47, 42 USPQ2d at 1885 ("Clearly, a unit which receives digital data, performs complex mathematical computations and outputs the results to a display must be implemented by or on a general or special purpose computer (although it is not clear why the written description does not simply state 'computer' or some equivalent phrase.)").

14. In considering whether there is 35 U.S.C. 112, ¶ 1 support for the claim limitation, the examiner must consider not only the original disclosure contained in the summary and detailed description of the invention portions of the specification, but also the original claims, abstract, and drawings. See *In re Mott*, 539 F.2d 1291, 1299, 190 USPQ 536, 542–43 (CCPA 1976) (claims); *In re Anderson*, 471 F.2d 1237, 1240, 176 USPQ 331, 333 (CCPA 1973) (claims); *Hill-Rom Co. v. Kinetic Concepts, Inc.*, 54 USPQ2d 1437 (Fed. Cir. 2000) (abstract); *In re Armbruster*, 512 F.2d 676, 678–79, 185 USPQ 152, 153–54 (CCPA 1975) (abstract); *Anderson*, 471 F.2d at 1240, 176 USPQ at 333 (abstract); *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1564, 19 USPQ2d

1111, 1117 (Fed. Cir. 1991) (drawings); *In re Wolfensperger*, 302 F.2d 950, 955–57, 133 USPQ 537, 541–43 (CCPA 1962) (drawings).

15. Even if the disclosure implicitly sets forth the structure, material, or acts corresponding to a means-(or step-) plus-function claim element in compliance with 35 U.S.C. 112, ¶¶ 1 and 2, the USPTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, what structure, material, or acts perform the function recited in the claim element. See 35 U.S.C. 112, ¶ 6 ("An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." (emphasis added)); see also *B. Braun Medical*, 124 F.3d at 1424, 43 USPQ2d at 1900 (holding that "pursuant to this provision [35 U.S.C. 112, ¶ 6], structure disclosed in the specification is 'corresponding' structure only if the specification or prosecution history clearly links or associates that structure to the function recited in the claim. This duty to link or associate structure to function is the *quid pro quo* for the convenience of employing 112, paragraph 6."); *Wolfensperger*, 302 F.2d at 955, 133 USPQ at 542 (just because the disclosure provides support for a claim element does not mean that the USPTO cannot enforce its requirement that the terms and phrases used in the claims find clear support or antecedent basis in the written description).

16. *Kemco Sales, Inc. v. Control Papers Co.*, 54 USPQ2d 1308, 1315 (Fed. Cir. 2000); *Odetics, Inc. v. Storage Tech. Corp.*, 185 F.3d 1259, 1267, 51 USPQ2d 1225, 1229–30 (Fed. Cir. 1999).

17. *Al-Site Corp. v. VSI Int'l, Inc.*, 174 F.3d 1308, 1316, 50 USPQ2d 1161, 1165 (Fed. Cir. 1999); *Chiuminatta Concrete Concepts, Inc. v. Cardinal Indus., Inc.*, 145 F.3d 1303, 1309, 46 USPQ2d 1752, 1757 (Fed. Cir. 1998); *Lockheed Aircraft Corp. v. United States*, 553 F.2d 69, 83, 193 USPQ 449, 461 (Ct. Cl. 1977).

18. *IMS Technology, Inc. v. Haas Automation, Inc.*, 206 F.3d 1422, 1436, 54 USPQ2d 1129, 1138 (Fed. Cir. 2000); *Valmont Indus. v. Reinke Mfg. Co.*, 983 F.2d 1039, 1043, 25 USPQ2d 1451, 1455 (Fed. Cir. 1993).

19. *In re Bond*, 910 F.2d 831, 833, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

20. See *Donaldson*, 16 F.3d at 1194, 29 USPQ2d at 1850 (stating that 35 U.S.C. 112, ¶ 6 "merely sets a limit on how broadly the USPTO may construe means-plus-function language under the rubric of 'reasonable interpretation'").

21. See *Noll*, 545 F.2d at 149–50, 191 USPQ at 727 (the meaning of equivalents is well understood in patent law, and an applicant need not describe in his specification the full range of equivalents of his invention) (citation omitted). Cf. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1384, 231 USPQ 81, 94

(Fed. Cir. 1986) ("a patent need not teach, and preferably omits, what is well known in the art").

22. See 1994 Guidelines at 60; see also *In re Mulder*, 716 F.2d 1542, 1549, 219 USPQ 189, 196 (Fed. Cir. 1983).

Dated: June 15, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–15674 Filed 6–20–00; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments, if any.

DATES: Comments must be submitted on or before July 21, 2000.

FOR FURTHER INFORMATION OR A COPY CONTACT: Judi E. Payne at CFTC, (202) 418–5268; FAX: (202) 418–5527; email: jpayne@cftc.gov and refer to OMB Control No. 3038–0017.

SUPPLEMENTARY INFORMATION:

Title: Market Surveys (OMB Control No. 3038–0017). This is a request for extension of a currently approved information collection.

Abstract: Sections 8(a)(i) and (ii) of the Commodity Exchange Act provide that for the efficient execution of the provisions of the Act and in order to inform Congress, the Commission may make investigations concerning futures markets and may publish general information from such investigations. In certain instances in response to abrupt and substantial changes in market prices, Congressional inquiry or other reasons, the Commission may conduct full market investigations requiring that all persons holding futures positions on the date in question in a specific market be identified. In such cases, the Commission issues its call for survey information pursuant to Commission Rule 21.02, 17 CFR 21.02.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on May 9, 2000 (65 FR 26818).

Burden statement: The respondent burden for this collection is estimated to average 1.75 hours per response for such a survey. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 400.

Estimated number of respondents: 400.

Estimated total annual burden on respondents: 700 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038-0017 in any correspondence.

Judi E. Payne, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: June 16, 2000.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00-15676 Filed 6-20-00; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments, if any.

DATES: Comments must be submitted on or before July 21, 2000.

FOR FURTHER INFORMATION CONTACT: Judi E. Payne at CFTC, (202) 418-5268; FAX: (202) 418-5527; email: jpayne@cftc.gov and refer to OMB Control No. 3038-0018.

SUPPLEMENTARY INFORMATION:

Title: Information Concerning Warehouses (OMB Control No. 3038-0018). This is a request for extension of a currently approved information collection.

Abstract: Under Commission rules 1.42 and 1.43, 17 CFR 1.42 and 1.43, contract markets must file a list of all warehouse regular for delivery. Upon call by the Commission, a schedule of warehouses charges and information concerning delivery notices must also be furnished. These rules are designed to assist the Commission in the prevention of market manipulation and are promulgated pursuant to the Commission's rulemaking authority contained in section 5a of the Commodity Exchange Act, 7 U.S.C. 7a.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on May 9, 2000 (65 FR 26817).

Burden statement: The respondent burden for this collection is estimated to average .168 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information and transmit or otherwise disclose the information.

Respondents/Affected Entities: 11.

Estimated number of respondents: 1.

Estimated total annual burden on respondents: 30 hours.

Frequency of collection: Weekly.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038-0018 in any correspondence.

Judi E. Payne, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581, and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: June 16, 2000.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00-15677 Filed 6-20-00; 8:45 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments, if any.

DATES: Comments must be submitted on or before July 21, 2000.

FOR FURTHER INFORMATION CONTACT: Judi E. Payne at CFTC, (202) 418-5268; FAX: (202) 418-5527; email: jpayne@cftc.gov and refer to OMB Control No. 3038-0019.

SUPPLEMENTARY INFORMATION:

Title: Stocks of Grain in Licensed Warehouses (OMB Control No. 3038-0019). This is a request for extension of a currently approved information collection.

Abstract: Under Commission Rule 1.44, 17 CFR 1.44, contract markets must require operators of warehouses regular for delivery to keep records on stocks of commodities and make reports on call by the Commission. The rule is designed to assist the Commission in the prevention of market manipulation and are promulgated pursuant to the Commission's rulemaking authority