per acre will more accurately reflect anticipated 2003 crop yields.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (*i.e.*, the application) has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the RAC's meeting on January 29, 2003, and the RAC's Administrative Issues Subcommittee meeting on January 24, 2003, when this action was deliberated were both public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal Register** on March 19, 2003 (68 FR 13219). Copies of the rule were mailed by RAC staff to all RAC members and alternates, the Raisin Bargaining Association, handlers and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 15-day comment period that ended on April 3, 2003. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (68 FR 13219, March 19, 2003) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 989 which was published at 68 FR 13219 on March 19, 2003, is adopted as a final rule without change.

Dated: May 6, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–11704 Filed 5–9–03; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40 and 150

RIN 3150–AH10

Source Material Reporting Under International Agreements; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of October 1, 2003, for the direct final rule that appeared in the **Federal Register** of March 5, 2003 (68 FR 10362). This direct final rule amended the NRC's regulations on reporting source material with foreign obligations. This document confirms the effective date.

DATES: The effective date of October 1, 2003, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, Room O–1F23, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking Website, contact Ms. Carol Gallagher (301) 415–5905; e-mail: *CAG@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 415–8126; (e-mail: *mlh1@nrc.gov*).

SUPPLEMENTARY INFORMATION: On March 5, 2003 (68 FR 10362), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR parts 40 and 150 to require licensees to report their holdings of source material with foreign obligations to the agency. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 6th day of May, 2003.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 03–11699 Filed 5–9–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34–47806]

Electronic Storage of Broker-Dealer Records

AGENCY: The Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission is publishing its views on the operation of its rule permitting broker-dealers to store required records in electronic form. Under the rule, electronic records must be preserved exclusively in a non-rewriteable and non-erasable format. This interpretation clarifies that broker-dealers may employ a storage system that prevents alteration or erasure of the records for their required retention period.

EFFECTIVE DATE: May 12, 2003.

FOR FURTHER INFORMATION: Michael A. Macchiaroli, Associate Director, 202/942–0131; Thomas K. McGowan, Assistant Director, 202/942–4886; or Randall W. Roy, Special Counsel, 202/942–0798, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is publishing guidance with respect to paragraph (f)(2)(ii)(A) of Rule 17a–4, which requires broker-dealers maintaining records electronically to use a digital storage medium or system that ''[p]reserve[s]

the records exclusively in a non-rewriteable, non-erasable format.'' [1]

I. Introduction

Broker-dealers are allowed to preserve records on ''electronic storage media.'' [2] Rule 17a–4 defines that term as ''any digital storage medium or system.'' [3] Paragraph (f)(2)(ii)(A) of Rule 17a–4 requires that the electronic storage media preserve the records exclusively in a non-rewriteable and non-erasable format.[4] The staff has received oral requests from broker-dealers for guidance on whether this requirement limits them to using optical platters, CD–ROMs, DVDs or similar physical mediums to achieve this result.

II. Background

Section 17(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes the Commission to issue rules requiring broker-dealers to make and keep for prescribed periods, and furnish copies thereof, such records as necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Exchange Act.[5] Pursuant to this authority, the Commission adopted Rules 17a–3 and 17a–4. Rule 17a–3 requires broker-dealers to make certain records, including trade blotters, asset and liability ledgers, income ledgers, customer account ledgers, securities records, order tickets, trade confirmations, trial balances, and various employment related documents.[6] Rule 17a–4 specifies the manner in which the records created in accordance with Rule 17a–3, and certain other records produced by broker-dealers, must be maintained.[7] It also specifies the required retention periods for these records.[8] For example, many of the records, including communications that relate to the broker-dealer's business as such, must be retained for three years; certain other records must be retained for longer periods.[9]

In combination, Rules 17a–3 and 17a–4 require broker-dealers to create, and preserve in an easily accessible manner, a comprehensive record of each securities transaction they effect and of their securities business in general. These requirements are integral to the Commission's investor protection function because the preserved records are the primary means of monitoring compliance with applicable securities laws, including antifraud provisions and financial responsibility standards. Recent events involving the deletion of emails by broker-dealers have affirmed the need to have measures in place to protect record integrity.

In 1997, the Commission amended paragraph (f) of Rule 17a–4 to allow broker-dealers to store records electronically.[10] The rule, by its terms, does not limit broker-dealers to using a particular type of technology such as optical disk. Instead, it allows them to employ any electronic storage media, subject to certain requirements, including that the media ''[p]reserve the records exclusively in a non-rewriteable, non-erasable format.''[11] This requirement does not mean that the records must be preserved indefinitely. Like paper and microfilm, electronic records need only be maintained for the relevant retention period specified in the rule.

III. Storing Records in a Non-Rewriteable, Non-Erasable Manner for a Specified Period

Broker-dealers and vendors of electronic record storage systems have asked whether broker-dealers may use, consistent with Rule 17a–4(f), systems they describe as storing records in a manner that prevents the records from being overwritten, erased or otherwise altered without relying solely on the system's hardware features. Specifically, these systems use integrated hardware and software codes that are intrinsic to the system to prevent the overwriting, erasure or alteration of the records. Thus, while the hardware storage medium used by these systems (*e.g.*, magnetic disk) is inherently rewriteable, the integrated codes intrinsic to the system prevent anyone from overwriting the records. Moreover, the codes used by these systems cannot be turned off to remove this feature. Thus, broker-dealers and venders claim these systems achieve the non-rewriteable and non-erasable requirement without relying solely on the systems' hardware features, such as is the case with optical platters, CD–ROMs and DVDs where digital information is permanently written onto the medium and, consequently, can never be changed or deleted.

One method using such a system stores a specified expiry or retention period with each record or file system. The system blocks record deletion or alteration by any manner of intervention until the expiry is reached or the retention period has lapsed. At expiry, or after the retention period, the records may be deleted from the system, thereby freeing space for reuse.

IV. Discussion

It is the view of the Commission that Rule 17a–4 does not require that a particular type of technology or method be used to achieve the non-rewriteable and non-erasable requirement in paragraph (f)(2)(ii)(A). Specifically, when we adopted Rule 17a–4(f), we stated:

> The Commission is adopting a rule today, which, instead of specifying the type of storage technology that may be used, sets forth standards that the electronic storage media must satisfy to be considered an acceptable method of storage under Rule 17a–4.[12]

A broker-dealer would not violate the requirement in paragraph (f)(2)(ii)(A) of the rule if it used an electronic storage system that prevents the overwriting, erasing or otherwise altering of a record during its required retention period through the use of integrated hardware and software control codes. Rule 17a–4 requires broker-dealers to retain records for specified lengths of time. Therefore, it follows that the non-erasable and non-rewriteable aspect of their storage need not continue beyond that period.

The Commission's interpretation does not include storage systems that only mitigate the risk a record will be overwritten or erased. Such systems—which may use software applications to protect electronic records, such as authentication and approval policies, passwords or other extrinsic security controls—do not maintain the records in a manner that is non-rewriteable and non-erasable. The external measures used by these other systems do not prevent a record from being changed or deleted. For example, they might limit access to records through the use of passwords. Additionally, they might create a ''finger print'' of the record based on its content. If the record is changed, the fingerprint will indicate that it was altered (but the original

[1] 17 CFR 240.17a–4(f)(2)(ii)(A).

[2] 17 CFR 240.17a–4(f).

[3] 17 CFR 240.17a–4(f)(1)(ii).

[4] Under the rule, the electronic storage media also must verify automatically the quality and accuracy of the storage media recording process; serialize the original and, if applicable, duplicate units of storage media, and time-date for the required period of retention the information placed on such electronic storage media; and have the capacity to readily download indexes and records preserved on the electronic storage media to any medium acceptable under paragraph (f) as required by the Commission or the self-regulatory organizations of which the member, broker, or dealer is a member.

[5] 15 U.S.C. 78q(a)(1).

[6] 17 CFR 240.17a–3.

[7] 17 CFR 240.17a–4.

[8] Id.

[9] *See e.g.* 17 CFR 240.17a–4(a)–(e).

[10] Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997) (''Adopting Release'').

[11] 17 CFR 240.17a–4(f)(2)(ii)(A).

[12] Adopting Release, 62 FR at 6470.

record would not be preserved). The ability to overwrite or erase records stored on these systems makes them non-compliant with Rule 17a–4(f).

Any system used by a broker-dealer must comply with every requirement in paragraph (f) of the rule. Among other requirements in paragraph (f), the broker-dealer would need to have in place an audit system providing for accountability regarding the inputting of records into the storage system.[13] The audit procedures for a storage system using integrated software and hardware codes to comply with paragraph (f) would need to provide accountability regarding the length of time records are stored in a non-rewriteable and non-erasable manner. This should include senior management level approval of how the system is configured to store records for their required retention periods in a non-rewriteable and non-erasable manner. It would be prudent to configure such a storage system so that records input without an expiry or a retention period, by default, would be assigned a permanent retention period. This would help to ensure the records are maintained in accordance with the retention periods specified in Rule 17a–4 or other applicable Commission rules.

Moreover, there may be circumstances (such as receipt of a subpoena) where a broker-dealer is required to maintain records beyond the retention periods specified in Rule 17a–4 or other applicable Commission rules. Accordingly, a broker-dealer must take appropriate steps to ensure that records are not deleted during periods when the regulatory retention period has lapsed but other legal requirements mandate that the records continue to be maintained, and the broker-dealer's storage system must allow records to be retained beyond the retentions periods specified in Commission rules.

V. Conclusion

For the foregoing reasons, the Commission finds this interpretation to be consistent with section 17 of the Exchange Act and Rule 17a–4 thereunder.

List of Subjects in 17 CFR Part 241

Securities.

Amendment to the Code of Federal Regulations

■ For the reasons set out in the preamble, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

[13] 17 CFR 240.17a–4(f)(3)(v).

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 241 is amended by adding Release No. 34–47806 and the release date of May 7, 2003 to the list of interpretive releases.

By the Commission.

Dated: May 7, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11727 Filed 5–9–03; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 14, 20, 314, and 720

[Docket No. 99N–2637]

Public Information Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing final regulations to comply with the requirements of the Electronic Freedom of Information Amendments of 1996 (EFOIA). EFOIA is designed to broaden public access to Government documents by making them more accessible in electronic form and by streamlining the process by which agencies generally disclose information.

DATES: This rule is effective July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Betty Dorsey, Freedom of Information Staff (HFI–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6567.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of November 4, 1999 (64 FR 60143), FDA published a proposed rule that would amend its public information regulations in part 20 (21 CFR part 20) to comply with the requirements of the EFOIA and to clarify and update certain provisions unrelated to EFOIA. EFOIA authorizes, and in some instances requires, agencies to issue regulations implementing certain of its provisions, including provisions regarding the aggregation of Freedom of Information Act (FOIA) requests, the expedited processing of FOIA requests, and the establishment of separate queues for the processing of FOIA requests. In addition, EFOIA amends the time limits for responding to an FOIA request from 10 to 20 working days, the process by which an agency may extend the time for responding to an FOIA request, and the requirements for reporting on FOIA activities. EFOIA also includes provisions regarding the availability of records in electronic form, the establishment of ''electronic reading rooms,'' and provisions requiring agencies to inform requesters about the amount of information not being released to them.

In addition to the changes in the proposed rule, this document also reflects technical changes caused by the redesignation of several provisions and by the revocation of existing § 20.44 for the reasons outlined in the proposed rule.

II. Discussion of Comments on the Proposed Rule

FDA received one comment on the proposed rule from a pharmaceutical research and development organization.

A. Section 20.33—Form or Format of Response

The proposal would revise the agency's regulation by adding a requirement to provide records in any requested form or format if the record is readily reproducible by the agency in the requested form or format. FDA offices responsible for responding to FOIA requests shall make reasonable efforts to maintain their records in forms or formats that are readily reproducible for FOIA purposes. Because of the wide range of possible forms and formats, a specific office responding to a FOIA request may not have means to respond to requests in all requested forms and formats. In its proposal, the agency noted that it is striving toward a common records filing structure that will enhance the agency's ability to respond to requests for records in a particular form or format.

The comment asked whether FDA has requested input from its constituents with regard to a common record filing structure, and, if not, recommended that FDA do so.

FDA has not requested input from its constituents on this matter, but will take this comment into consideration as the agency continues to develop a common records filing structure. However, until such a structure is in place, FDA will respond to requests for records in specified forms or formats based on its existing technological and resource capabilities.