4. Please provide any information quantifying the economic benefits to website operators of collecting personal information from or about children, including any information showing: advertising revenues based in part upon the number of children registered at a site; revenue derived from the sale or rental of children's personal or aggregate information to others; efficiencies resulting from marketing to a targeted audience; or revenue resulting from designing a customized and appealing site.

5. Please identify all relevant Federal, state or local rules that may duplicate, overlap or conflict with the proposed rule. In addition, please identify any industry rules or policies that require website operators and online services to implement business practices (*e.g.*, notification, parental consent, security measures, etc.) that would already comply with the requirements of the Commission's proposed rule.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–19094 Filed 7–26–99; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Related Contract Terms and Conditions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: In 1997, the Commodity Futures Trading Commission (Commission) promulgated a new fast-track procedure for the review and approval of applications for contract market designation in either ten or forty-five days. In response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness, the Commission is proposing a two-year pilot program to permit the listing of contracts for trading prior to Commission approval.

The proposed procedure would preserve the public interest in Commission review and approval of new contracts by providing that no more than one year's trading months may be listed at any time prior to approval. Any problems with a new contract could be rectified within that initial listing period. As proposed, exchanges would retain the choice to proceed under the current procedures for prior approval of new contracts, including fast-track application review.

The proposed listing of new contracts prior to designation does not affect the general requirement that proposed exchange rules and changes to existing exchange rules must be reviewed and approved by the Commission prior to implementation. Exchange rule changes, including both changes to contract terms and conditions and to rules of broad application that are not contract terms or conditions, can and do have an impact on open positions. They may affect the economic utility of contracts. Moreover, exchange rule changes may be the subject of divergent interests or, potentially, conflicts of interest at an exchange or raise broad public policy issues, all of which require that exchange rule changes be addressed through the Commission's statutory process of prior review and approval.

DATES: Comments must be received August 26, 1999.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Need for Additional Flexibility in Listing New Contracts

The Commission thoroughly analyzed the nature of global competition in the futures industry in a major 1994 study mandated by Congress as part of the 1992 amendments to the Act.[1] That study analyzed the growth of futures trading in non-U.S. markets and the relative decline in the global market share of U.S. exchanges. Although much has changed since 1994 in the global competitiveness of the futures industry, including in particular the continued evolution and development of new electronic trading platforms, many of the 1994 study's major conclusions remain valid today. The 1994 study concluded that U.S. exchanges remain leaders in innovation and generally have reached the global market first with new products.[2] Foreign exchanges, by and large, have grown by developing products tailored to their home markets and by trading those products at the same time of day as the underlying foreign cash market.[3] The study found no evidence that disparities in the regulatory frameworks of various jurisdictions, including particularly disparities in procedures for listing new contracts, were a major factor explaining the success of various exchanges in the global market.[4]

The Commission also concluded in its study that, ''the U.S. regulatory system must be responsive to changes in the marketplace if U.S. markets are to remain competitively robust. Consistent

[1] A study of the Global Competitiveness of U.S. Futures Markets, Commodity Futures Trading Commission, (April 1994)(''1994 study'').

[2] The Commission has been supportive, in general, of initiatives of U.S. exchanges to become more competitive both in terms of new products and trading systems. For example, the Commission has encouraged and supported industry-wide innovation and modernization in trading systems, sponsoring a round-table on October 16, 1996, to highlight issues relating to electronic order routing and trading systems. It has also amended many rules to respond to industry requests and on its own initiative to support the competitiveness of U.S. exchanges. Specifically, the Commission has promulgated rules to streamline applications for contract market designation, 64 FR 29217 (June 1, 1999); to permit bunched orders for sophisticated customers to be allocated after their execution, 63 FR 45699 (August 27, 1998); to permit futures-style margining of commodity options, 63 FR 32726 (June 16, 1998); to eliminate the requirement that futures commission merchants and introducing brokers deliver the specified risk disclosure document when opening accounts for sophisticated customers, 63 FR 8566 (February 20, 1998); to eliminate the short option value charge against a future commission merchant's net capital, 63 FR 32725 (June 16, 1998); to expand the use of acceptable electronic storage media for required records, 64 FR 28735 (May 27, 1999); to permit the use of a two-part disclosure document, 63 FR 58300 (October 30, 1998); to permit the trading of ''exchange of futures for swaps'' on the New York Mercantile Exchange, 63 FR 3708 (January 26, 1998); and to increase speculative position limits, 64 FR 24038 (May 5, 1999).

Moreover, the Commission has been very supportive of industry efforts over the years to introduce innovative futures and option contracts. These include such innovative concepts as the reintroduction of exchange-traded options, the introduction of flexible options, the first cash-settled futures contracts, the first futures contracts on stock indexes and the first futures and option contracts on natural gas, electricity crop yields, pollution permits, and bankruptcy rates.

[3] For example, many foreign exchanges trade interest-rate contracts based upon the sovereign debt of the nation in which they are located.

[4] Moreover, the trend among foreign authorities has been to strengthen their regulatory regimes. The Commission has been a world-leader in promoting the strengthening of regulatory oversigh as futures trading becomes more global in nature. This process has accelerated in light of developments in connection with the Barings, Plc. and Sumitomo Corp. situations. *See,* Windsor Declaration issued May 17, 1995, and London Communiqué on Supervision of Commodity Futures Markets (November 26, 1996).

with that view * * * the CFTC has historically attempted to facilitate U.S. exchange innovation and reduce the costs of regulation within its mandate * * *''[5] One means taken by the Commission in recent years to lower the cost of regulation has been to reduce significantly the time normally required for Commission review and approval of new contracts, particularly since implementing new fast-track procedures in 1997. Generally, the 10- or 45-day review periods provided under the fast-track procedure are readily compatible with the normal gestation period for new contracts.[6]

The Commission is proposing a pilot program to provide U.S. exchanges with substantial, additional flexibility in the listing of new contracts. Representatives of U.S. exchanges have testified that the ability to list contracts more quickly than currently possible is necessary for them to meet competitive challenges by foreign exchanges.[7] The proposed rule would enable designated exchanges generally to list for trading new contracts without any waiting period, directly responding to the exchanges' stated need to be able to respond immediately to competitive challenges.[8]

The proposed rule would not, however, eliminate the requirement that contracts be designated by the Commission. Rather, it would permit the Commission's review of new contracts to proceed after a new contract's initial listing. The Commission would continue to designate such contracts after they have been listed upon finding that they meet the requirements of the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (Act), and the rules thereunder. This would preserve a speedy, sure and efficient method for the Commission to review new contracts and the public's opportunity to comment on them. The proposed pilot program would not apply to changes to existing contracts. As discussed in more detail below, changes to existing contracts frequently raise issues relating to the value of existing positions and there is often significant interest by the public in commenting on proposed changes to such contracts.

The Commission is proposing this two-year pilot program under the Act's section 4(c) exemptive provision which, together with the other provisions of the Act, provides the Commission with far-ranging regulatory flexibility. The pilot program will provide an opportunity to identify any adverse consequences resulting from the predesignation listing of new contracts. As proposed, the approval requirement will continue to fulfill the important functions of providing a forum to resolve questions relating to the legality of contracts, a means to consider and respond to concerns raised by other regulators, a mechanism for government-to-government coordination when appropriate and the opportunity to subject contracts to impartial, expert scrutiny and to correct various problems early on. Finally, as proposed, exchanges will retain the option to seek prior Commission approval before listing new contracts.

II. History and Purpose of Statutory Requirement that Contracts Be Designated Before Trading and Exemptive Authority

Section 4(a) of the Act provides that, unless exempted by the Commission, futures contracts legally can be traded only on or subject to the rules of a contract market designated by the Commission.[9] Section 4(c)(1) authorizes the Commission, by rule, regulation, or order, to exempt any contract between ''appropriate persons'' from that or any other of the Act's requirements, with the exception of the accord provisions of section 2(a)(1)(B). Before granting such an exemption, the Commission must determine that its action would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act.[10]

The requirement that boards of trade meet specified conditions in order to be designated as contract markets has been a fundamental tool of federal regulation of commodity futures exchanges for the past seventy-five years.[11] Prior to the 1974 amendments to the Act, however, the statutory scheme did not require the

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[5] 1994 study at p. 139.

[6] U.S. exchanges' initial launch date for new contracts is often well after designation, and many contracts are not listed until months or even years later. In this regard, of the 201 new contracts that were approved during the period 1996 through 1998, about one-fourth (46) have not yet been listed for trading. The average period after designation when the other 155 contracts were listed was about three months (87 days). Only 29 contracts in all were listed for trading within 10 days after Commission approval.

[7] During hearings before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, representatives of four U.S. futures exchanges testified that the current regulatory structure is overly burdensome and that statutory changes are necessary to achieve ''parity'' with foreign exchanges and to better enable U.S. exchanges to compete in the growing global marketplace. CTFC Reauthorization: Hearings Before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, 106th Cong., 1st Sess. (1999) See, statements of the Chicago Board of Trade, the Board of Trade of the City of New York, the Chicago Mercantile Exchange, and the New York Mercantile Exchange.

In particular, the U.S. exchanges urged Congress to eliminate the requirement that the Commission review and approve new contracts before they begin trading and amendments to exchange rules before they can be implemented. For example, Daniel Rappaport, Chairman of the Board of Directors of NYMEX testified that, ''detailed CFTC review and approval of the specific terms and conditions of the contract has not been necessary, provides marginal, if any value, and adds cost, uncertainty, and delay to the roll-out of new contracts.''

[8] However, contracts subject to the accord provision of section 2(a)(1)(B) of the Act would not be eligible for this relief consistent with the provisions of section 4(c) of the Act.

[9] Section 4(a) of the Act provides that: ''Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of * * * a contract for the purchase or sale of a commodity for future delivery * * * unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a ''contract market'' for such commodity * * *'' 7 U.S.C. 6(a).

[10] The Futures Trading Practice Act of 1992, P.L. No. 102–546, added a new subsections (c) and (d) to section 4 of the Act. Specifically, section 4(c), 7 U.S.C. 6(c), provides that:

(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest.

(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the Commission determines that—

(A) The requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

[11] *See*, Futures Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921). Designation as a contract market under the 1921 Act was contingent upon a board of trade's meeting specified statutory criteria, including providing for the prevention of manipulative activity. Although the constitutionality of this Act was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace*, 259 U.S. 44 (1922), all subsequent legislation regulating the futures industry followed the template of requiring exchanges to be designated as contract markets.

Commodity Exchange Authority, the Commission's predecessor agency, to approve in advance the trading of all new futures contracts,[12] nor did it require agency approval of exchange rules before they became effective. Rather, exchange rules amending the terms and conditions of futures contracts were subject only to disapproval after becoming effective.[13] The 1974 amendments to the Act reversed that approach, requiring that new contracts be approved prior to trading. As part of Congress' overall intent to strengthen federal regulatory oversight of the futures industry, the 1974 amendments provided for a meaningful government review of all new futures contracts before trading could begin and of proposed amendments to the terms of conditions of existing contracts.[14]

Subsequently, Congress enhanced the opportunity for public participation in the Commission's review of proposed exchange rule amendments.[15] In offering this amendment, Representative AuCoin reasoned that, although many rule changes may be technical,

there are a number of proposed rule changes that are controversial because of their expected impact on the way a particular commodity is traded or on the broader effects that a change may bring about in the production and distribution of that commodity.

124 Cong. Rec. H7312 (July 26, 1978).

The Commission, recognizing the validity of Representative AuCoin's observation that various submissions may require differing levels of public scrutiny, has been flexible in implementing its regulatory mandate to review and approve new contracts and amendments to existing contracts. The fast-track review procedures, in particular, broke new ground in how the Commission reviews and approves applications for contract market designation, proposed exchange rules and changes to existing exchange rules. Since promulgating the fast-track designation procedures, the Commission has approved 36 contracts under the 10-day procedures, and 34 contracts under the 45-day procedures. Fast-track designation procedures have provided the exchanges with a time certain for Commission review, easing their planning for new contract introduction. Fast-track procedures also confirmed, however, that in many instances exchanges may prefer review procedures. Specifically, 43 proposed contracts that were otherwise eligible for fast-track review have been submitted under regular review procedures, which under the Act permits the Commission to take up to one year to review an application for contract market designation.

The Commission's past procedural flexibility has made its review more efficient while at the same time preserving the public interest in Commission approval of new contracts and of contract amendments. Review and approval of new contracts helps assure that futures markets are not readily susceptible to manipulation so that they better can serve their risk transfer and price discovery functions. The Commission, based upon its past experience, has found that appropriate contract design is the best deterrent to market manipulation, price distortion or market congestion, and that contract approval assures that contracts meet these widely-accepted design criteria.[16] Although market incentives, enlightened business judgment and the desire to protect reputation are strong motivations which can lead to a high degree of self-regulation, experience demonstrates that there have been instances when government oversight and action serve to address particular instances where business judgments by the exchange membership did not appear to offer sufficient guidance to inform fully an SRO's regulatory judgment.[17]

Needed changes to contract designs are most easily made before traders become accustomed to, or heavily reliant upon, a particular term or condition. Although it is possible to make adjustments to contract terms or conditions as needed, changing a term or condition of a proposed contract prior to its listing does not have the market impact of an after-the-fact rule change or of an emergency action. In this regard, the terms or conditions for delivery of several contracts for foreign currencies were changed while under Commission review. Commission vetting of exchange rules and CFTC coordination with the interested foreign governments resolved these delivery issues. Absent prior Commission approval, these design flaws might very well have been discovered through a default, a market emergency or similar dislocation.

Review and approval of new contracts also gives the public an opportunity to comment on proposed contracts and provides a forum for resolving disputes. Often, an innovative contract may raise issues for other government agencies. The Commission review process provides a formal mechanism for those agencies to make their views known to the Commission. Moreover, in cases where questions are raised about the legality of a contract's terms, such as recent questions as to whether the delivery terms of an electricity contract would violate certain legal restrictions in effect at the delivery point, the Commission's approval process provides a formal governmental decision on the issue, short of a court challenge to the contract.

Although exchanges have a strong business incentive to list contracts that will not be susceptible to manipulation, they may not receive, and act upon, the breadth of opinion available to the Commission. As discussed above, these views may come from foreign regulators, other government agencies and

[12] Prior to 1974, the Act defined ''commodity'' by specific enumeration. Accordingly, new contracts that were not so enumerated were unregulated. The definition of commodity periodically would be updated to include additional commodities in which trading had commenced on those exchanges which traded other regulated contracts. For example, livestock and livestock products were added to the Act's definition of ''commodity'' as part of the 1968 amendments to the Act, after such contracts had already begun trading on the Chicago Mercantile Exchange. Pub. L. No. 90–258 § 1(a), 49 Stat. 1491 (1968). Other futures exchanges, including the Commodity Exchange, Inc. and the former Coffee and Sugar, and the Cocoa exchanges, operated wholly outside of the regulatory scheme.

[13] *See* Pub. L. No. 90–258, § 23, 82 Stat. 33 (1968).

[14] *See* H.R. Rep. No. 93–975, 93d Cong., 2d Sess. at 78, 82 (1974).

[15] As part of the 1978 amendments to the Act, Congress added the provision requiring a public comment period for proposed exchange rules of major economic significance. That amendment to section 5a(a)(12) of the Act was offered from the floor during debate in the House of Representatives.

[16] *See*, e.g., § 5a(a)(10) of the Act and the Commission's proceeding to amend the delivery terms of the CBT corn and soybean futures contracts, ''Notification to the CBT to Amend Delivery Specifications.'' 61 FR 68175 (December 12, 1995). The view that appropriate contract design is an important component of a market surveillance program and deters manipulation, price distortion and market congestion is widely accepted internationally, as well. *See*, the Tokyo Communiqué on Supervision of Commodity Futures Markets issued at the Tokyo Commodity Futures Markets Regulators' Conference on October 31, 1997.

[17] Often, the Commission receives few or no public comments on contract market designations or on exchange rule changes. This is to be expected. It may indicate that the exchange has indeed received and considered input from interested outside sources in connection with a proposal. However, there are more than a few designation applications or proposed exchange rule changes every year that elicit a significant number of comments, casting doubt upon the exchange's theory that its business self-interest will reliably inform all of its regulatory judgements.

In this regard, in response to a Commission advisory on alternative execution or block trading procedures, 64 FR 31195 (June 10, 1999), the Chicago Board of Trade (CBT) by letter dated June 29, 1999, urged the Commission to:

[S]olicit the input of, and coordinate with, various interested parties by publishing for public comment any proposals to permit alternative execution procedures. The Commission will in that way, be able to get the benefit of additional analysis of such proposals by knowledgeable members of the futures industry. * * *

departments, futures intermediaries, commodity producers or users and other nonmembers. For example, trade interviews by Commission staff first revealed that the discounts for nonpar varieties and locations for a proposed potato contract did not conform to cash market practices. Subsequently, major producer groups opposed the proposed contract's terms in public comments filed with the Commission, and the exchange made extensive revisions. Accordingly, the Commission's review and approval process, which expands participation in the process, may bring to light information not previously considered by an exchange in designing a proposed contract's terms.

Recognizing the potential benefit of receiving additional input from a wider variety of sources, some exchanges, particularly the smaller exchanges, have made positive use of the Commission's review and approval process in developing new products. For example, one exchange accepted Commission staff's suggestions on an appropriate means of constructing an index with a large number of inactively traded stocks. After these revisions, the contract obtained regulatory approval from both the Commission and the Securities and Exchange Commission.

The proposed pilot program for predesignation listing of new contracts will permit exchanges to list new contracts quickly in response to perceived competitive threats. However, it will also retain current procedures, enabling exchanges to benefit from the comments process included in the current procedures, from the Commission's expertise in these issues and from its interaction with U.S. and foreign regulators.

III. The Proposed Rule

Although the rule which the Commission is proposing permits exchanges to list new contracts for a limited period prior to designation, it conforms to the underlying legal requirement that all contracts must be designated by the Commission in order legally to trade. Moreover, the proposed listing rule is consistent with the spirit of the Act's provision which contemplates that in certain instances exchanges may make proposed rules effective pending Commission action. Specifically, section 5a(a)(12) of the Act permits exchanges to make proposed rules effective without Commission approval if the Commission fails to act on the proposed rules within specified time limits. Those exchange rules may remain in effect while Commission action is pending. The Commission's rule on predesignation listing of proposed contracts would apply the same concept in instances where an exchange believes that competitive or other factors make immediate listing of a proposed contract necessary.

Contracts listed under the proposed procedure, although not designated, would be valid and enforceable pursuant to the Commission's rule, which is being proposed under the exemptive authority of section 4(c) of the Act. The board of trade, pursuant to the Commission's rule and section 5a(8)(iii) of the Act, would be required to enforce the contract's terms and conditions, although not yet approved by the Commission.[18] In addition, the board of trade would be required to fulfill all of a contract market's self-regulatory obligations during the period the contract is listed for trading as though it were designated. Upon designation, the Commission, as it does for all contracts, would approve the contract's terms and conditions under section 5a(a)(12) of the Act.

The Commission is proposing that predesignation listing be available only when an exchange already is a designated contract market for at least one nondormant contract. This is because the initial designation of a board of trade as a contract market often entails a more lengthy review which includes analysis of its trading and clearance systems and its self-regulatory programs. Such start up exchanges are not appropriate candidates for the proposed immediate listing rule.

Moreover, the Commission is proposing that while a designation application submitted under regular or fast track procedures is pending, a second exchange may not list the same, or a substantially similar, contract to trade using the pilot procedure. Such a result would penalize the first exchange for submitting a proposed contract market application for Commission review and preapproval, clearly and unwarranted competitive use of the proposed rule. As proposed, the second exchange would be required to wait until the day following approval of the first application to notify the Commission that it intends to list the same, or a substantially similar, contract to trade. Thus, for example, an application for contract designation filed for fast-track review, absent a regulatory problem, would be deemed approved forty-five days after receipt. Not until the forty-sixth day after the Commission has received the application could a second exchange notify the Commission that it intended to list the same or a substantially similar contract for trading prior to designation. The second exchange could then list for trading the contract on the forty-seventh day after receipt of the original application. In this way, the rule would not permit a competing exchange to short-circuit the review process and to disadvantage the exchange choosing to subject a proposed contract to prior Commission review. Of course, where the first contract was listed prior to designation, there would be no purpose served by preventing a second exchange from also listing the contract for trading prior to approval. In that case, both exchanges could list contracts for trading the day after they notify the Commission.[19]

In addition, the proposed prelisting procedure is not intended to be a means of evading an adverse Commission proceeding involving the same or a substantially similar contract. Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a ''new'' contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to the original, designated contract.[20] In addition, predesignation listing would not be available for stock indexes, commodities which are subject to the specific approval procedures of the Johnson-Shad jurisdiction.[21]

[18] Compare, 17 CFR 1.53.

[19] Exchanges would not be able to use this proposed rule to forestall a competitor from introducing a new contract by filing an application in bad faith. Although a second exchange could not use the predesignation listing procedure while a prior application was pending, nothing would prevent the second exchange from filing an application for review and approval by the Commission on its own merits.

[20] Similarly, the Commission is not proposing that the listing provision be applicable for a futures contract that is based upon the occurrence of a single event or that is intended to be listed temporarily. For example, a futures contract in a fuel that was being phased out of use, such as leaded gasoline, raises deliverable supply issues. Such a contract should not be able to evade the review and approval provisions of the Act by being listed during the last few months when the commodity is available. Moreover, although single event futures contracts have not yet been proposed, it would be possible to construct such contracts. The proposed rule is not intended to be used as a means to avoid addressing the designation issues which may be raised by such contracts.

[21] *See* section 2(a)(1)(B) of the Act.

The Commission is proposing that exchanges be able to determine whether and when to make use of the new listing procedure, and is not restricting an exchange's use of the predesignation listing of contracts to a defined set of circumstances. The exchanges have argued that as a matter of business self-interest they will design contracts that comply with the Act's designation requirements and that prior Commission review is an unnecessary check on their role as self-regulators. Based upon these representations, the Commission expects to be able to designate new contracts listed under the proposed pilot rules and to approve their terms and conditions as initially listed.

However, exchanges not infrequently have revised the terms and conditions of pending contracts submitted to the Commission for prior review. Changes to the terms or conditions of a contract listed under the proposed procedure would be required to be approved by the Commission under section 5a(a)(12) of the Act and Commission rules thereunder before being made effective. The Commission generally would approve such changes when designating the contract. Presumably, the revisions would be minor, made in advance of the contract's first expiration, made before a large open interest had been established, and cause no disruption to traders or to the markets generally.

Some designation applications filed with the Commission, however, have included serious flaws. If it becomes evident during the Commission's review that a contract already listed for trading fails to meet a designation requirement, the exchange would have to take appropriate corrective measures. Depending upon the nature of the problem, these steps might be exigent in nature, have to be applied to trading months with open positions and require an exchange to act under its emergency authority. Although this is not the preferred mechanism for vetting new contracts, it may be an unavoidable consequence of listing a contract with a deficiency prior to approval. Accordingly, as with the Commission's fast-track designation procedures, an exchange's choice to list contracts for trading prior to designation would most appropriately be used for contracts which clearly raise no legal or practical impediments to trading.

As proposed, exchanges choosing to list contracts prior to Commission review and designation must notify the Commission of their intent by filing the contract's terms and conditions with the Commission's Office of the Secretariat and the Commission's regional office having jurisdiction over the exchange by close of business on the business day prior to listing the contracts for trading. As proposed, exchanges may list no more than one full year's trading months at any time prior to the contract's designation. An application for designation would be required to be filed within forty-five days of the initial listing, unless during this period the trading months have been delisted. Finally, the exchange would be required to identify the contract listed as pending Commission designation.

As discussed above, the Commission is proposing this rule under its section 4(c) exemptive authority. That section provides that the Commission may exempt from the Act's requirements contracts between appropriate persons. Because the proposed rule applies to contracts listed on designated exchanges subject to the self-regulatory requirements of the Act, the Commission finds all traders are ''appropriate'' for application of this proposed exemptive rule. Moreover, for the reasons explained above, the Commission believes that the proposed rule would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act. The Commission specifically requests comment on these findings.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These amendments propose a two-year pilot program to permit exchanges under section 4(c) of the Act to list new contracts for trading prior to designation as a contract market. 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

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.* (Supp. I 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA.

The Office of Management and Budget (OMB) approved the collection of information associated with this proposed rule (3038–0022, Rules Pertaining to Contract Markets and their Members) on October 24, 1998. While the proposed rule discussed herein has no burden, the group of rules (3038–0022) of which it is a part has the following burden:

Average burden hours per response.	3,609.89
Number of Respondents.	15,893
Frequency of response	On occasion.

Copies of the OMB-approved information collection submission are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 5

Contract markets, Designation application.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 5—CONTRACT MARKET COMPLIANCE

1. The authority citation for part 5 is revised to read as follows:

Authority: 7 U.S.C. 6(c), 6c, 7, 7a, 8 and 12a.

2. Part 5 is amended by adding a new § 5.3 to read as follows:

§ 5.3 Predesignation listing of new contracts.

(a) Notwithstanding any contrary provision of the Act or Commission rules, a board of trade seeking designation as a contract market under sections 4c, 5 and 5a(a) of the Act may list for trading delivery months or expirations prior to designation, if the board of trade:

(1) Is already designated as a contract market in at least one other contract which is not dormant within the meaning of § 5.2 of this part;

(2) Complies with all other requirements of the Act and Commission regulations thereunder applicable to designated contract markets during the period the contract is listed for trading prior to its designation as a contract market;

(3) Files with the Commission at its Washington, DC, headquarters and the regional office having jurisdiction over

it a copy of the contract's terms and conditions no later than the close of business of the day preceding listing; and

(4) Notifies the public on all public references to the contract or its trading months that the contract is trading pending Commission designation.

(b) The board of trade may not list for trading delivery months or option expirations for more than one year at any time prior to the contract's designation as a contract market under sections 4c, 5, 5a and 6 of the Act and regulations thereunder, or under § 5.1 of this part.

(c) The board of trade must file with the Commission an application for contract market designation which meets the requirements of Appendix A of this part within forty-five days of initially listing for trading a contract under this section, unless the contract is delisted during this period.

(d) The board of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under this section. Any proposed revisions to the terms or conditions of the contract as initially listed for trading under this section must be submitted for Commission review under section 5a(a)(12) of the Act and § 1.41 of this chapter.

(e) The provisions of this section for listing trading months prior to contract market designation shall not apply to:

(1) A contract subject to the provisions of section 2(a)(1)(B) of the Act;

(2) A contract that is the same or substantially the same as one for which an application for contract market designation under sections 4c,5, 5a and 6 of the Act or § 5.1 of this part was filed for Commission approval prior to being listed for trading while the application is pending before the Commission.

(3) A contract that is the same or substantially the same as one which is the subject of a Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or amend a term or condition under section 8a(7) of the Act, to amend terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or to any other proceeding the effect of which is to disapprove, alter, amend, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to refrain from taking a specific action.

Issued in Washington, DC, this 20th day of July, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–18985 Filed 7–26–99; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99–2–000]

Regional Transmission Organizations; Extension of Time For Reply Comments

July 21, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed Rule: Notice of extension of time.

SUMMARY: On May 13, 1999, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (64 FR 31390, June 10, 1999) proposing to amend its regulations under the Federal Power Act to facilitate the formation of Regional Transmission Organizations. The date for filing reply comments is being extended at the request of the Edison Electric Institute.

DATES: Reply comments shall be filed on or before September 29, 1999.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David P. Boergers, Secretary, 202–208–1279.

SUPPLEMENTARY INFORMATION:

On June 30, 1999, the Edison Electric Institute (EEI) filed a motion for an extension of time to file reply comments in response to the Commission's Notice of Proposed Rulemaking issued May 13, 1999, in the above-docketed proceeding. The motion states that EEI requires additional time to obtain, evaluate and discuss with its members the large number of initial comments that it is expected will be filed in response to the Commission's RTO NOPR. EEI further states that the American Public Power Association and the National Rural Electric Cooperative do not oppose the motion for additional time.

Upon consideration, notice is hereby given that an extension of time for filing reply comments in response to the Commission's RTO NOPR is granted to and including September 29, 1999.

David P. Boergers,

Secretary.

[FR Doc. 99–19073 Filed 7–26–99; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 57 and 75

RIN 1219–AB19

Safety Standards for Self-Rescue Devices in Underground Coal and Underground Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends the public comment period for the Advance Notice of Proposed Rulemaking (ANPRM) published in the **Federal Register** on July 7, 1999. The ANPRM addressed safety standards for self-rescue devices in underground coal and underground metal and nonmetal mines.

DATES: Submit your comments on or before September 7, 1999.

ADDRESSES: Mail your comments to MSHA, Office of Standards, Regulations, and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203 or telefax your comments to the same office at 703–235–5551.

While we (MSHA) do not require it, we encourage you to also submit a computer disk containing your comments or transmit an e-mail with your comments to comments@msha.gov.

FOR FURTHER INFORMATION CONTACT: Carol Jones, Acting Director, Office of Standards, Regulations, and Variances, 703–235–1910.

SUPPLEMENTARY INFORMATION: We held a joint conference with the National Institute for Occupational Safety and Health in Beckley, West Virginia on June 15 and 16, 1999. This conference provided an opportunity for all segments of the mining community to discuss issues related to self-rescue devices. Using information developed at the conference, we published an ANPRM in the **Federal Register** on July 7 (64 FR 36632). In the ANPRM, we requested comments on issues discussed at the conference and other issues dealing with self-rescue devices. The comment period was to close on August 6, 1999.