

substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.

61. The Commission concludes that this interim rule would not have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of a small entity, and the data required by this rule are already being captured by their accounting systems. However, if the recordkeeping requirements represent an undue burden on small businesses, the entity affected may seek a waiver of the requirements from the Commission.

62. AOPL argues that the NOPR's estimate of the impact of this rule for the purposes of the Regulatory Flexibility Act of 1980 was too low. AOPL bases its estimate largely on the costs that previously unrated subsidiaries would incur to obtain credit ratings.²⁸ The interim rule, however, eliminates the proposed prerequisites for participation in cash management programs thus making concerns over obtaining credit ratings moot.

V. Environmental Analysis

63. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.²⁹ The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental impact statement.³⁰ No environmental consideration is raised by the promulgation of a rule that is procedural or does not substantially change the effect of legislation or regulations being amended.³¹ This rule updates parts 101, 141, 201, 260, 352 and 357 of the Commission's regulations and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated. Accordingly, no environmental consideration is necessary.

VI. Information Collection Statement

64. The Office of Management and Budget's (OMB) regulations at 5 CFR 1320.11 require that it approve certain

reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the information collection requirements of this interim rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

65. In accordance with section 3507(d) of the Paperwork Reduction Act of 1995,³² the information collection requirements in the subject rulemaking were submitted to OMB for review.

66. *Public Reporting Burden:* In the NOPR the Commission provided burden estimates based on an estimate of the number of FERC-regulated entities currently filing FERC Forms 1, 2 and 6, who are members of consolidated groups and participate in their consolidated groups' cash management programs. The NOPR estimated that 448 FERC-regulated entities would need to convert verbal cash management agreements into writing to comply with this interim rule. For each entity, the NOPR estimated it would require an average of two hours to make the conversion for a total of burden estimate of 896 hours.³³ In addition, FERC-regulated entities must maintain documentation on their cash management programs. Also, the Commission is seeking comments on new reporting requirements that would require FERC-regulated entities to file their cash management agreements and notify the Commission when their proprietary capital ratios fall below 30 percent and when their proprietary capital ratios subsequently return to or exceed 30 percent. These requirements will be part of a new reporting requirement, FERC-604. The burden estimates below reflect both the documentation and the reporting requirements.

67. The Commission received 48 comments on the proposed cash management prerequisites and documentation requirements. Of the 48 commenters, EEI and AOPL challenged the Commission's estimates for reporting burden as too low. EEI asserts

a company of any size with multiple cash management agreements is likely to spend more than two hours per year maintaining written cash management agreements and the non-netted transactional records. EEI further asserts that the rule's FERC Form 1 reporting requirements would likely take 10 or more hours by themselves. EEI suggests that a more realistic estimate of burden imposed by the rule would be at least 30 hours or more per company per year. AOPL states that while the FERC Form 6 reporting is unlikely to increase significantly, other requirements within the proposed rule would have a significant impact on the cost and burden of this rule. AOPL estimates the cost of complying with the investment grade rating requirement could range from \$100,000 to \$300,000 for each previously unrated subsidiary. Six other commenters argued that the proposed prerequisite would impose significant costs and burdens upon them.

68. In this interim rule, the Commission has eliminated the prerequisites for participation in cash management programs and the no-netting requirement for cash management transactions. Therefore, issues raised by EEI, AOPL and others about costs and burdens of complying with these aspects of the proposed rule are moot. The Commission concludes that EEI's comment that the rule imposes ten or more hours of additional burden on FERC Form 1 reporting requirements is unsupported and misplaced. Similarly, the Commission concludes that EEI has not provided any support regarding its assertion that burden imposed by this rule is 30 or more hours. The Commission finds the burden associated with converting documents to comply with this interim rule is minimal and that its previous estimate was a reasonable one. While FERC-regulated entities will now be required to reduce their cash management agreements to writing, the Commission finds that this is simply sound business practice and, as the Commission is not dictating the terms of these agreements, the burden should be small.

69. Recordkeeping (Documentation) Requirements

requirement and requires all cash management agreements to be in writing, the associated burden is correctly assigned to FERC-555 "Records Retention Requirements." The reporting requirements that are also the subject of this interim rule will be identified by a new information collection requirement.

²⁸ AOPL Comments at 12.

²⁹ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶30,783 (1987).

³⁰ 18 CFR 380.4.

³¹ 18 CFR 380.4(a)(2)(ii).

³² 44 U.S.C. 3507(d).

³³ In the NOPR, the burden estimate was improperly identified as applying to the FERC Form 1, FERC Form 2 and FERC Form 6 data collections. Since the interim rule imposes a recordkeeping