

balances of their cash management program.

76. To reflect these changes, parts 101 and 201, Account 146 B(1), (2) and (4), and part 352, Account 13(b)(1), (2) and (4) are revised to read, "the written documentation must include (1) For deposits with and withdrawals from the cash management program: the date of the deposit or withdrawal, the amount of the deposit or withdrawal, and the maturity date, if any, of the deposit; (2) For borrowings from a cash management program: the date of the borrowing, the amount of the borrowing, and the maturity date, if any, of the borrowing; * * * and (4) The monthly balance of the cash management program."

77. Parts 101 and 201, Account 146 C(3), and part 352, Account 13(c)(3) are also revised to read, "The interest rate, including the method used to determine the interest earning rates and interest borrowing rates for deposits into and borrowings from the program."

78. For cash management programs that are based upon bilateral loan agreements, documentation supporting the programs should include the documentation requirements adopted here. To the extent that certain information is not applicable to the arrangement, the FERC-regulated entity should so state in the information maintained by the entity and filed with the Commission.

IV. Regulatory Flexibility Act Statement

79. The Regulatory Flexibility Act (RFA)³⁰ requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.

80. The Commission concludes that this Final Rule would not have such an impact on small entities. Most 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.

V. Environmental Analysis

81. 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.³¹ The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental impact statement.³² 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.³³ This Final 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

82. 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 Final 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.

83. In accordance with Section 3507(d) of the Paperwork Reduction Act of 1995,³⁴ the information collection requirements in the subject rulemaking were submitted to OMB for review.

84. *Public Reporting Burden:* FERC-regulated entities must 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. In the Interim Rule the Commission estimated that 602 FERC-regulated entities will be submitting documents describing their cash management agreements and 34 will be submitting notifications. For each entity, the Interim Rule estimated it would require an average of 1.5 hours to file its cash management agreement and .75 hours to submit the notification for a total of burden estimate of 903 hours and 51 hours, respectively. The burden estimates below reflect the reporting requirements.

85. The Commission received over twenty-five comments on the Interim Rule. Several commenters³⁵ have indicated that the Interim Rule's proposed requirements would place a significant burden upon them. In particular, Edison asserts that the implementation of any rule takes much longer than the time it takes to file the document and/or notify FERC of any changes under the rule.

86. Companies were already familiar with the documentation and reporting requirements proposed by the Commission in the Interim Rule. The Commission is responding to comments and modifying what the Interim Rule proposed to ameliorate any additional burden. Sound business practices already require companies to keep adequate internal controls over cash management practices. Such internal controls include documenting and maintaining information to support cash management programs.

87. To reduce the burden on companies, the Commission has changed the reporting requirement in the Final Rule to quarterly and has extended the notification period. The Commission finds the burden associated with complying with this Final Rule is minimal and that its previous estimate was a reasonable one.

88. Reporting Requirements:

³¹ 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).

³² 18 CFR 380.4 (2003).

³³ 18 CFR 380.4(a)(2)(ii) (2003).

³⁴ 44 U.S.C. 3507(d) (2000).

³⁵ Alliance Pipeline, Gulf South, NRECA, Gulfterra, First Energy, Graham County, NRECA, Chevron, Williams, Exelon, PSEG, EEI, AOPL, INGAA, Southern California Edison (Edison) and Duke.

³⁰ 5 U.S.C. 601-612 (2000).