Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–90–AD.

Applicability: Model DC–9 and C–9 (military) series airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin 24–57, Revision 1, dated March 12, 1980; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a short in the cross-tie relay, which may result in in-flight electrical fires, accomplish the following:

Modification

(a) Within 12 months after the effective date of this AD, modify the electrical power center in accordance with McDonnell Douglas DC–9 Service Bulletin 24–57, Revision 1, dated March 12, 1980, as amended by Change Notification 24–57 R1 CN2, dated June 24, 1988, and accomplish the requirements specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Modify the Westinghouse alternating current power relays, part number (P/N) 914F567–3 (i.e., cross-tie relays, generator relays, auxiliary power relays, and external power relays), to a –4 configuration, in accordance with Westinghouse Aerospace Service Bulletin 75–703, dated June 1977.

(2) Replace the Westinghouse alternating current power relays, P/N 914F567–3 or –4 with improved relays, P/N 9008D09, in accordance with McDonnell Douglas DC–9 Service Bulletin DC9–24–156, dated March 31, 1995.

Overhaul

(b) Overhaul the Westinghouse alternating current power relays, in accordance with Westinghouse service bulletin 75–703, dated June 1977, at times specified in paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes equipped with Westinghouse relay, P/N 914F567–4, within 7,000 flight hours after accomplishing the modification required by paragraph (a) of this AD, overhaul the relay and repeat the overhaul at intervals not to exceed 7,000 flight hours.

(2) For airplanes equipped with Westinghouse relay, P/N 9008D09, within 12,000 flight hours after accomplishing the modification required by paragraph (a) of this AD, overhaul the relay and repeat the overhaul at intervals not to exceed 12,000 flight hours.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 23, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–22395 Filed 8–27–99; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Use of Electronic Signatures by Customers, Participants and Clients of Registrants

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: As part of its ongoing efforts to facilitate the use of electronic technology and media in the futures industry, the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to adopt new rules allowing the use of electronic signatures in lieu of handwritten signatures for certain purposes under the Commission's regulations.[1] The Commission seeks comment on these rules and on issues relating generally to the use of electronic media for communications necessary to establish an account for trading commodity interests.

DATES: Comments must be received on or before October 29, 1999.

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 *et seq.* (1999).

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to (secretary@cftc.gov). Reference should be made to ''Internet Account-Opening Process.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Notwithstanding the rapid pace at which business transactions of all kinds are being converted from paper-based to electronic formats, the opening of accounts to trade investment products in the commodity futures and option markets continues to involve exchange of paperwork between the broker and the customer. Strictly speaking, there is nothing in the Commodity Exchange Act (the ''Act'')[2] and the Commission's regulations issued thereunder that prevents a futures commission merchant (''FCM'') or introducing broker (''IB'') from opening electronically a customer account. There are ancillary rules, however, that effectively require the parties to exchange paper, such as the requirement that the FCM or IB obtain a signed acknowledgment that the customer has received the required risk disclosure statement,[3] or the requirement that an agreement to arbitrate disputes be entered into by a separate signature from that which executes the account agreement.[4] In the current session of Congress, several bills have been introduced to authorize the use of electronic signatures.[5] In addition, the National Conference of Commissioners on Uniform State Laws has prepared a ''Uniform Electronic Transactions Act'' (''UETA'') with the goal that it will be adopted by the States, giving legal certainty to

[2] 7 U.S.C. 1 *et seq.* (1994).

[3] *See* Rule 1.55(a)(1).

[4] *See* Rule 180.3(b)(6).

[5] *See* Senate Bills 761 (''Millennium Digital Commerce Act'') and 921 (''Electronic Securities Transactions Act'') and House Resolutions 1572 (''Digital Signature Act of 1999''), 1685 (''Internet Growth and Development Act of 1999'') and 1714 (''Electronic Signatures in Global and National Commerce Act'').

electronic commerce, particularly from the perspective of contract law.

Over the past several years, the Commission has modified or made exception to rule provisions that were adopted originally with paper-based transactions in mind in order to permit registrants to comply with those provisions in the context of electronic commerce. For example, as a result of such actions, the Commission now permits commodity pool operators (''CPOs'') and commodity trading advisors (''CTAs'') who deliver their prescribed Disclosure Documents by electronic means to obtain the required acknowledgment of receipt by electronic means that use a unique identifier to confirm the identity of the recipient, including such means as a personal identification number, or ''PIN.'' [6] The Commission has accepted the use of PINs in other contexts as well, such as in the attestation of financial reports that FCMs are required to file with self-regulatory organizations.[7]

Recently, the Division was asked to interpret Commission rules to permit an FCM to accept, in lieu of a prospective customer's manually signed, paper acknowledgment that he received and understood the risk disclosure statement specified in Rule 1.55, an electronic mail message to that effect on which the customer has typed his name. The Commission believes that customers of FCMs and IBs, as well as commodity pool participants and clients of CTAs, should be permitted to use electronic signatures in those instances where Commission regulations require the customer's (or participant's or client's) manual signature. In furtherance of this belief, the Commission is proposing Rule 1.4, ''Use of electronic signatures.'' [8]

B. Current Regulatory Requirements Affecting the Account-Opening Process

The process by which an FCM or IB actually establishes a customer account to trade commodity interests primarily is governed by state contract law. Neither the Act, the Commission's regulations nor the rules adopted by commodity industry self-regulatory organizations directly specify the steps to be taken to establish an account or the manner in which those steps are to be taken, although certain provisions of the Commission's regulations affect matters that are pendant to the account opening process. The following discussion highlights the CFTC rule provisions that may be implicated regarding customer authorizations and endorsements necessary for opening and maintaining a commodity interest trading account.

Rules 1.36 and 1.37

Rule 1.37(a) requires FCMs and IBs to keep permanent records, for each commodity futures or option account, of the customer's true name, address and principal occupation or business, as well as the name of any person guaranteeing the account or exercising any trading control with respect to the account. Rule 1.36 requires an FCM who receives property other than cash to margin or secure futures or commodity option transactions to keep a record of all such property and the name and address of the customer (as well as information regarding the segregation and ultimate disposition of the property).

Rules 1.55(a), (b), (c) and (f), and Rule 30.6

Rule 1.55(a) provides that prior to opening a commodity futures account an FCM or IB must: (1) furnish the customer with a written disclosure statement containing language specified in rule 1.55 (b) or (c); and (2) obtain the customer's signed and dated acknowledgement that he has received and understands the disclosure statement. Rule 30.6 extends a similar requirement to FCMs or IBs seeking to open foreign futures trading accounts for customers. Rule 1.55(f) provides that the FCM or IB may open a commodity interest account without furnishing the customer with the disclosure statements required by Rules 1.55(a), 30.6(a), 33.7(a) and 190.10(c) if the customer is among a specified category of sophisticated customers.[9]

Rule 33.7

Where an FCM or IB seeks to open a commodity option account for a customer, Rule 33.7 imposes requirements similar to those imposed by Rule 1.55 for commodity futures accounts. As with Rule 1.55, the FCM or IB must obtain a signed and dated acknowledgement that the required disclosure statement was received and understood by the customer. As is true for Rule 1.55(a), Rule 30.6 and Rule 190.10(c), this requirement does not apply where the customer is one of the types of sophisticated customers identified in rule 1.55(f).

Rule 190.10(c)

Rule 190.10(c) requires a commodity broker (other than a clearing organization), before accepting property other than cash to margin or secure a commodity contract, to furnish to the customer the bankruptcy risk disclosure statement specified in Rule 190.10(c)(2). As is true of Rule 1.55(a), Rule 30.6 and Rule 33.7, this requirement does not apply where the customer is one of the types of sophisticated customers identified in Rule 1.55(f).

Rule 190.06

Rule 190.06(d) requires that a commodity broker must provide an opportunity for each customer to specify when undertaking the customer's first hedging contract whether, in the event of the broker's bankruptcy, the customer prefers that open commodity contracts held in a hedging account be liquidated by the trustee in bankruptcy without seeking instructions from the customer.

Rule 1.55(d)

Rule 1.55(d) provides that an FCM or IB may obtain the acknowledgments required by rules 1.55, 33.7 and 190.06 by having the customer sign once, provided that the customer has acknowledged on the document he signs, by check or other indication, next to a description of each required disclosure statement (or election) that the customer has received and understood the disclosure statement (or made the election).

Rule 180.3

Rule 180.3 regulates conditions under which FCMs and IBs [10] may enter agreements with customers requiring that disputes be submitted to a settlement procedure, such as binding arbitration. Signing the agreement to use the specified settlement procedure must not be made a condition for the customer to utilize the services offered by the registrant. The rule also provides that if the agreement is contained as a clause or group of clauses in a broader agreement (*e.g.*, an FCM's customer agreement), the customer must

[6] *See* Rules 4.21(b) and 4.31(b), and 62 FR 39104, 39110 (July 22, 1997).

[7] Rule 1.10(d)(4). *See* 62 FR 10441 (March 7, 1997).

[8] As is discussed more fully below, the Commission also is proposing to define in new Rule 1.3(tt) the term ''electronic signature.''

[9] A customer is considered sophisticated for purposes of Rule 1.55(f) if it is: a bank or trust company; a savings association or credit union; an insurance company; an SEC-registered investment company or a foreign investment company with total assets in excess of $5 million; a pool operated by a registered (or foreign registered) or exempt CPO; a corporation or other entity with total assets in excess of $10 million or a net worth of $1 million; an employee benefit plan subject to ERISA (or foreign person performing similar functions and subject to foreign regulation) with assets in excess of $5 million; a registered broker-dealer; a registered FCM, floor broker or floor trader; or a natural person with total assets exceeding $10 million.

[10] Rule 180.3 also applies to registered floor brokers, CPOs and CTAs and their respective associated persons (''APs'').

separately endorse the clause or clauses containing the prescribed language regarding available dispute resolution fora and other cautionary material specified in rule 180.3.

Rule 166.2

Rule 166.2 requires that before an FCM, an IB or one of their APs effects a transaction in a customer's commodity interest account the customer (or the person designated by the customer to control the account) must specifically authorize the transaction *or* the customer must have authorized the FCM, IB or AP in writing to effect transactions in the account *without* specific authorization. Under the rule, any such authorization to effect transactions without specific further authorization must be expressly documented.

Several other rule provisions may, but do not necessarily, affect the account opening process:

Rule 1.65

Rule 1.65 applies to bulk transfers of customer accounts to another FCM or IB under circumstances other than at the request of the customer (an event that generally occurs subsequent to the opening of an account). The transferor FCM or IB must first obtain the customer's specific consent to the transfer. If the customer agreement contains a valid consent by the customer to prospective transfers of the account, the customer must nevertheless be provided with written notice of the transfer and must be given a reasonable opportunity to object to the transfer. The transferee FCM or IB must provide the risk disclosure statements required by rules 1.55, 33.7 and 190.10(c) unless: (1) The FCM or IB has clear written evidence that the customer has received and acknowledged the required disclosure statements; (2) the FCM or IB has clear written evidence that at the time the account was opened the customer was one of the sophisticated customers identified in rule 1.55(f); or (3) the transferor IB and the transferee IB are both guaranteed by the same FCM, and that FCM maintains the relevant acknowledgments required by Rules 1.55(a)(1)(ii) and 33.7(a)(1)(ii) and can establish compliance with Rule 190.10(c).

Rule 155.3

Rule 155.3(b)(2) prohibits an FCM or any of its affiliated persons from knowingly taking the other side of any order of another person revealed to the FCM or affiliated person by reason of their relationship to such person except with the other person's prior consent and in accordance with Commission-approved contract market rules.

Rule 1.20(a)

An FCM may not remove funds from a customer's segregated account and transfer those funds to another non-segregated account (such as a securities account) without a separate writing clearly evidencing the customer's authorization for the removal of those funds. The Commission has consistently declined to permit FCMs to include in the customer account agreement the requisite authorization to transfer funds from a customer's segregated account to another account of that customer carried by the FCM.[11]

II. Proposed New Rules

A. Rule 1.3(tt)

Rule 1.3 contains definitions of various terms used in the Act and the Commission's regulations. The Commission is proposing to add a new paragraph (tt) to the rule, which would define the term ''electronic signature'' as ''an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent of signing the record.'' The proposed definition is taken from the Uniform Electronic Transactions Act (''UETA'') approved and recommended for enactment in all the States by the National Conference of Commissioners of Uniform State Laws during that Conference's July 23–30, 1999 annual meeting.[12]

The wording of the proposed definition is intended to be broad enough to encompass electronic signatures created under a variety of current and future technologies, while requiring that the person employing an electronic signature does so with the intent to accomplish the signing of a particular electronic document or record. The definition also expressly provides that the ''sound, signal or process'' that will constitute the electronic signature be attached to or logically associated with an electronic record. As the drafters of the UETA noted:

A key aspect of this definition lies in the necessity that the electronic signature be linked or logically associated with the electronic record. For example, in the paper world, it is assumed that the symbol adopted by a party is attached to or located somewhere in the same paper that is intended to be authenticated. These tangible manifestations do not exist in the electronic environment, and accordingly, this definition expressly provides that the symbol must in some way be linked to or connected with, the electronic record being signed.[13]

Thus, where a futures customer is required to sign or adopt a particular phrase or statement (*e.g.*, a specific disclosure statement or portion thereof), the electronic signature must be linked or associated in a logical way with that phrase or statement.

B. Rule 1.4

Proposed rule 1.4(a) would permit the customer of an FCM or IB, a pool participant, or a client of a CTA to use an electronic signature *in lieu* of a written signature in any situation in which a provision of the Act or Commission regulations requires that person's signature. The broad permission to use electronic signatures would be subject to compliance with applicable Federal law and any standards regarding electronic signatures that the Commission may later adopt and guidance that Commission staff may provide.[14] It would also be subject to the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor utilizing reasonable safeguards regarding the use of electronic signatures (including, at a minimum, measures to verify that the electronic signature belongs to the person using it, procedures to prevent alteration of an electronically-signed record, and procedures to detect changes or errors in an electronic signature). The Commission continues to believe that it generally is unwise to attempt to impose specific technological mandates or specific system design criteria on registrants, and that requiring instead the use of reasonable safeguards,

[11] *See Protection of Commodity Customers; Risk Disclosure by Futures Commission Merchants and Introducing Brokers to Customers; Bankruptcy Disclosure.* 63 FR 17495 (April 5, 1993) at 17499 n.18 and Staff Letters referenced there.

[12] The UETA definition is a broad one and is likely to be generally consistent with state and Federal laws adopted in the future.

[13] National Conference of Commissioners on Uniform State Laws *Uniform Electronic Transactions Act*, Draft prepared for the July 23–30, 1999 meeting (the ''Annual Meeting Draft'') at page 15. The Annual Meeting Draft is available online at the following URL: *http://www.law.upenn.edu/library/ulc/uecicta/etaam99.htm* The text of the UETA as approved is available online at the following URL: *http://www.law.upenn.edu/bll/ulc/fnact99/1990s/ueta.htm*.

[14] Although the Commission presently is not proposing to adopt specific standards regarding electronic signatures, it is possible that legislation pending in Congress may require Federal agencies to adopt such standards. For example, House Resolution 1572 would direct the National Institute of Standards and Technology to establish minimum technical criteria for the use by Federal agencies of electronic certification and management systems and to participate in a national policy panel intended to develop a national digital signature infrastructure based on uniform standards.

to be identified and implemented by the registrant itself, is the better approach.[15]

As is clear from the rule, it is not the Commission's intention that registrants (particularly small businesses) be required to implement electronic signature technology. Rather, if a registrant elects generally to accept electronically signed documents, proposed Rule 1.4 eliminates any uncertainty under the Act or Commission rules or regulations regarding the validity of the signatures.

Until such time as the Congress and State legislatures enact definitive legislation, there will be some question as to the sufficiency of electronic signatures in various contexts, and persons desiring to use them should know that this question exists and consequently that they should use electronic signatures with care. In particular, although the proposed rules will make clear that electronic signatures provided pursuant to the rules will comply with Commission regulations, the validity of such signatures under state contract law will vary depending on the relevant jurisdiction (*i.e.*, these proposed rules do not purport to preempt state law). In light of the foregoing, an FCM, IB, CPO or CTA who elects to receive, handle and store documents or records that have been signed by means of an electronic signature would be required by proposed Rule 1.4(b) to disclose to the customer, participant or client that although an electronic signature is sufficient for purposes of the Act and Commission regulations, it may be insufficient for purposes of other Federal or State laws or regulations (such as common law of contracts). For their own protection and the protection of their customers, registrants obviously should take reasonable care to determine whether an electronic signature intended to consummate a binding contract will be valid in a particular jurisdiction.

It should be noted that proposed Rule 1.4 would not relieve a registrant from any other applicable requirement under the Act or the Commission's rules—*e.g.*, applicable requirements to maintain records of certain signed documents (whether signed with pen and ink or with an electronic signature) in a manner consistent with Commission Rule 1.31.[16] Similarly, proposed Rule 1.4 would not relieve a registrant from requirements regarding the scope or type of customer information required to be kept—*e.g.*, Rule 1.37's requirement that FCMs and IBs keep permanent records, for each commodity futures or option account, of the customer's true name, address and principal occupation or business, as well as the name of any person guaranteeing the account or exercising any trading control with respect to the account. Lastly, registrants should be cognizant of their obligations, among other things, to report material inadequacies in their accounting and internal controls in accordance with Rule 1.16(e) and their duties diligently to supervise the handling of all commodity interest accounts they carry, operate, advise or introduce in accordance with Rule 166.3 when they determine the manner in which they will accept electronic signatures and the procedures and safeguards that they establish and use in connection with electronic signatures.

III. Issues on Which the Commission Requests Comment

General

As noted previously, for the past several years the Commission has been engaged in a process of reviewing its regulatory scheme and modernizing and streamlining its regulations to adapt to developments in the marketplace (including developments in technology and screen-based trading). As part of this process, the Commission believes that allowing for the use of electronic signatures will reduce paperwork and promote efficient access to futures markets. These proposed rules have been structured to be consistent with any future action by Congress or various states in this area. Should the Commission issue rules in this area now? Should the Commission defer rulemaking on electronic signatures pending possible legislation by Congress?

Security

As indicated above, Commission rules require that an FCM or IB obtain information (such as name, address and occupation) and signed acknowledgments (such as an acknowledgment of receipt of the Risk Disclosure Statement) from a new customer. Wholly-electronic communications such as interactive transactions over the Internet lend themselves to anonymous dealings and permit persons to adopt assumed identities. Is opening a commodity interest trading account entirely by electronic means inherently less conducive to establishing that a customer is who he or she claims to be than current practice involving exchange of paper documents and/or face-to-face dealings? What safeguards, if any, are appropriate to counteract any loss of security that may result from elimination of such vestiges of non-electronic commerce as manual signatures on acknowledgments, exchange of paper documents and face-to-face transactions? How and to what extent might encryption, personal identification numbers, callbacks or other security measures be employed to safeguard the integrity of information provided to or received from customers of FCMs and IBs, pool participants or clients of CTAs?

Much has been written on the development of so-called digital signatures and other electronic identification procedures. But each such method depends upon unambiguous establishment at the outset of the identity of the person who will use the identification procedure. If a digital signature or a personal identification number is assigned to a person who is using a false identity in the first place, the purpose of the process has been defeated. Would digital signatures or other electronic identification procedures be any less safe than is the case in the current ''paper world?'' Is the language of the proposed rules contained in this release adequate for purposes of permitting FCMs, IBs, CPOs and CTAs to accept electronic signatures from their customers or clients? Are any additional safeguards warranted?

Customer Protection

Under current practice, a customer who wants to trade commodity interests electronically must generally download and print out an account agreement and perhaps other documents, to be signed and returned before trading can commence. Does this built-in delay operate as a beneficial safeguard against high-pressure sales tactics or ill-considered entry into potentially risky markets? If a customer is able to log on to his computer, sign up electronically for a commodity interest trading account and immediately begin trading, does that make the customer more

---

[15] Among the potential security procedures for electronic signatures identified in the UETA are ''the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgement procedures.'' *See* UETA Section 2(14).

[16] Regardless of the form that an electronic signature takes, where a registrant is required by Commission regulations to retain a signed record in accordance with Rule 1.31, the registrant must be able to make the record available (as a signed record) to Commission representatives at any time during the retention period specified in Rule 1.31. Under Rule 1.31, as recently amended (64 FR 28735 (May 27, 1999)) persons who store required records electronically must provide facilities for immediate production or projection of those records for examination by representatives of the Commission or the Department of Justice upon request.

susceptible to unscrupulous and deceptive sales tactics? Would there be a benefit to customers if the Commission imposed a specific waiting period (*e.g.*, twenty-four hours) before trading can commence in an electronically-opened account? Would a customer's ability to begin trading almost immediately upon electronically opening an account subject the FCM to new risks (*e.g.*, would it be more difficult or impossible for the FCM to run credit checks that may currently be part of the account opening process)?

Contract law issues

The Commission is aware that in spite of the fact that under Federal securities laws and regulations securities broker-dealers may be able to open and trade accounts electronically, broker-dealers have generally continued to require some exchange of signed paper documents in connection with opening trading accounts, largely because of the existing variations in state contract laws. Agreements to submit disputes to arbitration, for example, must be executed in such a way as to survive a court challenge, and to date, most broker-dealers have been reluctant to accept an electronic signature for this purpose. The Commission has elected in these proposed rules to allow electronic signatures, but to require disclosure to customers to the effect that an electronically executed arbitration agreement may be unenforceable in certain states. Are there any other legal issues besides questions of contract enforceability or issues concerning provisions of the Act or the Commission's regulations that may be raised if registrants open customer accounts electronically?

Coordination with self-regulatory organizations

To the extent that self-regulatory organizations (''SROs'') overseen by the Commission (including the National Futures Association and the designated contract markets) propose or adopt rules regarding electronic signatures, conflicts may arise between the proposed rule and such SRO rules. Should the Commission expressly provide that SRO rules must be consistent with the proposed rule? Is this matter better handled in the context of the process pursuant to which the Commission reviews and approves SRO rule changes?

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[17] The Commission has previously determined that FCMs and CPOs are not small entities for the purpose of the RFA.[18] With respect to CTAs and IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs and IBs would be considered to be small entities and, if so, the economic impact on them of any rule.[19] In this regard the Commission notes that the regulations being proposed herein do not change the obligations of CTAs and IBs under the Act and Commission regulations, but permit CTAs and IBs to comply with certain existing obligations by using electronic means as an acceptable alternative to paper-based compliance. The Chair, on behalf of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact these proposed rules may have on 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: Annually and 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) 418–5116.

[17] 47 FR 18618–18621 (April 30, 1982).

[18] 47 FR 18619–18620.

[19] 47 FR 18618–18620.

List of Subjects in 17 CFR Part 1

Signatures, Commodity futures, Commodity brokers.

Accordingly, 17 CFR part 1 is proposed to be amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, 24.

2. Section 1.3 is proposed to be amended by adding new paragraph (tt) to read as follows:

§ 1.3 Definitions.

* * * * *

(tt) *Electronic signature* means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent of signing the record.

3. Section 1.4 is proposed to be added to read as follows:

§ 1.4 Use of electronic signatures.

(a) For purposes of complying with any provision in the Commodity Exchange Act or the rules or regulations in this Chapter I that requires a document to be signed by a customer of a futures commission merchant or introducing broker, a pool participant or a client of a commodity trading advisor, an electronic signature executed by the customer, participant or client will be sufficient, if the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor elects generally to accept electronic signatures; *Provided, however,* That:

(i) The electronic signature must comply with applicable Federal laws and such standards as the Commission may adopt and such guidance as the Commission's staff may provide; and

(ii) The futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor must adopt and utilize reasonable safeguards regarding the use of electronic signatures, including at a minimum:

(A) Safeguards employed for the purpose of verifying that an electronic signature is that of the person purporting to use it;

(B) Safeguards employed to prevent alteration of the electronic record with which the electronic signature is associated, after such record has been electronically signed; and

(C) Safeguards employed for detecting changes or errors in a person's electronic signature.

(b) Any futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor who elects to accept documents that are executed by means of an electronic signature must clearly disclose to the customer, participant or client using an electronic signature that although an electronic signature is sufficient for purposes of the Commodity Exchange Act and the rules or regulations of this chapter, it may not be sufficient for purposes of other Federal or State laws or regulations.

Issued in Washington D.C. on August 24, 1999.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 99–22461 Filed 8–27–99; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD07–99–058]

RIN 2115–AA98

Special Anchorage Area; St. Lucie River, Stuart, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a special anchorage area on the St. Lucie River in Stuart, FL. This area is currently used as a temporary and long-term area for vessels to anchor. The establishment of this anchorage will improve the safety of vessels anchoring within and transiting the highly trafficked area, while also lessening the detrimental impact on the ecosystem by providing a designated safer area for vessels to anchor.

DATES: Comments must be received on or before October 29, 1999.

ADDRESSES: Comments may be mailed to Commander, Aids to Navigation Branch, Seventh Coast Guard District, 909 S.E. First Avenue, Miami, FL 33131–3050, or may be delivered to above address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: LT Kerstin Rhinehart, Seventh Coast Guard District, Aids to Navigation Branch, at (305) 536–4566.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07–99–058] and the specific section of this proposal to which each comment applies and give the reason for each comment.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a notice in the **Federal Register**.

Background and Purpose

This proposed rule is in response to a request made by the City of Stuart to establish a city managed mooring field on the St. Lucie River. The intended effect of the regulations is to reduce the risk of vessel collisions by providing notice to mariners of the establishment of a special anchorage area, in which vessels not more than 65 feet in length shall not be required to carry or exhibit anchor lights as required by the Navigation Rules. The establishment of the special anchorage has been in coordination with and endorsed by the Florida Department of Environmental Protection (DEP). The DEP determined that properly managed mooring and anchorage fields located in appropriate areas, will encourage vessels to utilize them for safety purposes, and as a side benefit the ecosystem will incur lessened or negligible detrimental impacts.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities as use of the anchorage area is voluntary. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard, in association with the Florida Department of Environmental Protection, is considering the environmental impact of this proposed rule, and has determined that this rule may be categorically excluded from further environmental documentation under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C. An Environmental Analysis Checklist and Categorical Exclusion Determination will be completed during the comment period.

List of Subjects in 33 CFR Part 110

Special anchorage areas.