

have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program /activity is listed in the catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 113

Animal biologics, Exports, Imports, Reporting, and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 113 as follows:

1. The authority citation for part 113 would continue to read as follows:

**Authority:** 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

2. Section 113.29 would be revised to read as follows:

#### § 113.29 Determination of moisture content in desiccated biological products.

Methods provided in this section must be used when a determination of moisture content in desiccated biological products is prescribed in an applicable Standard Requirement or in the filed Outline of Production for the product. Firms currently using methods other than those provided in this section for determining the moisture content in desiccated biological products have until [Insert date 1 year from effective date of the final rule] to update their Outlines of Production to be in compliance with this requirement.

(a) Final container samples of completed product shall be tested. The weight loss of the sample due to drying in a vacuum oven shall be determined. All procedures should be performed in an environment with a relative humidity less than 45 percent. The

equipment necessary to perform the test is as follows:

(1) Cylindrical weighing bottles with airtight glass stoppers.

(2) Vacuum oven equipped with validated thermometer and thermostat. A suitable air-drying device should be attached to the inlet valve.

(3) Balance, accurate to 0.1 mg (rated precision  $\pm 0.01$ mg).

(4) Desiccator jar equipped with phosphorous pentoxide, silica gel, or equivalent.

(5) Desiccated vaccine in original sealed vial. Sample and control should be kept at room temperature in their original airtight containers until use.

(b) Test procedure:

(1) Thoroughly cleaned and labeled sample-weighing bottles with stoppers should be allowed to dry at  $60 \pm 3$  °C under vacuum at less than 2.5 kPa.

(i) Transfer hot bottles and stoppers into the desiccator and allow to cool to room temperature.

(ii) After bottles have cooled, insert stoppers and weigh and record the weights of the bottles as "A."

(iii) Return weighing bottles to the desiccator.

(2) Remove the sample container seal.

(i) Using a spatula, break up the sample plug and transfer the required amount of sample to the previously tared weighing bottle.

(ii) Insert the stopper and weigh and record the weights of the weighing bottles as "B."

(3) Place the weighing bottle with the stopper at an angle in the vacuum oven. Set the vacuum to  $< 2.5$  kPa and the temperature to  $60 \pm 3$  °C.

(4) After a minimum of 3 hours of drying time, turn off the vacuum pump and allow dry air to bleed into the oven until the pressure inside the oven is equalized with the prevailing atmospheric pressure.

(5) While the bottle is still warm, replace the stopper in its normal position and transfer the weighing bottle to the desiccator.

(i) Allow a minimum of 2 hours for the weighing bottle to cool to room temperature or for its weight to reach equilibrium.

(ii) Weigh, and record the weight as "C."

(6) Calculate the percentage of moisture in the original sample as follows:

$(B-C)/(B-A) \times (100) = \text{Percentage of residual moisture, where:}$

A = tare weight of weighing bottle

B—A = weight of sample before drying

B—C = weight of sample after drying

(7) The results are considered satisfactory if the percentage of residual

moisture is less than or equal to the manufacturer's specification.

3. In § 113.64, paragraph (e) would be amended by adding a new paragraph (e)(3) as follows:

#### § 113.64 General requirements for live bacterial vaccines.

\* \* \* \* \*

(e) \* \* \*

(3) Final container samples of completed product from each serial and subserial must be tested for moisture content in accordance with the test provided in § 113.29.

4. Section 113.300 would be amended by revising paragraph (e) as follows:

#### § 113.300 General requirements for live virus vaccines.

\* \* \* \* \*

(e) *Moisture content.* (1) The maximum moisture content in desiccated vaccines must be stated in the filed Outline of Production.

(2) Final container samples of completed product from each serial or subserial must be tested for moisture content in accordance with the test prescribed in § 113.29.

Done in Washington, DC, this 30th day of July 2002.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–19669 Filed 8–2–02; 8:45 am]

BILLING CODE 3410–34–P

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 15

RIN 3038–AB91

#### Reporting Levels for Large Trader Reports; TRAKRS

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rules.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend its regulations to establish a reporting level for TRAKRS futures contracts to be traded on the Chicago Mercantile Exchange (CME). The reporting level being proposed is 25,000 contracts.

**DATES:** Comments must be received by September 4, 2002.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by

facsimile transmission to (202) 418-5521 or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Reporting Levels for TRAKRS."

**FOR FURTHER INFORMATION CONTACT:** Gary J. Martinaitis, Deputy Associate Director, Market Surveillance Section, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5260. E-mail: [[GMartinaitis@cftc.gov](mailto:GMartinaitis@cftc.gov)].

**SUPPLEMENTARY INFORMATION:** On December 21, 2000, the President signed into law the Commodity Futures Modernization Act of 2000 (CFMA), Pub. L. No. 106-544, which extensively revises the Commodity Exchange Act (Act). Among other things, the CFMA facilitated the introduction of new futures products by the exchanges. The CME intends to introduce a new product, called TRAKRS, which are low notional value futures contracts based on broad based indices of stocks, bonds, currencies, or other financial instruments. The value of the first TRAKRS futures contract, with is scheduled to begin regular trading sessions on August 1, 2002, will be less than \$25 at the start of trading.<sup>1</sup>

TRAKRS, like all other commodities traded on Commission-designated markets, will be subject to the Commission's large trader reporting rules. Those rules require futures commission merchants, members of contract markets and foreign brokers to report to the Commission position information of the largest futures and options traders and, upon special call by the Commission, require the traders themselves to file reports with the Commission. Reporting levels are set in the designated futures and option markets under the authority of sections 4i and 4c of the Act to ensure that the Commission receives adequate information to carry out its market surveillance programs. These market surveillance programs are designed to detect and to prevent market congestion and price manipulation and to enforce speculative position limits. They also provide information regarding the overall hedging and speculative use of, and foreign participation in, the futures markets and other matters of public interest.

Based upon its experience in administering a large trader reporting

system that is designed to provide adequate market coverage in light of positions traded or expected to be traded, the Commission is proposing to establish a reporting level for TRAKRS of 25,000 contracts. The Commission intends to review this level over time to determine whether it provides adequate coverage. Furthermore, since the proposed reporting level is significantly influenced by the relatively low value of the initial TRAKRS contract (which will be less than \$25), the Commission intends to reconsider this reporting level if new TRAKRS contracts are introduced at a substantially higher price or any TRAKRS contract begin to trade at a substantially higher price.

The Commission notes that the low value of TRAKRS contracts could result in very large positions being reported. Due to current limitations in the Commission's large trader record format,<sup>2</sup> and similar limitations in the CME's own large trader reporting system, the Commission is proposing that TRAKRS positions be reported under Part 17 of its rules, 17 CFR Part 17, only after they have been rounded down to the nearest 1000 and then divided by 1000. For example, a position of 27,955 contracts would be rounded down to 27,000, divided by 1000 and reported as 27.<sup>3</sup>

Because, in the absence of this rule amendment, the Commission's default reporting level of 25 contracts would apply, the Commission hereby is granting no-action relief to futures commission merchants, members of contract markets and foreign brokers that comply with the requirements on this proposed rule prior to its final adoption. Accordingly, the Commission will not bring any enforcement action against any futures commission merchant, member of a contract market or foreign broker who complies with the rule as proposed herein. Such futures commission merchants, members of contract markets and foreign brokers will, however, be required to bring their conduct into compliance with the final rule to the extent that the final rule differs from the proposed rule.

#### Cost Benefit Analysis

Section 15 of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15 does not require the Commission to quantify the costs and benefits of a new regulation or to

determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15 simply requires the Commission to "consider the cost and benefits" of the subject rule.

Section 15(a) further specifies that the costs and benefits of the proposed rule shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rule imposes limited costs in terms of reporting requirements, particularly since most entities that trade on U.S. futures markets already file large trader reports with the Commission. Moreover, to reduce the cost of reporting, the Commission will periodically review the reporting level for TRAKRS, as it generally does for reporting levels for all commodities.<sup>4</sup> The countervailing benefits of these costs are that the Commission will have the necessary information to perform its market surveillance function and thus carry out its mandate of assuring the continued existence of competitive and efficient markets, protecting their price discovery function and protecting market participants and the public interest therein.

After considering these factors, the Commission has determined to propose the revision to part 15 set forth below.

The Commission specifically invites public comment on its application of the criteria contained in the Act for consideration. Commenters are also invited to submit any quantifiable data that they may have concerning the costs and benefits of the proposed rule with their comment letters.

#### Related Matters

##### A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that federal agencies, in proposing rules, consider the impact of those rules on small entities. The Commission has previously determined that large traders and FCMs are not "small entities" for

<sup>1</sup> Securities broker-dealers and their registered representatives may offer and sell TRAKRS futures contract pursuant to a no-action letter issued by Commission staff on July 11, 2001. See CFTC Letter 02-22, Division of Trading and Markets, CFTC (July 11, 2001), available on the Commission website at <http://www.cftc.gov>.

<sup>2</sup> See 17 CFR 17.00(g)(1).

<sup>3</sup> Contract markets should continue to report under Part 16, 17 CFR Part 16, the actual TRAKRS position without regard to the reporting convention proposed to be applied for reports under part 17.

<sup>4</sup> See, e.g., 65 FR 14452 (Mar. 17, 2000).

purposes of the RFA.<sup>5</sup> The proposed amendment to reporting requirements primarily impacts FCMs. Similarly, members of contract markets and foreign brokers report only if carrying or holding reportable, *i.e.*, large positions. Therefore, the 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. The Commission invites comments from any firm believing that these rules would have a significant economic impact on its operation.

**B. Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA), which imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as fined by the PRA, does not apply to this rule. The Commission believes that the proposed rule amendment does not contain information requirements which require the approval of the Office of Management and Budget. The purpose of this rule is to establish a specific reporting level for TRAKRS.

**List of Subjects in 17 CFR Part 15**

Brokers, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 4g, 4i, 5, 5a and 8a of the Act, 7 U.S.C. 6g, 6i, 7, 7a and 12a, as amended, the Commission hereby proposes to amend Part 15 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

**PART 15—REPORTS—GENERAL PROVISIONS**

1. The authority section for part 15 continues to read as follows:

**Authority:** U.S.C. §§ 2, 5, 6a 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763 (2000); 5 U.S.C. 552 and 552(b).

2. Section 15.03 is proposed to be amended by revising paragraph (b) to read as follows:

**§ 15.03 Reporting levels.**

\* \* \* \* \*

(b) The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Number of contracts	Issued in Washington, DC this 30th day of July, 2002, by the Commission. <b>Catherine D. Dixon,</b> <i>Assistant Secretary of the Commission.</i> [FR Doc. 02-19608 Filed 8-2-02; 8:45 am]
<b>BILLING CODE 6351-01-M</b>		
<b>DEPARTMENT OF LABOR</b>		
<b>Occupational Safety and Health Administration</b>		
<b>29 CFR Part 1926</b>		
<b>[Docket No. H-011G]</b>		
<b>RIN No. 1218-AB89</b>		
<b>Hearing Conservation Program for Construction Workers</b>		
<b>AGENCY:</b> Occupational Safety and Health Administration (OSHA), Department of Labor.		
<b>ACTION:</b> Advance notice of proposed rulemaking (ANPR); request for information and comment.		
<b>SUMMARY:</b> OSHA is considering rulemaking to revise the construction noise standards to include a hearing conservation component for the construction industry that provides a similar level of protection to that afforded to workers in general industry. OSHA is not, at this time, requesting information regarding the appropriateness of the permissible exposure limit (PEL) or exchange rate. This document asks the public to comment on whether specific provisions of OSHA's general industry hearing conservation amendment should be applied to the construction industry or if alternative strategies would be easier to implement and more cost effective.		
<b>DATES:</b> Comments must be submitted by the following dates: Hard Copy: Your comments must be submitted (postmarked or sent) by November 4, 2002. Facsimile and electronic transmission: Your comments must be sent by November 4, 2002. (Please see the <b>SUPPLEMENTARY INFORMATION</b> provided below for additional information on submitting comments.)		
<b>ADDRESSES:</b> <i>Regular mail, express delivery, hand-delivery, and messenger service:</i> You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. H-011G, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C., 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.		
Agricultural:		
Wheat .....	100	
Corn .....	150	
Oats .....	60	
Soybeans .....	100	
Soybean Oil .....	200	
Soybean Meal .....	200	
Cotton .....	50	
Frozen Concentrated Orange Juice .....	50	
Rough Rice .....	50	
Live Cattle .....	100	
Feeder Cattle .....	50	
Lean Hogs .....	100	
Sugar No. 11 .....	400	
Sugar No. 14 .....	100	
Cocoa .....	100	
Coffee .....	50	
Natural Resources:		
Copper .....	100	
Gold .....	200	
Silver Bullion .....	150	
Platinum .....	50	
No. 2 Heating Oil .....	250	
Crude Oil, Sweet .....	350	
Unleaded Gasoline .....	150	
Natural Gas .....	175	
Financial:		
Municipal Bond Index .....	300	
3-month (13-seek) U.S. Treasury Bills .....	150	
30-Year U.S. Treasury Bonds ..	1,000	
10-Year U.S. Treasury Notes ...	1,000	
5-Year U.S. Treasury Notes .....	800	
2-Year U.S. Treasury Notes .....	500	
3-Month Eurodollar Time Deposit Rates .....	1,000	
30-Day Fed Funds .....	300	
1-month LIBOR Rates .....	300	
3-month Euroyen .....	100	
Major-Foreign Currencies .....	400	
Other Foreign Currencies .....	100	
U.S. Dollar Index .....	50	
S&P 500 Stock Price Index .....	1,000	
E-Mini S&P Stock Price Index ..	300	
S&P 400 Midcap Stock Index ...	100	
Dow Jones Industrial Average Index .....	100	
New York Stock Exchange Composite Index .....	50	
Amex Major Market Index, Maxi NASDAQ 100 Stock Index .....	100	
Russell 2000 Stock Index .....	100	
Value Line Average Index .....	50	
NIKKEI Stock Index .....	100	
Goldman Sachs Commodity Index .....	100	
Security Futures Products:		
Individual Equity Security ..	1,000	
Narrow-Based Index of Equity Securities .....	200	
TRAKRS .....	125,000	
All Other Commodities .....	25	

<sup>1</sup>For purposes of part 17, positions in TRAKRS should be reported by rounding down to the nearest 1000 and dividing by 1000.

<sup>5</sup> 47 FR 18618-20 (Apr. 30, 1982).