

Distribution, or Use, 66 FR 28355 (May 22, 2001) requires preparation and submission to OMB of a Statement of Energy Effects for significant regulatory actions under Executive Order 12866 that are likely to have a significant adverse effect on the supply, distribution, or use of energy. A mere modification to the replacement fuel goal under EPA Act 1992 section 502(b)(2) does not require fleets, suppliers of energy, or distributors of energy to do or to refrain from doing anything. Consequently, DOE has concluded there is no need for a Statement of Energy Effects.

### IX. Approval by the Office of the Secretary

The issuance of the proposed rule for the replacement fuel goal modification has been approved by the Office of the Secretary.

Issued in Washington, DC, on September 6, 2006.

**Alexander A. Karsner,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

### List of Subjects in 10 CFR Part 490

Administrative practice and procedure, Energy conservation, Fuel economy, Gasoline, Motor vehicles, Natural gas, Penalties, Petroleum, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Energy is proposing to amend Chapter II of title 10 of the Code of Federal Regulations as set forth below:

### PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

1. The authority citation for part 490 is revised to read as follows:

**Authority:** 42 U.S.C. 7191 *et seq.*; 42 U.S.C. 13201, 13211, 13220, 13251 *et seq.*

2. In § 490.1 of subpart A, paragraph (b) is revised to read as follows:

#### § 490.1 Purpose and Scope.

\* \* \* \* \*

(b) The provisions of this subpart cover:

(1) The definitions applicable throughout this part;

(2) Procedures to obtain an interpretive ruling and to petition for a generally applicable rule to amend this part; and

(3) The goal of the replacement fuel supply and demand program established under section 502(a) of the Act (42 U.S.C. 13252(a)).

3. Subpart A is amended by adding § 490.8 to read as follows:

#### § 490.8 Replacement fuel production goal.

The goal of the replacement fuel supply and demand program established by section 502(b)(2) of the Act (42 U.S.C. 13252(b)(2)) and revised by DOE pursuant to section 504(b) of the Act (42 U.S.C. 13254(b)) is to achieve a production capacity of replacement fuels sufficient to replace, on an energy equivalent basis, at least 30 percent of motor fuel consumption in the United States by the year 2030.

[FR Doc. E6-15516 Filed 9-18-06; 8:45 am]

**BILLING CODE 6450-01-P**

### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Part 1

**RIN 3038-AC34**

#### Financial Reporting Requirements for Introducing Brokers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rules.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Commission regulations to require introducing brokers ("IBs") submitting CFTC financial Forms 1-FR-IB that are certified by independent public accountants to file such financial reports electronically with the National Futures Association ("NFA"). The proposed amendments also would require that certified Financial and Operational Combined Uniform Single Reports ("FOCUS" Reports), submitted by IBs registered with the Securities and Exchange Commission ("SEC") as securities brokers or dealers ("B/Ds") in lieu of Form 1-FR-IB, be filed either electronically or in paper form in accordance with the rules of the NFA. The CFTC also is proposing to amend Commission regulations to require that with respect to any such electronic filing, a paper copy including the original signed certification be maintained by the IB in its records for a period of five years in accordance with Commission Regulation 1.31.

**DATES:** Comments must be received on or before October 19, 2006.

**ADDRESSES:** You may submit comments, identified by 3038-AC34, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [secretary@cftc.gov](mailto:secretary@cftc.gov). Include "Proposed Amendments to Rules 1.10

and 1.31" in the subject line of the message.

- *Fax:* (202) 418-5521.

- *Mail:* Send to Eileen Donovan, Acting Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

- *Courier:* Same as Mail above.

All comments received will be posted without change to <http://www.cftc.gov>, including any personal information provided.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Smith, Deputy Director and Chief Accountant, at (202) 418-5430 or Jennifer C.P. Bauer, Special Counsel, at (202) 418-5472, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: ([tsmith@cftc.gov](mailto:tsmith@cftc.gov)) or ([jbauer@cftc.gov](mailto:jbauer@cftc.gov)).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 4f(b) of the Commodity Exchange Act ("Act") authorizes the Commission to adopt regulations imposing minimum financial requirements on IBs.<sup>1</sup> Commission Regulation 1.10(a)(2)(ii)(A)<sup>2</sup> requires each person filing an application for registration as an IB to file a financial Form 1-FR-IB<sup>3</sup> certified by an independent public accountant concurrently with the application. IBs that also are registered with the SEC as a B/D may file a FOCUS Report in lieu of a Form 1-FR-IB. The application for registration, and the certified Form 1-FR-IB or FOCUS Report, must be filed with the National Futures Association ("NFA") in paper form.<sup>4</sup>

Regulation 1.10(b)(2)(ii)(A) requires each registered IB to annually file a certified Form 1-FR-IB as of the close of the IB's fiscal year with NFA. IBs that are registered with the SEC as B/Ds may file an annual FOCUS Report with NFA in lieu of the Form 1-FR-IB. Regulation 1.10(b)(2)(iii) requires that certified Forms 1-FR-IB, or FOCUS Reports, must be filed in paper form with NFA and may not be filed electronically. Regulation 1.10(d)(4) requires that

<sup>1</sup> 7 U.S.C. 6f(b).

<sup>2</sup> The regulations of the Commission cited in this release may be found at 17 CFR Ch. I (2006).

<sup>3</sup> The Form 1-FR-IB is a financial report that includes a statement of financial condition, a statement of income or loss, a statement of minimum net capital, and appropriate footnote disclosures.

<sup>4</sup> NFA is a registered futures association under Section 17 of the Commodity Exchange Act, 7 U.S.C. 21, and has been delegated responsibility for processing the Commission's registration function. NFA also is a self-regulatory organization, as defined in Regulation 1.3(ee).

Forms 1–FR–IB, or FOCUS reports filed in lieu thereof, be accompanied by an oath or affirmation from specified persons that the information in the filing is true and correct.

The Commission previously has approved rules submitted by NFA that require IBs to submit uncertified Forms 1–FR–IB, or FOCUS Reports, electronically using the NFA EasyFile electronic filing system.<sup>5</sup> NFA implemented electronic filing of the uncertified Form 1–FR for IBs beginning in 2002 by providing them with the WinJammer software utilized by other self-regulatory organizations and the Commission for the Forms 1–FR and FOCUS Reports filed electronically by futures commission merchants (“FCMs”). The EasyFile system was developed by NFA as a Web-based alternative to WinJammer using the same security procedure available under NFA’s On-line Registration System, or ORS.<sup>6</sup>

Based partly on the successful implementation of EasyFile for uncertified filings on Form 1–FR–IB, NFA petitioned the Commission for rule amendments in 2005 to enable NFA to implement mandatory electronic filing of commodity pool certified annual reports using the same Web-based structure as the EasyFile system, which amendments were adopted by the Commission and became effective in March 2006.<sup>7</sup> As a result of these amendments and NFA’s rules, currently all certified commodity pool annual reports must be received by NFA in electronic files in Portable Document Format (“.pdf format”).

NFA’s current petition to amend Commission regulations would permit NFA to expand the EasyFile electronic 1–FR–IB submissions of IBs to include the mandatory filing of certified Form 1–FR–IBs through an electronic file in the same .pdf format. However, NFA has not requested the amendment of regulations to require mandatory electronic filing of certified FOCUS Reports from IBs that are SEC registered B/Ds as NFA currently does not have the systems capability through

WinJammer to accept .pdf files. However, as NFA has indicated that it will develop a mechanism to receive certified FOCUS Reports from IBs electronically in the future, the amendments proposed herein provide that such reports are required to be submitted in accordance with NFA rules, either electronically in .pdf format or in paper form.

NFA’s electronic filing system for certified financial statements from IBs would require the IB to submit a PDF file version of the entire certified statement, including the financial information, footnotes, auditors’ statement, and any necessary reconciliation of the IB’s certified financial statement and most recent unaudited 1–FR. Because the IB would have already entered the detailed figures from the unaudited Form 1–FR–IB into the system, the IB would not have to enter the figures from the certified statement unless that statement includes a reconciliation. If it does not include a reconciliation, the system would carry over the figures from the uncertified statement for NFA staff’s use in analyzing the certified statement. When the IB submits the electronic filing, NFA’s system prompts the submitter to read and to indicate agreement to an electronic oath or affirmation. The submitter will have already securely accessed NFA’s system through the input of a personal identification number (PIN). This oath or affirmation is made with respect to the PDF file of the annual report and any information entered into the system from the certified statement, and is patterned after NFA’s existing EasyFile system for IBs’ unaudited financial reports. The IB’s Security Manager can establish users and assign them abilities to enter data and/or submit the report and data in the NFA electronic filing system. However, only persons duly authorized to bind the IB in accordance with Rule 1.10(d)(4) may submit the data by entering a PIN and making the required oath or affirmation. The IB is responsible for ensuring that only persons who are duly authorized to bind the IB, in accordance with Rule 1.10(d)(4), are granted the ability to submit the IB’s financial information to the NFA. The electronic version of the oath or affirmation will appear in dialog boxes when reports or data are submitted, and completion of the submission will require an affirmative acceptance of the oath or affirmation by a user who has accessed the system with a secure PIN number and has been granted permission to submit the IB’s financial information.

## II. Proposed Amendments

Regulation 1.10(b)(2)(iii) requires that a Form 1–FR certified by an independent public accountant which is filed by an FCM, IB or applicant for registration as an FCM or IB, must be filed in paper form and may not be filed electronically. The Commission is proposing to amend Regulation 1.10(b)(2)(iii) to provide that a certified Form 1–FR required from an IB, or applicant for IB registration, must be filed electronically with NFA through compliance with NFA’s electronic filing procedures, and that a paper copy with the original, manually signed certification must be maintained by the IB in accordance with Regulation 1.31. The Commission is also proposing to amend Regulation 1.10(d)(4)(2)(ii), by revising the second sentence and redesignating the revised sentence as Regulation 1.10(d)(4)(2)(iii). As proposed, Regulation 1.10(d)(4)(2)(iii) would confirm that in the case of a Form 1–FR–IB filed via electronic transmission in accordance with NFA procedures approved by the Commission, such transmission must be accompanied by the personal identification number assigned under NFA procedures to the authorized signer, and such personal identification number will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the required oath or affirmation. In addition, the Commission is proposing to amend Regulation 1.10(h), to provide that an IB that is permitted to file a copy of its certified FOCUS Report in lieu of Form 1–FR, file such report either in paper form, or through compliance with NFA’s electronic filing procedures, according to the rules of NFA. The proposed amendment to Regulation 1.10(h) also will require that a paper copy with the original, manually signed certification be maintained by the IB in accordance with Regulation 1.31 for any IB FOCUS Report electronically filed with NFA. Lastly, the Commission is proposing to amend Regulation 1.31(d) to provide that paper copies of electronically filed certified Forms 1–FR or FOCUS Reports must be retained by the IB in hard copy with the original manually signed certification. The Commission hereby requests comment on the foregoing amendments proposed to implement electronic filing of certified annual reports on Form 1–FR–IB with NFA, and to permit electronic filing by IBs of certified FOCUS reports as NFA may in the future require.

<sup>5</sup> By letter dated June 1, 2004, NFA submitted to the Commission for its review and approval, pursuant to Section 17(j) of the Act (7 U.S.C. 21(j)), amendments to Section 5 of NFA Financial Requirements, regarding IB financial requirements, which amendments were approved by the Commission on an expedited basis and were effective June 30, 2004.

<sup>6</sup> The firm’s security manager can establish users and assign them abilities to enter data and/or submit the report in the NFA EasyFile system. This “Security Manager” procedure is part of NFA’s existing electronic system for registration processing.

<sup>7</sup> 71 FR 8939 (Feb. 22, 2006).

### III. Related Matters

#### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Commission previously has established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.<sup>8</sup> The proposed rule amendments will not place any additional burdens upon introducing brokers that are small businesses since all such parties are already subject to the financial reporting requirements under Regulation 1.10 and already comply with the electronic filing of uncertified reports through NFA's electronic filing system. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b) that the action proposed to be taken herein will not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this finding.

#### B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")<sup>9</sup> 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 proposed rule amendments do not require a new collection of information on the part of any entities subject to the proposed rule amendments. The amendments being proposed would, if promulgated in final form, alter the method of collection of some of the information required for certain introducing brokers under Regulation 1.10.

*Collection Of Information.* (Regulations and Forms Pertaining to the Financial Integrity of the Marketplace, OMB Control Number 3038-0024.) Although the amendments, if promulgated in final form, would alter the method of collection of some of the information required in the above-referenced collection, the estimated burden associated with the collection is not expected to increase or decrease as a result. All such affected entities already must comply with and use NFA's electronic filing system, and the amendment would simply substitute electronic submission for the mailing of a paper filing. The paper filing would

thereafter be required to be retained, but the retention of one certified financial report per year is not expected to increase the estimated recordkeeping burden under the collection.

Accordingly, for purposes of the PRA, the Commission certifies that the proposed rule amendments, if promulgated in final form, would not impact the total annual reporting or recordkeeping burden associated with the above-referenced collection of information, which has been approved previously by OMB. Pursuant to the PRA, the Commission has submitted a copy of this section to the Office of Management and Budget ("OMB") for its review.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581 (202) 418-5160. The Commission considers comments by the public on this proposed collection of information in—

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use; Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; Enhancing the quality, utility, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Organizations and individuals desiring to submit comments on the information collection should contact the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Commission. OMB is required to make a decision concerning the collection of information contained in these proposed Regulations between 30 and 60 days after publication of this document in the **Federal Register**.

Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed Regulations.

#### C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the CFMA, 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(a) as amended does not require the Commission to quantify the costs and benefits of a new Regulation or to determine whether the benefits of the Regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) of the Act further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular regulation was 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 amendments to Regulation 1.10 and 1.31 would require IBs to electronically file certified Form 1-FR with NFA and would require IBs which file FOCUS Reports in lieu of Form 1-FR to file in paper form or electronically in accordance with the instruction of NFA, with any electronically filed certified reports required to be maintained by the IB in hard copy paper form with the original manually signed certification.

The Commission is considering the costs and benefits of this proposed regulation in light of the specific provisions of Section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* The proposed amendment should not affect the protection of market participants and the public as it provides an alternate method of delivery of information contained in certified annual reports of IBs but does not substantively alter the character of such information available to the Commission and NFA.

2. *Efficiency and competition.* The Commission anticipates that the proposed amendment will benefit efficiency by permitting NFA to streamline its process for receiving certified financial reports from IBs. The proposed amendment is considered by

<sup>8</sup> 47 FR 18618 (April 30, 1982).

<sup>9</sup> 44 U.S.C. 3507(d).

the Commission as benefiting efficiency and not impacting competition.

3. *Financial integrity of futures markets and price discovery.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity of futures markets or the price discovery function of such markets.

4. *Sound risk management practices.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on sound risk management practices.

5. *Other public interest considerations.* The Commission believes that the proposed regulation requiring electronic filing for the submission by IBs of certified Forms 1-FR, and the requirement that IBs filing certified FOCUS Reports comply with NFA instructions as to filing in paper form or electronically, is beneficial in that it should streamline the timeliness of delivery and electronic accessibility of such reports, and permit NFA to retain such reports in a more streamlined and accessible manner.

After considering these factors, the Commission has determined to propose the amendments discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposal with their comment letters.

**List of Subjects in 17 CFR Part 1**

Brokers, Commodity futures, Reporting and recordkeeping requirements.

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, 5, 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, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

2. Section 1.10 is proposed to be amended by:

- a. Revising paragraph (b)(2)(iii);
- b. Revising paragraph (d)(4)(ii);
- c. Adding paragraph (d)(4)(iii); and
- d. Revising paragraph (h), to read as follows:

**§ 1.10 Financial reports of futures commission merchants and introducing brokers.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) A Form 1-FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by a futures commission merchant or applicant for registration as a futures commission merchant must be filed in paper form and may not be filed electronically. A Form 1-FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by an introducing broker or applicant for registration as an introducing broker must be filed electronically in accordance with NFA's electronic filing procedures, and a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(ii) If the registrant or applicant is registered with the Securities and Exchange Commission as a securities broker or dealer, the representative authorized under § 240.17a-5 of this title to file for the securities broker or dealer its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE.

(iii) In the case of a Form 1-FR filed via electronic transmission in accordance with procedures established or approved by the Commission, such transmission must be accompanied by the Personal Identification Number assigned under such procedures to the authorized signer, and such Personal Identification Number will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the oath or affirmation referred to in this paragraph.

\* \* \* \* \*

(h) *Filing option available to a futures commission merchant or an introducing broker that is also a securities broker or dealer.* Any applicant or registrant which is registered with the Securities and Exchange Commission as a securities broker or dealer may comply with the requirements of this section by filing (in accordance with paragraphs (a), (b), (c), and (j) of this section) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE (FOCUS Report), in lieu of Form 1-FR; *Provided, however,* That all information which is

required to be furnished on and submitted with Form 1-FR is provided with such FOCUS Report; and *Provided, further,* That a certified FOCUS Report filed by an introducing broker or applicant for registration as an introducing broker in lieu of a certified Form 1-FR-IB must be filed according to NFA rules, either in paper form or electronically in accordance with NFA electronic filing procedures, and if filed electronically, a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

\* \* \* \* \*

3. Section 1.31 is proposed to be amended by revising paragraph (d) to read as follows:

**§ 1.31 Books and records; keeping and inspection.**

\* \* \* \* \*

(d) Trading cards, documents on which trade information is originally recorded in writing, written orders required to be kept pursuant to § 1.35(a), (a-1)(1), (a-1)(2) and (d), and paper copies of electronically filed certified Forms 1-FR and FOCUS Reports with the original manually signed certification must be retained in hard-copy for the required time period.

\* \* \* \* \*

Issued in Washington, DC, on September 13, 2006 by the Commission.

**Eileen Donovan,**

*Acting Secretary of the Commission.*

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**BILLING CODE 6351-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[USCG-2006-25767; Formerly CGD09-06-123]

**Safety Zones; U.S. Coast Guard Water Training Areas, Great Lakes**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Coast Guard will meet to discuss issues relating to the proposed permanent safety zones located in the Great Lakes to conduct live gunnery training exercises. The meetings will be open to the public.

**DATES:** The Coast Guard will hold four public meetings as follows: Monday, October 16, 2006 in Duluth MN; Wednesday October 18, in Grand