

within the Corpus Christi International Airport, TX, Class C airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

ASW TX E4 Corpus Christi NAS/Truax Field, TX [Amended]

Corpus Christi NAS/Truax Field, TX

(Lat. 27°41'34" N., long. 97°17'25" W.)

Corpus Christi VORTAC

(Lat. 27°54'14" N., long. 97°26'42" W.)

Truax VORTAC

(Lat. 27°41'11" N., long. 97°17'41" W.)

That airspace extending upward from the surface within 1.3 miles each side of the 012° radial of the Truax VORTAC extending from the 4.3-mile radius of Corpus Christi NAS/Truax Field to 5 miles north of the airport and within 2.1 miles each side of the 119° radial of the Truax VORTAC extending from the 4.3-mile radius to 6.2 miles southeast of the airport and within 2.3 miles each side of the 147° radial of the Corpus Christi VORTAC extending from the 4.3-mile radius of the airport to 6.3 miles southeast of the airport and within 2.1 miles each side of the 329° radial of the Truax VORTAC extending from the 4.3-mile radius of the airport to 6.2 miles northwest of the airport; excluding that airspace within the Corpus Christi International Airport, TX, Class C airspace area.

* * * * *

Issued in Fort Worth, TX on November 14, 2008.

Roger M. Trevino,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. E8-28073 Filed 11-25-08; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AC67

Electronic Filing of Disclosure Documents

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend its regulations applicable to the filing of Disclosure Documents by commodity pool operators (CPOs) and commodity trading advisors (CTAs) with the National Futures Association (NFA). In response to a petition from NFA, the

CFTC is proposing that CPOs and CTAs be required to file their Disclosure Documents electronically with NFA (Proposal).

DATES: Comments must be received on or before December 26, 2008.

ADDRESSES: Comments on the Proposal should be sent to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418-5521, or by e-mail to secretary@cftc.gov. Reference should be made to "Proposal Regarding Electronic Filing of Disclosure Documents." Comments also may be submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following the comment submission instructions.

FOR FURTHER INFORMATION CONTACT:

Barbara S. Gold, Associate Director, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418-5450; facsimile number: (202) 418-5528; and electronic mail: bgold@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. CPO and CTA Disclosure Documents

Part 4 of the Commission's regulations¹ governs the operations and activities of CPOs and CTAs. Regulations 4.21 and 4.31 respectively require each CPO and CTA registered or required to be registered with the Commission to deliver a Disclosure Document to prospective pool participants and clients. Regulations 4.24 and 4.25 specify the informational content of the CPO Disclosure Document, and Regulations 4.34 and 4.35 specify the informational content for the CTA Disclosure Document. Regulations 4.26 and 4.36 respectively pertain to the use, amendment and filing of CPO and CTA Disclosure Documents. Specifically, under Regulations 4.26(d) and 4.36(d), the CPO or CTA must file one copy of the Disclosure Document, and any supplements and amendments thereto, with NFA.² These regulations do not,

however, prescribe any particular manner of filing.

B. The NFA Petition

By letter dated July 21, 2008, NFA petitioned the Commission to amend Regulations 4.26 and 4.36 in order to require that CPOs and CTAs file Disclosure Documents electronically through NFA's electronic Disclosure Document filing system (Petition).³ In its Supporting Arguments, NFA explained the reasoning behind the Petition as follows:

Currently, while there is nothing to prohibit a firm from filing a disclosure document in hardcopy form, the vast majority of CPO and CTA registrants file disclosure documents with NFA primarily via electronic mail due to its expediency and convenience. While the use of electronic mail has been a significant improvement over hardcopy submissions in terms of filing efficiency, the current approach still requires a considerable amount of staffing resources and has other disadvantages, e.g., the inability of registrants to obtain the status of the review of their filing without calling NFA and the lack of a central location for storing past filings. Accordingly, NFA has developed a new Internet-based electronic filing system for disclosure documents that will be significantly less resource intensive while also streamlining and enhancing the filing process for registrants. In order to realize the proposed benefits, however, registrants must be required to file their documents electronically through NFA's new system. Consequently, NFA is petitioning the Commission to amend its regulations accordingly.

The Commission understands that, as with NFA's other electronic filing systems,⁴ the Disclosure Document system was designed to be easy and secure, such that Disclosure Documents, supplements and amendments will be uploaded through the system as either Word or PDF documents. Thus, although the CPO or CTA must have an Internet connection to access the system, it could use any public Internet site, such as those available in most public libraries. Moreover, CPOs and CTAs will access the system using the same designated login and password that they currently use for NFA's Online

CPOs and CTAs pursuant to Regulations 4.26(d) and 4.36(d). See 62 FR 52088 (Oct. 6, 1997).

³ The Petition also adds the word "each" before the existing words "trading program" in paragraph (d)(1) of Regulation 4.36 to make that paragraph read parallel to the existing phrase "each trading program" in paragraph (d)(2) of Regulation 4.36.

The Commission previously authorized NFA to accept notices of exemptions or exclusions claimed under Part 4 and required that these notices be filed electronically. See *Id.* and 72 FR 1658 (Jan. 16, 2007), respectively.

⁴ For example, NFA has adopted "Easyfile" for introducing broker and commodity pool financial statements required to be filed with it.

¹ 17 CFR Part 4 (2008). The Commission's regulations can be accessed through the CFTC's Web site, <http://www.cftc.gov>.

² NFA is a registered futures association pursuant to section 17 of the Commodity Exchange Act (Act), 7 U.S.C. 21 (2000). The Act also may be accessed through the CFTC's Web site.

The Commission previously authorized NFA to conduct reviews of Disclosure Documents filed by

Registration System—which, NFA states, is “a well-tested authentication model with which participating registrants are already familiar.”⁵ NFA additionally states that it has been extremely careful in the development of the system to ensure that the database it maintains of Disclosure Document filings will not be compromised in any way by unauthorized persons.

Further in this regard, NFA explains that once CPOs and CTAs have accessed the system:

They will be guided through the filing process, which culminates in the electronic transfer of the disclosure document through the secure web-based gateway. The system includes extensive help text to assist registrants with their filings, and the filing process includes a series of questions that will assist in identifying the type of filing as well as provide important background information to assist NFA staff with the analysis of the document itself. After the document is submitted, the system will automatically assign it to an available NFA analyst. By accessing the system, registrants will be able to track the status of their filing and receive comment letters as they are issued. Additionally, the system will serve as an electronic filing cabinet for registrants since it will maintain all previous filings and related comment letters filed through the system.

The Commission further understands, then, that NFA’s process for the electronic filing of Disclosure Documents will have two components. One of those components will require CPOs and CTAs to electronically submit their Disclosure Documents, as well as any amendments and supplements thereto. The other of these components will require CPOs and CTAs to enter from their Disclosure Documents certain key information on their operations and activities into a standardized form accessed through NFA’s Web site.⁶

II. The Proposal

In light of the foregoing, the Commission is proposing to amend Regulations 4.26(d) and 4.36(d) to require that any documents required to be filed thereunder be filed electronically with NFA, pursuant to NFA’s electronic filing procedures. The Commission wishes to emphasize, however, that the Proposal would not impact the delivery of Disclosure Documents to prospective pool

participants and clients, which CPOs and CTAs could continue to provide through hardcopy distribution via postal mail or electronically if the intended recipient consented thereto.⁷

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)⁸ requires that agencies, in proposing rules, consider the impact of those rules 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 rules on such entities in accordance with the RFA.⁹ With respect to CPOs, the Commission previously has determined that a registered CPO is not a small entity for the purpose of the RFA.¹⁰ As for CTAs, the Commission previously has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of the particular rule.¹¹ As noted above, the Commission believes that the Proposal will not place any significant economic burdens, whether new or additional, on CPOs and CTAs who will be affected by it. This is because while the Proposal will require these CPOs and CTAs to have access to and a certain degree of technical knowledge to file Disclosure Documents electronically and to enter the required key information, they will access the system using the same designated login and password that they currently use for registration purposes and they will be entering the key information directly from their Disclosure Documents. Thus, the Proposal simply alters the mechanism for filing Disclosure Documents, and does not affect the substance or frequency of those filings. Accordingly, and based on section 3(a) of the RFA,¹² the Acting Chairman, on behalf of the Commission, certifies that the Proposal would not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this certification.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)¹³ imposes certain requirements

on federal agencies (including the Commission) in conducting or sponsoring any collection of information as defined by the PRA. If adopted, the Proposal would change the manner in which CPOs and CTAs file Disclosure Documents with NFA; it would not affect the substance or frequency of those filings. The Proposal would, however, authorize the separate collection from CPOs and CTAs of certain key information from the Disclosure Documents CPOs and CTAs would be filing electronically. Accordingly, pursuant to the PRA, the Commission has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information. [Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants, OMB Control Number 3038–0005.]

The expected effect of the proposed amended regulations will be to reduce the burden previously approved by OMB for this collection of information by 239.5 hours. This is because, while it will result in an increase in the estimated average number of hours per response under Regulations 4.26 and 4.36, there will be fewer CPOs and CTAs subject to the filing requirements of these regulations owing to increased claims of exemption under Regulation 4.7 from Disclosure Document requirements and under Regulations 4.13 and 4.14 from registration altogether.

Specifically:

The burden associated with Regulation 4.26 is expected to be decreased by 422.4 hours:

Estimated number of respondents: 160.

Annual responses by each respondent: 3.

Estimated average hours per response: 3.25.

Annual reporting burden: 1560.

This annual reporting burden of 1560 hours represents a decrease of 422.4 hours as a result of the proposed amendment to Regulation 4.26.

The burden associated with Regulation 4.36 is expected to be increased by 182.9:

Estimated number of respondents: 450.

Annual responses by each respondent: 1.

Estimated average hours per response: 1.85.

Annual reporting burden: 832.5.

This annual reporting burden of 832.5 hours represents an increase of 182.9

⁵ The Commission previously delegated to NFA registration responsibilities for CPOs, CTAs and their associated persons. See 49 FR 39593 (Oct. 9, 1984).

⁶ Among other things, this key information concerns identification of contact persons, relationships with futures commission merchants or introducing brokers, and the past performance history and related data for the offered pool or trading program.

⁷ See Regulations 4.21(b) for CPOs and 4.31(b) for CTAs.

⁸ 5 U.S.C. 601 *et seq.*

⁹ See 47 FR 18618 (Apr. 30, 1982).

¹⁰ *Id.* at 18619.

¹¹ *Id.* at 18620.

¹² 5 U.S.C. 605(b).

¹³ 44 U.S.C. 3501 *et seq.*

hours as a result of the proposed amendment to Regulation 4.36.

The net result of the proposed amendments to Regulations 4.26 and 4.36, then, is a decrease in the annual reporting burden of 239.5.

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 Trading Commission. OMB is required to make a decision concerning the collection of information contained in the Proposal 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 Proposal.

C. Cost-Benefit Analysis

Section 15(a) of the Act¹⁴ 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) 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) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern, enumerated below. 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 rule 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 Proposal would amend Regulations 4.26(d) and 4.36(d) to require that CPOs and CTAs file Disclosure Documents, and any supplements and amendments thereto, electronically with NFA. The Commission is considering the costs and benefits of the Proposal in light of the specific provisions of section 15(a) as follows:

1. *Protection of market participants and the public.* The Proposal should not affect the protection of market participants and the public, as it provides an alternate method of filing Disclosure Documents, but does not alter the character or frequency of those filings.

2. *Efficiency and competition.* The Commission anticipates that the Proposal will benefit efficiency by permitting NFA to streamline its process for receiving and reviewing Disclosure Document filings. Thus, the Commission considers the Proposal as benefiting efficiency and not impacting competition.

3. *Financial integrity of futures markets and price discovery.* The Proposal 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 Proposal 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 Proposal is beneficial in that it should streamline the timeliness of filing, review and delivery of, and electronic accessibility to, Disclosure Documents.

After considering these factors, the Commission has determined to propose the amendments to Regulations 4.26(d) and 4.36(d) 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 4

Advertising, Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors, Consumer protection, Reporting and recordkeeping requirements.

Accordingly, 17 CFR Chapter I is proposed to be amended as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

2. Revise paragraph (d) of § 4.26 to read as follows:

§ 4.26 Use, Amendment and Filing of Disclosure Document.

* * * * *

(d) Except as provided by § 4.8:

(1) The commodity pool operator must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver such Document or documents to a prospective participant in the pool; and

(2) The commodity pool operator must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the subsequent amendments to the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

3. Revise paragraph (d) of § 4.36 to read as follows:

§ 4.36 Use, amendment and filing of Disclosure Document.

* * * * *

(d)(1) The commodity trading advisor must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the Disclosure Document for each trading program that it offers or that it intends to offer not less than 21 calendar days

¹⁴ 7 U.S.C. 19(a).

prior to the date the trading advisor first intends to deliver the Document to a prospective client in the trading program; and

(2) The commodity trading advisor must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the subsequent amendments to the Disclosure Document for each trading program that it offers or that it intends to offer within 21 calendar days of the date upon which the trading advisor first knows or has reason to know of the defect requiring the amendment.

Issued in Washington, DC, on November 21, 2008 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E8-28177 Filed 11-25-08; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08-16-000]

Electric Reliability Organization Interpretations of Specific Requirements of Frequency Response and Bias and Voltage and Reactive Control Reliability Standards

Issued November 20, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission proposes to: approve NERC's proposed interpretation of certain specific requirements of one Commission-approved Reliability Standard, BAL-003-0, Frequency Response and Bias; and remand NERC's proposed interpretation of VAR-001-1, Voltage and Reactive Control, for reconsideration consistent with this rulemaking.

DATES: Comments are due December 26, 2008.

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

- *Agency Web Site:* <http://ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically

must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Patrick Harwood (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502-6125, Patrick.harwood@ferc.gov.
Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502-8744.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Sudeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission proposes to approve the interpretation proposed by the North American Electric Reliability Corporation (NERC) of certain specific requirements of Commission-approved Reliability Standard BAL-003-0, Frequency Response and Bias, but remand NERC's proposed interpretation of Reliability Standard VAR-001-1, Voltage and Reactive Control, for additional clarification.¹

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.²

3. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO³ and,

¹ The Commission is not proposing any new or modified text to its regulations. As set forth in 18 CFR part 40, proposed Reliability Standards will not become effective until approved by the Commission, and the ERO must post on its Web site each effective Reliability Standard. The proposed interpretations would assist entities in complying with the Reliability Standards.

² See 16 U.S.C. 824o(e)(3).

³ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, order on reh'g, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

subsequently, certified NERC as the ERO.⁴ On April 4, 2006, as modified on August 28, 2006, NERC submitted to the Commission a petition seeking approval of 107 proposed Reliability Standards. On March 16, 2007, the Commission issued a final rule, Order No. 693, approving 83 of these 107 Reliability Standards and directing other action related to these Reliability Standards.⁵ In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards.⁶

4. NERC's Rules of Procedure provide that a person that is "directly and materially affected" by Bulk-Power System reliability may request an interpretation of a Reliability Standard.⁷ The ERO's "standards process manager" will assemble a team with relevant expertise to address the requested interpretation and also form a ballot pool. NERC's Rules provide that, within 45 days, the team will draft an interpretation of the Reliability Standard, with subsequent balloting. If approved by ballot, the interpretation is appended to the Reliability Standard and filed with the applicable regulatory authority for regulatory approval.⁸

B. NERC Filing

5. On July 28, 2008, NERC submitted a Petition for Approval of Formal Interpretations to Reliability Standards (Petition), seeking Commission approval of interpretations of two Commission-approved Reliability Standards: BAL-003-0, Frequency Response and Bias, Requirements R2 and R5; and VAR-001-1, Voltage and Reactive Control, Requirement R4.

⁴ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, order on reh'g & compliance, 117 FERC ¶ 61,126 (2006), appeal docketed sub nom. *Alcoa, Inc. v. FERC*, No. 06-1426 (D.C. Cir. Dec. 29, 2006).

⁵ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, order on reh'g, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

⁶ 16 U.S.C. 824o(d)(5). Section 215(d)(5) provides, "The Commission * * * may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section."

⁷ NERC Rules of Procedure, Appendix 3A, Reliability Standards Development Procedure, Version 6.1, at 26-27 (2007).

⁸ We note that, while the NERC Board of Trustees approved the interpretations of the Reliability Standards submitted by NERC for approval in this proceeding, Appendix 3A of NERC's Rules of Procedure is silent on the need for NERC Board of Trustees' approval of interpretations before they are filed. NERC's Rules of Procedure should expressly require such approval.