

Engines Service Bulletin (GEAE SB) CF6-80C2 S/B 72-1006, dated April 11, 2001 and GEAE SB CF60-50 S/B 72-1170, dated May 7, 1999, that specify part numbers and procedures for the removal and replacement of the shrouds.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other General Electric Company CF6-50 and CF6-80C2 turbofan engines of the same type design, the proposed AD would require replacement of certain existing CF6-50 and CF6-80C2 shrouds with new design shrouds at the next shroud piece part exposure, but no later than December 31, 2006. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Economic Impact

There are approximately 5,055 GE CF6-50 and CF6-80C2 turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 1,106 engines installed on airplanes of U.S. registry would be affected by this proposed AD. Because this proposal calls for the replacement of shrouds at piece part exposure, the FAA does not expect that additional labor costs will be accrued beyond that normally required to remove the existing shroud. New shrouds will cost approximately \$63,250 for the CF6-50 engines, and \$87,020 for the CF6-80C2 engines. Based on these figures, the total cost to retrofit all installed US registered engines is estimated to be \$85,096,038 over a five year period, or \$17,019,207 annually.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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:

General Electric Company: Docket No. 2001-NE-19-AD.

Applicability: This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6-50 and CF6-80C2 turbofan engines. These engines are installed on, but not limited to DC-10-15, DC-10-30, MD11, 747, 767, A300 and A310 airplanes.

Note 1: This AD applies to each engine 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 engines 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: Compliance with this AD is required as indicated, unless already done. To prevent uncontained engine failure and possible airplane damage, do the following:

(a) Remove existing Stage 2, 3 and 4 low pressure turbine (LPT) CF6-80C2 shrouds and replace with new design part numbers (P/N's) 2083M12G01, 2083M13G01, and 2083M14G01, respectively, in accordance with GE Aircraft Engines Service Bulletin (GEAE SB) CF6-80C2 S/B 72-1006, dated April 11, 2001, at the next shroud piece part exposure, but no later than December 31, 2006.

(b) Remove existing Stage 1, 2, 3 and 4 LPT CF6-50 shrouds and replace with new design P/N's 1822M35G01, 1822M36G01, 1822M36G02, and 1822M37G01, respectively, in accordance with GEAE SB CF6-50 S/B 72-1170, dated May 7, 1999, at the next shroud piece part exposure, but no later than December 31, 2006.

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, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(d) Special flight permits may be issued in accordance §§ 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 Burlington, Massachusetts, on May 11, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01-12425 Filed 5-16-01; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 170

RIN Number: 3038-AB84

Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), the Commodity Futures Trading Commission ("Commission") is proposing to amend Rule 3.10, which specifies the information that various applicants for registration must file. The amendment would provide for notice registration as a futures commission merchant ("FCM") or introducing broker ("IB"), as applicable, in the case of a broker or dealer ("BD") registered with the Securities and Exchange Commission ("SEC") that, among other things, limits its involvement with commodity futures contracts to security futures products. In accordance with

certain other provisions of the CFMA, the Commission is proposing to amend Rule 170.15, which requires each registered FCM to be a member of a registered futures association. The amendment would exempt notice-registered BDs from this requirement.

DATES: Comments must be received by June 18, 2001.

ADDRESSES: Comments on the proposed rule amendments may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers."

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5450, electronic mail: bgold@cftc.gov, or lpatent@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the CFMA was signed into law.¹ Among other things, the CFMA removed the restriction in the Commodity Exchange Act ("CEA") on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.² Under the revised law, security futures products³ may be traded on a designated contract market or on a registered derivatives transaction execution facility.⁴

¹ Pub. L. No. 106-554, 114 Stat. 2763. The text of the CFMA may be accessed on the Internet at <http://agriculture.house.gov/txt5660.pdf>.

² See Section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

³ The term "security futures product" is defined in Section 1a(32) of the CEA to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in Section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading during the next 31 months.

⁴ The CFMA also specifically prescribes certain dates on which security futures trading can commence. Specifically, principal-to-principal transactions between institutions cannot commence until August 21, 2001 and retail transactions cannot commence until December 21, 2001. Both starting dates are conditioned upon the registration of a

Section 4d of the CEA provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility—e.g., for a security futures product—must be registered with the Commission as (1) an FCM, if it also accepts any money, securities, or property, or extends credit in lieu thereof, or margin, guarantee, or secure contracts, or (2) otherwise as an IB.⁵ Section 4f(a)(1) of the CEA provides that application for registration as an FCM or IB "shall be made in such form and manner as prescribed by the Commission."⁶ Pursuant to this authority, the Commission adopted Rule 3.10, which currently requires that an applicant for registration as an FCM or IB file a Form 7-R⁷ along with a Form 1-FR-FCM or Form 1-FR-IB, as applicable.⁸ In addition, Rule 170.15 requires that each person required to register as an FCM must become and remain a member of at least one registered futures association (i.e., NFA).

However, as a result of the CFMA, new Section 4f(a)(2) of the CEA now provides that notwithstanding Section 4f(a)(1), any BD that is registered with the SEC⁹ shall be registered as an FCM or IB, as applicable, "effective

futures association (i.e., National Futures Association ("NFA")) as a national securities association under the Securities Exchange Act of 1934 ("34 Act"). Section 202(a) of the CFMA; Section 6(g)(5) of the '34 Act.

⁵ See Sections 1a(20) and (23) of the CEA, which define the terms "futures commission merchant" and "introducing broker," respectively.

⁶ Prior to the enactment of the CFMA, this provision was found in Section 4f(a) of the CEA. The CFMA amended Section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (Section 252(b)(2) of the CFMA) and (a)(4) (Section 252(c) of the CFMA).

⁷ Rule 3.10(a)(1)(i). The Form 7-R, which requires general information such as a list of the applicant's principals and the applicant's disciplinary history, must be completed and filed with NFA in accordance with the instructions thereto. NFA is registered with the Commission as a registered futures association pursuant to Section 17 of the CEA. By Rule 3.2 and various orders issued by the Commission, the Commission has delegated to NFA the authority to register, among other persons, FCMs and IBs. Commission rules referred to herein are found at 17 CFR Ch. I (2001).

⁸ Rule 3.10(a)(1)(ii). The Form 1-FR (-FCM or -IB) includes detailed financial statements and schedules that display the applicant's financial condition. Where the applicant is registered with the SEC as a BD, it may accompany its Form 7-R with a copy of its Financial and Operational Combined Uniform Single Report under the '34 Act, Part II or Part IIA. See Rule 1.10(h).

⁹ Because the CFMA speaks in terms of a "broker or dealer," the term "BD" as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

contemporaneously with the submission of notice," if—

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Moreover, new Section 4f(a)(4)(C)(i) of the CEA provides that a BD that is registered as an FCM pursuant to notice registration shall not be required to become a member of a registered futures association. Accordingly, by this **Federal Register** release, the Commission is proposing to amend Rule 3.10 to provide for FCM and IB notice registration thereunder and to amend Rule 170.15 to exclude from its scope BDs notice-registered as FCMs.¹⁰

II. Proposed Amendments

A. Rule 3.10

Rule 3.10 currently is structured as follows: paragraph (a), "Application for registration," contains the information that an application for registration under the rule must contain; paragraph (b), "Duration of registration," generally provides that registration under paragraph (a) will continue until withdrawal or revocation; paragraph (c),

¹⁰ Section 4k(1) of the CEA generally requires each person who is an associated person ("AP") of an FCM or IB to register as such. Rule 3.12 generally requires an applicant for registration as an AP to file a Form 8-R, which requires basic biographical information, along with a sponsor's certification. It is not necessary for the Commission to similarly propose notice registration under Rule 3.12 for the APs of those FCMs and IBs who would be subject to the proposed notice registration under Rule 3.10, because the CFMA exempts these APs from registration altogether. Specifically, Section 252(d) of the CFMA amends Section 4(k) of the CEA to provide that:

Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any options on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from [Section 4k(1)] of this Act and the rules thereunder.

“Exemption from registration for certain persons,” provides an exemption from registration as an FCM for certain persons; and paragraph (d), “Annual filing,” prescribes an annual review of a printout of registration information on file with NFA for persons registered pursuant to paragraph (a).

The Commission is proposing to amend Rule 3.10 in several ways. First, paragraph (a)(1)(i) would be revised to alert applicants for registration that there is an alternative registration procedure under new Rule 3.10(a)(3). Second, paragraph (a)(3) would be added. Captioned “Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers,” it would add an exception to the FCM and IB registration requirements of Rule 3.10(a) for BDs who meet the criteria of new Section 4f(a)(2) of the CEA. Registration under paragraph (a)(3) would be made “by following such procedures for notice registration as may be specified” by NFA. This registration would be effective upon the filing of the notice prescribed by NFA, as mandated by Section 252(b)(2) of the CFMA. Finally, paragraph (d) would be amended to relieve these notice registrants from the annual update requirement.

The Commission’s proposal is consistent with the Commission’s previous delegation of registration authority to NFA under Rule 3.2 and through various Commission orders. The Commission believes that its proposal is also consistent with Section 125 of the CFMA, which requires the Commission to report to Congress later this year on a study of the CEA and the Commission’s rules, regulations and orders governing the conduct of persons required to be registered under the CEA. One area that the study must identify is “the regulatory functions the Commission currently performs that can be delegated to a registered futures association * * * and the regulatory functions that the Commission has determined must be retained and the reasoning therefor.”

As referred to above, notice registrant FCMs and IBs are exempt from NFA membership.¹¹ Although the Commission cannot require NFA to perform registration functions for persons that are not NFA members,¹² the Commission may authorize NFA to perform any registration function.¹³ Commission staff have discussed this matter with NFA, and NFA has agreed

to undertake the function of processing notice registrations for BDs as discussed herein. If the Commission adopts these amendments to Rule 3.10, it expects to issue an order authorizing NFA to perform this function.

B. Rule 170.15

Section 17(m) of the CEA states that—

[n]otwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of [the CEA].

Pursuant to this provision, the Commission adopted Rule 170.15, which provides that each person required to register as an FCM must become and remain a member of at least one registered futures association.¹⁴ However, and as noted above, because new section 4f(a)(4)(C)(i) of the CFMA exempts BDs who notice-register as FCMs from the requirement to become a member of a registered futures association, the Commission is proposing to amend Rule 170.15. The amendment would add a provision to exempt FCMs registered in accordance with Rule 3.10(a)(3) from the requirement to become and remain a member of a registered futures association.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect persons seeking to be registered under notice registration procedures as an FCM or IB pursuant to new Section 4f(a)(2). 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.¹⁵ The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.¹⁶ With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered

to be small entities and, if so, the economic impact on them of any rule.¹⁷

These amendments would provide exemptive relief from provisions of the Commission’s regulations that otherwise would be applicable to such persons. Consequently, the Commission believes that the adoption of these rule amendments would reduce the burden of compliance by persons seeking to be registered as an FCM or IB. Accordingly, the Acting Chairman of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact this proposed rule may have on small entities.

B. Paperwork Reduction Act

This proposed rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).¹⁸ The Commission has submitted a copy of this part to the Office of Management and Budget (“OMB”) for its review.

Collection of Information

Registration of future commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants, OMB Control Number 3038–0023.

The burden associated with the proposed addition of Rule 3.10(a)(3) is estimated to be 1,000 hours, which will result from the notice registration as an FCM or IB of various persons who currently are registered as BDs with the SEC.

The estimated burden of the proposed new rule was calculated as follows:

Estimated number of respondents:
5,000.

Reports annually by each respondent:

1. *Total annual Responses:* 5,000.
Estimated average Number of Hours Per Response: 2.

Estimated Total Number of Hours of Annual Burden in Fiscal Year: 1,000.

There are no paperwork burdens associated with the proposed amendments to Rule 3.10(d), which would clarify that the annual filing prescribed therein does not apply to notice-registered BDs, or to Rule 170.15, which would exclude notice-registered BDs from the requirement that each registered FCM must become and remain a member of NFA.

Organizations and individuals desiring to submit comments on the

¹¹ Section 252(c) of the CFMA; Section 4f(a)(4)(C) of the CEA.

¹² See Section 17(o)(1) of the CEA.

¹³ Sections 8a(10) and 17(o)(2) of the CEA.

¹⁴ NFA is the only registered futures association.

¹⁵ 47 FR at 18618–21 (April 30, 1982).

¹⁶ 47 FR at 18619–20.

¹⁷ 47 FR at 18618, 18620.

¹⁸ 44 U.S.C. 3501 *et seq.*

information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

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, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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.

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**. 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.

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.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended Section 15 of the CEA to require that the Commission, before promulgating a regulation under the CEA or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.¹⁹ The main considerations relevant to this proposal are the first two considerations set forth in the CEA, "protection of market participants and the public" and "efficiency,

¹⁹ These considerations include: (A) protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

competitiveness and financial integrity of the futures markets." The Commission believes that persons who are registered as BDs with the SEC are appropriate subjects for notice registration where their futures-related activity is restricted to security futures products. The Commission also believes that these additional registrants may promote the efficiency and competitiveness of those futures markets on which security future products may be traded and that their presence as intermediaries in these markets may serve to promote the financial integrity of those markets. The Commission further notes that the CFMA specifically mandates that registered BDs be noticed-registered with the Commission as an FCM or IB.

List of Subjects

17 CFR Part 3

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 170

Authority delegations (Government agencies), Commodity futures.

For the reasons discussed in the preamble, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.10 is amended by revising paragraph (a)(1)(i), by adding a new paragraph (a)(3) and by revising the first sentence of paragraph (d), to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Application for registration.* (1)(i) Except as provided in paragraph (a)(3) of this section, application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

(3) Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers. (i) Any broker or dealer that is registered with the Securities and Exchange Commission may be registered as a futures commission merchant or introducing broker, as applicable, by following such procedures for notice registration as may be specified by the National Futures Association, if—

(A) The broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility, to security futures products as defined in section 1a(32) of the Act;

(B) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(C) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(ii) The registration will be effective upon the filing of the notice prescribed by the National Futures Association in accordance with the instructions thereto.

* * * * *

(d) Annual filing. Any person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a)(1) and (a)(2) of this section must file with the National Futures Association a Form 7-R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

3. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 6p, 12a and 21, unless otherwise noted.

Subpart C—Membership in a Registered Futures Association

4. Section 170.15 is revised to read as follows:

§ 170.15 Futures commission merchants.

(a) Except as provided in paragraph (b) of this section, each person required to register as a futures commission merchant must become and remain a member of at least one futures

association which is registered under section 17 of the Act and which provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with § 3.10(a)(3) of this chapter.

Issued in Washington, DC on May 14, 2001 by the Commission.

Edward W. Colbert,

Deputy Secretary of the Commission.

[FR Doc. 01-12489 Filed 5-16-01; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA-2001-8846]

RIN 2125-AE83

Revision of the Manual on Uniform Traffic Control Devices; General Provisions, Markings, and Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices on all public roads. The purpose of this notice is to propose revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD.

This document proposes new text for the MUTCD in Part 1—General and Part 4—Signals. The proposed changes included herein are intended to revise supporting information and guidance relating to the decisionmaking process concerning accessible pedestrian signals.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Mail or hand deliver comments with the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590 or submit electronically at [http://](http://dms.dot.gov/submit)

dms.dot.gov/submit. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information regarding the notice of proposed amendments contact Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366-9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366-0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL 401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this notice of proposed amendment may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7 on the FHWA's website at <http://mutcd.fhwa.dot.gov>. This notice is being issued to provide an opportunity for public comment on the desirability of proposed amendments to Section 1A.11 and to Section 4E.06 concerning accessible pedestrian signals. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

This notice of proposed amendment is being published in response to several letters received by the U.S. Department of Transportation objecting to language in the text of the MUTCD summarized

in the final rule published at 65 FR 78923 on December 18, 2000. The letters received by the U.S. Department of Transportation were written by the American Council of the Blind, the Association for Education and Rehabilitation of the Blind and Visually Impaired Division Nine—Orientation and Mobility, the National Committee on Uniform Traffic Control Devices, and Accessible Design for the Blind.

The letter from the National Committee on Uniform Traffic Control Devices (NCUTCD) discusses a meeting it held in January 2001 with representatives of various organizations that represent individuals with visual disabilities. During the meeting the attendees drafted text they believe would be more acceptable to pedestrians with visual disabilities and the organizations that represent them. However, the NCUTCD recommended one sentence of the draft text be deleted because it believed it may encourage a "do nothing" response by a traffic agency as opposed to conducting an engineering study of the request to install a traffic control device at a location.

The FHWA agrees with this position as Federal, State, and local agencies are required to comply with the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 1201 *et seq.*). Title II of the ADA of 1990 requires that public entities not discriminate against people with disabilities. Subject to the provisions of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. The FHWA believes that a traffic agency should review a request for pedestrian signals accessible to visually impaired persons in the same manner as it does all other requests to install a traffic control device. Also, the FHWA has the added requirement under the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and the ADA of 1990 of overseeing that recipients of Federal-aid funding comply with the laws and do not discriminate against people with disabilities.

The FHWA invites comments on the proposed new text for the last paragraph of the MUTCD Section 1A.11 and the first six paragraphs of the MUTCD Section 4E.06. The proposed changes are included in the following discussion: