Applicability

As discussed above, these special conditions are applicable to the Model 382J. Should Lockheed-Martin apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provision of § 25.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft safety, safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Lockheed-Martin Model 382J airplane.

1. The ATCS shall be designed so that the combined probability of engine failure and ATCS failure is extremely improbable (on the order of $1 \times 10–9$ per flight hour). Inadvertent operation of the ATCS shall be improbable (on the order of $1 \times 10–5$ per flight hour). These requirements may drive the necessity for automatic fault detection and annunciation and/or periodic functional checks. For the purposes of this requirement, the ATCS is intended to include but is not limited to, all engine failure detection means, all sensor inputs used to compute thrust modulation requirements, all communication provisions between system components (Mil-Std-1553 bus, for example), and actuation mechanisms for the propeller feathering and outboard engine thrust control.

2. Flight deck annunciation of the armed state of the ATCS shall be provided. ATCS failed or not armed must be incorporated into the takeoff configuration warning system, or alternatively, a visual annunciation can be incorporated if the annunciation lies within the primary field of view of both pilots.

3. Provisions for flightcrew override of the ATCS must be provided. The provisions must be through power level actuation, or alternatively, through other means provided the means (1) is located on or forward of the power levers, (2) is easily identified and operated under all operating conditions by either pilot with the hand that is normally used to actuate the power levers, and (3) meets the location, sense of motion, and accessibility requirements of § 25.777(a), (b), and (c).

4. The critical engine must be identified for the performance requirements of paragraphs 5 and 6 below, i.e., the performance must account for failure of a critical outboard engine with the ATCS (including autofeather) operating, or failure of the critical inboard engine to a feathered propeller condition, whichever is more adverse.

5. The performance must conservatively account for the failure of the critical engine at the critical point in the takeoff path. The effect of the ATCS thrust modulation on the gross and net takeoff paths must be modeled into the published performance data. The approved takeoff distance established in accordance with § 25.113 must account for the adverse effect of ATCS on thrust-to-weight ratio.

6. The one-engine-inoperative climb gradient requirements of § 25.121 must be met at the critical power operating condition for each climb segment. The most critical adverse effect of the ATCS on the thrust-to-weight ratio must be accounted for in establishing the climb limited weights for all ambient conditions within the approved envelope.

7. The determination of minimum control speeds must account for the critical failure mode (ATCS controlled outboard engine failure versus feathered propeller inboard engine failure) for directional controllability.

8. Any reduced takeoff power procedures must be shown compatible with operation of the ATCS and must not result in any reduction in the level of safety established for operation of the airplane with normal takeoff power settings and ATCS operating.

9. The ATCS must clearly indicate to the crew when it has been activated, and indicate that the output torque from the modulated engine is being adequately controlled by the ATCS.

Issued in Renton, Washington, on January 2, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 98–864 Filed 1–13–98; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Maintenance of Minimum Financial Requirements by Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: Rule 1.12 [1] of the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') sets forth the early warning reporting requirements for futures commission merchants (''FCMs'') and introducing brokers (''IBs''). These requirements are designed to afford the Commission and industry self-regulatory organizations (''SROs'') sufficient advance notice of a firm's financial or operational problems to take any protective or remedial action that may be needed to assure the safety of customer funds and the integrity of the marketplace. The Commission has determined to propose amendments to Rule 1.12, applicable to FCMs only, that will require immediate notification by an FCM to the Commission and its designated self-regulatory organization (''DSRO'') if an FCM knows or should know that it is in an undersegregated or undersecured condition: *i.e.*, the FCM has insufficient funds in accounts segregated for the benefit of customers trading on U.S. contract markets or has insufficient funds set aside for customers trading on non-U.S. markets to meet the FCM's obligations to its customers. The term ''funds'' in this context includes accrued amounts due to or from the FCM's clearing organizations and/or carrying brokers in connection with customer-related activities, typically, the daily or intraday variation settlement.

The Commission is also proposing to require immediate notification of certain events pertaining to undercapitalization or failure to satisfy margin calls, where notice is currently required within 24 hours. The Commission also proposes to codify a previous staff interpretation that permits notices to be filed by facsimile in addition to telegraphic means and to require immediate telephonic notice as well.

DATES: Comments mut be received on or before March 16, 1998.

ADDRESSES: Comments on the proposed amendments should be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading

[1] Commission rules are found at 17 CFR Ch. I (1997).

Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5221 or by electronic mail to secretary@cftc.gov. Reference should be made to ''Early Warning Amendments''.

FOR FURTHER INFORMATION CONTACT: Paul H. Bjarnason, Jr., Deputy Director and Chief Accountant, Lawrence B. Patent, Associate Chief Counsel, Lawrence T. Eckert, Attorney-Advisor, or Charles T. O'Brien, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581; Telephone (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

Rule 1.12 requires each FCM [2] to report to the Commission and to the FCM's DSRO certain events pertaining to the FCM's: (i) Financial condition; and (ii) procedures for safeguarding customer and firm assets; and (iii) ability to monitor its financial condition through an appropriate system of records and reports. Rule 1.12's purpose is to notify the Commission and the FCM's DSRO of circumstances that have or could have a negative impact on the FCM's ability to carry on normal business operations or that pose a threat to customer funds or the FCM's financial integrity. Reportable events currently include, among others, the FCM's adjusted net capital's falling below its ''early warning'' level (*i.e.*, 150 percent of the minimum required); [3] failure to maintain current books and records; the existence of material inadequacies in the FCM's accounting systems or internal controls; and the issuance of a margin call exceeding the FCM's adjusted net capital. Collectively, these are known as the Commission's ''early warning'' reporting requirements.

The ''segregation'' requirements of the Commodity Exchange Act (''Act'') and Commission rules are the primary safeguard against the loss of customer funds resulting from the financial failure of an FCM. Section 4d(2) of the Act [4] and Rule 1.20 require that an FCM segregate customer funds from the firm's proprietary funds and that one customer's funds not be used to margin, guarantee or secure the trades or contracts, or to secure or extend the credit, of another customer.[5] Other important elements of the segregation rules govern the investment of customer funds [6] and require a daily record of segregation requirements and funds in segregation.[7] Rule 30.7 contains similar protections relating to customers maintaining positions on non-U.S. exchanges.[8]

Given the importance of these rules in enabling the Commission to carry out its customer and market protection functions, it is critical that the Commission and an FCM's DSRO be made aware at the earliest possible moment of an FCM's failure to satisfy these requirements.[9] The proposed CFTC rule would require an FCM to provide immediate telephonic notice, to be confirmed immediately by facsimile or telegram,[10] to the Commission and the FCM's DISRO when the FCM knows or should know that it has failed to maintain sufficient funds in segregation or in separate set-aside accounts.[11]

II. Proposed Rule Amendments

FCMs occasionally have become undersegregated as a result of market movements which cause deficits in the accounts they carry on behalf of their customers. Generally, the undersegregated condition is corrected the following business day with funds available from an FCM's own proprietary funds or through collection of deficits. However, during the market downturn on October 27, 1997, the Commission was made aware that a few FCMs experienced undersegregation to a degree that they were unable to make up the shortfall from their own internal proprietary funds. Infusions of external capital were required in those cases to correct the undersegregated conditions.

An evaluation of the Commission's current early warning notification rules indicated that these rules, which require notice to the Commission upon an FCM falling below the net capital early warning level, may not result in notice to the Commission until as much as a day or a day and a half after the occurrence of a major market event which causes an undersegregated condition. In particular, on October 27, some firms knew they had a major problem by noon of that day, but did not provide notice of these problems to the Commission until on or about the close of business on October 28.

The Commission believes that it needs to be notified as soon as an FCM knows that it may have a problem meeting segregation requirements. The proposed rule is designed to require notice as soon as an FCM ''should know'' of an undersegregated condition. Because of the linkage between segregation and net capital, the proposed rule will also result in the Commission knowing of a net capital impairment earlier than under the existing rule and should facilitate a resolution of the problem with the least harmful impact upon an FCM's customers and other market participants.

As proposed, new Rule 1.12(h) [12] would require an FCM to notify the Commission and its DSRO immediately after it knows or should know that funds segregated for customers trading on U.S. markets or set aside for customers trading on non-U.S. markets are less than the amount required to be segregated or set aside by the Act or Commission rules. In this context, the term ''funds'' includes funds on deposit and funds due to or from the FCM's clearing organizations or carrying

[2] Certain portions of Rule 1.12 also apply to IBs. However, the proposed rule amendments discussed herein relate mostly to segregated funds and the secured amount, which involves FCM's but not IBs. Therefore, this release focuses upon Rule 1.12 as it pertains to FCMs.

[3] The minimum adjusted net capital requirement for an FCM is set forth in Rule 1.17(a)(1)(i) and basically requires an FCM to maintain adjusted net capital equal to the greatest of $250,000, four percent of the amount of customer funds or the amount required by an SRO of which the FCM is a member. Therefore, assuming no higher applicable SRO requirement, the early warning reporting is triggered if adjusted net capital is less than the greater of $375,000 or six percent of customer funds.

[4] 7 U.S.C. 6d(2).

[5] Rule 1.23 states that the prohibition against commingling an FCM's own funds with the FCM's customer funds does not prevent an FCM from adding any of its own funds to segregated customer funds as necessary to prevent any or all customer's accounts from becoming undermargined. The Commission recently adopted amendments to Rule 1.23 that permit FCMs to use Treasury securities in addition to cash to increase their interests in customer segregated accounts, facilitating the use of FCM funds to prevent the undermargining of customer accounts. See 62 FR 42398 (Aug. 7, 1997).

[6] Section 4d(2) of the Act and Rules 1.25–1.29.

[7] Rule 1.32.

[8] A more detailed presentation concerning these protections can be found in Chapter 12 of the Form 1–FR–FCM instructions.

[9] The Commission notes that, in the **Federal Register** release proposing the Commission's overhaul of minimum financial requirements over twenty years ago, the Commission stated its intention to propose an early warning notice for undersegregation of customer funds. *See* 42 FR 27166, 27173 (May 26, 1997). However, the Commission did not subsequently include such a rule as part of its early warning requirements.

[10] Telegraphic notification has been the traditional method of required notice under Rule 1.12, whereby an FCM or an IB sends a telegram to the Commission and the DSRO concerning a particular event.

[11] The Chicago Mercantile Exchange (''CME'') currently has a rule requiring that FCMs for which it acts as the DSRO provide written notice to it in such circumstances, although the CME's rule requires such notification within twenty-four hours following such events. Rules of the Chicago Mercantile Exchange, Rule 971 Segregation and Secured Requirements (1997).

[12] The Commission is proposing to redesignate current paragraph (h) of Rule 1.12 as paragraph (i) and to include the new rule in a new paragraph (h).

brokers. The Commission's proposal requires an immediate telephone call by an FCM, to be followed immediately by telegraphic or facsimile notice.[13] The notification to the Commission should be directed to the Division of Trading and Markets, to the attention of the Director and the Chief Accountant. Notice to the DSRO should be directed to the person or unit provided for under the DSRO's rules. For example, the notice required by CME Rule 971 must be sent to CME's Audit Department.

In accordance with Rules 1.32 and 30.7(f), each FCM is required to complete its daily segregation and secured amount computations by noon of the business day following the day for which the computations are made.[14] The time when the Commission would expect an FCM to be aware of an undersegregated condition or a possible undersegregated condition would depend upon the circumstances. In this connection, both the net capital rule and the segregation rules require compliance at all times. Intra-day changes in the prices of contracts carried by an FCM may require settlement variation payments. As of the close of trading each day, there is an accrued settlement amount which is payable to or receivable from the FCM's clearing organization. A receivable from a clearing organization is reflected as an asset on the FCM's segregation calculation, and conversely, a payable to a clearing organization is a liability. It is important to note that, in the event of a major move in the market, these amounts could be substantial and, if the move is against the FCM's customers, it could result in an undersegregated condition due to a deficit or deficits in the accounts of one or more customers.

In the event of a major market move, the Commission would expect an FCM to consider the impact of that move on the values of the positions it is carrying and how this impact would affect the accrued payable to its clearing organizations and the deficits in customer accounts. If the FCM has reason to believe that this impact could be material and negative in relation to previously computed excess segregation, it would be advisable to report a possible undersegregated condition to the Commission.

However, in some cases losses may occur over a large number of accounts in smaller amounts that, cumulatively, may cause an FCM to become undersegregated. In such a circumstance, the Commission recognizes that an FCM may not become aware of an undersegregated condition until it performs its daily segregation computation the following day. In any event, an FCM would be expected to notify the Commission of a deficiency in its segregated accounts by noon of the following business day.

Proposed new Rule 1.12(h), like the other provisions of the early warning system, is intended to allow protective action to be taken. The Commission wishes to emphasize that the triggering event is when an FCM knows or should know that the FCM has a deficiency, as discussed above. An FCM should not attempt to circumvent the rule simply by delaying making the computations until noon of the next business day when it is clear from market events or other factors that a deficiency likely exists.

The Commission also wishes to note that, while Rule 1.12(h) would require only that an FCM notify the Commission and its DSRO of a segregation or secured amount deficiency immediately, a firm with a notification obligation under Rule 1.12(h) may incur additional requirements under other early warning rules or Commission regulations. For example, a firm that is undersegregated may also be undercapitalized and thus be required (in addition to notifying the Commission) to comply with various filing requirements under Rule 1.12(a)(2).[15] Although the Commission is not proposing any specific further reporting by an FCM that files notice of a segregation or secured amount deficiency, under Rule 1.10(b)(4) the Commission may request in writing that an FCM also file a Form 1–FR–FCM or provide such other additional financial information as the Commission may require. This could include, for example, a request that the FCM file daily segregation or secured account computations with the Commission for a specified period, rather than simply making such records available for inspection.[16]

Although the Commission's early warning rules already require an FCM to notify the Commission if the FCM is undercapitalized, large market moves such as those which occurred on October 19, 1987, and more recently on October 27, 1997, can cause a firm to be undersegregated even though it is not undercapitalized. A large market move can create unsecured ''debit/deficit'' accounts, which present greater risk for an FCM than undermargined accounts since the customer now owes the FCM money. Accounts of this kind would generally be subject to a margin call. In that case, absent the FCM being aware of doubts regarding its customer's ability to pay the deficit or debit, the FCM carrying the account has one business day from the date on which the deficit or debit ledger balance originated before it must reclassify the account as a ''non-current asset'' in computing its adjusted net capital.[17] Likewise, the FCM must put sufficient funds from its own capital into the segregated account to cover the deficit amount or debit ledger balance, thus ensuring that there are sufficient segregated funds to cover all customers with liquidating equities in their accounts. Should the FCM not have sufficient funds to cover the debit or deficit amount, the FCM would be undersegregated, although not necessarily undercapitalized. The proposed rule is intended to require that notice to the CFTC and the DSRO be provided immediately in such circumstances.[18]

The Commission believes that notice that an FCM is undersegregated or undersecured should be provided immediately. In reviewing other provisions of the early warning requirements, the Commission has

---

[13] The Division of Trading and Markets has stated that any notice required to be transmitted to the Commission under Rule 1.12 by telegraphic notice may be transmitted by facsimile machine. See CFTC Advisory No. 90–2, [1990–92 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,599 (Feb. 6, 1990). The Commission is proposing to codify this Advisory throughout Rule 1.12 to make clear that any written notice can be provided either through telegraphic means or via facsimile transmission.

[14] Rule 1.32 states that each FCM must compute as of the close of each business day the total amount of customer funds on deposit in segregated accounts on behalf of commodity and option customers and the total amount of such funds required by the Act and regulations to be on deposit in segregated accounts on behalf of such customers, as well as the FCM's residual interest in such funds. Rule 30.7(f) states that each FCM must compute as of the close of each business day the total amount of money, securities and property on deposit in separate accounts, the total amount of money, securities and property required to be on deposit in separate accounts and the amount of the FCM's residual interest in money, securities and property on deposit in separate accounts.

[15] Rule 1.12(a)(2) requires that an FCM whose adjusted net capital is below the amount required under Rule 1.17 or under the capital rule of any applicable SRO, within twenty-four hours of giving notice of such occurrence to the Commission, file for the period ''as of'' the date of the adjusted net capital deficiency, a statement of financial condition, a statement of the computation of the minimum capital requirements, the statements of segregation requirements and funds in segregation, and the statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers.

[16] Rule 1.31 requires that all records required by the Act or Commission rules be maintained for five years under specified conditions and be available for inspection by any representative of the Commission or the United States Department of Justice.

[17] Rule 1.17(c)(2) (i) and (vi).

[18] The Commission also proposes to correct the cross-reference in § 1.12(g)(2) concerning consolidation that now refers to ''§ 1.10(f)'' to read ''§ 1.17(f)''.

determined to propose that notices of events now required within 24 hours, which must be provided when an FCM or IB is undercapitalized or when an account must be liquidated, transferred or allowed to trade for liquidation only, now be provided immediately. Such notifications would be required by telephone immediately, to be confirmed in writing by telegraph or facsimile. *See* Rule 1.12 (a)(1), (f)(1), and (f)(2).[19]

III. Related Matters

A. Regulatory Flexibility Act

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 primarily FCMs. The amendment of one provision, § 1.12(f)(1), would affect clearing organizations, and the amendment of another provision, § 1.12(a)(1), would affect IBs. The Commission has previously determined that, based upon the fiduciary nature of the FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[20] Contract markets and their clearing organizations have also been excluded from the definition of small entity.[21]

The proposed amendment to § 1.12(a)(1) concerning notice of undercapitalization would affect the minority of IBs that rely upon their own capital to meet net capital rules, ''independent'' IBs, as well as FCMs. The Commission is proposing to require that this notice be provided immediately rather than within 24 hours as currently required. The notification requirement will remain essential the same, but the timing would be shortened by 24 hours. The Commission believes that this rule amendment is necessary for the Commission and DSROs to be able to carry our their overishgt and monitoring functions concerning the financial condition of futures industry intermediaries and to protect the customers of those firms and the markets. Therefore, any slight increase in the burden on an independent IB caused by the proposed amendment to Rule 1.12(a)(1) is necessary for the Commission to fulfill its regulatory obligation.[22]

Accordingly, on behalf of the Commission, the Chairperson certifies that these proposed rule amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (''PRA''), 44 U.S.C. 3501 *et seq.* (1994), imposes certain requirement on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission anticipates that fewer than 10 FCMs per year would be filing reports under the proposed rule and thus the new rule would not constitute a collection of information under the PRA.[23] The group of rules (3038–0024) of which this is a part has the following burden:

Average Burden Hours Per Response: 128.

Number of Respondents: 1366.

Frequency of Response: On occasion.

Persons wishing to comment on the estimated paperwork burden associated with this proposed rule amendment should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street N.W., Washington, DC 20581, (202) 418.5160.

List of Subjects in 17 CFR Part 1

Commodity futures; minimum financial and relating reporting require.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular, Sections 4f, fg and 8a(5) therof, 7 U.S.C. 6f, 6g and 12a(5), the Commission hereby proposes to amend Part 1 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

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

2. Section 1.12 is amended by revising paragraph (a)(1), by revising the first sentence of paragraph (b)(4), by adding the phrase ''or facsimile'' after the word ''telegraphic'' in paragraphs (c) and (d), by revising paragraph (e), by adding the phrase ''telephonic, confirmed in writing by'' before the word ''telegraphic,'' by adding the phrase ''or facsimile,'' after the word ''telegraphic,'' and by revising the phrase at the end which reads ''within 24 hours'' to read ''immediately'' in paragraphs (f)(1) and (f)(2), by adding the phrase ''telephonic, confirmed in writing by'' before the word ''telegraphic'' and by adding the phrase ''or facsimile,'' after the word ''telegraphic'' in paragraph (f)(3), by adding the phrase ''by telephone, confirmed in writing immediately by telegraphic or facsimile notice,'' after the word ''immediately'' in paragraphs (f)(4) and (f)(5), by revising the phrase in paragraph (g)(2) which reads ''§ 1.10(f)'' to read ''§ 1.17(f)'', by redesignating paragraphs (h)(1) and (h)(2) as paragraphs (i)(1) and (i)(2), respectively, by revising the last sentence of newly redesignated paragraph (i)(2), and by adding a new paragraph (h). The additions and revisions follow:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(a) * * *

(1) Give telephonic notice, to be confirmed in writing by telegraphic or facsimile notice, as set forth in paragraph (i) of this section that the applicant's or registrant's adjusted net capital is less than required by § 1.17 or by other capital rule, identifying the applicable capital rule. This notice must be given immediately after the applicant or registrant knows or should know that its adjusted net capital is less than is required by any of the aforesaid rules to which the applicant or registrant is subject; and

* * * * *

(b) * * *

(4) For securities brokers or dealers, the amount of net capital specified in Rule 17a–11(b) of the Securities and Exchange Commission (17 CFR 240.17a–11(b)), must file written notice to that effect as set forth in paragraph (i) of this section within five (5) business days of such event. * * *

* * * * *

(e) Whenever any self-regulatory organization learns that a member registrant has failed to file a notice or written report as required by this § 1.12, that self-regulatory organization must immediately report this failure by

[19] Certain other provisions of Rule 1.12 currently require immediate notifications. See paragraphs (e), (f)(3), (f)(4) and (f)(5) of Rule 1.12. The Commission is also proposing that these notifications be made by telephone as well as by telegraph or facsimile.

[20] 47 FR 18618–18621 (April 30, 1982).

[21] *Id.*

[22] The Commission evaluates within the context of a particular rule proposal whether all or some IBs should be considered small entities and, if so, analyzes the impact on IBs of the proposal 48 FR 35248, 35276 (Aug. 3, 1983).

[23] 44 U.S.C. 3502(4) 1994)

telephone, confirmed in writing immediately by telegraphic or facsimile notice, as provided in paragraph (i) of this section.

* * * * *

(h) Whenever a person registered as a futures commission merchant knows or should know that the total amount of its funds on deposit in segregated accounts on behalf of customers, or that the total amount set aside on behalf of customers trading on non-United States markets, is less than the total amount of such funds required by the Act and the Commission's rules to be on deposit in segregated or secured amount accounts on behalf of such customers, the registrant must report immediately by telephone, confirmed in writing immediately by telegraphic or facsimile notice, such deficiency to the registrant's designated self-regulatory organization and the principal office of the Commission in Washington, DC, to the attention of the Director and the Chief Accountant of the Division of Trading and Markets.

(i) * * *

(2) * * * Any notice or report filed with the National Futures Association pursuant to this paragraph shall be deemed for all purposes to be filed with, and to be the official record of, the Commission.

Issued in Washington, D.C. on January 6, 1998 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–665 Filed 1–13–98; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SPATS No. UT–032–FOR]

Utah Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions pertaining to a previously-proposed amendment to the Utah abandoned mine land reclamation (AMLR) plan (hereinafter, the ''Utah plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions to Utah's proposed rules pertain to the definitions of ''eligible lands and water'' and ''left or abandoned in either an unreclaimed or inadequately reclaimed condition,'' and to general reclamation requirements for coal lands and waters. The amendment is intended to revise the Utah plan to meet the requirements of the corresponding Federal regulations, to incorporate the additional flexibility afforded by the revised Federal regulations, to clarify ambiguities, and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t., January 29, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Utah plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202

Mark R. Mesch, Administrator, Abandoned Mine Reclamation Program, Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, Box 145801, Salt Lake City, Utah 84114–5801, (801) 538–5340

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 844–1424.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Plan

On June 3, 1983, the Secretary of the Interior approved the Utah plan. General background information on the Utah plan, including the Secretary's findings and the disposition of comments, can be found in the June 3, 1983, **Federal Register** (48 FR 24876). Subsequent actions concerning Utah's plan and plan amendments can be found at 944.25.

II. Proposed Amendment

By letter dated August 5, 1995, Utah submitted a proposed amendment to its plan (administrative record No. UT–1071) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. UT–1011) that OSM sent to Utah in accordance with 30 CFR 884.15(b). The provisions of the Utah Administrative Rules (Utah Admin. R.) that Utah proposed to revise and add were: Utah Admin. R. 643–870–500, definitions of ''eligible lands and water,'' ''left or abandoned in either an unreclaimed or inadequately reclaimed condition,'' and ''Secretary;'' Utah Admin. R. 643–874–100, –110, –124 through –128, –130 through –132, –140 through –144, –150, and –160, general reclamation requirements for coal lands and waters; Utah Admin. R. 643–875–120 and –122 through –125, –130 through –133, –141 through –142, –150 through –155, –160, –170, –180, –190, and –200, noncoal reclamation; Utah Admin. R. 643–877–141, rights of entry; Utah Admin. R. 643–879–141, –152.200, –153, and –154, acquisition, management, and disposition of lands and water; Utah Admin. R. 643–882–132, reclamation on private land; Utah Admin. R. 643–884–150, State reclamation plan amendments; Utah Admin. R. 643–886–130 through –190, State reclamation grants; and Utah Admin. R. 643–886–232.240, reports.

OSM announced receipt of the proposed amendment in the August 22, 1995, **Federal Register** (60 FR 43577), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–1071–3). Because no one requested a public hearing or meeting, none was held. The public comment period ended on September 21, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of Utah Admin. R. 643–870–500, definitions of ''eligible lands and water'' and ''left or abandoned in either an unreclaimed or inadequately reclaimed condition;'' Utah Admin. R. 643–874–120, –121, –123 through–125, and –128, general reclamation requirements; Utah Admin. R. 643–875–132, certification of completion of reclamation of coal sites; Utah Admin. R. 643–877–120, rights of entry; Utah Admin. R. 643–879–154, disposition of reclaimed land; and Utah Admin. R. 643–882–121 and –122, appraisals. OSM notified Utah of the concerns by letter dated March 26, 1996 (administrative record No. UT–1071–8). Utah responded in a letter dated March 12, 1997, by submitting a revised amendment and additional explanatory information (administrative record No. UT–1071–9).

Utah proposed revisions to and additional explanatory information for Utah Admin. R. 643–870–500,