

Issued in Kansas City, Missouri, on April 30, 1996.

Bobby W. Sexton,

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-11167 Filed 5-3-96; 8:45 am]

BILLING CODE 4910-13-U

#### 14 CFR Part 39

[Docket No. Docket No. 94-ANE-56; Amendment 39-9513; AD 96-04-02]

#### Airworthiness Directives; AlliedSignal Inc. ALF502L Series Turbofan Engine

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

**SUMMARY:** This document makes a correction to Airworthiness Directive (AD) 96-04-02 applicable to AlliedSignal Inc. (formerly Textron Lycoming) ALF502L series turbofan engines that was published in the Federal Register on February 29, 1996 (61 FR 7692). The AD number in the compliance section is incorrect. This document corrects the AD number. In all other respects, the original document remains the same.

**DATES:** Effective May 6, 1996.

**SUPPLEMENTARY INFORMATION:** A final rule airworthiness directive applicable to AlliedSignal Inc. (formerly Textron Lycoming) ALF502L engines, was published in the Federal Register on February 29, 1996 (61 FR 7692). The following correction is needed:

On page 7693, in the middle column, in the Compliance Section 2., in the fourth line, "94-04-02" should read "96-04-02."

Issued in Burlington, MA, on April 22, 1996.

Jay J. Pardee,

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

[FR Doc. 96-11173 Filed 5-3-96; 8:45 am]

BILLING CODE 4910-13-U

#### 14 CFR Part 73

[Airspace Docket No. 95-ANE-71]

#### Change in Using Agency for Restricted Areas R-4102A and B, Fort Devens; MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This action changes the using agency for Restricted Areas R-4102A and B, Fort Devens, MA, from "Director of Plans, Training and Security, Fort

Devens, MA" to "Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA." This is an administrative change resulting from a realignment of responsibilities within the Department of the Army. There are no changes to the boundaries, designated altitudes, time of designation, or activities conducted within these restricted areas.

**EFFECTIVE DATE:** 0901 UTC, June 20, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Division (ATA-400), Office of Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-3075.

#### SUPPLEMENTARY INFORMATION:

##### The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the using agency for Restricted Areas R-4102A and B, Fort Devens, MA, from "Director of Plans, Training and Security, Fort Devens, MA" to "Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA." This is an administrative change to reflect organizational changes within the Department of the Army. There are no changes to the dimensions, time of designation, or activities conducted within the affected restricted areas. Because this action is a minor technical amendment in which the public is not particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.41 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 29, 1995.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This action changes the using agency of the restricted areas. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas. Accordingly, this action is not subject to environmental assessments and procedures as set forth in FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts" and the National Environmental Policy Act.

#### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 73.41 [Amended]

2. Section 73.41 is amended as follows:

R-4102A Fort Devens, MA [Amended]

By removing "Using agency, Director of Plans, Training and Security, Fort Devens, MA." and substituting the following: "Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA."

R-4102B Fort Devens, MA [Amended]

By removing "Using agency, Director of Plans, Training and Security, Fort Devens, MA." and substituting the following: "Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA."

Issued in Washington, DC, on April 16, 1996.

Nancy B. Kalinowski,

*Acting Program Director for Air Traffic Airspace Management.*

[FR Doc. 96-11252 Filed 5-3-96; 8:45 am]

BILLING CODE 4910-13-P

#### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Part 3

#### Ethics Training for Registrants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

**SUMMARY:** On December 14, 1995, the Commodity Futures Trading Commission (Commission or CFTC) published for comment proposed amendments to § 3.34, which governs

ethics training for Commission registrants. These amendments require ethics training providers, who have not already been authorized by the Commission to provide ethics training, to pass the Series 3 Examination, the standard industry proficiency test, and possess three years of relevant experience. The rule is now also applicable to state-accredited entities, which in the past were exempt from certain requirements.

**EFFECTIVE DATE:** These rule amendments will become effective June 5, 1996. However, with respect to state-accredited persons or entities providing ethics training pursuant to § 3.34 as of March 29, 1996, the applicable date shall be August 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Associate Chief Counsel or Myra R. Silberstein, Attorney-Advisor, Division of Trading and Markets, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418-5450.

**SUPPLEMENTARY INFORMATION:**

I. Background

Section 210 of the Futures Trading Practices Act of 1992 added a new paragraph (b) to Section 4p of the Commodity Exchange Act (Act) to mandate ethics training for persons required to be registered under the Act.<sup>1</sup> On April 6, 1993, the Commission adopted Rule 3.34 to implement this Congressional mandate.<sup>2</sup> Rule 3.34 requires natural persons registered under the Act to attend ethics training to ensure that they understand their responsibilities to the public under the Act. The required training must address the requirements of the Act and relevant rules concerning the treatment and handling of customer orders and business. Issues to be addressed may include: Honesty, fairness and the interests of customers and the integrity of the markets; effective supervisory systems and controls; assessment of

<sup>1</sup> This provision of the Act is codified at 7 U.S.C. 6p(b) (1994) and states that:

The Commission shall issue regulations to require new registrants, within 6 months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state law, rule or regulation.

<sup>2</sup> 58 FR 19575, 19584-19587, 19593-19594 (Apr. 15, 1993). In September, 1993, the Commission issued a Federal Register release to clarify the procedures to be followed by persons seeking to provide ethics training pursuant to Rule 3.34. 58 FR 47890 (Sept. 13, 1993).

financial circumstances and investment experience of customers; disclosure of material information; and avoidance of conflicts of interest.

New registrants must attend ethics training within six months of being granted registration and every three years thereafter. The initial training is required to be at least four hours in duration; subsequent training must be at least one hour in duration. Persons registered when Rule 3.34 became effective on April 26, 1993 were granted until April 26, 1996 to attend an initial training session of at least two hours in duration and thereafter to attend a one-hour session every three years. Ethics trainers must maintain records of materials used in such training and of attendees at such training.

In December 1995, the Commission adopted amendments to Rule 3.34 to enhance the operation of the ethics training program and furnish additional guidance with respect to the activities of ethics training providers.<sup>3</sup> These amendments, which became effective on January 12, 1996, require, among other things, that a person seeking to provide ethics training certify that he is not subject to a statutory disqualification from registration under the Act,<sup>4</sup> barred from service on self-regulatory organization (SRO) governing boards or committees,<sup>5</sup> or subject to a pending proceeding concerning possible violations of the Act or rules or orders promulgated thereunder.<sup>6</sup> Also in December 1995, the Commission published proposals for further amendments to Rule 3.34 which would require that persons who seek to provide ethics training: (1) present satisfactory evidence of successful completion of proficiency testing

<sup>3</sup> 60 FR 63907 (Dec. 13, 1995).

<sup>4</sup> 7 U.S.C. 12a(2) and (3) (1994). The Act specifies several grounds for disqualification from registration including, among others, a prior revocation of registration, felony conviction, and an injunction relating to futures or securities activities.

<sup>5</sup> No person may serve on SRO governing boards or committees who, among other things, has been found within the prior three years to have committed a "disciplinary offense" or entered into a settlement agreement with respect to a charge involving a "disciplinary offense," is currently suspended from trading on any contract market, is suspended or expelled from membership in any SRO, or is currently subject to an agreement with the Commission or an SRO not to apply for registration or membership. A "disciplinary offense" for these purposes means any violation of the Act or the rules promulgated thereunder or SRO rules other than those relating to: (1) Decorum or attire; (2) financial requirements; or (3) reporting or recordkeeping, unless resulting in fines aggregating more than \$5,000 in a calendar year, provided such SRO rule violations did not involve fraud, deceit or conversion, or result in a suspension or expulsion. 17 CFR 1.63 (1995).

<sup>6</sup> See Commission Rule 3.34(b)(3), 60 FR 63907, 63912.

requirements established by a registered futures association; and (2) possess a minimum of three years of relevant experience. The Commission also proposed to amend Rule 3.34 to eliminate the provision permitting state-accredited entities to provide ethics training without compliance with the requirements applicable to other providers under the rule.<sup>7</sup>

The Commission received five comment letters on the proposed rule amendments. The commenters included a registered futures association, an SRO and three ethics training providers. The commenters generally supported the objectives of the proposed rule amendments, but some commenters recommended modifications of the proposals. Comments addressed to specific provisions of the proposed rule amendments and the Commission's resolution of the issues raised therein are discussed below in the context of the relevant rule provision.

Based upon its review of the comments received and in light of its experience in administering this program, the Commission has adopted, substantially in the form proposed, the amendments to Rule 3.34 regarding ethics training providers published in December 1995. The amendments adopted herein will require any person other than an SRO seeking to provide ethics training to meet a proficiency testing requirement and possess a minimum of three years of relevant experience. These amendments have been adopted generally as proposed, with certain clarifications based upon the Commission's review of the comments received. The provisions of the rule relating to the topics to be covered in ethics training and the minimum requirements for attendance by registrants at such training remain unchanged.

II. Amendments to Commission Rule 3.34

A. Proficiency Testing and Minimum Experience Requirements

Currently, Rule 3.34 requires that any person seeking to provide ethics training to registrants under Rule 3.34, other than an SRO or a state-accredited entity, certify to a registered futures association that such person, any principals thereof (as defined in Commission Rule 3.1(a))<sup>8</sup> and any individuals who, on behalf of such person, present ethics training or prepare ethics training videotapes or electronic presentations are not subject

<sup>7</sup> 60 FR 64132 (Dec. 14, 1995).

<sup>8</sup> 17 CFR 3.1(a) (1995).

to: (1) Statutory disqualification from registration under Sections 8a (2) or (3) of the Act; (2) a bar from service on SRO governing boards or committees based upon disciplinary histories pursuant to Commission Rule 1.63 or any SRO rule adopted thereunder; and (3) a pending adjudicatory proceeding under Sections 6(c), 6(d), or 9 of the Act, or similar proceeding under Section 8a of the Act, or Commission Rules 3.55, 3.56 or 3.60. If the person intends to conduct training via videotape or electronic presentation, he must also certify that he will maintain documentation reasonably designed to verify attendance of registrants at such presentations for the minimum time required. These certifications are continuous; thus, if circumstances change which result in the certification becoming inaccurate, the ethics training provider must promptly so inform the registered futures association which, upon being so notified, shall refuse to include in, or shall remove such person from, the list of ethics training providers.<sup>9</sup>

The amendments to Rule 3.34 proposed in December 1995 would require any person seeking to provide ethics training (other than an SRO) to furnish satisfactory evidence to a registered futures association that he has met the proficiency testing requirement established by a registered futures association pursuant to Section 17(p)(1) of the Act for the registration of commodity professionals<sup>10</sup> and possesses three years of relevant experience. Currently, the National Commodity Futures Examination (Series 3 Exam) is the proficiency test required to be completed by most commodity professionals.<sup>11</sup>

The proficiency requirement, coupled with a three-year experience requirement, provides an even-handed, objective basis for assuring a minimum level of expertise. Further, such standards are compatible with the method used by the Commission to date in reviewing applications from potential offerors of ethics training. As the Commission noted in proposing the original Rule 3.34, "pedagogical expertise and knowledge of futures are factors that should be taken into consideration in evaluating potential

offerors of ethics training."<sup>12</sup> Consequently, in reviewing applications filed under Rule 3.34 by persons seeking to provide ethics training, the Commission has endeavored to assure that such providers demonstrate pedagogical experience and knowledge of the futures markets.

In commenting on these proposed amendments, the National Futures Association (NFA) stated that it fully supports the concept of requiring ethics training providers to meet objective and readily measurable standards of proficiency. NFA reiterated its view, expressed initially in commenting upon the amendments to Rule 3.34 in December 1995, that it is imperative that these standards assure that ethics training providers possess a working knowledge of the futures industry and relevant regulations. NFA expressed its belief that satisfactory completion of the Series 3 Exam, in conjunction with three years of relevant experience, generally will achieve this end.

Two commenters suggested that persons having certain types of experience, e.g., former CFTC Commissioners or non-compensated instructors, should be automatically exempted from the proficiency testing requirement. One commenter expressed concern that the proposed amendments would exclude attorneys who have practiced extensively in this field but who would be unwilling to incur the time and expense associated with taking the Series 3 Exam. This commenter recommended an alternative proficiency requirement to the Series 3 Exam based upon representations that the proposed provider is not subject to a statutory disqualification, is a member in good standing of a state bar association and: (1) Was a CFTC Commissioner or staff attorney or SRO staff attorney for at least two years; (2) has taught a futures course at an accredited university or law school for at least two years; or (3) has had a law practice consisting of at least thirty percent futures work over the previous three years. A second commenter proposed that the Commission exempt from the proficiency testing requirement experienced new instructors who participate in ethics training programs previously authorized by the Commission. This commenter suggested that such an exemption could be limited, so as not to detract from achievement of the objective of assuring effective, high quality ethics training, to instructors who: (1) Co-instruct with at least one other instructor who has passed the Series 3 Exam; (2) possess

qualifications similar to those instructors previously participating as ethics training providers; (3) are not compensated; and (4) meet minimum experience requirements. The commenter supported such an exemption as a means of assuring a healthy influx of additional qualified instructors. This commenter noted that its pro bono instructors are highly experienced in-house counsel and compliance officers of future commission merchants, commodity pool operators and commodity trading advisors and attorneys specializing in financial services law and regulation who have been very effective instructors of ethics training.

The Commission believes that requiring persons who seek to provide ethics training to provide proof of satisfactory completion of a proficiency testing requirement and of three years of relevant industry or pedagogical experience provide objective, readily administered standards for determining knowledge of relevant matters, compliance with which should not be unduly burdensome.<sup>13</sup> Compliance with the proficiency test requirements applicable to registrants is an appropriate benchmark for a minimum level of knowledge of relevant statutory and rule requirements.<sup>14</sup> However, the Commission appreciates that the proficiency requirement may be unduly restrictive in some cases and believes that this requirement can be implemented with sufficient flexibility to permit highly qualified instructors, at least those providing services on a pro bono basis, to participate in ethics training programs with providers who

<sup>13</sup> One commenter suggested that the minimum experience requirement be two years rather than three, because two years corresponds to the minimum experience required by NFA before APs of member futures commission merchants and introducing brokers are permitted to exercise discretion over accounts. See NFA Rule 2-8(d). However, the Commission believes that the special responsibilities of ethics training instructors warrant a three-year minimum experience requirement.

<sup>14</sup> The Commission believes that the Series 3 Exam is the only relevant proficiency test currently available for ethics training providers, since it is the proficiency test that is generally applicable to Commission registrants and is designed to assure a broad working knowledge of the futures industry. Although the Commission recently approved an alternative proficiency testing requirement under which general securities representatives whose commodity interest activity will be limited to managed accounts or commodity pool interests may take the Futures Managed Funds Examination (Series 31 Exam) in lieu of the Series 3 Exam, the Commission believes that even if an ethics training provider wishes to instruct only commodity pool operators, commodity trading advisors and their associated persons (APs), the more comprehensive based Series 3 Exam is the appropriate proficiency test.

<sup>9</sup> Commission Rule 3.34(b)(3), 60 FR 63907, 63912.

<sup>10</sup> Section 17(p)(1) of the Act, 7 U.S.C. 21(p)(1)(1994), provides, in part, that a registered futures association must establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the Act, supervisors of such persons, and all persons for whom it has registration responsibilities.

<sup>11</sup> See NFA Registration Rule 401.

<sup>12</sup> 58 FR 19575, 19586.

have passed the Series 3 Exam. Such service is itself in furtherance of the public interest and established ethical precepts, and the Commission believes that alternative indicia of experience can be relied upon in such cases.

The Commission therefore believes that it would be appropriate for NFA, in establishing proficiency standards, to create either on a case-by-case or generic basis, a waiver of the proficiency test requirement in appropriate cases, where the proposed instructors would serve without compensation and have qualifications that evidence expertise at least comparable to that provided by successful completion of the Series 3 Exam. Such an exception might appropriately be granted in circumstances in which the person: (1) Co-instructs with at least one other instructor who has passed the Series 3 Exam; (2) meets the minimum experience requirements and has experience in financial services law and regulation; and (3) is acting on a pro bono basis, *i.e.*, without compensation other than reimbursement for travel expenses. The Commission contemplates that NFA may grant other exemptions from the proficiency test requirement in special circumstances, such as where a scheduled instructor becomes unavailable.<sup>15</sup>

The Commission intends that the requirement of three years of relevant experience may be satisfied not only by pedagogical experience but, also, by relevant industry experience. For example, such industry experience might be acquired through legal practice in the fields of futures or securities or employment as a compliance officer or risk manager at a brokerage or end-user firm. NFA suggests in its comment letter that guidelines, rather than an itemized list of acceptable positions, be provided to address the types of experience that would be acceptable for this purpose. Such guidelines could include examples of acceptable relevant experience, such as those suggested by the Commission, but would not preclude satisfaction of the relevant experience requirement by other means. NFA (or the Commission if it chose to retain that responsibility) would have the discretion to determine whether a potential provider had demonstrated the relevant experience.<sup>16</sup>

<sup>15</sup> NFA Rule 402 permits NFA's Vice-President of Compliance to waive the general proficiency requirements under circumstances approved by NFA's Board of Directors. See also NFA Interpretive Notices under Rule 402 at ¶9018 and ¶9022.

<sup>16</sup> NFA noted that it employs a similar approach under NFA Compliance Rule 2-8. Rule 2-8 requires NFA associates who exercise discretion over customer accounts to have been registered for two years. NFA may, at its discretion, waive this

NFA expressed its willingness to establish experience requirements but requested confirmation that the Commission intends that it do so. The Commission believes that it is appropriate for NFA to promulgate rules establishing experience and proficiency standards for ethics training providers, subject to the general standards set forth in Rule 3.34.<sup>17</sup> The Commission hereby delegates authority to NFA to promulgate rules establishing experience and proficiency standards for ethics training providers. Such standards may consist of guidelines consistent with the views set forth herein.<sup>18</sup>

#### *B. Applicability of Certification, Proficiency Testing and Experience Requirements*

Rule 3.34 requires that any provider of ethics training, other than an SRO offering ethics training to its members or employees or an entity accredited to conduct continuing education programs by a state professional licensing authority in the fields of law, finance, accounting or economics, file the certification referred to above in order to be included on a list of ethics training providers maintained by a registered futures association. In December 1995, the Commission proposed to amend Rule 3.34 to eliminate the provision permitting state-accredited entities to provide ethics training without compliance with the requirements applicable to other providers under the rule.

The Commission received one comment letter addressing this aspect of the proposals. The commenter, an SRO, supported the proposal to impose proficiency testing and experience requirements upon ethics training providers other than SROs, even if they are state-accredited entities. The SRO stated that until now almost all exchange members received their ethics training from the exchange itself. While the SRO believes that most members will continue to attend ethics training provided by the exchange, a greater number of exchange members may choose to enroll in ethics training programs offered by providers other than the SRO as a result of the December 1995 amendments to Rule

requirement if the associate shows that he has equivalent experience. Although "equivalent experience" is not defined in the rule, NFA has encountered no difficulties in administering this rule.

<sup>17</sup> 60 FR 64132, 64133.

<sup>18</sup> Of course, NFA's rules must be submitted to the Commission for review pursuant to Section 17(j) of the Act, which governs Commission review and approval of registered futures association rules. 7 U.S.C. 21(j) (1994).

3.34 which may increase the availability of videotape and electronic ethics training programs. Therefore, the SRO expressed a strong interest in assuring that non-SRO providers have the necessary knowledge and experience to provide such training.<sup>19</sup>

The Commission is adopting as proposed an amendment to Rule 3.34 to require that state-accredited entities file with the NFA the certification required under Rule 3.34(b)(3)(iii) and comply with the other relevant provisions of Rule 3.34, including proficiency testing and experience requirements. In the absence of such compliance and in light of the potential for significant variations among state-accreditation regimes, the Commission would have no ready means of assuring that such providers have a minimum level of relevant knowledge or experience.<sup>20</sup>

The Commission proposed that the proficiency testing and minimum experience requirements apply to the provider or sponsor of the ethics training program, to any instructors or presenters employed by the provider of such ethics training, and to those persons who prepare ethics training videotapes or electronic presentations. NFA expressed concern that the rule as proposed appeared to require that the ethics training provider itself, which in many instances would be a corporate

<sup>19</sup> The SRO commenter also recommended an additional amendment of Rule 3.34(b)(4) to require that ethics training providers submit records of ethics training attendance by floor traders and floor brokers to the contract markets that have granted them trading privileges as well as to NFA. The Commission adopted an amendment to Rule 3.34(b)(4) in December 1995 to require ethics training providers to furnish records of attendees at such training to a registered futures association but did not propose further amendments to this provision. 60 FR 63907, 63911-63912. While the Commission is generally supportive of contract markets receiving ethics training records on floor traders and floor brokers to whom they have granted trading privileges, the Commission does not believe that an additional amendment to Rule 3.34(b)(4) is necessary to achieve that end. Contract markets may encourage or require their own floor trader and floor broker members to provide satisfactory proof of satisfactory completion of the ethics training requirements. Further, the Commission encourages ethics training providers instructing floor traders and floor brokers to provide this information to the relevant contract markets.

<sup>20</sup> As to whether SROs themselves should be subject to the requirements applicable to other providers under 3.34, the Commission believes that the business purposes and functions of SROs, the statutory and regulatory requirements applicable to SROs, and the Commission's oversight program for assuring compliance by SROs with their responsibilities under the Act and Commission rules provide sufficient assurance of the expertise and fitness of SROs as ethics training providers without the necessity for imposing additional requirements. Consequently, the Commission's proposals with respect to proficiency training and pedagogical or industry experience did not apply to SROs seeking to provide ethics training to their members or employees. 60 FR 64132, 64134.

entity, meet the proficiency and experience requirements. NFA recommended that the Commission clarify this aspect of the rule to make clear that the persons who will be required to meet these standards include the principals of the ethics training provider, any instructors or presenters employed by the provider and persons who prepare ethics training materials, including videotaped and electronic presentations. NFA also recommended that only those principals of registered firms that offer in-house ethics training who are directly involved with the ethics training process be required to meet the proficiency and experience requirements, noting that it would serve no purpose to require all principals of a registered firm to comply with these requirements.

The Commission agrees that clarification of the applicability of the testing and experience requirements is desirable and that these requirements should not apply to all principals of registered firms. The Commission believes that the proficiency testing and experience requirements should apply to persons who are direct participants in ethics training, whether as presenters of such programs, preparers of course materials, or supervisors of such activities. Consequently, the Commission believes that unlike the required representations concerning fitness, which apply to all principals of the ethics training provider, the testing and experience requirements should not apply solely by virtue of status as a principal, but, rather, should be applicable based upon involvement in such programs as instructors, developers, supervisors or managers of such programs.

A person who is currently acting as an instructor or course preparer for an ethics training provider whose application to provide ethics training has previously been granted by the Commission will not be subject to the proficiency testing and minimum relevant experience standards of Rule 3.34. However, should such an ethics training provider seek to add a new instructor or course preparer, such person would be subject to the proficiency testing and minimum relevant experience standards. Persons acting as instructors or presenters of in-person ethics training or preparing videotapes or electronic presentations on behalf of a state-accredited entity must meet the proficiency and experience requirements, even if such persons have previously been operating under Rule 3.34. However, for existing ethics training providers operating as of

March 29, 1996 pursuant to the former Rule 3.34 provision permitting certain state-accredited entities to provide ethics training without further authorization, the effective date for these rule amendments will be deferred for 60 days to allow adequate time for filing the requisite certification and to take and pass the Series 3 Exam.

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 will not affect SROs who wish to provide ethics training but would affect all others who seek to be included on a list of authorized ethics training providers, including entities accredited to conduct continuing education programs by state professional licensing authorities in the fields of law, finance, accounting or economics. The impact of this proposal on persons seeking to become providers of ethics training should be minimal. At this time, a one-time processing fee for the Series 3 Exam offered by the NFA is \$75.00. This should not constitute an unduly burdensome entry cost for ethics training providers; the same cost is incurred by all the attendees at ethics training as a cost of registration. Requiring a minimum level of experience also should not adversely impact small businesses as this requirement should not impose additional financial cost upon such entities. Further, the ethics training requirement, reflects a Congressional mandate to assure that registrants understand their responsibilities to the public under the Act. Therefore, these 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.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has previously submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. While the amendments proposed herein have no burden, Rule 3.34 is a part of a group of rules which has the following burden:

Rules 3.16, 3.32 and 3.34 (3038-0023, approved June 2, 1993):

*Average Burden Hours Per Response:* 1.13.

*Number of Respondents:* 60,980.

*Frequency of Response:* On Occasion and Triennially.

Persons wishing to comment on the information which will be required by these rules as amended should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 1155 21st St. NW, Washington, DC 20581, (202) 418-5170.

List of Subjects in 17 CFR Part 3

Registration, Ethics Training.

Accordingly, the Commission, pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 1a, 4d, 4e, 4g, 4m, 4p, 8a and 17 thereof (7 U.S.C. 1a, 6d, 6e, 6g, 6m, 6p, 12a and 21 (1994), hereby amends Part 3 of 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: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21 and 23; 5 U.S.C. 552, 552b.

2. Section 3.34 is amended by removing and reserving paragraph (b)(3)(ii) and revising the introductory text of paragraph (b)(3)(iii) and paragraph (b)(3)(iii)(A)(3) to read as follows:

**§ 3.34 Mandatory ethics training for registrants.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) [Reserved]

(iii) A person included on a list maintained by a registered futures association who has presented satisfactory evidence to the registered futures association that any individuals, on behalf of such person, who present ethics training, prepare an ethics training videotape or electronic presentation, or who supervise the foregoing, have taken and passed the proficiency testing requirements for an ethics training provider, as established by rules of a registered futures association that have been approved by the Commission, and possess a minimum of three years of relevant experience for an ethics training

provider, as established by rules of a registered futures association that have been approved by the Commission, and who certifies that:

(A) \* \* \*

(3) A pending adjudicatory proceeding under sections 6(c), 6(d), 6c, 6d, or 9 of the Act, or similar proceeding under Section 8a of the Act, or §§ 3.55, 3.56, or 3.60; and

\* \* \* \* \*

Issued in Washington, DC on April 25, 1996, by the Commission.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96-10730 Filed 5-3-96; 8:45 am]

BILLING CODE 6351-01-P

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 100**

[CGD13-96-012]

RIN 2115-AE46

**Special Local Regulations; Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Direct final rule.

**SUMMARY:** By this direct final rule, the Coast Guard is permanently amending a special local regulation governing general navigation and anchorage in the vicinity of the Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races. Changes made to this regulation will clarify its annual effective date and will revise the boundaries of the regulated area. This change is intended to better inform the boating public and to improve the level of safety at this event.

**DATES:** This rule is effective on July 22, 1996, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before June 20, 1996.

**ADDRESSES:** Comments may be mailed to U.S. Coast Guard Group Portland, 6767 N. Basin Ave., Portland, OR 97217-3992. The comments and other materials referenced in this notice will be available for inspection and copying at the above address in the St. Helens Building, Waterways Management Section. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may also be hand-delivered at this address.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) C.A. Roskam, Waterways Management Section, U.S.

Coast Guard MSO/Group Portland, OR (Telephone: (503) 240-9327).

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

Any comments must identify the name and address of the person submitting the comment, specify the rulemaking docket (CGD13-96-012) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

**Regulatory Information**

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05-55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the Federal Register stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the Federal Register to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published a new opportunity for comment provided.

A comment is considered "adverse" if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

**Background and Purpose**

Each year, during the last week in July, the Annual Kennewick,

Washington, Columbia Unlimited Hydroplane Races are held on the waters of the Columbia River between the western end of Hydro Island and the western end of Clover Island. Under current Coast Guard regulations, 33 CFR 100.1303, a special local regulation is established each year during the event to provide for public safety by controlling the movement of spectators and participants in the area of the race course.

The current regulations do not clearly state the days and times each year when the become effective. In years past, the Coast Guard has published a notice of implementation in the Federal Register in order to clearly announce the effective dates and times of the regulations for a given year. This direct final rule will permanently amend 33 CFR 100.1303, making the regulation effective each year on the last Tuesday through Sunday in July from 8:30 a.m. local time until the last race is completed each day at approximately 7:30 p.m. local time.

In recent years, the number of recreational vessels transiting the area near the race course and the number of spectator craft anchoring in the vicinity of the race course has greatly increased. The majority of the recreational vessels drawn to this event congregate in the vicinity of the upstream end of the race course. Often, spectator craft anchoring upstream of the race course break free of their anchorage and drift downstream onto the race course, endangering both themselves and race participants.

To promote the safety of spectators and participants, the boundaries of the regulated navigation area created by this special local regulation are being revised. This revision will move the upriver boundary an additional 400 yards upriver. This change is intended to increase the distance between the upriver boundary of the regulated area and the race course, therefore decreasing the likelihood that spectator boats will drift downriver into the course. At the same time the downriver boundary of the regulated area will be moved upriver and additional 1,000 yards. This change is intended to decrease the distance between the downriver boundary of the regulated area and the race course, therefore encouraging spectators to observe the race from the downriver side where there is little danger of drifting into the course.

**Discussion of Rules**

The Coast Guard is permanently amending 33 CFR 100.1303—Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races.