

**SUPPLEMENTARY INFORMATION:****History**

In April 2002, the DOE signed an agreement transferring responsibility for the daily use of R-4809 to the USAF. On May 14, 2003, the USAF submitted a request to add the Los Angeles ARTCC as the controlling agency of R-4809, and to change the area's using agency from the DOE to the USAF.

**The Rule**

This action responds to the above agreement and requested changes. Specifically, this action adds "FAA, Los Angeles ARTCC," as the controlling agency for R-4809, and changes the using agency from the "DOE, Albuquerque Operations Office, NM," to the "USAF, Headquarters Air Warfare Center, Nellis AFB, NV." These changes will designate R-4809 as a joint-use area, and make the airspace accessible to nonparticipating aircraft. This action does not change any boundaries, times of designation, or activities conducted in the restricted airspace area.

Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K, dated September 26, 2002.

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. Therefore, this regulation: (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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**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—SPECIAL USE AIRSPACE**

■ 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.

**§ 73.48 [Amended]**

■ 2. § 73.48 is amended as follows:

\* \* \* \* \*

**R-4809, NV [Amended]**

By removing "Using agency. DOE, Albuquerque Operations Office, NM," and substituting "Using agency. USAF, Headquarters Air Warfare Center, Nellis AFB, NV."

By adding "Controlling agency. FAA, Los Angeles ARTCC."

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Issued in Washington, DC, on July 10, 2003.

**Paul Gallant,**

*Acting Manager, Airspace and Rules Division.*  
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**COMMODITY FUTURES TRADING COMMISSION****17 CFR Part 4**

**RIN 3038–AB39**

**Performance Data and Disclosure for Commodity Trading Advisors**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is adopting regulations establishing a core principle for commodity trading advisors ("CTAs") with regard to performance disclosures concerning partially-funded accounts. The core principle specifies that such disclosure must be offered in a manner that is balanced and is not in violation of the antifraud provisions of the Commodity Exchange Act (the "Act") or the Commission's regulations thereunder.

**EFFECTIVE DATE:** August 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kevin P. Walek, Assistant Director,

telephone: (202) 418–5463 or Eileen Chotiner, Futures Trading Specialist, telephone: (202) 418–5467, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. E-mail: [kwalek@cftc.gov](mailto:kwalek@cftc.gov) or [echotiner@cftc.gov](mailto:echotiner@cftc.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On March 13, 2003, the Commission published in the **Federal Register**<sup>1</sup> proposed rule amendments regarding the computation and presentation of rate of return information and other disclosures concerning past performance of accounts over which the CTA has had trading authority. In that release, the Commission also sought comment on whether a core principle should replace detailed performance requirements.

The Commission received thirteen comments on the proposal. The commenters included one industry association,<sup>2</sup> one CTA,<sup>3</sup> one bar association,<sup>4</sup> one consumer organization,<sup>5</sup> one accounting firm,<sup>6</sup> the National Futures Association ("NFA"), and seven members of the public.<sup>7</sup> The industry and bar associations, NFA, and the CTA supported the amendments, particularly the use of nominal account size as the basis for computing rates of return. The seven members of the public and the consumer organization submitted comments expressing concern over the use of nominal account size rather than actual funds as the basis for presentation of a CTA's past performance. Commenters who addressed the core principle approach indicated that specific standards for performance presentation should exist in an area in which continuity and comparability are important, although several indicated that additional flexibility in the application of those standards would be welcome. These comments are discussed more fully below.

<sup>1</sup> 68 FR 12001 (Mar. 13, 2003).

<sup>2</sup> Managed Funds Association ("MFA").

<sup>3</sup> John Henry & Company, Inc.

<sup>4</sup> Association of the Bar of the City of New York, Committee on Futures Regulation.

<sup>5</sup> Consumer Federation of America ("CFA").

<sup>6</sup> Arthur F. Bell, Jr., & Associates, LLC.

<sup>7</sup> One of these commenters, Paul H. Bjarnason, Jr., is an accountant and former Commission employee. Six commenters, Elizabeth M. Buckman, Bonnie Kayser, James S. Finucane, Christine E. Schoen, Laura M. Stephens, and Ray Weaver, submitted identical letters.