

discretion of the Commission, the Commission's General Counsel, or the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance.

(i) A submitter whose confidential treatment request has been upheld by the Commission shall, upon request of the General Counsel, aid the Commission in defending a court action to compel the Commission to disclose the information subject to the confidential treatment request. If the submitter is unwilling to aid the Commission in this regard, the General Counsel may, in appropriate cases, make the information available to the public.

[51 FR 26871, July 28, 1986, as amended at 64 FR 26, Jan. 4, 1999]

APPENDIX A TO PART 145—COMPILATION OF COMMISSION RECORDS AVAILABLE TO THE PUBLIC

The following documents are available, upon request, directly from the office indicated. Unless otherwise noted, the mailing address for the Commission offices listed below is Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

- (a) *Office of External Affairs.*
- (1) Commitments of Traders Reports.
 - (2) Weekly Advisory.
 - (3) Studies Prepared by Commission staff.
 - (4) Educational material (e.g., newsletters, brochures, annual reports, conference or advisory meetings, technical information about specific markets or contracts).
 - (5) Press releases.
 - (6) Rule enforcement and financial reviews (public version).
 - (7) CFTC litigation documents (e.g. administrative and civil complaints, injunctions, initial decisions, opinions and orders).
 - (8) Commission rules and regulations, FEDERAL REGISTER notices, interpretative letters.
 - (9) Speeches, Commissioner biographies and photographs.
 - (10) Statistical data concerning the Commission's budget.
 - (11) Statistical data concerning specific contracts and markets.
- (b) *Office of the Secretariat, room 4072 (Public reading area with copying facilities available).*
- (1) Comment letters and CFTC summaries of comment letters.
 - (2) Terms and conditions of proposed contracts (after publication of notice of availability in the FEDERAL REGISTER.)
 - (3) Exchange 5a(a)(12) rule amendment proposals and CFTC responses.
 - (4) National Futures Association (NFA) rule amendments.

(5) Exchange and NFA disciplinary action notifications.

(6) Open Commission meeting minutes.

(7) Sunshine certificates for closed Commission meetings.

(8) CFTC Advisory Committee final reports.

(9) Opinions and orders of the Commission.

(10) Reparations orders and enforcement orders index.

(11) Rulemaking index.

(12) Exchange membership notification.

(c) *Office of Proceedings.*

(1) Documents contained in reparations and enforcement cases, unless subject to protective order.

(2) Complaint packages, which contain the Reparation Rules, Brochure "Questions and Answers About How You Can Resolve a Commodity-Market Related Dispute," and the complaint form.

(3) Rules of Practice concerning administrative enforcement proceedings.

(d) *Executive Director, Administrative Services Section.* Information Collection requests submitted to the Office of Management and Budget relating to requirements under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(e) *Division of Market Oversight.*

(1) Weekly stocks of grain reports.

(2) Weekly cotton or call reports.

(f) *Division of Enforcement.* Complaint package containing Division of Enforcement Questionnaire and list of federal, state and local enforcement authorities.

(g) *Division of Clearing and Intermediary Oversight.* Publicly available portions of registration documents are available from the National Futures Association, 200 West Madison Street, Chicago, Illinois 60606. See Commission Rule 145.6.

[51 FR 26874, July 28, 1986, as amended at 57 FR 29203, July 1, 1992; 59 FR 5528, Feb. 7, 1994; 60 FR 49335, Sept. 25, 1995; 64 FR 27, Jan. 4, 1999; 67 FR 62353, Oct. 7, 2002; 67 FR 63539, Oct. 15, 2002]

APPENDIX B TO PART 145—SCHEDULE OF FEES

(a) *Charges for requests.* The following charges may be made where applicable for responding to requests for records.

(1) Three dollars for each one-quarter hour spent by clerical personnel in searching for or reviewing records.

(2) Where a search or review cannot be performed by clerical personnel, \$4.50 for each quarter hour spent by professional personnel in searching for or reviewing records.

(3) The Commission uses a variety of computer systems to support its operations and store records. Older systems of records, particularly systems involving large numbers of records, are maintained on a mainframe

computer. More recently, systems have been developed using small, inexpensive, shared computer systems to store records. Systems of use in particular programmatic and administrative operations may also store records on the workstation computers assigned to particular staff members. For searches of records stored on the Commission's mainframe computer, the use of computer processing time will be charged at \$456.47 for each hour, \$7.61 for each minute, and \$0.1268 for each second of computer processing time indicated by the job accounting log printed with each search. When searches require the expertise of a computer specialist, staff time for programming and performing searches will be charged at \$32.00 per hour. For searches of records stored on personal computers used as workstations by Commission staff and shared access network servers, the computer processing time is included in the search time for the staff member using that workstation as set forth in the other paragraphs under paragraph (a) of Appendix B.

(4) Document duplication, including computer printouts, will be charged at \$0.15 per page.

(5) For copies of materials other than paper records, such as computer tapes or cassette tapes, the requesting party shall be charged the actual cost of materials and reproduction, including the time of clerical personnel at a rate of \$3.00 per quarter hour.

(6) When, in accordance with §145.7(f), a request has been made and granted to examine Commission records at an office of the Commission other than the office in which the records are routinely maintained, the requesting party (i) shall reimburse the Commission for the actual cost of transporting the records and (ii) shall be charged at a rate 3.00 for each quarter hour devoted by clerical personnel in preparing the records for transit.

(7) For certifying that requested records are true copies, the charge will be \$3.00 per certification.

(8) Upon request, records will be mailed by means of overnight or express mail at the fee of \$10.00 per package mailed.

(b) *Waiver or reduction of fees.* Fees shall be waived or reduced by the Commission if (i) the fees is less than \$5.00, the approximate cost to the Commission of collecting the fee; or, (ii) if the Commission determines that the disclosure of the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(c) *Applicability of fees.* Fees shall be charged even if no records are ultimately furnished to the requester. Fees apply to various types of requests as follows.

(1) *Commercial use request.* Fees for search time, review time and duplication of records

will be charged to requests from or on behalf of one who seeks information for a user or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(2) *Educational institution or noncommercial scientific institution.* Only duplication fees will be charged to schools or to organizations which operate solely for the purpose of scientific research, the results of which are not intended to promote any particular product or industry. No charge will be made for the first 100 pages duplicated or for search or review time.

(3) *Representative of the news media.* Only duplication fees will be charged to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. No charge will be made for the first 100 pages duplicated or for search or review time.

(4) *Other requesters.* Fees for search time and duplication will be charged to requesters who are not covered by one of the categories above. No charge will be made for the first two hours of search time, the first 100 pages of duplication, or for review time. If the search is for records stored in a computer format, a combination of computer operation charges and search time charges will be waived up to the equivalent of two hours of professional search time.

(d) *Aggregation of requests.* For purposes of determining fees, the Commission may aggregate reasonably related requests if multiple requests are made within a 30-day period or if there is a solid basis for believing that multiple requests were made solely to avoid fees.

(e) *Notification of fees.* A request for Commission records may state that the party is willing to pay fees up to a stated limit for services to be provided in searching, reviewing and duplicating requested records. If such a statement is made, no work will be done that will result in fees beyond the stated limit without written authorization. If no limit is stated, no work will be done that will result in fees in excess of \$25.00 without written authorization from the requester.

(f) *Advance payment of fees.* The Commission may request advance payment of all or part of the fee (i) when fees are expected to exceed \$250; or (ii) when a requester has previously failed to pay fees in a timely fashion.

(g) *Payment of fees.* Payment should be made by check or money order payable to the Commodity Futures Trading Commission.

(h) *Interest on fees.* The Commission will begin charging interest on unpaid bills starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

Pt. 145, App. D

17 CFR Ch. I (4-1-04 Edition)

(i) *Collection of fees.* If fees not paid, the Commission may disclose debts to appropriate authorities for collection or to consumer reporting agencies.

[52 FR 19308, May 22, 1987, as amended at 64 FR 27, Jan. 4, 1999]

APPENDIX C TO PART 145 [RESERVED]

APPENDIX D TO PART 145—SCHEDULE OF FEES FOR WEEKLY ADVISORY CALENDAR

(a) The annual cost of a mailed subscription to the Commission's weekly Advisory Calendar shall be \$65.00. The cost of a subscription beginning in the middle of a fiscal year shall be \$1.25 times the number of weeks remaining in the fiscal year. There shall be no cost to the following categories of subscribers: media, Congress, Federal agencies, State and local enforcement agencies, and educational institutions.

(b) Annual subscriptions to the weekly Advisory Calendar shall run on a fiscal-year basis, from October 1 through September 30. The fee for an annual subscription must be received by the last day of the preceding fiscal year. The fee shall not be refundable.

(c) Payment shall be made by check or money order in the amount of \$65.00 made payable to the Commodity Futures Trading Commission. Checks or money orders should be sent to the Office of Public Affairs, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Payment may be accepted only by personnel in the Office of External Affairs.

(Secs. 2(a)(11) and 8a(5), Commodity Exchange Act (7 U.S.C. 4a(j) and 12a(5)); sec. 26, Futures Trading Act of 1978, as amended by sec. 237, Futures Trading Act of 1982 (7 U.S.C. 16a); Independent Offices Appropriation Act of 1952, as amended, Pub. L. 97-258, 96 Stat. 1051 (Sept. 13, 1982))

[49 FR 34819, Sept. 4, 1984, as amended at 60 FR 49335, Sept. 25, 1995; 67 FR 63539, Oct. 15, 2002]

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

Sec.

- 146.1 Purpose and scope.
- 146.2 Definitions.
- 146.3 Requests by an individual for information or access.
- 146.4 Procedures for identifying the individual making the request.
- 146.5 Disclosure of requested information to individuals; fees for copies of records.
- 146.6 Disclosure to third parties.
- 146.7 Content of systems of records.
- 146.8 Amendment of a record.

146.9 Appeals to the Commission.

146.10 Information supplied by the Commission when collecting information from an individual.

146.11 Public notice of records systems.

146.12 Exemptions.

146.13 Inspector General exemptions.

APPENDIX A TO PART 146—FEES FOR COPIES OF RECORDS REQUESTED UNDER THE PRIVACY ACT OF 1974

AUTHORITY: 88 Stat. 1896 (5 U.S.C. 552a), as amended; 88 Stat. 1389 (7 U.S.C. 4a(j)).

SOURCE: 41 FR 3212, Jan. 21, 1976, unless otherwise noted.

§ 146.1 Purpose and scope.

(a) This part contains the rules of the Commodity Futures Trading Commission implementing the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a). These rules apply to all records maintained by this Commission which are not excepted or exempted as set forth in § 146.12, insofar as they contain personal information concerning an individual, identify that individual by name or other symbol and are contained in a system of records from which information is retrieved by the individual's name or identifying symbol. Among the primary purposes of these rules are to permit individuals to determine whether information about them is contained in Commission files and, if so, to obtain access to that information; to establish procedures whereby individuals may have inaccurate and incomplete information corrected; and, to restrict access by unauthorized persons to that information.

(b) In this part the Commission is also exempting certain Commission systems of records from some of the provisions of the Privacy Act of 1974 that would otherwise be applicable to those systems. These exemptions are authorized under the Privacy Act, 5 U.S.C. 552a(k).

§ 146.2 Definitions.

For purposes of this part 146:

(a) The term *Commission* means the Commodity Futures Trading Commission;

(b) The term *Executive Director* refers to the executive level staff official appointed pursuant to section 2(a)(5) of the Commodity Exchange Act.

(c) The term *FOI, Privacy and Sunshine Acts compliance staff* refers to the