rules requiring disclosure that the Commission might prescribe, and, in Rule 701, the Commission tracked those items. Nonetheless, in promulgating the Rule, the Commission attempted to comply with the Congressional mandate in Section 102 of the Act while minimizing the economic impact on affected businesses. For example, the Commission limited the disclosure requirements to warranties on consumer products actually costing the consumer more than $15.00. Furthermore, the Commission exempted ''seal of approval'' programs from providing the disclosures on the actual seal.

The comments provided some indication that the Commission succeeded in drafting the Rule so as not to make it unduly burdensome to business. The comments from AAMA and NAIMA indicate that Rule 701 is not unreasonably costly to warrantors. These two commenters indicated that the system is working well. The AAMA stated that the current system is working well and is not unreasonably costly to warrantors: The Rules are workable and understood by industry and that there is no evidence that the adequacy of warranty disclosure nor that the legal sufficiency of the warranties given is a major source of complaints, nor is there evidence that customers are unaware of their warranty rights. The AAMA stated ''As presently structured, these Rules are workable and effective, and permit warrantor compliance without unreasonable expense.'' [84]

The NAIMA echoed AAMA's opinion. NAIMA indicated that the costs of the warranty regulations are not imposed upon businesses by government, but rather are voluntarily assumed by companies that choose to offer written warranties. As such, NAIMA states that ''any cost incurred by a firm would be calculated into a business decision to offer a warranty or guarantee and should not be weighed as a factor to eliminate or diminish the requirement.'' [85]

The other commenters were silent as to the effects of Rule 701 on small businesses. Therefore, based on the information available, the Commission has determined that, to the extent that Rule 701's requirements are not Congressionally mandated, the current version of Rule 701 does not unduly burden small businesses.

List of Subjects in 16 CFR Parts 239, 700, 701, 702, and 703.

Warranties, advertising, dispute resolution, trade practices.

Authority: 15 U.S.C. 41–58.

[84] AAMA at 2.

[85] NAIMA at 3.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–9841 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

Fees for Applications for Contract Market Designation, Audits of Leverage Transaction Merchants, and Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission periodically adjusts fees charged for certain program services to assure that they stay in line with current Commission costs. In this regard, the staff recently reviewed the Commission's actual costs of processing applications for contract market designations (17 CFR Part 5, Appendix B), audits of leverage transactions merchants (17 CFR Part 31, Appendix B) and reviews of the rule enforcement programs of contract markets and registered futures associations (17 CFR Part 1, Appendix B). As a result of this review, the Commission is adopting final fees for applications for contract market designation for a futures contract, submitted to the Commission for review and approval by contract markets, which will be reduced from $7,900 to $6,800; contract market designation for an option contract which will be reduced from $1,600 to $1,200; and simultaneous applications for contract market designation for a futures contract and an option on that futures contract, which will be reduced from a combined fee of $8,500 to a combined fee of $7,500.

In addition, the Commission is adopting the final fees for 1999 for the Commission's review of the rule enforcement program at the registered futures association and the contract markets regulated by the Commission as described under **SUPPLEMENTARY INFORMATION.**

Finally, the Commission is eliminating the list of fees for audits of leverage transaction merchants because there have been no leverage transaction merchants registered with the Commission for a number of years and none is expected to register in the near future.

DATES: The fee schedule for reviews of the programs of listed contract markets and the registered futures association must be paid by the named entities no later than June 21, 1999. The reduced fee for filing futures and option contracts singly or simultaneously is effective April 22, 1999. The list of fees for audits of Leverage Transaction Merchants is no longer provided upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Office of the Executive Director, (202) 418–5160, Paul Bjarnason, Division of Trading and Markets, (202) 418–5459, or Richard Shilts, Division of Economic Analysis, (202) 418–5275, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation and performing reviews of the rule enforcement programs of contract markets and the registered futures association.[1] The starting point for the determination of all fees, including both contract market designations and reviews of rule enforcement programs, is the average of the previous three years' actual costs incurred for each of the above-mentioned activities. However, as explained below in section II, all contract markets pay a uniform fee for filing applications with the Commission for the designation of new contracts. With respect to the Commission's review of programs of rule enforcement, a unique fee is assessed each entity, based upon the actual costs of the particular review conducted at each entity. The costs of performing a rule enforcement review at a contract market or registered futures association vary according to the size and complexity of the entity's program. To ensure that high fees do not unduly burden small exchanges, the Commission's formula provides for some reduction in the fee assessed, as explained in section II below.

Actual costs include the direct salaries of the personnel assigned to each activity plus overhead. The overhead added to the direct salary costs is based upon various indirect costs including: indirect personnel costs (leave and benefits), rent, communications, travel/transportation, contract services, utilities, equipment

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701.

and supplies. All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which is an agency-wide time accounting system. Overhead is calculated according to a government-wide standard established by the Office of Management and Budget. The overhead rate applied usually differs each year due to fluctuations in the component costs included in overhead. The overhead rate for fiscal year 1996 was 98%, for fiscal year 1997 was 91% and for fiscal year 1998 was 104% (rounded to nearest whole percent). As stated above, once the total direct personnel costs for each fee item have been determined for each year, the overhead factor for that year is applied, and the three-year costs are averaged. The three-year annual average of costs is used to compute the fee schedule amounts, as explained in detail below.

II. Applications for Contract Market Designation

A. History

On August 23, 1983, the Commission established a fee for contract market designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs and the number of contracts, reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time, most of designation applications were for futures contracts as opposed to option contracts, and the same fee was applied to both futures and option designation applications.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an option contract designation. It also determined that, when designation applications for both a futures contract and an option on that futures contract were submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Based upon that finding, three separate fees were established—one for futures alone, one for options alone, and one for combined futures and option contract applications (57 FR 1372). The combined futures/option designation application fee is set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option is lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

B. Fees for Applications for Contract Market Designation

The Commission staff reviewed the actual costs of processing applications for contract market designation for a futures contract for fiscal years 1996, 1997 and 1998 and found that the average cost over the three-year period was $6,810 per contract. The review of actual costs of processing applications for contract market designation for an option contract for fiscal years 1996, 1997 and 1998 revealed that the average cost over the same period was $1,268 per contract. Accordingly, the Commission has determined that the final fee for applications for contract market designations as a futures contract will be reduced to $6,800, and the final fee for applications for contract market designation as an option contract will be reduced to $1,200 in accordance with the Commission's regulations (17 CFR Part 5, Appendix B). In addition, the final combined fee for contract markets simultaneously submitting designation applications for a futures contract and an option contract on that futures contract will be reduced to $7,500 per combined filing.

The fee for futures contract applications also applies to options on physicals applications. Because the requirements for designation of an option on a physical are substantially identical to those of futures contracts, the same fee will apply to both types of filings.[2]

The Commission is also today publishing separately in the **Federal Register** a proposal to establish reduced fees for a limited class of simultaneously submitted multiple contract market designation application filings.

III. Rule Enforcement Reviews of Contract Markets and Registered Futures Associations

Under the formula adopted in 1993 (58 FR 42643 (August 11, 1993), which appears in 17 CFR Part 1, Appendix B), the Commission calculates the fee for its review of rule enforcement programs based on its actual costs. The Commission has provided for a downward adjustment to reduce an exchange's fee below actual costs if actual costs (as a percentage of total rule enforcement review program costs) are greater for the particular exchange than that exchange's pro-rata portion of contracts traded industry-wide (total contract volume for the exchange as a percentage of total U.S. futures industry contract volume). As noted above, this feature of the formula generally reduces the fee burden on the smaller exchanges.

Specifically, the fee required of each contract market is equal to the lesser of: average annual costs based upon the three-year historical average of costs for that contract market or one-half the average annual costs incurred by the Commission pertaining to each contract market for the most recent three-years, plus a pro-rata share (based upon average trading volume for the most recent three years) of the aggregate of average annual costs of all the contract markets for the most recent three years. The formula for calculating the second factor mentioned above is 0.5a + 0.5vt = current fee. In the formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across exchanges over the last three years and ''t'' equals the average annual cost for all exchanges. The one registered futures association regulated by the Commission, National Futures Association (NFA), has no contracts traded, and thus, NFA's fee is based simply on the average costs for the most recent three fiscal years.

Following is a summary of data used in the calculations and the resultant fee for each entity:

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
Chicago Board of Trade	$259,841	46.0317	$259,841
Chicago Mercantile Exchange	228,215	35,6595	228,215
New York Mercantile Exchange	204,627	15.1517	174,062
Coffee, Sugar & Cocoa Exchange	66,814	2.2468	44,046

[2] In this regard, under the Commission's Guideline No. 1, which details the information an application for contract market designation must include, all of the requirements for futures contract applications (whether providing for physical delivery or cash settlement) also apply to options on physicals applications, plus several additional requirements that apply uniquely to options. See, for example, 63 FR 38537, July 17, 1998.

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
New York Cotton Exchange	155,338	1,2997	83,824
Kansas City Board of Trade	15,055	0.4074	9,457
Minneapolis Grain Exchange	16,558	0.1979	9,216
Philadelphia Board of Trade	624	0.0054	338
Subtotal	947,072	100.0000	808,999
National Futures Association	327,551	N/A	327,551
Total	1,274,624	100,0000	1,136,550

Below is an example of how the fee was calculated for one exchange, the Minneapolis Grain Exchange:

(i) Average annual costs are $16,558;

(ii) Alternative computation is:

(.5)($16,558) + (.5)(.1979%) (947,042) = $8,279 + $937 = *$9,216*

(iii) The fee is the lesser of (i) and (ii) = $9,216.

As noted above, NFA, a registered futures association, has no contracts and, therefore, is billed for average annual costs. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1996 through 1998 was $327,551 (⅓ of $982,654). Therefore, the fee to be paid by NFA pertaining to fiscal year 1998 is $327, 551.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9939 Filed 4–21–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 3027]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This rule finalizes the proposed rule published February 5, 1999 (64 FR 5725) and implements sections of the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). The INTCA added new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The rule authorizes the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also amends the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

Finally, the rule amends regulations by replacing the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under this rule, the Board of Appellate Review no longer has jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services is final.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon E. Palmer-Royston, Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, U.S. Department of State, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524 (202) 955–0231.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 2961 at 64 FR 5725, February 5, 1999, with a request for comments, for numerous sections of Title 22, Parts 50 and 51 of the Code of Federal Regulations. The rule was primarily proposed to implement provisions of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416 (INTCA), though it also makes a procedural change for appeal of adverse passport action. The rule was discussed in detail in Public Notice 2961, as were the Department's reasons for the changes to the regulations. The rules incorporate changes to those sections in Parts 50 and 51 explained below.

A passport when issued for its full validity period and a ''Report of Birth Abroad of a Citizen of the United States'', issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The rule amends the regulations by providing for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of