

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–307–AD.

Applicability: Model 777–200 series airplanes having line numbers 1 through 144; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the aft wheel well bulkhead, which could result in rapid in-flight decompression of the airplane, accomplish the following:

General Visual Inspection

(a) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice of the aft wheel well bulkhead, in accordance with Part I of the Accomplishment Instructions of the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-

light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

(1) If no excess sealant is detected, no further action is required by this paragraph.

(2) If any excess sealant is detected, prior to further flight, remove the excess sealant from the aft wheel well bulkhead area in accordance with the alert service bulletin.

Inspections/Modification

(b) For Groups 1 and 2 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect cracking of the adjacent structure of the aft wheel well bulkhead and perform a one-time high frequency eddy current (HFEC) inspection to detect cracking of the fastener holes in the web, side fitting, and outer chord of the aft wheel well bulkhead, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(1) If no cracking is detected during the general visual and HFEC inspections, prior to further flight, modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(2) If any cracking is detected during the general visual inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(3) If any cracking is detected during the one-time HFEC inspection, prior to further flight, remove additional fasteners, and perform a second HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(i) If no cracking is detected during the second HFEC inspection, prior to further flight, oversize all the holes to the diameter specified in the alert service bulletin, and perform a third HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(A) If no cracking is detected during the third HFEC inspection, prior to further flight, replace the fasteners with new fasteners and modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(B) If any cracking is detected during the third HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(ii) If any cracking is detected during the second HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(c) For airplanes on which cracking has been detected during any inspection required by paragraph (b)(2), (b)(3)(i)(B), or (b)(3)(ii), prior to further flight, repair in accordance with a method approved by the Manager, Seattle Airplane Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(d) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, on which excess sealant was detected and removed in accordance with paragraph (a) of this AD: Prior to further flight following the accomplishment of the modification required by paragraph (b) of this AD, remove any excess sealant in the remaining area of the lower lobe of the aft wheel well bulkhead between stringers S–27L and S–27R, in accordance with the alert service bulletin.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riffin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30798 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–ZA01

Proposed Revision of the Commission's Procedure for the Review of Contract Market Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: As part of an ongoing program of regulatory reform, the Commodity Futures Trading Commission ("CFTC" or "Commission") is proposing to revise its procedures for the review of contract market rules and rule amendments. Subject to stated conditions, the proposed rulemaking would permit contract markets to place new rules and rule amendments into effect on the business day following their submission to and receipt by the Commission.

DATES: Comments must be received on or before January 25, 2000.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418-5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5490.

SUPPLEMENTARY INFORMATION

I. Statutory and Regulatory Background

Section 5a(a)(12)(A) of the Commodity Exchange Act ("Act") provides, among other things, that all rules¹ of a contract market that relate to terms and conditions² in futures or option contracts traded on or subject to the rules of a contract market must be submitted to the Commission for its prior approval. Section 5a(a)(12)(A) further requires that contract markets submit all other rules to the Commission for prior review. Other sections of the Act require rules addressing specified matters to be explicitly approved by the Commission.³

¹ Commission Regulation 1.41(a)(1) defines "rule" of a contract market to mean "any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof."

² Commission Regulation 1.41(a)(2) defines "terms and conditions" to mean "any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract."

³ For example, Section 4f(b) of the Act requires that contract markets must receive Commission approval for any minimum financial standards that they establish for futures commission merchants and introducing brokers.

Pursuant to Section 5a(a)(12)(A), the Commission adopted Regulation 1.41 which sets forth procedures for the submission and review of proposed contract market rules. These procedures vary depending on the type of rule that the contract market seeks to implement. Paragraph (b) of Regulation 1.41 establishes review procedures for rules that relate to terms and conditions of a contract. Paragraph (c) of the regulation establishes review procedures for most rules that do not relate to terms and conditions.⁴ Commission Regulation 1.41 also contains procedures for the filing of other types of exchange rules that may be implemented before or simultaneous to filing with the Commission. These include, among others, rules that are exempt from the requirements of Section 5a(a)(12)(A) of the Act (Regulation 1.41(d)), temporary emergency rules (Regulation 1.41(f)), and physical emergency rules (Regulation 1.41(g)).

Section 4(c) of the Act provides that "[i]n order to promote responsible economic or financial innovation and fair competition," the Commission may exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to Section 4(a) of the Act⁵ from any of the requirements of that provision or from any other provision of the Act except Section 2(a)(1)(B). The Commission may not grant such an exemption unless it determines that the agreement, contract, or transaction would be consistent with the public interest.

Pursuant to this authority, the Commission is proposing to exempt contract markets from the rule review requirements of Section 5a(a)(12)(A) of the Act and from the regulations adopted thereunder. The Commission

⁴ In *Federal Register* releases published on March 7, 1997, (62 FR 10434 and 62 FR 10427), the Commission adopted amendments to streamline and to expedite the procedures contained in Regulations 1.41 (b) and (c). Those amendments established alternative procedures that shortened the Commission's timeframe for reviewing contract market rules. Under these "fast track" review procedures, rule changes generally can be deemed approved, or permitted to be put into effect without Commission approval, ten days after Commission receipt, unless the Commission takes action to commence review of the rule for a 45-day period (or 75-day period in the case of rules published for comment in the *Federal Register*). The rules of certain non-cash settled contracts may be deemed approved forty-five days after receipt by the Commission.

⁵ Among other things, Section 4(a) of the Act prohibits any person from executing, confirming the execution of, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery, unless such transaction is conducted subject to the rules of a board of trade which has been designed by the Commission as a contract market for such commodity.

would continue to pursue vigorously its surveillance and enforcement activities. The Commission intends that this proposed rulemaking, and the manner in which the Commission would conduct oversight of contract market rules adopted pursuant to such a provision, should "promote responsible economic or financial innovation and fair competition."

II. The Proposed Amendments

A. Description of the Procedure

Proposed Commission Regulation 1.41(z) would permit contract markets⁶ to place a new rule into effect the business day after the Commission has received submission of the rule. There would be no requirement, as under current regulations, to allow for prior Commission review of the rule. The submission would have to include a brief explanation of the rule and a description of any substantive opposing views expressed by members of the contract market or others with respect to the rule. In addition, the contract market would be required to certify that the rule submitted neither violates nor is inconsistent with any provision of the Act or the Commission's regulations. Although the form and content requirements for Regulation 1.41(z) rule filings would be more abbreviated than those for rule filings pursuant to Regulations 1.41(b) or 1.41(c), the Commission would retain its authority under Section 4(d) of the Act and other relevant provisions to conduct investigations, to gather information, and generally to oversee the contract market's adherence with the requirements and conditions of the Act.

B. Eligibility for the Procedure

1. Previous Designation as a Contract Market

In a companion *Federal Register* release (the "Companion Release"), the Commission is adopting today a new Regulation 5.3 that establishes a similar streamlined procedure for the listing of contracts, and their subsequent amendment, without Commission prior review and approval.⁷ That procedure will be available solely to boards of trade that are designated as contract markets in at least one contract that is not dormant.⁸ In its comment letter on that proposal, the Chicago Mercantile Exchange supported this provision,

⁶ For the purposes of Regulation 1.41, the term "contract market" includes a clearing organization that clears futures contract transactions. Regulation 1.41(a)(3).

⁷ The new designation procedure was proposed on July 20, 1999. 64 FR 40528 (July 27, 1999).

⁸ See Commission Regulation 5.2.

noting that start-up exchanges are not appropriate for this procedure, as "the initial designation of a board of trade as a contract market entails a more lengthy review and analysis of its trading and clearing systems and its self-regulatory programs." The Commission believes that this rationale is equally applicable to the review of rules from inactive contract markets. Accordingly, the Commission is proposing to make the Regulation 1.41(z) process available solely to contract markets which are designated in at least one non-dormant contract.

2. Consistency with the Act and the Commission Regulations

A contract market would be required to submit a certification that the rule being implemented neither violated nor was inconsistent with any provision of the Act or the Commission regulations. This is the standard used by the Commission in determining whether to disapprove a rule.⁹ Thus, the Regulation 1.41(z) procedure would not be available for contract market rules that, in the absence of some type of Commission exemption, would violate, or be inconsistent with the Act or the Commission regulations. For example, under Regulation 1.38(a), transactions are required to be executed in an open and competitive manner. Regulation 1.38(a), however, also permits exchanges to adopt rules for the execution of non-competitive transactions so long as such rules are submitted to and approved by the Commission. Thus, Regulation 1.38(a) reserves to the Commission the authority to determine what types of trading procedures need not meet the open and competitive requirement. Accordingly, non-competitive trading rules, such as certain block trading procedures, would not qualify for the Regulation 1.41(z) process because, absent affirmative Commission approval under Regulation 1.38, they would violate a provision of the regulations.

C. Legal Certainty

In the Companion Release, the Commission is adopting a provision that makes clear that, among other things, contracts listed pursuant to Rule 5.3 are not void or voidable in the event the Commission initiates a proceeding to disapprove, to alter, to amend, or to require a contract market to adopt a specific trading rule or procedure or to refrain from taking a specific action. The Commission is including a similar

provision in proposed Regulation 1.41(z)(2) to ensure legal certainty for transactions effected subject to rules implemented pursuant to Regulation 1.41(z). Although the Commission would not approve, affirmatively allow into effect, or deem approved any contract market rules that were implemented pursuant to this proposed rulemaking, Regulation 1.41(z)(3) would expressly state that the submitting contract market would not be exempt from any provision of the Act or the Commission's regulations other than the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations. Therefore, for example, contract markets implementing rules pursuant to Regulation 1.41(z) would continue to be subject to the rule enforcement obligations of Section 5a(a)(8) of the Act.

III. Request for Comments

The Commission is requesting comment on any aspect of the proposed procedure, including, but not limited to, the following.

A. Exclusivity of Regulation 14.1(z) Process

Under the current rule review process of Regulation 1.41(b), rules relating to terms and conditions must be submitted for Commission approval. Rules that do not relate to terms and conditions must be submitted for Commission review pursuant to other provisions of Regulation 1.41. Unless the Commission determines otherwise, such rules may be deemed approved or placed into effect, as appropriate.

Contract markets on occasion specifically request that the Commission approve a rule that otherwise did not require Commission approval under any provision of the Act or the Commission Regulations. Contract markets rules processed under Regulation 1.41(z) would simply be placed into effect and would not be considered to have been "approved" by the Commission. The Commission is proposing the Regulation 1.41(z) procedure as an alternative to the existing Regulation 1.41 process. Under this proposal, contract markets could still submit a rule pursuant to Regulation 1.41(b) or 1.41(c), even if that rule qualified for the Regulation 1.41(z) process. However, the existence of these various rule review procedures may create confusion for market participants with respect to the regulatory history of rules and may lead to the inaccurate impression that rules adopted pursuant to Regulation 1.41(z)

or 5.3 have been reviewed by the Commission.¹⁰

As a means of avoiding this possible confusion, the Commission requests comment on whether it should preserve the current approval process for rules that would qualify for the Regulation 1.41(z) process or whether the proposed Regulation 1.41(z) process should be the only process available. Similarly, should the Commission make the Regulation 5.3 procedure adopted today the sole means of listing new contracts and of amending their terms and conditions?

B. Suspension of Effectiveness of a Rule

The Act requires notice and opportunity for hearing before a rule may be disapproved or altered. This process can be lengthy. Market participants and others adversely affected by a rule change could incur harm during this period. The Commission requests comment on whether it should reserve the authority, under Regulation 1.41(z), to stay or to suspend the operation of an exchange rule once it has initiated a proceeding under Section 5a(a)(10), 5a(a)(12), 8a(7) or 8a(9) of the Act.

C. Contracts with Open Interest

The Commission is requesting comment on whether the Regulation 1.41(z) process should be available for rule amendments relating to contracts that have open interest at the time the rule is implemented. Could the rights of such position holders be impacted by a rule change affecting their contracts? How could the Commission and/or a contract market ensure that traders are not harmed by the adoption of a rule amendment for a contract with open positions?

D. Emergency Rules

In Section 5a(a)(12)(B) of the Act, Congress mandated that the Commission create a special process for the implementation of contract market rules on an emergency basis without Commission approval. Section 5a(a)(12)(B) was adopted in the *Futures Trading Practices Act of 1992*. The legislative history for this provision indicates that "the Committee [on Agriculture] was concerned that the Commission might not be actively engaged in decisions by exchanges to invoke their emergency powers."¹¹ The Commission notes that proposed

¹⁰ So, for example, rules that were adopted pursuant to Regulation 1.41(z) or 5.3 would not have been reviewed by the Commission for possible antitrust implications.

¹¹ See Reported No. 101-236 to accompany H.R. 2869, 101st Cong., 1st Sess. at 20.

⁹ See Standard to be Applied by the Commission in Disapproving Contract Market Rules. 45 FR 34873 (May 23, 1980).

Regulation 1.41(z) may obviate the need for a contract market to follow Section 5a(a)(12)(B), and its implementing regulatory provision, Regulation 1.41(f), when adopting emergency rules. The Commission requests comment on how to differentiate an emergency rule provision from any other rule that could be adopted pursuant to proposed Regulation 1.41(z).

E. New Electronic Trading Systems

As noted, the Regulation 1.41(z) process would not be available to a board of trade that is not designated as a contract market in at least one non-dormant contract. The implementation of a new electronic trading system and adoption of related rules could be viewed as being analogous to the organization of a new exchange in many respects. The Commission requests comment on whether proposed rules implementing a new electronic trading system at an existing contract market should be processed under for Regulation 1.41(z).

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). This rulemaking establishes streamlined procedures for the review of contract market rules and rule amendments. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Agency Information Activities: Proposed Collection; Comment Request

Proposed Regulation 1.41(z) contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission has submitted a copy of this section to the Office of Management and Budget ("OMB") for its review.

Collection of Information: Rules Pertaining to Contract Markets and Their Members, OMB Control Number 3038-0022.

The effect of the proposed Regulation 1.41(z) will be to reduce the burden previously approved by OMB for Regulations 1.41(b) and (c) by 4290 hours because the predominant number

of rule submissions will be made pursuant to new proposed Regulation 1.41(z) instead of either Regulation 1.41(b) or (c). The burden associated with the proposed new Regulation 1.41(z) is estimated to be 858 hours which will result from compliance with the requirements for information required for Regulation 1.41(z) submissions.

The estimated burden of new Regulation 1.41(z) was calculated as follows:

- Number of respondents:* 11.
 - Annual responses by each respondent:* 26.
 - Total annual responses:* 286.
 - Estimated average hours per response:* 3.
 - Annual Reporting Burden:* 858 hours.
- The revised estimated burden of Regulations 1.41(b) and (c) (which was 4,125 hours and 825 hours, respectively) is:
- Regulation 1.41(b).
 - Number of respondents:* 11.
 - Annual responses by each respondent:* 2.
 - Total annual responses:* 22.
 - Estimated average hours per response:* 25.
 - Annual Reporting burden:* 550 hours.
 - Regulation 1.41(c).
 - Number of respondents:* 11.
 - Annual responses by each respondent:* 2.
 - Total annual responses:* 22.
 - Estimated average hours per response:* 5.
 - Annual Reporting burden:* 110.
- The burden associated with the entire collection (3038-0022) including this proposed rule is as follows:
- Number of respondents:* 15,893.
 - Number of responses per year:* 434,052.
 - Estimated average hours per response:* 1.8095.
 - Annual Reporting Burden:* 785,443 hours.

This annual reporting burden of 785,443 hours represents a reduction of 3,432 hours as a result of proposed new Regulation 1.41(z).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary

for the proper performance of the functions of the Commission, including whether the information will have a practical use;

- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington DC 20581, (202) 418-5160.

List of Subjects in 17 CFR Part 1

Brokers, Commodity exchanges, Commodity futures, Contract markets, Reporting and recordkeeping requirements, Rule review procedures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT 1

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, 6l, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24, unless stated otherwise.

2. Section 1.41 is amended by adding a paragraph (z) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(z) Exemption from the rule review procedure requirements of Section 5a(a)(12) of the Act and related regulations. (1) Notwithstanding the rule filing requirements of Section 5a(a)(12) of the Act and related Commission regulations, a contract market may place a rule into effect without prior Commission review or approval provided that:

(i) The contract market has filed a submission for the rule, and the Commission has received the submission at its Washington, D.C. headquarters and at the regional office having jurisdiction over the contract market by close of business on the business day preceding implementation of the rule;

(ii) The contract market is designated in, or clears, at least one commodity contract, under Sections 4c, 5, 5a(a) and 6 of the Act, which is not dormant within the meaning of § 5.2 of part 5 of the Commission's regulations; and

(iii) The rule submission includes:

(A) The text of the rule (in the case of a rule amendment, brackets must indicate words deleted and underscoring must indicate words added);

(B) A brief explanation of the rule;

(C) A description of any substantive opposing views expressed by members of the contract market or others with respect to the rule; and

(D) A certification by the contract market that the rule neither violates nor is inconsistent with any provision of the Act or of the regulations thereunder.

(2) A transaction effected subject to a rule implemented under this paragraph shall not be void or voidable as a result of:

(i) A violation by the contract market of the provisions of this section; or

(ii) The initiation, conduct or disposition of any Commission proceeding to disapprove the rule or require the contract market to revise the rule.

(3) This paragraph does not exempt contract markets from any provision of the Act or the Commission's regulations, except for the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations.

Issued in Washington, DC on November 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-30512 Filed 11-24-99; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

RIN 3038-ZA00

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has established fees for certain program services, including applications for contract market designation. The Commission is proposing to eliminate its fees for futures and option contract market designation applications.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418-5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: Paul Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. 202-418-5160.

SUPPLEMENTARY INFORMATION:

Background Information

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation for futures and option contracts.¹ The fees for contract market designations represent the average of the most recent three-years' actual costs incurred for each of that activity. The Commission first established a fee for contract market designations on August 23, 1983. The fee was based upon a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period of time.

In 1992, the Commission revised its fee structure by establishing three separate fees—one for futures alone; one for options alone; and one for combined futures and option contract applications. (57 FR 1372, (January 14,

1992)).² On June 8, 1999, the Commission further modified its fee structure for a limited class of designation applications submitted simultaneously where each proposed contract in the filing is: (i) Cash settled based on an index of non-tangible commodities; (ii) the cash-settlement procedure is the same for all contracts in the filing; and (iii) all other terms and conditions of the contracts are the same in all respects except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract. (64 FR 30384, June 8, 1999).³

II. Recent Revisions to the Designation Process

In a companion notice published elsewhere in this edition of the **Federal Register**, the Commission is adopting a final rule 5.3 that would permit exchanges to list contracts for trading without Commission approval. This is in response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness.

As explained in the notice of final rulemaking, boards of trade will be permitted to list contracts for trading based only upon their certification that the contract meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder and that they comply with the other provisions of the rule. The exchange certification procedure for listing new contracts is in lieu of the otherwise required application for contract market designation. Under the rule, contracts may be listed for trading indefinitely in reliance upon the exchange's certification.

² The combined futures/option designation application fee was 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 was even 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.

³ The fees for designation applications currently in effect are as follows:

- Futures contracts alone—\$6,800
- Option contracts alone—\$1,200
- Futures contracts with options—\$7,500

The reduced fees for simultaneous submission of multiple cash-settled contracts are as follows:

- for filings involving multiple cash-settled futures—\$6,800 for the first contract plus \$680 for each additional contract;
- for filings involving multiple options on cash-settled futures — \$1,200 for the first contract plus \$120 for each additional contract; and
- for filings involving multiple combined cash-settled futures and options on those futures—\$7,500 for the first futures and option contract plus \$750 for each additional futures and option contract.

¹ See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).