

Commodity Futures Trading Commission

§ 148.22

the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act as provided in part 145 of this chapter. For that purpose, the applicant shall file a copy of its motion with the Commission's Freedom of Information Act Compliance Staff in the Office of the Secretariat, Washington, DC.

§ 148.13 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Presiding Officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 148.14 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the adjudicatory proceeding or in a significant and discrete substantive portion of the proceeding, subject to the separate hearing procedure pursuant to § 10.63(b) of this chapter, but in no case later than 30 days after the Commission's final disposition of the adjudicatory proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of

(1) The date on which an initial decision by the Presiding Officer becomes final pursuant to § 10.84 of this chapter;

(2) Issuance of an order disposing of any petitions for reconsideration of the Commission's final order in the proceeding pursuant to § 10.106 of the Rules of Practice;

(3) If no petition for reconsideration is filed, the last date on which such a petition could have been filed pursuant to § 10.106 of the Rules of Practice; or

(4) Issuance of a final Commission order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

Subpart C—Procedures for Considering Applications

§ 148.21 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the adjudicatory proceeding, except as provided in § 148.12(b) for confidential financial information.

§ 148.22 Answer to application.

(a) Within 30 days after service of an application, counsel representing the Commission or other agency against which an award is sought may file an answer to the application. Unless counsel for the Commission or for another relevant agency requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If counsel for the Commission or for another relevant agency and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the Presiding Officer upon request by counsel for the Commission or for another relevant agency and the applicant.

(c) Any answer shall explain in detail any objections to the award requested and identify the facts relied on in support of the position of counsel for the Commission or for another relevant agency. If the answer is based on any