manufacturers, including Reliance, have previously received exemptions from FMVSS No. 224.* * *

The agency notes that gravity feed dump trailers are more common and represent a larger vehicle population compared to RCC horizontal discharge trailers. Accordingly, we are concerned that exempting a larger vehicle population from the requirements of the standard may lead to negative safety consequences exceeding those associated with exempting only the RCC horizontal discharge trailers. Because of a larger vehicle population and because of their versatility of use, the agency cannot conclude that a risk of an underride collision with a gravity feed dump trailer is negligible. Finally, we note that Reliance's request is outside the scope of the NPRM, and this rulemaking action cannot exempt other types of vehicles from the requirements of FMVSS No. 224 without further notice.

(See 69 FR at 67666.)(Emphasis added.)

Thus, in the November 2004 final rule, we declined to provide a blanket exemption from FMVSS No. 224 for gravity feed dump trailers.

IV. Reliance's Current Application for a Temporary Exemption From FMVSS No. 224

The application, dated June 15, 2006, addressed in today's document is the third from Reliance requesting a temporary exemption from FMVSS No. 224. Pursuant to 49 CFR Part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* Reliance presents the following arguments in favor of its application.

A. Reliance's Statement of Economic Hardship

Reliance stated that during the past year, the ''Pony Trailers'' have accounted for 55 percent of its manufacturing profits. Reliance stated that if it must comply with FMVSS No. 224, the ''Pony Trailers'' would be ''rendered inefficient'' for the paving industry, the primary end user of the product, and Reliance would have no alternative than to discontinue production of the Sturdyweld product line. If Reliance discontinues production of the Sturdyweld product line, it will be forced to reduce its workforce, commensurate with the decline in overall sales and profits. This would cause approximately thirty employees to lose their jobs. With the discontinuation of the Sturdywell product line, and subsequent loss of profit, Reliance would fall well below profitability, and may ultimately be forced to cease operations.

B. Reliance's Statement of Good Faith Efforts To Comply

Reliance states that asphalt lay-down equipment has a hopper, into which the ''Pony Trailer'' dumps hot mix. Reliance states that the ''Pony Trailer'' is a gravity feed dump trailer that dumps material into a hopper positioned directly behind the rear axle. Reliance states that this requires that the ''Pony Trailer's'' rear axle be set so the back edge of the rear tire is 18 inches to 24 inches ahead of the rear most point of the trailer, and that anything behind the rear axle would interfere with the operation of the lay-down equipment.

Reliance states that the area behind the rear axle is where the underride bumper would be, and provides an illustration. Reliance states that any underride bumper would either have to be moved out of the way, or removed during the paving operation. Reliance stated that it is unaware of any manufacturer of similar trailers that has been able to design economically or purchase a movable bumper that meets FMVSS No. 224 requirements.

Reliance states that the 18 to 24 inches behind the rear tires required for paving is only slightly more than the 12 inches required to meet the axle back requirement. Reliance considers this to be a much safer position than the typical over the road freight hauling trailer, where the distance from the back of the tire to the end of the trailer can reach upwards of 110 inches if no rear impact guard were in place.

Reliance states that it has continued to explore any options that the company believes would permit compliance with FMVSS No. 224 and allow operation of the ''Pony Trailers'' in conjunction with paving equipment. Reliance states that it has exhausted ''all known possibilities.'' Reliance stated that it will continue to work with its customers to look for a ''viable solution'' to this issue.

C. Reliance's Statement of Public Interest

Reliance states that it anticipates building fewer than 100 units of the ''Pony Trailer'' per year, and concludes that the quantity of ''Pony Trailers'' produced is very small in comparison to over the road type units. Reliance states that the typical hauls for ''Pony Trailers'' are short with a minimal amount of time spent traveling on highways, compared with most freight trailers. Reliance states that asphalt batch plants are typically set up close to the paving site, so that the asphalt can remain hot enough to flow from the trailer into the paver and spread effectively. Reliance states that the vehicles spend very little time traveling on busy roads to the job location. Reliance states that special access is often provided to the job site, reducing exposure to other vehicles, and that ''at this time'' it is unaware of any collisions or subsequent injuries related to the ''Pony Trailer.''

Reliance states that it is in the public interest to grant the temporary exemption so that it can continue as a profitable company, can allow Reliance to retain and expand its current workforce, thus stimulating the economy, and so that Reliance can continue to ''produce a quality product'' to serve the paving industry, and the needs of the American people by continuing safe and effective operation of paving equipment, to produce, new, as well as maintain existing roads for transportation needs.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8.

Issued on: August 8, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–15836 Filed 8–13–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Safety; Notice of Delays in Processing Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
PM—Party to application with modification request.

Issued in Washington, DC, on August 8, 2007.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

MODIFICATION TO SPECIAL PERMITS

Application number	Applicant	Reason for delay	Estimated date of completion
10481–M	M–1 Engineering Limited, Bradfrod, West Yorkshire	4	09–30–2007
14167–M	Trinityrail, Dallas, TX	1,3,4	09–30–2007
8915–M	Matheson Tri Gas, East Rutherford, NJ	4	08–31–2007

NEW SPECIAL PERMIT APPLICATIONS

Application number	Applicant	Reason for delay	Estimated date of completion
14385–N	Kansas City Southern Railway Company, Kansas City, MO	4	09–30–2007
14442–N	Trinityrail, Dallas, TX	4	09–30–2007
14482–N	Classic Helicopters, Woods Cross, UT	1	08–31–2007
14483–N	WEW Westerwaelder Eisenwerk, Weitefeld Germany	4	10–31–2007
14470–N	Marsulex, Inc., Springfield, OR	4	08–31–2007
14457–N	Amtrol Alfa Metalomecanica SA, Portugal	4	09–30–2007
14436–N	BNSF Railway Company, Topeka, KS	4	09–30–2007
14402–N	Lincoln Composites, Lincoln, NE	1	12–31–2007

[FR Doc. 07–3974 Filed 8–13–07; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 664]

Methodology To Be Employed in Determining the Railroad Industry's Cost of Capital

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice.

SUMMARY: The Board proposes to revise its method for calculating the railroad industry's cost of capital by computing the cost of equity using a capital asset pricing model.

DATES: Comments on this proposal are due by September 13, 2007. Reply comments are due by October 15, 2007.

ADDRESSES: Comments may be submitted either via that Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: STB Ex Parte No. 664, 395 E Street, SW., Washington, DC 20423–0001.

Copies of written comments will be available from the Board's contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: *asapdc@verizon.net;* telephone number: 202–306–4004). The comments will also be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

FOR FURTHER INFORMATION CONTACT: Paul A. Aguiar at (202) 245–0323. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Surface Transportation Board (the Board) has issued a notice seeking public comments on the following proposed change to the methodology to calculate the railroad industry's cost of capital. To calculate the cost of equity component of the cost of capital, we propose to replace the Discounted Cash Flow method currently used with a Capital Asset Pricing Model (CAPM).

To calculate the cost of equity, we propose to use the following simple single-Beta version of the CAPM model: Cost of equity = RF + β*RP. In this equation, RF is the annual economy-wide risk-free rate, RP is the annual market-wide risk premium, and β (or Beta) is the measure of systematic, non-diversifiable risk of a particular carrier. The industry-wide cost of capital will be determined as a weighted average of individual railroad costs, using the same methodology as is used now.

To calculate the annual risk-free rate, we propose to use the 10-year Treasury Bond rate. The FRB uses a short-term Treasury Bill rate and the CTA uses both short-term and long-term rates. We believe a longer rate is superior and the 10-year is the longest Treasury Bond that has been continuously issued. A comprehensive study found that 70% of corporate and financial advisors use Treasury bond yields of maturities of 10 years or greater. *See* Bruner, Eades, Harris, and Higgins, *Best Practices in Estimating the Cost of Capital: Survey and Synthesis,* Fin. Practice & Educ. at 13–29 (Spring/Summer 1998) (*Best Practices*). Moreover, the risk-free rate used by investors should be risk free over the time period of the investment, and railroad assets are often long-lived. Finally, an advantage of using long-term rates is that they contain long-term inflation expectations. Using a 10-year risk-free rate therefore makes the proposed CAPM calculation more forward looking.

To calculate the annual market-wide risk premium, we propose to use monthly New York Stock Exchange (NYSE) data over a 50-year time period. Because this calculation is essentially an average return, a longer time period is usually chosen. We invite comments on the appropriate time period. While we propose to calculate the market risk premium each year, we also seek