Issued in Washington, DC, on February 7, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–0018 (Notice No. 08–1)]

Information Collection Activities Under OMB Review; 2008 Renewals

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requests (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comments. The ICRs describe the nature of the information collections and their expected burden. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published in the **Federal Register** on November 30, 2007 [72 FR 67782] under Docket No. PHMS–2007–27181 (Notice No. 07–11). No comments pertaining to the renewal of these information collections were received.

DATES: Interested persons are invited to submit comments on or before March 14, 2008.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget (OMB), Attention: Desk Officer for PHMSA, 725 17th Street, NW., Washington, DC 20503. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe or T. Glenn Foster, U.S. Department of Transportation, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR parts 110 and 130 and the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) abstract of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the **Federal Register**.

PHMSA requests comments on the following information collections:

Title: Testing, Inspection and Marking Requirements for Cylinders.

OMB Control Number: 2137–0022.

Type of Request: Extension of a currently approved information collection.

Abstract: Requirements in § 173.301 for qualification, maintenance and use of cylinders require that cylinders be periodically inspected and retested to ensure continuing compliance with packaging standards. Information collection requirements address registration of retesters and marking of cylinders by retesters with their identification number and retest date following conduct of tests. Records showing the results of inspections and retests must be kept by the cylinder owner or designated agent until expiration of the retest period or until the cylinder is reinspected or retested, whichever occurs first. These requirements are intended to ensure that retesters have the qualifications to perform tests and to identify to cylinder fillers and users that cylinders are qualified for continuing use. Information collection requirements in § 173.303 require that fillers of acetylene cylinders keep, for at least 30 days, a daily record of the representative pressure to which cylinders are filled.

Affected Public: Fillers, owners, users and retesters of reusable cylinders.

Recordkeeping:

Estimated Number of Respondents: 139,352.

Estimated Number of Responses: 153,287.

Estimated Annual Burden Hours: 168,431.

Frequency of collection: On occasion.

Title: Approvals for Hazardous Materials.

OMB Control Number: 2137–0557.

Type of Request: Extension of a currently approved information collection.

Abstract: Without these requirements there is no means to: (1) Determine whether applicants who apply to become designated approval agencies are qualified to evaluate package design, test packages, classify hazardous materials, etc.; (2) verify that various containers and special loading requirements for vessels meet the requirements of the HMR; and (3) assure that regulated hazardous materials pose no danger to life and property during transportation.

Affected Public: Businesses and other entities which must meet the approval requirements in the HMR.

Recordkeeping:

Estimated Number of Respondents: 10,723.

Estimated Number of Responses: 11,074.

Estimated Annual Burden Hours: 25,605.

Frequency of collection: On occasion.

Title: Rail Carrier and Tank Car Tank Requirements.

OMB Control Number: 2137–0559.

Type of Request: Extension of a currently approved information collection.

Abstract: This information collection consolidates and describes the information provisions in parts 172, 173, 174, 179, and 180 of the HMR on the transportation of hazardous materials by rail and the manufacture, qualification, maintenance and use of tank cars. The types of information collected include:

(1) *Approvals of the Association of American Railroads (AAR) Tank Car*

Committee: An approval is required from the AAR Tank Car Committee for a tank car to be used for a commodity other than those specified in part 173 and on the certificate of construction. This information is used to ascertain whether a commodity is suitable for transportation in a tank car. AAR approval also is required for an application for approval of designs, materials and construction, conversion or alteration of tank car tanks constructed to a specification in part 179 or an application for construction of tank cars to any new specification. This information is used to ensure that the design, construction or modification of a tank car or the construction of a tank car to a new specification is performed in accordance with the applicable requirements.

(2) *Progress Reports:* Each owner of a tank car that is required to be modified to meet certain requirements specified in § 173.31(b) must submit a progress report to the Federal Railroad Administration (FRA). This information is used by FRA to ensure that all affected tank cars are modified before the regulatory compliance date.

(3) *FRA Approvals:* An approval is required from FRA to transport a bulk packaging (such as a portable tank, IM portable tank, intermediate bulk container, cargo tank, or multi-unit tank car tank) containing a hazardous material in container-on-flat-car or trailer-on-flat-car service other than as authorized by § 174.63. FRA uses this information to ensure that the bulk package is properly secured using an adequate restraint system during transportation. Also an FRA approval is required for the movement of any tank car that does not conform to the applicable requirements in the HMR. PHMSA proposed (September 30, 1999; 64 FR 53169) to broaden this provision to include the movement of covered hopper cars, gondola cars, and other types of railroad equipment when they no longer conform to Federal law but may safely be moved to a repair location. These latter movements are currently being reported under the information collection for special permit applications.

(4) *Manufacturer Reports and Certificate of Construction:* These documents are prepared by tank car manufacturers and are used by owners, users and FRA personnel to verify that rail tank cars conform to the applicable specification.

(5) *Quality Assurance Program:* Facilities that build, repair, and ensure the structural integrity of tank cars are required to develop and implement a quality assurance program. This information is used by the facility and DOT compliance personnel to ensure that each tank car is constructed or repaired in accordance with the applicable requirements.

(6) *Inspection Reports:* A written report must be prepared and retained for each tank car that is inspected and tested in accordance with § 180.509 of the HMR. Rail carriers, users, and the FRA use this information to ensure that rail tank cars are properly maintained and in safe condition for transporting hazardous materials.

Affected Public: Manufacturers, owners and rail carriers of tank cars.

Recordkeeping:

Estimated Number of Respondents: 266.

Estimated Number of Responses: 16,782.

Estimated Annual Burden Hours: 2,689.

Frequency of collection: Annually.

Title: Inspection and Testing of Meter Provers.

OMB Control Number: 2137–0620.

Type of Request: Extension of a currently approved information collection.

Abstract: This information collection and recordkeeping burden is the result of efforts to eliminate special permits that are no longer needed and incorporate the use, inspection, and maintenance of mechanical displacement meter provers (meter provers) used to check the accurate flow of liquid hazardous materials into bulk packagings, such as portable tanks and cargo tank motor vehicles, under the HMR. These meter provers are used to ensure that the proper amount of liquid hazardous materials is being loaded and unloaded involving bulk packagings, such as cargo tanks and portable tanks. These meter provers consist of a gauge and several pipes that always contain small amounts of the liquid hazardous material in the pipes as residual material; and, therefore, must be inspected and maintained in accordance with the HMR to ensure they are in proper calibration and working order. These meter provers are not subject to the specification testing and inspection requirements in Part 178. However, these meter provers must be visually inspected annually and hydrostatic pressure tested every five years in order to ensure they are properly working as specified in § 173.5a of the HMR. Therefore, this information collection requires that:

(1) Each meter prover must undergo and pass an external visual inspection annually to ensure that the meter provers used in the flow of liquid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(2) Each meter prover must undergo and pass a hydrostatic pressure test at least every five years to ensure that the meter provers used in the flow of liqiuid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(3) Each meter prover successfully completing the test and inspection must be marked in accordance with § 180.415(b) and in accordance with § 173.5a.

(4) Each owner must retain a record of the most recent visual inspection and pressure test until the meter prover is requalified.

Affected Public: Owners of meter provers used to measure liquid hazardous materials flow into bulk packagings such as cargo tanks and portable tanks.

Recordkeeping:

Estimated Number of Respondents: 50.

Estimated Number of Responses: 250.

Estimated Annual Burden Hours: 175.

Frequency of collection: On occasion.

Title: Requirements for United Nations (UN) Cylinders.

OMB Control Number: 2137–0621.

Type of Request: Extension of a currently approved information collection.

Abstract: This information collection and recordkeeping burden is the result of efforts to amend the HMR to adopt standards for the design, construction, maintenance and use of cylinders and multiple-element gas containers (MEGCs) based on the standards contained in the United Nations (UN) Recommendations on the Transport of Dangerous Goods. Aligning the HMR with the UN Recommendations will promote flexibility, permit the use of technological advances for the manufacture of the pressure receptacles, provide for a broader selection of pressure receptacles, reduce the need for exemptions, and facilitate international commerce in the transportation of compressed gases. Information collection requirements address domestic and international manufacturers of cylinders that request approval by the approval agency for cylinder design types. The approval process for each cylinder design type includes review, filing, and recordkeeping of the approval application. The approval agency is required to maintain a set of the approved drawings and calculations for

each design it reviews and a copy of each initial design type approval certificate approved by the Associate Administrator for not less than 20 years.

Affected Public: Fillers, owners, users, and retesters of UN cylinders.

Recordkeeping:

Estimated Number of Respondents: 50.

Estimated Number of Responses: 150.

Estimated Annual Burden Hours: 900.

Frequency of collection: On occasion.

Issued in Washington, DC on February 8, 2008.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 664 (Sub–No. 1)]

Use of a Multi-Stage Discounted Cash Flow Model in Determining the Railroad Industry's Cost of Capital

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Board is seeking comments on the use of a multi-stage Discounted Cash Flow Model to complement the use of the Capital Asset Pricing Model in determining the railroad industry's cost of capital.

DATES: Comments are due on or before April 14, 2008.

ADDRESSES: Send Comments (an original and 10 copies) referring to [STB Ex Parte No. 664 (Sub-No.1)] to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

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

SUPPLEMENTARY INFORMATION: Each year the Board measures the cost of capital for the railroad industry in the prior year. The Board then uses this cost-of-capital figure for a variety of regulatory purposes. It is used to evaluate the adequacy of individual railroads' revenues for that year.[1] It is also employed in cases involving rail rate review, feeder line applications, rail line abandonment proposals, trackage rights compensation cases, and rail merger review, as well as in our Uniform Rail Costing System (URCS).

The Board calculates the cost of capital as the weighted average of the cost of debt and the cost of equity, with the weights determined by the capital structure of the railroad industry (*i.e.*, the proportion of capital from debt or equity on a market-value basis). While the cost of debt is observable and readily available, the cost of equity (the expected return that equity investors require) can only be estimated. How best to calculate the cost of equity is the subject of a vast amount of literature. In each case, however, because the cost of equity cannot be directly observed, estimating the cost of equity requires adopting a finance model and making a variety of simplifying assumptions.

In *Methodology to be Employed in Determining the Railroad Industry's Cost of Capital,* STB Ex Parte No. 664 (STB served Jan. 17, 2008), the Board changed the methodology that it will use to calculate the railroad industry's cost of equity. We concluded that the time had come to modernize our regulatory process and replace the aging single-stage DCF model that had been employed since 1981. We decided to calculate the cost of equity using a Capital Asset Pricing Model (CAPM). Many parties had urged that the Board use a multi-stage Discounted Cash Flow model (DCF) in conjunction with CAPM. The record in that proceeding did not support adopting any particular DCF model. However, we did not want to foreclose the possibility of augmenting CAPM with a DCF approach. As we explained in the January 2008 decision (footnotes omitted):

> There may be merit to the idea of using both models to estimate the cost of equity. While CAPM is a widely accepted tool for estimating the cost of equity, it has certain strengths and weaknesses, and it may be complemented by a DCF model. In theory, both approaches seek to estimate the true cost of equity for a firm, and if applied correctly should produce the same expected result. The two approaches simply take different paths towards the same objective. Therefore, by taking an average of the results from the two approaches, we might be able to obtain a more reliable, less volatile, and ultimately superior estimate than by relying on either model standing alone.

Ultimately, both CAPM and DCF are economic models that seek to measure the same thing. CAPM seeks to do so by estimating the level of expected returns that investors would demand given the perceived risks associated with the company. By contrast, DCF models estimate the expected rate of return based on the present value of the cash flows that the company is expected to generate. Both approaches are plausible and intuitive, but are merely models.

The Federal Reserve Board noted in its testimony in STB Ex Parte No. 664 that ''academic studies had demonstrated that using multiple models will improve estimation techniques when each model provides new information. * * *''[2] There is, in fact, robust economic literature confirming that in many cases combining forecasts from different models is more accurate than relying on a single model.[3]

Though the record before us in STB Ex Parte No. 664 was insufficient for us to adopt a DCF model, it did illuminate a number of criteria to guide us in this effort. First, and foremost, the DCF model should be a *multi-stage model.* From 1981 through 2005, the agency relied on a single-stage DCF. That model required few inputs and few judgment calls, permitting the agency to promptly develop an estimate of the cost-of-equity component of the cost of capital. The simplicity of this model, however, was due in part to an assumption that the 5-year growth rate would remain constant thereafter. That assumption proved problematic. In recent years, railroad earnings have grown at a very rapid pace, exceeding the long-run growth rate of the economy as a whole. While it is certainly possible that railroad earnings will continue to grow rapidly for many years, they cannot do so *forever* as the single-stage DCF model assumes. Thus, in years when the 5-year growth rate is very high, this model may overstate the cost of equity. Similarly, in years when the railroads experience a downturn and the predicted 5-year growth rate is very low, the model may understate the cost of equity.

Second, the DCF model should not focus on dividend payments only. Finance theory suggests that the value of a firm should be independent of its dividend policy.[4] Certainly, changes in

[1] *See* 49 U.S.C. 10704(a)(2),(3); *Standards for Railroad Revenue Adequacy,* 364 I.C.C. 803 (1981), *modified,* 3 I.C.C.2d 261 (1986), *aff'd sub nom. Consolidated Rail Corp.* v. *United States,* 855 F.2d 78 (3d Cir. 1988).

[2] February 2007 Hearing Tr. at 18.

[3] See generally David F. Hendry & Michael P. Clements, Pooling of Forecasts, VII Econometrics Journal 1 (2004); J.M. Bates & C.W.J. Granger, The Combination of Forecasts in Essays in Econometrics: Collected Papers of Clive W.J. Granger. Vol. I: Spectral Analysis, Seasonality, Nonlinearity, Methodology, and Forecasting 391–410 (Eric Ghysels, Norman R. Swanson, & Mark W. Watson, eds., 2001); Spyros Makridakis and Robert L. Windler, Averages of Forecasts: Some Empirical Results, XXIX Management Science 987 (1983).

[4] *See, e.g.,* Franco Modigliani & Merton H. Miller, *The Cost of Capital, Corporation Finance, and the Theory of Investment,* 48 Am. Econ. Rev., 261–97 (1958). By integrating tax- and information-related considerations on capital structure and dividend policy choices, Modigliani and Miller greatly