

The environmental certification tests are normally conducted with the appropriate category and level of RTCA/DO-160. For HIRF, it is at the environment in the notice or category W of section 20 of RTCA/DO-160. For indirect effects of lightning, it is at the appropriate category and level for pin injection tests and multiple stroke and multiple burst tests of section 22 of RTCA/DO-160. When appropriate, engine certification data may be used when showing compliance with this requirement. However, the effects of the installation on this data must be addressed.

The applicant will comply with the following special condition:

The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23-49. The intent of this requirement is not to reevaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

With respect to compliance with § 23.1309(e), the levels required for compliance shall be at the levels for catastrophic failure conditions.

#### Applicability

As discussed above, these special conditions are applicable to the Cirrus Model SR22 as modified by Centex Aerospace, Inc. Should Centex Aerospace, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A00009CH, to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

#### Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and

good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

#### List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

#### Citation

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

#### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cirrus Model SR22 airplanes as modified by Centex Aerospace, Inc.

##### 1. Electronic Engine Control System

The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23-49. The intent of this requirement is not to reevaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

With respect to compliance with § 23.1309(e), the levels required for compliance shall be at the levels for catastrophic failure conditions.

Issued in Kansas City, Missouri on July 26, 2007.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 171

RIN 3038-AC43

#### Rules Relating To Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final Rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") hereby amends 17 CFR Part 171, by adding language to Commission Rule § 171.9(b) (manner of service), allowing for service by facsimile ("fax") or by electronic means ("e-mail"), making either means of service effective upon receipt. The amendment will also indicate that parties who consent to accepting service of documents by electronic means or fax in the underlying NFA action also consent to accepting service by the same means in proceedings under Part 171.

**DATES:** August 2, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Thuy Dinh, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5128.

**SUPPLEMENTARY INFORMATION:** On October 9, 1990, the Commission adopted Part 171 to establish standards and procedures for its review of decisions of registered futures associations such as the National Futures Association ("NFA") in disciplinary actions, membership denial actions, registration actions and member responsibility actions. 55 FR 41061. From the time Part 171 was promulgated until now, Commission Rule 171.9(b) provides only for service by personal delivery (effective upon receipt) or service by mail (effective upon deposit). On May 22, 2007, the NFA asked the Commission to amend language to Rule 171.9(b), to allow service by fax and e-mail. In proposing the amendment, NFA cited three supporting arguments: (1) To avoid undue delay (due to cautionary procedures adopted in the post-September 11 climate, postal mail to U.S. government agencies is often delayed and thus is not as effective as it used to be prior to September 11); (2) to take advantage of technological means of service, which will be faster and less costly than the mails; (3) to

streamline procedures. NFA cites Commission Rules under 17 CFR Part 10, which allows for service of documents by fax in enforcement proceedings. In addition, it cites its own rules governing arbitration, compliance and disciplinary cases as allowing service by both fax and e-mail. Thus, NFA asserts, to allow service by fax and e-mail in Part 171 would make the process more efficient.

After reviewing NFA's proposed amended language and its justifications for the proposal, the Commission has decided to adopt NFA's request in its entirety. Amending the 17 CFR 171.9(b) to allow for service by fax and e-mail will (a) enhance the efficiency of proceedings under Part 171; and (b) comport with the various capabilities of today's changing world.

#### Related Matters

##### A. No Notice Is Required Under 5 U.S.C. 553

The Commission has determined that this amendment to Part 171 is exempt from the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally require notice of proposed rulemaking and provide other opportunities for public participation. However, 5 U.S.C. 553 gives an agency discretion not to provide notice for "rules of agency organization, procedure, or practice." Notice and public procedure are unnecessary in this case. The proposed amendment, if made effective immediately, will actually promote efficiency and facilitate the Commission's core mission. For the above reasons, the notice requirements under 5 U.S.C. 553 are inapplicable.

##### B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies with rulemaking authority to consider the impact those rules will have on small businesses. With respect to persons seeking Commission reviews of NFA adjudicatory decisions, the amendments will impose no additional regulatory burden. Commission review of NFA disciplinary and membership denial actions has been carried out pursuant to 17 CFR Part 171 since 1990. These amendments to 17 CFR 171.9(b) do not present any significant changes and will in fact ease the regulatory burden by providing more options, greater certainty and predictability concerning manners of service under Part 171. Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the amendments will not

have a significant economic impact on a substantial number of small businesses.

##### C. Paperwork Reduction Act

The amendments to Part 171 rules do not impose a burden within the meaning and intent of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

##### D. Cost-Benefit Analysis

Section 15(a) of the Commodity Exchange Act, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its action before issuing a new regulation. Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission can, in its discretion, give greater weight to any one of the five enumerated areas of concern and can, in its discretion, determine that notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions, or accomplish any of the purposes, of the Commodity Exchange Act.

The amendments to Part 171 will not create any significant change in the Commission's appellate process or impose new burdens or costs thereon. In fact, the amendments should enhance the protection of market participants and the public by making service more certain, faster and cheaper.

After considering these above factors, the Commission has determined to amend Part 171, as set forth below.

##### List of Subjects in 17 CFR Part 171

Administrative practice and procedure, Commodity exchanges, Commodity futures.

■ In consideration of the following, and pursuant to authority contained in the Commodity Exchange Act, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations to read as follows:

#### **PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS**

■ 1. The authority citation for Part 171 continues to read as follows:

**Authority:** 7 U.S.C. 4a, 12a, and 21.

■ 2. Section 171.9 is amended by revising paragraph (b) to read as follows:

#### **§ 171.9 Service**

\* \* \* \* \*

(b) *Manner of Service:* Service may be made by personal delivery (effective upon receipt), mail (effective upon deposit), facsimile (effective upon receipt) or electronic mail (effective upon receipt). When service is effected by mail, the time within which the person served may respond thereto shall be increased by five days. Parties who consent to accepting service of documents by electronic means in the underlying NFA action also consent to accepting service by the same means in proceedings under this Part 171.

\* \* \* \* \*

Issued in Washington, DC on the 26th of July 2007, by the Commission.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

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## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

#### **18 CFR Part 33**

**[Docket No. PL07-1-000]**

#### **FPA Section 203 Supplemental Policy Statement**

Issued July 20, 2007.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Policy statement.

**SUMMARY:** The Federal Energy Regulatory Commission is providing guidance regarding future implementation of section 203 of the Federal Power Act. In the Supplemental Policy Statement the Commission adopts policies and provides clarifications intended to continue the encouragement of beneficial utility industry investment while also providing for effective customer protections, including working in a complementary fashion with the states in protecting customers.

**DATES:** *Effective Date:* This Supplemental Policy Statement is effective July 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** Carla Urquhart (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8496.