g. Ice protection system (IPS)—A system that protects certain critical aircraft parts from ice accretion. To be an approved system, it must satisfy the requirements of § 23.1419 or § 25.1419 and other applicable requirements.

h. Primary ice detection system—A detection system used to determine when the IPS must be activated. This system announces the presence of ice accretion or icing conditions, and it may also provide information to other aircraft systems. A primary automatic system automatically activates the anti-icing or deicing IPS. A primary manual system requires the flightcrew to activate the anti-icing or deicing IPS upon indication from the primary ice detection system.

i. Reference surface—The observed surface used as a reference for the presence of ice on the monitored surface. The reference surface may be observed directly or indirectly. Ice must occur on the reference surface before—or at the same time as—it appears on the monitored surface. Examples of reference surfaces include windshield wiper blades or bolts, windshield posts, ice evidence probes, the propeller spinner, and the surface of ice detectors. The reference surface may also be the monitored surface.

j. Static air temperature—The air temperature that would be measured by a temperature sensor that is not in motion in relation to that air. This temperature is also referred to in other documents as ''outside air temperature,'' ''true outside temperature,'' or ''ambient temperature.''

k. Total air temperature—The static air temperature plus the rise in temperature due to the air being brought to rest relative to the airplane.

l. Visual cues—Ice accretion on a reference surface that the flightcrew observes. The visual cue is used to detect the first sign of airframe ice accretion.

List of Subjects in 14 CFR Part 121

Aircraft, Air carriers, Aviation safety, Safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 121 of title 14, Code of Federal Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

■ 2. Revise § 121.321 to read as follows:

§ 121.321 Operations in Icing.

After October 21, 2013 no person may operate an airplane with a certificated maximum takeoff weight less than 60,000 pounds in conditions conducive to airframe icing unless it complies with this section. As used in this section, the phrase ''conditions conducive to airframe icing'' means visible moisture at or below a static air temperature of 5°C or a total air temperature of 10°C, unless the approved Airplane Flight Manual provides another definition.

(a) When operating in conditions conducive to airframe icing, compliance must be shown with paragraph (a)(1), or (2), or (3) of this section.

(1) The airplane must be equipped with a certificated primary airframe ice detection system.

(i) The airframe ice protection system must be activated automatically, or manually by the flightcrew, when the primary ice detection system indicates activation is necessary.

(ii) When the airframe ice protection system is activated, any other procedures in the Airplane Flight Manual for operating in icing conditions must be initiated.

(2) Visual cues of the first sign of ice formation anywhere on the airplane and a certificated advisory airframe ice detection system must be provided.

(i) The airframe ice protection system must be activated when any of the visual cues are observed or when the advisory airframe ice detection system indicates activation is necessary; whichever occurs first.

(ii) When the airframe ice protection system is activated, any other procedures in the Airplane Flight Manual for operating in icing conditions must be initiated.

(3) If the airplane is not equipped to comply with the provisions of paragraph (a)(1) or (2) of this section, then the following apply:

(i) When operating in conditions conducive to airframe icing, the airframe ice protection system must be activated prior to, and operated during, the following phases of flight:

(A) Takeoff climb after second segment,

(B) En route climb,

(C) Go-around climb,

(D) Holding,

(E) Maneuvering for approach and landing, and

(F) Any other operation at approach or holding airspeeds.

(ii) During any other phase of flight, the airframe ice protection system must be activated and operated at the first sign of ice formation anywhere on the airplane, unless the Airplane Flight Manual specifies that the airframe ice protection system should not be used or provides other operational instructions.

(iii) Any additional procedures for operation in conditions conducive to icing specified in the Airplane Flight Manual or in the manual required by § 121.133 must be initiated.

(b) If the procedures specified in paragraph (a)(3)(i) of this section are specifically prohibited in the Airplane Flight Manual, compliance must be shown with the requirements of paragraph (a)(1) or (2) of this section.

(c) Procedures necessary for safe operation of the airframe ice protection system must be established and documented in:

(1) The Airplane Flight Manual for airplanes that comply with § 121.321(a)(1) or (2), or

(2) The Airplane Flight Manual or in the manual required by § 121.133 for airplanes that comply with § 121.321(a)(3).

(d) Procedures for operation of the airframe ice protection system must include initial activation, operation after initial activation, and deactivation. Procedures for operation after initial activation of the ice protection system must address—

(1) Continuous operation,

(2) Automatic cycling,

(3) Manual cycling if the airplane is equipped with an ice detection system that alerts the flightcrew each time the ice protection system must be cycled, or

(4) Manual cycling based on a time interval if the airplane type is not equipped with features necessary to implement (d)(i)–(iii) of this section.

(e) System installations used to comply with § 121.321(a)(1) or (2) must be approved through an amended or supplemental type certificate in accordance with part 21 of this chapter.

Issued in Washington, DC, on August 11, 2011.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2011–21247 Filed 8–19–11; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Rules of Practice

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Final rule amendments.

SUMMARY: The FTC is amending its Rules of Practice for its adjudicative process, including those regarding the initiation of discovery, limitations on discovery, the Standard Protective Order, the admission of certain hearsay evidence, the video recording of proceedings, the designation of confidentiality on documents, the timing for oral argument on appeal, and

a reference to the Equal Access to Justice Act.

DATES: These amendments are effective on August 22, 2011, and will govern all Commission adjudicatory proceedings that are commenced after that date. They will also govern all Commission adjudicatory proceedings that are pending on August 22, 2011, except to the extent that, in the opinion of the Commission, their application to a particular proceeding would not be feasible or would work an injustice.

FOR FURTHER INFORMATION CONTACT: Robert B. Mahini, Attorney, (202) 326–2642, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington DC 20580.

SUPPLEMENTARY INFORMATION: On May 1, 2009, the Commission implemented changes to Parts 3 and 4 of the agency's Rules of Practice.[1] After further review of these changes and other aspects of Parts 3 and 4, the Commission is making new changes to the Rules of Practice, which are discussed below. The immediate implementation of this rule without prior notice and the opportunity for public comment is appropriate because this rule is one of agency procedure and practice and therefore is exempt from notice and comment rulemaking requirements and from the 30-day publication requirement under the Administrative Procedure Act, 5 U.S.C. 553(b)(A)–(B) & (d).[2]

Section 3.31: General Discovery Provisions.

The Commission is amending Section 3.31(a) to clarify that discovery demands cannot commence before the procedure set forth in Section 3.21(c). Under Section 3.21(c), the Administrative Law Judge,

> [n]ot later than 2 days after the scheduling conference, [must] enter an order that sets forth the results of the conference and establishes a schedule of proceedings that will permit the evidentiary hearing to commence on the date set by the Commission, including a plan of discovery that addresses the deposition of fact witnesses, timing of expert discovery, and the production of documents and electronically stored information, dates for the submission and hearing of motions, the specific method by which exhibits shall be numbered or otherwise identified and marked for the record, and the time and place of a final prehearing conference.

To make clear that discovery shall not commence before the issuance of the prehearing scheduling order's plan of discovery absent an express agreement of the parties, the Commission is adding language to Section 3.31(a) stating that, not including the mandatory initial disclosures required under paragraph (b) of the same Section, discovery demands shall not commence before the issuance of the prehearing scheduling order, unless the parties expressly agree otherwise.

In addition, the Commission is amending Section 3.31(c) to make clear that the section's rules regarding the scope of discovery apply to all discovery under Part 3 of the Rules of Practice. The Commission also is amending language in this paragraph to make clear that the section's overall limitations on discovery in paragraph (c)(2) and the restriction on discovery of electronically stored information in paragraph (c)(3) apply to discovery aimed at third parties, in addition to the parties to the proceeding.

Section 3.31 App. A: Standard Protective Order.

The Commission is amending the Standard Protective Order at Section 3.31 App. A to make the following changes:

(1) Add the missing word ''information'' to the first sentence of the first paragraph;

(2) more clearly define in the second paragraph the scope of the confidentiality afforded to materials submitted by respondents or third parties during an investigation or administrative proceeding by referring, in addition to confidentiality protections provided by the Federal Trade Commission Act, to protections provided by ''any other federal statute or regulation'' and ''any federal court or Commission precedent interpreting such statute or regulation'' rather than referring to ''any regulation, interpretation, or precedent concerning documents in the possession of the Commission'';

(3) more clearly state in the second paragraph that the Order's confidentiality protection extends to any information that ''discloses the substance of the contents of any confidential materials derived from a document subject to this Order'' given that ''confidential materials'' is defined in the Order's first paragraph, replacing the current description of protection for ''information taken from any portion of such document[s]'';

(4) add to the fifth paragraph a missing reference to ''Paragraph 1''; and

(5) clarify and make consistent language in the sixth paragraph regarding documents with ''masked or otherwise redacted copies of documents [that] may be produced'' by replacing ''deleted'' where used with ''masked or redacted.''

Section 3.31A: Expert Discovery

The Commission is adding a new paragraph (e) to Section 3.31A regarding materials that the parties cannot discover. This new paragraph includes language from what was the last sentence of paragraph (d), which will now state that ''[a] party may not discover facts known or opinions held by an expert who has been retained or specifically employed by another party in anticipation of litigation or preparation for hearing and who is not listed as a witness for the evidentiary hearing,'' and new language that is nearly identical to language recently added to Federal Rule of Civil Procedure 26(b)(4)(B) and (C), which specifically prohibits discovery of expert report drafts and, with some exceptions, communications between a party's attorney and its experts. Adding to the limitation of what was the last sentence of paragraph (d), the new language taken largely from the Federal Rules specifically provides that parties may not discover drafts of any report required by Section 3.31A, regardless of the form in which the draft is recorded. In addition, the new language prohibits parties from discovering any communications, regardless of form, between another party's attorney and any of its testifying expert witnesses, unless the communication: (1) Relates to the expert's compensation for the study or testimony; (2) identifies facts or data provided by the party's attorney and considered by the expert in forming the opinions to be expressed; or (3) identifies assumptions provided by the party's attorney and relied on by the expert in forming the opinions to be expressed.

In addition, the Commission is adding a new paragraph (f) to Section 3.31A that allows the Administrative Law Judge, upon a finding of good cause, to alter the pre-hearing schedule for expert discovery set forth in Section 3.31A, but only if such an alteration would not affect the date of the evidentiary hearing noticed in the complaint. This change

[1] 74 FR 20205 (2009).

[2] The final rule amendments are not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2), 604(a). The rule revisions to part 3 are also not subject to the requirements of the Paperwork Reduction Act, which contains an exemption for information collected during the conduct of administrative proceedings or investigations. 44 U.S.C. 3518(c)(1)(B)(ii); 5 CFR 1320.4. To the extent that Rule 4.2 applies to filings that do not fall within this exception, the Office of Management and Budget has approved the collection of information, along with other applications and notices to the Commission, and has assigned control number 3084–0047. The revisions to Rule 4.2 do not substantially or materially modify this collection of information.

allows the Administrative Law Judge to extend the expert discovery time line if needed, including where the parties mutually seek such an alteration, but would not change the overall time line for the administrative adjudication itself.

Section 3.43: Evidence

The Commission is changing Section 3.43(b) to specifically include expert reports as admissible hearsay evidence. In addition, the Commission is adding a new requirement to this paragraph regarding the admission of ''prior testimony (including expert reports) from other proceedings where either the Commission or respondent did not participate,'' though this requirement would not apply to ''other proceedings where the Commission and at least one respondent did participate.'' Such prior testimony could often be voluminous, and in recent enforcement actions such evidence was admitted that resulted in the inclusion of excessive, unhelpful materials in the record that burdened the non-admitting party. As a result, for such material, unless the parties consent to its admission, the Administrative Law Judge must first make a finding upon the motion of the party seeking the admission of such evidence that the prior testimony would not be duplicative, would not present unnecessary hardship to a party or delay to the proceedings, and would aid in the determination of the matter. However, this requirement for ''prior testimony * * * from other proceedings'' does not include the Commission staff's investigational hearings involving respondent, which shall be admitted without being subject to this new limitation.[3]

Section 3.44: Record

The Commission is amending the general requirement that ''[t]he live oral testimony of each witness * * * be video recorded digitally.'' The Commission had added this requirement in its 2009 amendments to the Part 3 Rules ''to enable the Commission, which is tasked with reviewing the record *de novo,* to independently assess witness demeanor when necessary.'' [4] However, recent experience and cost estimates have revealed that this video requirement is expensive, and the Commission has determined that the benefits of digital video recordings to its assessment of witness testimony do not outweigh these considerable costs.

Thus, the amendment allows for video recording of all witness testimony only by direction of the Administrative Law Judge upon a motion by a party. If the Administrative Law Judge issues an order finding good cause to permit video recording of all witness testimony, the moving party shall bear the costs for such recording. The rule contemplates that the reporter officially designated by the Commission to transcribe the proceeding shall also provide the video recording services, in order to minimize delay or disruption and ensure reliability. Where the moving party is not complaint counsel, the moving party shall independently contract with and reimburse the reporter directly for such additional recording services. The moving party may retain some other person or entity to make the recordings, such as when the designated reporter is unwilling or unable to perform these additional services, only where the Administrative Law Judge issues an order setting forth good cause for such substitution and prescribing standards and procedures to ensure that the video recording will serve as a complete and accurate record of the oral testimony being recorded. The Commission's contract with its reporter sets forth rates for obtaining copies of video recordings from the reporter. When the moving party is other than complaint counsel, that party must ensure that its contract with the reporter for video recording services requires that copies of such recordings be made available at no more than the maximum rates under the FTC's own contract, unless the Administrative Law Judge has authorized a person or entity other than the Commission's reporter to make the video recordings. In the case of such an authorization by the Administrative Law Judge, the maximum rates for copies shall be either the maximum rates that the Commission's reporter is authorized to charge for such copies under its Commission contract or the actual cost of duplication, whichever is higher.

Section 3.45: In Camera Orders and Section 4.2: Requirements as to Form, and Filing of Documents Other Than Correspondence

The Commission is amending the language in Sections 3.45 and 4.2 that requires parties to identify the confidential or public nature of a document filed with the Commission on the document's first page. The new language requires parties to provide this designation on every page of the document to avoid the inadvertent release of individual pages of confidential documents.

Section 3.52: Appeal From Initial Decision

The Commission is amending language in Sections 3.52(a)(1), (a)(2) and (b)(2) that provides a deadline for holding oral argument. In these paragraphs, the rule requires the Commission to ''schedule oral argument'' within a prescribed amount of days after the deadline for reply briefs or objections to the initial decision, depending on which paragraph applies. To clarify that these sentences require oral arguments to be held, and not merely scheduled for some later date, within the prescribed amount of days, the Commission is replacing ''schedule'' with ''hold'' in these sentences.

In addition, the Commission is amending the beginning of these sentences, which had set aside the deadlines for oral argument where ''the Commission determines there shall be no oral argument.'' Because the paragraph permits the Commission to ''order'' that no oral argument be held, the sentence now uses ''orders'' in place of ''determines'' to make these sentences more consistent with the previous language.

Section 3.83: Procedures for Considering Applications

The Commission is correcting the citation to the Equal Access to Justice Act in Section 3.83(i). That Section provided that ''[j]udicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 503(c)(2).'' The paragraph now correctly cites to 5 U.S.C. 504(c)(2).

List of Subjects in 16 CFR Parts 3 and 4

Administrative practice and procedure.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter A of the Code of Federal Regulations, parts 3 and 4, as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 3.31, by adding a new sentence at the end of paragraph (a) and revising the introductory text of paragraph (c) and paragraphs (c)(2)(i), (c)(2)(iii), and the first two sentences of paragraph (c)(3) to read as follows:

§ 3.31 General discovery provisions.

(a) * * * Unless all parties expressly agree otherwise, no discovery shall take

[3] *See* 16 CFR 2.8.

[4] 74 FR 1817.

place before the issuance of a prehearing scheduling order under § 3.21(c), except for the mandatory initial disclosures required by paragraph (b) of this section.

* * * * *

(c) *Scope of discovery.* Unless otherwise limited by order of the Administrative Law Judge or the Commission in accordance with these rules, the scope of discovery under all the rules in this part is as follows:

* * * * *

(2) * * *

(i) The discovery sought from a party or third party is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

* * * * *

(iii) The burden and expense of the proposed discovery on a party or third party outweigh its likely benefit.

(3) *Electronically stored information.* A party or third party need not provide discovery of electronically stored information from sources that the party or third party identifies as not reasonably accessible because of undue burden or cost. On a motion to compel discovery, the party or third party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. * * *

* * * * *

■ 3. In Appendix A to § 3.31 revise the first sentence of paragraph 1, the first sentence of paragraph 2, paragraph 5, and the last sentence of paragraph 6 to read as follows:

Appendix A to § 3.31: Standard Protective Order

* * * * *

1. As used in this Order, ''confidential material'' shall refer to any document or portion thereof that contains privileged information, competitively sensitive information, or sensitive personal information. * * *

2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any other federal statute or regulation, or under any federal court or Commission precedent interpreting such statute or regulation, as well as any information that discloses the substance of the contents of any confidential materials derived from a document subject to this Order, shall be treated as confidential material for purposes of this Order. * * *

* * * * *

5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. * * * Masked or otherwise redacted copies of documents may be produced where the portions masked or redacted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been masked or redacted and the reasons therefor.

* * * * *

■ 4. Amend § 3.31A, by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 3.31A Expert discovery.

* * * * *

(d) A party may depose any person who has been identified as an expert whose opinions may be presented at trial. Unless otherwise ordered by the Administrative Law Judge, a deposition of any expert witness shall be conducted after the disclosure of a report prepared by the witness in accordance with paragraph (a) of this section. Depositions of expert witnesses shall be completed not later than 65 days after the close of fact discovery. Upon motion, the Administrative Law Judge may order further discovery by other means, subject to such restrictions as to scope as the Administrative Law Judge may deem appropriate.

(e) A party may not discover facts known or opinions held by an expert who has been retained or specifically employed by another party in anticipation of litigation or preparation for hearing and who is not listed as a witness for the evidentiary hearing. A party may not discover drafts of any report required by this section, regardless of the form in which the draft is recorded, or any communications between another party's attorney and any of that other party's testifying experts, regardless of the form of the communications, except to the extent that the communications:

(1) Relate to compensation for the expert's study or testimony;

(2) Identify facts or data that the other party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(3) Identify assumptions that the other party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(f) The Administrative Law Judge may, upon a finding of good cause, alter the pre-hearing schedule set forth in this section; provided, however, that no such alteration shall affect the date of the evidentiary hearing noticed in the complaint.

■ 5. Amend § 3.43 by removing the sixth sentence of paragraph (b) and adding, in its place, two sentences, to read as follows:

§ 3.43 Evidence.

* * * * *

(b) * * * If otherwise meeting the standards for admissibility described in this paragraph, depositions, investigational hearings, prior testimony in Commission or other proceedings, expert reports, and any other form of hearsay, shall be admissible and shall not be excluded solely on the ground that they are or contain hearsay. However, absent the consent of the parties, before admitting prior testimony (including expert reports) from other proceedings where either the Commission or respondent did not participate, except for other proceedings where the Commission and at least one respondent did participate, the Administrative Law Judge must make a finding upon the motion of a party seeking the admission of such evidence that the prior testimony would not be duplicative, would not present unnecessary hardship to a party or delay to the proceedings, and would aid in the determination of the matter. * * *

* * * * *

■ 6. Amend § 3.44, by removing the last two sentences of paragraph (a) and adding, in their place, five sentences, to read as follows:

§ 3.44 Record.

(a) * * * Upon a motion by any party, for good cause shown the Administrative Law Judge may order that the live oral testimony of all witnesses be video recorded digitally, at the expense of the moving party, and in such cases the video recording and the written transcript of the testimony shall be made part of the record. If a video recording is so ordered, the moving party shall not pay or retain any person or entity to perform such recording other than the reporter designated by the Commission to transcribe the proceeding, except by order of the Administrative Law Judge upon a finding of good cause. In any order allowing for video recording by a person or entity other than the Commission's designated reporter, the Administrative Law Judge shall prescribe standards and procedures for the video recording to ensure that it is a complete and accurate record of the witnesses' testimony. Copies of the written transcript and video recording are available from the reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter. Copies of a video recording

made by a person or entity other than the reporter shall be available at the same rates, or no more than the actual cost of duplication, whichever is higher.
* * * * *

■ 7. Amend § 3.45, by revising the second and seventh full sentences of paragraph (e) and the second and third full sentences of paragraph (f) to read as follows:

§ 3.45 In camera orders.

* * * * *

(e) * * * A complete version shall be marked *''In Camera''* or ''Subject to Protective Order,'' as appropriate, on every page and shall be filed with the Secretary and served by the party on the other parties in accordance with the rules in this part. * * * An expurgated version of the document, marked ''Public Record'' on every page and omitting the *in camera* and confidential information and attachment that appear in the complete version, shall be filed with the Secretary within 5 days after the filing of the complete version, unless the Administrative Law Judge or the Commission directs otherwise, and shall be served by the party on the other parties in accordance with the rules in this part. * * *

(f) * * * A complete version shall be marked *''In Camera''* or ''Subject to Protective Order,'' as appropriate, on every page and shall be served upon the parties. The complete version will be placed in the *in camera* record of the proceeding. An expurgated version, to be filed within 5 days after the filing of the complete version, shall omit the *in camera* and confidential information that appears in the complete version, shall be marked ''Public Record'' on every page, shall be served upon the parties, and shall be included in the public record of the proceeding.***
* * * * *

■ 8. Amend § 3.52, by revising the fourth sentence of paragraph (a)(1), the first sentence of paragraph (a)(2), and the fourth sentence of paragraph (b)(2) to read as follows:

§ 3.52 Appeal from initial decision.

(a) * * *

(1) * * * Unless the Commission orders that there shall be no oral argument, it will hold oral argument within 10 days after the deadline for the filing of any reply briefs. * * *

(2) If no objections to the initial decision are filed, the Commission may in its discretion hold oral argument within 10 days after the deadline for the filing of objection, * * *

(b) * * *

(2) * * * Unless the Commission orders that there shall be no oral argument, it will hold oral argument within 15 days after the deadline for the filing of any reply briefs. * * *
* * * * *

■ 9. Amend § 3.83, by revising paragraph (i) to read as follows:

§ 3.83 Procedures for considering applicants.

* * * * *

(i) *Judicial review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

* * * * *

PART 4—MISCELLANEOUS RULES

■ 1. The authority for part 4 remains:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 4.2(b), by revising the last sentence, to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

* * * * *

(b) * * * Every page of each such document shall be clearly and accurately labeled ''Public'', *''In Camera''* or ''Confidential''.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–21019 Filed 8–19–11; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM07–9–004; Order No. 710–C]

Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on Rehearing.

SUMMARY: In this Order, the Federal Energy Regulatory Commission (Commission) generally denies rehearing and reaffirms the findings made in Order No. 710–B. The Commission does, however, revise the burden estimate to more accurately account for initial start-up costs, grant rehearing on the issue of whether to include page 521d, and grant additional time to comply with Order No. 710–B.

FOR FURTHER INFORMATION CONTACT:

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Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Telephone: (202) 502–8321, e-mail: *gary.cohen@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

Order on Rehearing

Issued August 16, 2011

1. Earlier in this proceeding, the Commission issued a Final Rule (Order No. 710–B) revising its financial forms, statements, and reports for natural gas companies, contained in FERC Form Nos. 2, 2–A, and 3–Q, to provide greater transparency on fuel data by requiring the reporting of functionalized fuel data on pages 521a through 521c of those forms, and to include on those forms the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement.[1]

2. In response to the Final Rule, the Interstate Natural Gas Association of America (INGAA) filed a request for rehearing raising eleven separate objections to the Final Rule. In this order on rehearing, we generally deny rehearing and reaffirm the findings we made in Order No. 710–B. We do, however, revise the burden estimate to more accurately account for initial start-up costs, grant rehearing on the issue of whether to include page 521d and we grant filers additional time before they must begin filing Form Nos. 2, 2–A, and 3–Q in accordance with the requirements established in Order No. 710–B and this rehearing order.

I. Background

3. This matter began in 2008, when the Commission issued a Final Rule (Order No. 710) revising its financial forms, statements, and reports for natural gas companies, contained in

[1] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines,* Order No. 710–B, 76 FR 4516 (Jan. 26, 2011), 134 FERC ¶ 61,033 (2011) (Order No. 710–B or Final Rule).