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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-21175; Directorate Identifier 2005-CE-24-AD; Amendment 39-15220; AD 2007-21-02]

RIN 2120-AA64

Airworthiness Directives; Raytheon Aircraft Company Models 58P and 58TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Raytheon Aircraft Company (RAC) Models 58P and 58TC airplanes that were used as lead airplanes by the United States Forest Service (USFS). This AD establishes new limits for the structural life of the airframe (wing, fuselage, empennage, and associated structure) through the incorporation of a supplement to the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM). This AD results from the FAA's analysis and determination that the operational history and usage of the affected airplanes requires a reduction in the structural life limit to 4,500 hours time-in-service (TIS) for the airframe (wing, fuselage, empennage, and associated structure). We are issuing this AD to prevent structural failure of the airframe (wing, fuselage, empennage, or associated structure) based on the operational history and usage of the affected airplanes. Such failure could lead to loss of control.

DATE: This AD becomes effective on November 15, 2007.

ADDRESSES: To get the service information identified in this AD, contact Hawker Beechcraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at <http://dms.dot.gov>. The docket number is FAA-2005-21175; Directorate Identifier 2005-CE-24-AD.

FOR FURTHER INFORMATION CONTACT: Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946-4124; fax: (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Discussion

On November 16, 2005, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain RAC Models 58P and 58TC airplanes that were used as lead airplanes by the USFS. This proposal was published in the Federal Register as a notice of proposed rulemaking (NPRM) on November 22, 2005 (70 FR 70555). The NPRM proposed to establish new limits for the structural life of the airframe (wing, fuselage, empennage, and associated structure) through the incorporation of a new supplement into the Limitations Section of the POH/AFM; and require the disposal of the life-limited airframe following 14 CFR 43.10 when the structural life limit of the airframe is reached.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Comment Issue No. 1: Public Use Aircraft

Four commenters, including Winstead Sechrest & Minick P.C. (referred to after this as "Winstead"), discuss the use of these airplanes in public aircraft operations. These airplanes were previously used in public aircraft operations by the USFS. We infer that the commenters request approval to use these airplanes in public aircraft operations beyond the life limits of 4,500 hours TIS.

When these airplanes were operated solely as public aircraft, they were exempt from many FAA regulations. However, since some of these airplanes may now be utilized as civil aircraft, the FAA has the responsibility to oversee the continued operational safety of these airplanes. The FAA must take into account the operational history and past usage of the airplanes. We do not agree that these airplanes should be exempt from the 4,500-hour TIS life limit because the airplanes could still be used as civil aircraft. Any time the airplane is used as a civil aircraft, the 4,500-hour TIS life limit will apply.

Airplanes used in public aircraft operations are exempt from many FAA regulations. However, these exemptions only apply when the airplane is operated in a public aircraft capacity. Advisory Circular (AC) 00-1.1, Government Aircraft Operations, reads:

The status of an aircraft as "public aircraft" or "civil aircraft" depends on its use in government service and the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public aircraft or civil aircraft, it is more precise to speak of particular operations as public or civil in nature. Example: An aircraft owned by a state government is used in the morning for a search and rescue mission. During the search and rescue operation, the aircraft is a public aircraft. Later that same day, however, the aircraft is used to fly the governor of the state from one meeting to another. At that time, the aircraft loses its public aircraft status and must be operated as a civil aircraft.

AC 00-1.1, Government Aircraft Operations, is available for review in its entirety at <http://www.airweb.faa.gov>.

Federal Aviation Regulations (14 CFR part 91) prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. AC 00-1.1 also addresses this subject:

[Federal Aviation Regulations] part 91 prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. The pilot in command (PIC) is responsible for determining whether the aircraft is in condition for safe flight. The PIC is required to terminate the flight when unairworthy mechanical, electrical, or structural conditions occur. In addition, the PIC may not operate the aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certificating authority of the country of registry.

So in the above example, although the aircraft may be primarily used in public operation, it is used as a civil aircraft also. Therefore, the pilot must assure the airplane operated as a civil aircraft is in an airworthy condition, which would include all ADs, limitations, life limits, and other mandated requirements.

There may be cases where an airplane is used solely in public operations. Although aircraft used in public operations are generally exempt from compliance with the Federal Aviation Regulations, the safety implications of the structural fatigue life (4,500 hours TIS) of the airframe are serious. Therefore, we strongly recommend operators of public-use-only aircraft comply with the structural fatigue life (4,500 hours TIS) of the airframe. We are adding a note to the Compliance section reiterating our concern and this recommendation.

We will not make any changes to the final rule AD based on these comments.

Comment Issue No. 2: Withdraw the NPRM, Suspend AD Action, and Reject the Reduced Life Limits

Four commenters, including the Charlotte County (Florida) Sheriff's Office, state that the FAA should withdraw the NPRM, suspend the AD action, and reject the reduced life limits established by RAC.

The FAA disagrees with the commenters. Airplanes certificated under the safe life regulations have a structural fatigue life limit based on the results of fatigue testing, fatigue analysis, and flight strain surveys. The structural fatigue life limits are determined by the mission profile and mission mix, flight length, number of ground-air-ground cycles, overall usage, and the severity of the fatigue spectrum. Utilizing the above criteria, the FAA has determined that the structural fatigue life of these 21 airplanes, which have been operated in a severe spectrum, must be reduced to 4,500 hours TIS. As stated earlier, we analyzed the past usage of the airplanes while under the responsibility of the USFS in making this determination.

We are not changing the final rule AD action as a result of these comments.

Comment Issue No. 3: The FAA Has Not Supplied Evidence That Shows the Need for AD Action and the FAA Should Disclose All Data

Five commenters, including Winstead, Charlotte County Sheriff's Department, Texas Firebirds, Down East Emergency Medicine Institute, and Merced County Mosquito Abatement District (all operators of affected airplanes), state that the FAA has not supplied evidence that shows the need for AD action and that the FAA should disclose all data. The commenters also state that, based on their analysis of the service difficulty reports (SDRs), there is not a need for the reduced fatigue structural life.

The FAA disagrees with the commenters. Establishing a structural fatigue life is not based solely on incidents/accidents. It is based on the evaluation of the mission profile and mission mix, flight

length, the number of ground-air-ground cycles, the overall usage, and specifically in this case the severity of the fatigue spectrum. As stated earlier, these 21 airplanes were operated in a severe fatigue spectrum while under the responsibility of the USFS, and, now that the airplanes are in civil use, the FAA must analyze this past usage in making a decision on the structural fatigue life. SDRs are only one area the FAA evaluates in determining whether regulatory action is necessary to address safety. We agree that the SDR database alone would not justify the reduced life limit. However, when we consider the SDRs and the criteria described previously, especially the severe fatigue spectrum operations, continued operation of any of the 21 airplanes over 4,500 hours TIS would be unsafe. The FAA used the analysis of proprietary data from the type certificate holder. We are not allowed to include proprietary data in the public docket. All applicable data considered to be in the public domain is in the public docket.

We are not changing the final rule AD action as a result of these comments.

Comment Issue No. 4: FAA Policy on Reduction of Airframe Structural Fatigue Life Limits

One commenter, Dr. Robert M. Bowie, requests the FAA's policy on reducing the airframe structural fatigue life limits.

The FAA may decide to lower the life limits for airplanes subjected to severe usage. This occurs when the FAA learns of airplanes that are used significantly outside the fatigue spectrum used to establish the life limits. This more severe spectrum usage includes differences in the mission profile and mission mix, flight length, the number of ground-air-ground cycles, and the overall usage.

When the FAA determines that a structural life limit must be reduced to address an unsafe condition, an AD is the only way to legally enforce the life limit. Section 14, paragraph 152 on page 109 of the Airworthiness Directives Manual FAA-IR-M-8040.1A (FAA-AIR-M-8040.1) is clear on this:

- a. General. Airworthiness Directives that apply more restrictive life limits to products are issued when the current life limits contribute to an unsafe condition. Note that a change to a life limit appearing only in a manual or on type certificate data sheets, even if FAA-approved, does not require compliance by the pilot or operator (although the FAA encourages that known limits be taken into consideration). To be LEGALLY required, the change must be made through an AD.

We are not making any changes to the final rule AD based on these comments.

Comment Issue No. 5: Alternative Method of Compliance (AMOC)

Five commenters, including Winstead, state that the FAA should approve an AMOC for the AD action, specifically a repetitive inspection program. However, no commenter provides the data to substantiate an AMOC.

This AD, like most ADs, includes provisions for approval of AMOCs. The AD and 14 CFR 39.19 include procedures for applying for an AMOC. Part of these procedures is providing substantiating data that shows to the FAA the method is acceptable for addressing the unsafe condition. In this case, an AMOC that requests approval of a repetitive inspection program would need to address the damage tolerance of the structure. Typically, fracture mechanics-based methods that account for residual strength and crack propagation would address the unsafe condition and be found acceptable. Inspection methods must demonstrate the ability to reliably detect cracks before they grow to a critical size.

As in any AD where AMOC requests are acceptable, the FAA will evaluate any request for an AMOC that is submitted following the proper procedures. The proposal should contain the appropriate data that shows it addresses the unsafe condition. The FAA will evaluate the proposal

based on the above criteria and determine whether it provides an acceptable level of safety. If it does, then we will approve the AMOC.

We are making no changes to the final rule AD action based on these comments.

Comment Issue No. 6: Government Buy-Back and Loss of Airplane Warranty

Three commenters, including John Ford, discuss a government buy-back of these airplanes and the applicability of the manufacturer's warranty. We conclude that the commenters request the government buy-back these airplanes and/or the manufacturer apply warranty coverage for the loss of the airplanes.

We understand that the entities that operate these aircraft have a concern with the government aircraft surplus process. However, the FAA has no authority to enter into any buy-back agreements.

Concerning the loss of airplane warranty, typically, the manufacturer's service information lists the required parts costs that are covered under warranty. This would mean that no charges or cost would be incurred by an airplane operator. However, in this case, there is no warranty involved. All of these airplanes were produced before 1985. The FAA has no control over warranty coverage for the affected parties; some parties may incur higher costs than the estimates here.

We are not making any changes to the final rule AD based on these comments.

Comment Issue No. 7: Economic Impact

Four commenters, including the Sarasota County (Florida) Sheriff's Office, note that this AD action will have a severe economic impact on the operators of the affected airplanes.

Because this AD will reduce the certificated life limit of the 21 airplanes utilized in a severe fatigue spectrum while under the responsibility of the USFS, the FAA recognizes that the AD will have an economic impact on those who currently use the airplanes. However, the FAA has determined that the safety implications of allowing these airplanes to continue to fly outweigh the economic impact that the AD would have on the affected operators of these airplanes.

We are making no changes to the final rule AD action based on these comments.

Comment Issue No. 8: Executive Orders, Regulatory Flexibility Act, and Small Business Administration Regulatory Enforcement Fairness Act of 1996

Two commenters, including the Down East Emergency Medical Institute, contend that the FAA violated several executive orders, the Regulatory Flexibility Act, and the Small Business Administration Regulatory Enforcement Fairness Act. They also suggest that an independent outside legal review be performed.

The FAA completed a regulatory evaluation to ensure that the proposed AD action met applicable executive orders; the Regulatory Flexibility Act; and other policies, procedures, and orders. We have included a description of the findings for this regulatory evaluation in the section entitled Regulatory Flexibility Determination. The FAA does not obtain independent outside legal reviews of AD actions. If the commenters desire such a review, then they may have such a review done at their expense.

We are not changing the final rule AD action as a result of these comments.

Comment Issue No. 9: Extend (Reopen) the Comment Period for the NPRM and Hold a Public Meeting

Six commenters, including the Texas Firebirds, request an extension of the comment period beyond the approximately 60 days provided by the NPRM and one commenter, Winstead, requests a public meeting with the FAA to discuss this AD action. The requests for extension range from an

unspecified number of days to an additional 120 days. The majority of these commenters noted that the comment period coincided with the holidays that occur in November, December, and January.

The FAA believes the DOT/FAA standard public comment period of 60 days provided adequate opportunity for public input. We will continue to evaluate the need for a public meeting. However, we do not believe the AD action should be further delayed by reopening the comment period or holding a public meeting.

If, after the AD is issued, individuals present specific ideas that they feel need to be more fully addressed, the FAA will evaluate these ideas. Of specific interest would be alternative solutions to address the unsafe condition.

We are not reopening the comment period, holding a public meeting at this time, or changing the final rule AD action as a result of these comments.

Comment Issue No. 10: Agreement With FAA on This Airworthiness Action

Three commenters, one of which is National Flight Services, made comments that they generally agree with this AD action. They request no specific change to the AD.

Conclusion

We have also determined that the requirement proposed in the NPRM to dispose of the life-limited parts is not necessary by AD action. 14 CFR 43.10 requires that anyone who removes a life-limited part from an airplane ensure that the part is controlled using one of the methods in paragraph (c) of the regulation. This includes a recordkeeping system, tag or record attached to part, non-permanent marking, permanent marking, segregation, mutilation, or other methods. This AD establishes the airframe structural life limit of the affected airplanes. Anyone removing the life-limited airframe (wing, fuselage, empennage, and associated structure) from one of the affected airplanes is obligated by 14 CFR 43.10 to control the part once it is removed. Therefore, it is not necessary to require this through AD action. We have included a Note in the AD.

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for removing the life-limited parts disposal requirement from the AD and minor editorial corrections. We have determined that this removal of the disposal requirement and the minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 21 airplanes in the U.S. registry.

We estimate the cost to incorporate the RAC Beechcraft POH/AFM Supplement into the POH/AFM to be \$80 per airplane (1 work-hour x \$80 per hour labor cost), for a total of \$1,680 for U.S. operators. However, the POH/AFM supplement is life-limiting the structural airframe. The U.S. Government distributed the airplanes at no cost to the states, retaining title for five years, which have not passed. Therefore, the cost impact would consist of any costs of transfer from the state and the cost of any modifications the operators have incurred. We have no way of determining the cost of transfer for each airplane and the cost of any modifications that operators have made to the airplanes.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of

applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.

To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The FAA did make such a determination for this AD. The basis for this determination is now discussed.

Small entities are identified using standards from the Small Business Administration (SBA) for Small Governmental Jurisdictions and Small Organizations. These standards define a Small Governmental Jurisdiction as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. These standards also define a Small Organization as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

There were 21 Beech Barons available for distribution by the Forest Service. Of these 21 airplanes, 1 was destroyed in an accident. Of the remaining 20 airplanes, 4 were distributed to U.S. government agencies; 8 were distributed to states or state agencies; 6 were distributed to local governments; 1 was distributed to a non-profit agency; and 1 is unaccounted for. Of these agencies, one local government and one non-profit agency would qualify as small entities. Therefore, this final AD will not adversely affect a large number of small entities.

It should be noted that the agencies receiving these airplanes do not receive title to the airplanes for a five-year period. None of these agencies have had any of these airplanes for a five-year period. Until the agencies receive title to these airplanes, the airplanes remain the property of the United States government.

We received one comment discussing the effect of the proposed AD on small entities. However, as discussed above, this final AD will not adversely affect a large number of small entities. Therefore, the FAA Administrator certifies that this rule will not impose a significant economic impact on a substantial number of small entities.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this AD.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under ADDRESSES. Include "Docket No. FAA-2005-21175; Directorate Identifier 2005-CE-24-AD" in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:



2007-21-02 Raytheon Aircraft Company: Amendment 39-15220; Docket No. FAA-2005-21175; Directorate Identifier 2005-CE-24-AD.

Effective Date

- (a) This AD becomes effective on November 15, 2007.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to Models 58P and 58TC airplanes, with the following serial numbers: TJ-177, TJ-178, TJ-180, TJ-211, TJ-213, TJ-247, TJ-284, TJ-285, TJ-289, TJ-290, TJ-314, TJ-322, TJ-367, TJ-368, TJ-370, TJ-371, TJ-425, TJ-426, TJ-433, TJ-442, and TK-33, that are certificated in any category. These airplanes were used as lead airplanes by the United States Forest Service for firefighting missions.

Unsafe Condition

(d) This AD is the result of the FAA's analysis and determination that the operational history and usage of the affected airplanes requires a reduction in the structural life limit to 4,500 hours time-in-service (TIS) for the airframe (wing, fuselage, empennage, and associated structure). The actions specified in this AD are intended to prevent structural failure of the airframe (wing, fuselage, empennage, or associated structure) based on the operational history and usage of the affected airplanes. Such failure could lead to loss of control.

Compliance

- (e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Insert the Raytheon Model 58P/58PA and Model 58TC/58TCA POH/AFM Supplement, part number (P/N) 102-590000-67, issued January 2005, into the Limitations Section of pilot's operating handbook (POH)/airplane flight manual (AFM) (P/N 102-590000-41 or 106-590000-5). The POH/AFM Supplement limits the structural fatigue life of the airframe (wing, fuselage, empennage, and associated structure) to 4,500 hours TIS.	Upon the accumulation of 4,500 hours TIS on the airframe (wing, fuselage, empennage, or associated structure) or before further flight after November 15, 2007 (the effective date of this AD), whichever occurs later, unless already done.	Any person holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the POH/AFM as specified in paragraph (e)(1) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Do not operate any Models 58P and 58TC airplanes (with any serial number noted in paragraph (c) of this AD) upon the accumulation of 4,500 hours TIS on the airframe (wing, fuselage, empennage, or associated structure) or before further flight, whichever occurs later.	As of November 15, 2007 (the effective date of this AD).	Not Applicable.

Note 1: 14 CFR 43.10 requires anyone who removes a life-limited part from an airplane to ensure that the part is controlled using one of the methods in paragraph (c) of the regulation. This includes a recordkeeping system, tag or record attached to part, non-permanent marking, permanent marking, segregation, mutilation, or other methods. This AD establishes the structural life limit of the affected airplanes. Anyone removing the life-limited airframe (wing, fuselage, empennage, and associated structure) from one of the affected airplanes is obligated by 14 CFR 43.10 to control the part once it is removed.

Note 2: Although aircraft used in public operations are generally exempt from compliance with the Federal Aviation Regulations, the safety implications of the structural fatigue life (4,500 hours TIS) of the airframe are serious. Therefore, we strongly recommend operators of public-use-only aircraft comply with the structural fatigue life (4,500 hours TIS) of the airframe.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Steve Potter, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4124; fax: (316) 946-4107. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(g) You may obtain the service information referenced in this AD from Hawker Beechcraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140. To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M-30,

West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at <http://dms.dot.gov>. The docket number is FAA-2005-21175; Directorate Identifier 2005-CE-24-AD.

Issued in Kansas City, Missouri, on October 3, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-19888 Filed 10-10-07; 8:45 am]