

the proposed rule change become operative immediately upon filing.<sup>16</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2009-29 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2009-29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2009-29 and should be submitted on or before May 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-10689 Filed 5-7-09; 8:45 am]

**BILLING CODE 8010-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA-2009-0019 (Notice No. 09-2)]**

##### Information Collection Activities Under OMB Review; 2009 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 these collections of information was published in the **Federal Register** on February 5, 2009 [74 FR 6215] under Docket No. PHMS-2009-0019 (Notice No. 09-1).

**DATES:** Interested persons are invited to submit comments on or before June 8, 2009.

**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 Steven Andrews, 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 Federal agencies 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 105, 106, 107 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 persons; (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:* Rulemaking, Special Permits, and Preemption Requirements.

*OMB Control Number:* 2137-0051.

*Summary:* This collection of information applies to the agency's procedures for developing rulemaking, granting special permits, and addressing preemption. Specific areas covered in this information collection include Part 105, Subpart A and Subpart B,

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

“Hazardous Materials Program Definitions and General Procedures;” Part 106, Subpart B, “Participating in the Rulemaking Process;” Part 107, Subpart B, “Special Permits;” and Part 107, Subpart C, “Preemption.” The Federal hazardous materials transportation law directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in commerce. We are authorized to accept petitions for rulemaking and appeals, as well as applications for exemptions, preemption determinations and waivers of preemption. The types of information collected include:

(1) *Petitions for Rulemaking:* Any person may petition the Office of Hazardous Materials Standards to add, amend, or delete a regulation in Parts 110, 130, or 171 through 180, or may petition the Office of the Chief Counsel to add, amend, or delete a regulation in Parts 105, 106 or 107.

(2) *Appeals:* Except as provided in § 106.40(e), any person may submit an appeal to our actions in accordance with the Appeals procedures found in §§ 106.110 through 106.130.

(3) *Application for Special Permit:* Any person applying for a special permit must include the citation of the specific regulation from which the applicant seeks relief; specification of the proposed mode or modes of transportation; detailed description of the proposed special permit (e.g., alternative packaging, test, procedure or activity), including as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents, etc.

(4) *Application for Preemption Determination:* With the exception of highway routing matters covered under 49 U.S.C. 5125(c), any person directly affected by any requirement of a State, political subdivision, or Indian tribe may apply to the Chief Counsel for a determination whether that requirement is preempted by § 107.202(a), (b) or (c). The application must include the text of the State or political subdivision or Indian tribe requirement for which the determination is sought; specify each requirement of the Federal hazardous materials transportation law, regulations issued under the Federal hazardous material transportation law, or hazardous material transportation security regulations or directives issued by the Secretary of Homeland Security with which the applicant seeks the State or political subdivision or Indian tribe requirement to be compared; explain why the applicant believes the State or political subdivision or Indian tribe requirement should or should not be

preempted under the standards of § 107.202; and state how the applicant is affected by the State or political subdivision or Indian tribe requirement.

(5) *Waivers of Preemption:* With the exception of requirements preempted under 49 U.S.C. 5125(c), any person may apply to the Chief Counsel for a waiver of preemption with respect to any requirement that: (1) The State or political subdivision thereof or Indian tribe acknowledges to be preempted under the Federal hazardous materials transportation law, or (2) that has been determined by a court of competent jurisdiction to be so preempted. The Chief Counsel may waive preemption with respect to such requirement upon a determination that such requirement affords an equal or greater level of protection to the public than is afforded by the requirements of the Federal hazardous materials transportation law or the regulations issued thereunder, and does not unreasonably burden commerce.

The information collected under these application procedures is used by PHMSA to determine the merits of the petitions for rulemakings and for reconsideration of rulemakings, as well as applications for special permits, preemption determinations and waivers of preemption. The procedures governing petitions for rulemaking and for reconsideration of rulemakings are covered in Subpart B of Part 106. Applications for special permits, preemption determinations and waivers of preemption are covered under Subparts B and C of Part 107. Information collected under rulemaking procedures enables PHMSA to determine if a rule change is warranted and consistent with public interest. Information collected under special permit procedures is used to determine if the requested relief provides for a comparable level of safety as provided by the HMR or is consistent with the public interest. Preemption procedures provide information for PHMSA to determine whether a requirement of a State, political subdivision, or Indian tribe is preempted under 49 U.S.C. 5125, or regulations issued thereunder, or whether a waiver of preemption should be issued.

One person submitted comments pertaining to the renewal of the Special Permit aspect of this information collection in response to the **Federal Register** Notice published on February 5, 2009. In its comment, the Institute of Makers of Explosives (IME) provided suggestions for administrative improvements to the Special Permits and Competent Authority Approval programs. These comments are beyond

the scope of this notice, but PHMSA will evaluate the recommendations and consider program changes as necessary and appropriate.

*Affected Public:* Shippers, carriers, packaging manufacturers, and other affected entities.

*Recordkeeping:*

*Number of Respondents:* 3,304.

*Total Annual Responses:* 4,294.

*Total Annual Burden Hours:* 4,219.

*Frequency of Collection:* On occasion.

*Title:* Radioactive Materials (RAM)

Transportation Requirements.

*OMB Control Number:* 2137-0510.

*Summary:* This information collection consolidates and describes the information collection provisions in the HMR involving the transportation of radioactive materials in commerce. Information collection requirements for RAM include: (1) Shipper notification to consignees of the dates of shipment of RAM; (2) expected arrival; (3) special loading/unloading instructions; (4) verification that shippers using foreign-made packages hold a foreign competent authority certificate and verification that the terms of the certificate are being followed for RAM shipments being made into this country; and (5) specific handling instructions from shippers to carriers for fissile RAM, bulk shipments of low specific activity RAM and packages of RAM which emit high levels of external radiation. These information collection requirements help to ensure that proper packages are used for the type of radioactive material being transported; external radiation levels do not exceed prescribed limits; and packages are handled appropriately and delivered in a timely manner, so as to protect the safety of the general public, transport workers, and emergency responders.

*Affected Public:* Shippers and carriers of radioactive materials in commerce.

*Recordkeeping:*

*Number of Respondents:* 3,817.

*Total Annual Responses:* 21,519.

*Total Annual Burden Hours:*

15,270.

*Frequency of Collection:* On occasion.

*Title:* Subsidiary Hazard Class and Number/Type of Packagings.

*OMB Control Number:* 2137-0613.

*Summary:* The HMR require that shipping papers and emergency response information accompany each shipment of hazardous materials in commerce. In addition to the basic shipping description information, we also require the subsidiary hazard class or subsidiary division number(s) to be entered in parentheses following the primary hazard class or division number on shipping papers. This requirement

was originally required only for transportation by vessel. However, the absence of this information for other transport modes posed problems with regard to compliance with segregation, separation, and placarding requirements, resulting in a reduced level of safety. For example, if a motor vehicle were transporting a material with a subsidiary hazard that necessitates special handling procedures or additional regulatory requirements, the lack of information on the subsidiary hazard could result in improper loading or handling by transport workers or inadequate or ineffective emergency response in an accident. Therefore, the HMR require the subsidiary hazard class or subsidiary division number(s) to be entered on the shipping paper. Shipping papers must also include an indication of the number and type of packagings to be indicated on the shipping paper.

Shipping papers serve as a principal means of identifying hazardous materials during transportation emergencies. Firefighters, police, and other emergency response personnel are trained to refer to the shipping papers when responding to hazardous materials transportation emergencies. The availability of accurate information concerning the hazardous materials being transported significantly improves response efforts in these types of emergencies. The additional information on subsidiary hazards and the number and types of packagings being transported aids emergency responders by more clearly identifying the hazard that must be addressed.

**Affected Public:** Shippers and carriers of hazardous materials in commerce.

**Recordkeeping:**

*Number of Respondents:* 250,000.

*Total Annual Responses:* 6,337,500.

*Total Annual Burden Hours:* 17,604.

*Frequency of collection:* On occasion.

Issued in Washington, DC on Monday, May 4, 2009.

**Edward T. Mazzullo,**

*Director, Office of Hazardous Materials Standards.*

[FR Doc. E9-10684 Filed 5-7-09; 8:45 am]

**BILLING CODE 4910-60-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34936; STB Finance Docket No. 34936 (Sub-No. 1)]**

#### **Port of Moses Lake—Construction Exemption—Moses Lake, WA; Port of Moses Lake—Acquisition Exemption—Moses Lake, WA**

*Co-Lead Agencies:* Surface Transportation Board and Washington State Department of Transportation.

**ACTION:** Notice of Availability of Final Environmental Assessment.

**SUMMARY:** By petition filed on August 28, 2008, the Port of Moses Lake (Port) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct rail lines in Grant County, Washington. In the same petition, the Port also seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire an existing segment of rail line from Columbia Basin Railroad Company, Inc. The proposed project, known as the Northern Columbia Basin Railroad Project, includes the construction of two new rail line segments and the acquisition and refurbishment of an existing rail segment to provide rail access to land designated and zoned for industrial uses along Wheeler Road (Road 3 NE) and at the Grant County International Airport. The entire proposed route would extend approximately 11.5 miles.

The Board, pursuant to 49 U.S.C. 10901, is the agency responsible for granting authority for the construction and operation of new rail line facilities. The Board's Section of Environmental Analysis (SEA) and the Washington State Department of Transportation (WSDOT), as co-lead agencies responsible for the environmental review of the proposed rail project, issued an Environmental Assessment (EA) on November 7, 2008. The EA was made available to Federal, state and local agencies; tribes; the public; and interested parties for a 30-day public comment period, and SEA and WSDOT received 29 comments. The Final Environmental Assessment (Final EA) responds to comments; considers new alternatives, including an alignment modification; clarifies, corrects or adds to information that was in the EA, primarily regarding impacts to wetlands, impacts to irrigated farmland, and cumulative impacts; and makes final environmental recommendations to the Board.

Based on an independent analysis of all information available to date, SEA and WSDOT conclude that the proposed action would not result in any significant environmental impacts if the mitigation measures recommended in the Final EA are imposed and implemented. Accordingly, SEA recommends that any decision by the Board approving the proposed action impose conditions requiring the Port to comply with the mitigation measures set forth in Chapter Five of the Final EA. Because the proposed action, as mitigated, would not have the potential for significant environmental effects, preparation of an EA for this case is appropriate and the full Environmental Impact Statement process is unnecessary.

The Board will now consider the entire environmental record, including the final recommended mitigation measures and all environmental comments received in this proceeding, in making its final decision as to whether to approve the proposed action, and if so, what mitigation to impose.

Copies of the Final EA have been served on all interested parties and will be made available to additional parties upon request. The entire Final EA is also available for review on the Board's Web site (<http://www.stb.dot.gov>) by going to "E-LIBRARY," clicking on the "Decisions and Notices" link, and then searching by the Service Date (May 8, 2009) or Docket Number (FD 34936).

**FOR FURTHER INFORMATION CONTACT:**

Christa Dean, Attorney and Project Manager, at (202) 245-0299; *e-mail:* [christa.dean@stb.dot.gov](mailto:christa.dean@stb.dot.gov), or Elizabeth Phinney, WSDOT Rail Environmental Manager, at (360) 705-7902; *e-mail:* [phinnee@wsdot.wa.gov](mailto:phinnee@wsdot.wa.gov). Federal Information Relay Service for the hearing impaired: 1-800-877-8339.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Decided: May 8, 2009.

**Kulunie L. Cannon,**

*Clearance Clerk.*

[FR Doc. E9-10667 Filed 5-7-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meeting.