

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is ‘within the reaches of public interest.’” *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette*, 406 F. Supp. at 716), *aff’d sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459. Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the compliant” to inquire into other matters that the United States might have but did not pursue. *Id.* at 1459–60.

VII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: September 2, 2005.

Respectfully submitted,

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microscope, but with an artist’s reducing glass”). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether “the remedies [obtained in the decree are] so inconsonant with the allegations charges as to fall outside of the ‘reaches of the public interest’”).

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Kingwood Mining Company, LLC

[Docket No. M-2005-062-C]

Kingwood Mining Company, LLC, Route 1 Box 294C, Newburg, West Virginia 26410 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (Weekly examination) to its Whitetail K-Mine (MSHA I.D. No. 46-08751) located in Preston County, West Virginia. The petitioner requests a modification of the existing standard to permit monitoring stations to be established for the left side entries (looking inby) from the belt entry over of South Mains #2 at #8 crosscut to South Mains #4 at #9 crosscut due to deteriorating roof conditions. The petitioner proposes to establish monitoring stations (MS-S1, S2, S3, & S4) at inlet entries (MS-S3 and S4) at South #4 between #9-#10 crosscut and the outlet entries (MS-S1 and S2) at South #2 between #6-#7 crosscut. The petitioner will have a certified person examine the monitoring stations on a weekly basis for air quantity, quality, and direction, and record the results of the examination in a book. The petitioner will also examine the stopping line between the belt entry and the intake air entry area in question from the South Mains #2 at #4 crosscut to South Mains #4 at #9 crosscut each production day for integrity, and record the results in the daily belt examiners book. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Mach Mining, LLC

[Docket No. M-2005-063-C]

Mach Mining, LLC, P.O. Box 300, Johnston City, Illinois 62951 has filed a petition to modify the application of 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements) to its Mach #1 Mine (MSHA I.D. No. 11-03141) located in Williamson County, Illinois. The petitioner proposes to operate the Getman Roadbuilder as it was originally designed without front brakes. The petitioner will provide training to the grader operators on lowering the moldboard for additional stopping capability in emergency situations; train

operators to recognize the appropriate speeds to use on different roadway conditions; and limit the maximum speed of the Roadbuilder to 10 miles per hour. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via Federal eRulemaking Portal: <http://www.regulations.gov>; E-mail: zzMSHA-Comments@dol.gov; Fax: (202) 693-9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before October 20, 2005. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 15th day of September 2005.

Rebecca J. Smith,

Acting Director, Office of Standards, Regulations, and Variances.

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NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend an Information Collection

AGENCY: National Science Foundation (NSF).

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years. **DATES:** Written comments on this notice must be received by November 21, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send e-mail to

splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. (eastern time) Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for Science and Technology Centers (STC): Integrative Partnerships.

OMB Number: 3145-0194.

Expiration Date of Approval: January 31, 2006.

Type of Request: Intent to seek approval to extend an information collection.

Abstract: The National Science Foundation (NSF) requests extension of data collection (annual reports) called "Grantee Reporting Requirements for Science and Technology Centers (STC): Integrative Partnerships". The current data collection, designed to measure the Science and Technology Centers' progress and plans, had been approved for use through January 2006. The annual reports have proven an effective means for efficiently gathering data from Centers. The data gathered through the annual reports under the current OMB approval has been used in making decisions about continued funding of individual Centers. In addition, a database of Centers' characteristics, activities, and outcomes has been created using data from these annual reports.

The Science and Technology Centers (STC): Integrative Partnerships Program supports innovation in the integrative conduct of research, education and knowledge transfer. Science and Technology Centers build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. STCs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. Thus, new knowledge created is meaningfully linked to society.

In addition, STCs enable and foster excellence in education, the integration of research and education, and the creation of bonds between learning and inquiry so that discovery and creativity more fully support the learning process. STCs capitalize on diversity through participation in Center activities and demonstrate leadership in the involvement of groups

underrepresented in science and engineering.

All Centers will be required to submit annual reports on progress and plans that are used as a basis for performance review and determining the level of continued funding. This continues the practice established under the previously approved data collection. To support this review and the management of a Center, new STCs are required to develop a set of management and performance indicators (continuing Centers have already developed these indicators). These indicators are submitted annually to NSF via FastLane. These indicators are both quantitative and descriptive and include, for example, the characteristics of Center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents and licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the STCs' efforts. The reporting will be added to the STC program database that has been compiled by an NSF evaluation technical assistance contractor to support decisions for continued funding of the Centers and will be made available for the 2007 program evaluation. This database captures specific information that demonstrates progress towards achieving the goals of the individual Centers and the goals of the program. Such reporting requirements are included in the cooperative agreement that is binding between the academic institution and the NSF.

Each Center's annual report provides information about the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management, and (7) budget issues.

For each of the categories the report describes overall objectives for the year, problems the Center has encountered in making progress towards goals for the year, specific outputs and outcomes for the year, and expected accomplishments and anticipated problems in the coming year.

Use of the Information: NSF will use the information to make decisions on continued funding for the Centers, to evaluate the yearly progress of the program and to inform the upcoming 2007 Program Evaluation. The data will be analyzed to evaluate progress towards specific goals of the STC program.

Estimate of Burden: For the first year of this data collection, the time estimate for the 11 continuing Centers is a total of 550 hours. The time estimate for the 2 newly funded Centers and the anticipated 4 additional Centers is a total of 600 hours. In subsequent years of the data collection, the time estimate is a total of 850 hours for the 17 Centers (the 11 established Centers, the 2 newly funded Centers, and the anticipated 4 additional Centers).

Respondents: Non-profit institutions; Federal Government.

Estimated Number of Responses per Report: One from each of the 13 funded Centers and 4 anticipated Centers.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: September 15, 2005.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

Nuclear Management Company, Duane Arnold Energy Center; Notice of Consideration of Approval of Transfer of Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR-49 for the Duane Arnold Energy Center (DAEC) to the extent currently held by Interstate Power and Light Company (IPL) as owner, and Nuclear Management Company, LLC (NMC) as licensed operator of DAEC. The transfer would be to FPL Energy