

Department as to whether a particular employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. These procedural rules concern specific criteria set forth in 29 CFR 2510.3-40 ("criteria rules"), which, if met, constitute a finding by the Department that a plan is collectively bargained. Plans that meet the requirements of the criteria rules are not subject to state law. Among other requirements, the procedural rules require submission of a petition and affidavits by parties seeking a finding. The Department has obtained approval from the Office of Management and Budget (OMB), under OMB Control No. 1210-0119, for the information collections contained in its rules for a finding under section 3(40). This approval is currently scheduled to expire on March 30, 2007.

## II. Current Actions

This notice requests comments on an extension of OMB's approval of the information collections included in 29 CFR 2510.3-40. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval of the information collection contained in 29 CFR 2510.3-40. No change to the existing ICR is proposed or made at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Petition for Finding under Section 3(40) of ERISA.

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210-0119.

*Affected Public:* Business or other for-profit; not-for-profit institutions.

*Respondents:* 45.

*Responses:* 45.

*Estimated Total Burden Hours:* 1.

*Estimated Total Burden Cost (Operating and Maintenance):* \$120,420.

## III. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- 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, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval; they will also become a matter of public record.

**Joseph S. Piacentini,**

*Director, Office of Policy and Research,  
Employee Benefits Security Administration.*

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**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 88-59, Residential Mortgage Financing Arrangements

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption (PTE) 88-59. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted on or before February 5, 2007.

**ADDRESSES:** Direct all written comments to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: [ebbsa.opr@dol.gov](mailto:ebbsa.opr@dol.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

PTE 88-59 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are met. Among other conditions, PTE 88-59 requires that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210-0095. The OMB approval is currently scheduled to expire on March 30, 2007.

### II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB approval of the information collection contained in PTE 88-59. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval of the information collection contained in PTE 88-59. No change to the existing ICR is proposed or made at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Prohibited Transaction Class Exemption 88-59; Residential Mortgage Financing Arrangements.

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210-0095.

*Affected Public:* Business or other for-profit; not-for-profit institutions.

*Respondents:* 1,785.

*Responses:* 1,785.

*Estimated Total Burden Hours:* 1.

### III. Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

**Joseph A. Piacentini,**

*Director, Office of Policy and Research,  
Employee Benefits Security Administration.*

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BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of petitions for modification of existing mandatory safety standards.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

**DATES:** Comments on the petitions must be postmarked and received by the

Office of Standards, Regulations, and Variances on or before January 4, 2007.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *E-Mail:* [Standards-Petitions@dol.gov](mailto:Standards-Petitions@dol.gov).
2. *Telefax:* 1-202-693-9441.
3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. If you submit your comments by hand-delivery, you are required to check in at the receptionist desk on the 21st floor.

Copies of the petitions and comments will be available during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Ria Moore Benedict, Deputy Director, Office of Standards, Regulations, and Variances at 202-693-9443 (Voice), [benedict.ria@dol.gov](mailto:benedict.ria@dol.gov) (e-mail), or 202-693-9441 (Telefax), or you can contact Barbara Barron at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (e-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers].

#### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

#### II. Petitions for Modification

*Docket Number:* M-2006-076-C.  
*Petitioner:* Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama.  
*Mine:* Shoal Creek Mine, (MSHA I.D. No. 01-02901), located in Jefferson County, Alabama.

*Regulation Affected:* 30 CFR 75.507 (Power connection points).

*Modification Request:* The petitioner requests a modification of the existing standard to permit use of three-phase, alternating current deep-well submersible pumps in boreholes in its Shoal Creek Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

*Docket Number:* M-2006-077-C.

*Petitioner:* Arch Western Bituminous Group, LLC, 225 N. 5th Street, Suite 900, Grand Junction, Colorado 81510.

*Mine:* SUFCO Mine, (MSHA I.D. No. 42-00089), located in Sevier County, Utah.

*Regulation Affected:* 30 CFR 75.1909(c)(2) (Non-permissible diesel-powered equipment; design and performance requirements).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of Getman 220 tractors towing fully loaded Uintah 2m shield trailers that are: (a) Equipped with a supplemental braking system on the tractor; (b) Equipped with a system to automatically lower the load in the trailer onto the roadway providing additional braking action; (c) Operated by personnel that have been trained to recognize appropriate levels of speed for different road conditions and slopes, and all hazards associated with an additional supplemental braking system; and (d) Maintenance personnel will be trained in recognizing all hazards with the additional supplemental braking system. The petitioner states that the miners will be trained in the terms and conditions of the Proposed Decision and Order and within 60 days submit revisions of its Part 48 training plan to the District Manager that includes initial and refresher training to comply with final order. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

*Docket Number:* M-2006-078-C.

*Petitioner:* San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421.

*Mine:* San Juan South Mine, (MSHA I.D. No. 29-02170), located in San Juan County, New Mexico.

*Regulation Affected:* 30 CFR 75.335(a)(2) (Construction of seals).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of an alternative method for construction of seals in the San Juan South Mine. Persons may review a complete