

resources; and the imposition of unnecessary or discriminatory technical regulations or standards in the telecommunications product or services sectors.

#### Public Comment and Reply Comment Requirements for Submission

Comments in response to this notice must be written in English, must identify (on the first page of the comments) the telecommunications trade agreement(s) discussed therein, and must be submitted electronically by 5 p.m. on December 11, 2009. Reply comments must also be in English and must be submitted by 5 p.m. on January 15, 2010. Comments and reply comments, with the exception of business confidential comments, must be submitted using <http://www.regulations.gov>, docket number USTR-2009-0038. Instructions for submitted business confidential versions are provided below. In the unusual case where submitters are unable to make submissions through Regulations.gov, the submitter must contact Gloria Blue at (202) 395-3475 to make alternate arrangements.

To submit comments using <http://www.regulations.gov>, enter docket number USTR-2009-0038 on the home page and click "Search". The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting "Notices" under "Document Type" on the search-results page, and click on the link entitled "Send a Comment." Follow the instructions given on the screen to submit a comment. The <http://www.regulations.gov> website offers the option of providing comments by filling in a "Type Comment" field or by attaching a document. While both options are acceptable, USTR prefers submissions in the form of an attachment.

#### Business Confidential Submissions

Persons wishing to submit business confidential information must submit that information by fax to (202) 395-3891. Business confidential submissions will not be accepted at <http://www.regulations.gov>. The submitter must include in the comments a written explanation of why the information should be protected in accordance with 15 CFR 2007.7(b). In addition, a non-confidential version of the comments must be submitted to <http://www.regulations.gov>, docket number USTR-2009-0038. The submission must indicate, with asterisks, where confidential information was redacted or deleted. The top and bottom of each

page of the non-confidential version must be marked either "PUBLIC VERSION" or "NON-CONFIDENTIAL".

Business confidential comments that are submitted without the required markings or that do not have a properly marked non-confidential version submitted to regulations.gov as set forth above may not be accepted or may be treated as public documents.

Submitters should provide updated information on all issues they cite in their filings; USTR will not review submissions that are copies of earlier submissions.

#### Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket DOT-OST-2009-0292]

#### Michael R. Bennett and Workplace Compliance; Final Public Interest Exclusion Order

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

**SUMMARY:** The Department of Transportation (DOT) issued a decision and order under the Procedures for Transportation Workplace Drug and Alcohol Testing Programs excluding a service agent, Michael R. Bennett, Workplace Compliance, Inc. in North Carolina, Texas, and all other places it is incorporated, franchised, or otherwise doing business, and all other individuals who are officers, employees, directors, shareholders, partners, or other individuals associated with Workplace Compliance, Inc., from providing drug and alcohol testing services in any capacity to any DOT-regulated employer for a period of 5 years. Mr. Bennett and his company provided Medical Review Officer services to DOT-regulated employers directly and through other service agents when Mr. Bennett was not qualified to act as a Medical Review Officer.

**DATES:** The effective date of the Public Interest Exclusion was July 31, 2009 and it will remain in effect until July 31, 2014.

#### FOR FURTHER INFORMATION CONTACT:

Patrice M. Kelly, Deputy Director, U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366-

3784 (voice), (202) 366-3897 (fax), or [patrice.kelly@dot.gov](mailto:patrice.kelly@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with the provisions of the Department's regulation at 49 CFR part 40 (Part 40), subpart R, Public Interest Exclusions (PIE), the Federal Aviation Administration (FAA) issued a Notice of Corrective Action to Mr. Bennett on March 6, 2009, and then issued a Notice of Proposed Exclusion on May 5, 2009. Through an investigation, the FAA found that Mr. Bennett violated Part 40 because he had performed all roles and responsibilities of a Medical Review Officer (MRO) under Part 40, even though he was not a licensed physician (a Doctor of Medicine or Osteopathy), and therefore not qualified to act as an MRO. Mr. Bennett and his company used a medical doctor's name on thousands of negative test results and hundreds of non-negative test results in order to verify these DOT-regulated drug test results. He communicated those results to employers and/or other service agents for communication to other DOT-regulated employers.

The FAA referred the matter to the Department for a PIE proceeding under the provisions of Subpart R of Part 40. Mr. Bennett did not contest the FAA's allegations.

##### Public Interest Exclusion Decision and Order

On July 31, 2009, the Department issued a PIE against Michael R. Bennett, Workplace Compliance, Inc. in North Carolina, Texas, and all other places it is incorporated, franchised, or otherwise doing business, and all other individuals who are officers, employees, directors, shareholders, partners, or other individuals associated with Workplace Compliance, Inc., ("Michael R. Bennett, *et al.*") from providing drug and alcohol testing services in any capacity to any DOT-regulated employer for a period of 5 years. A full copy of the Department's Decision and Order can be found at <http://www.dot.gov/ost/dapc/>.

In accordance with the terms of the Department's Decision and Order and per 49 CFR 40.403(a), Michael R. Bennett, *et al.*, were required to directly notify each of the affected DOT-regulated employer clients in writing about the issuance, scope, duration, and effect of the PIE. The Department has notified employers and the public about this PIE by publishing a "List of Excluded Drug and Alcohol Service Agents" on its Web site at <http://www.dot.gov/ost/dapc/>.

[www.dot.gov/ost/dapc/](http://www.dot.gov/ost/dapc/) and will make the list available upon request. As required by 49 CFR 40.401(d), the Department is publishing this **Federal Register** notice to inform the public that Michael R. Bennett, *et al.*, are subject to a PIE for 5 years. After July 31, 2014, Michael R. Bennett, *et al.*, will be removed from the list and the public will be notified of that removal, also in accordance with 49 CFR 40.401(d).

Any DOT-regulated employer who uses the services of Michael R. Bennett, *et al.*, between July 31, 2009 and July 31, 2014 may be subject to a civil penalty for violation of Part 40.

Dated this 10th day of November, 2009, at Washington, DC.

**Patrice M. Kelly,**

*Deputy Director, Office of Drug and Alcohol Policy Compliance.*

[FR Doc. E9-27525 Filed 11-16-09; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[Project No. STP-036-1 (11) Paia Bypass]

#### Environmental Impact Statement: Maui County, HI; Notice of Intent

**AGENCY:** Federal Highway Administration (FHWA), Hawaii Department of Transportation (HDOT).

**SUMMARY:** The Federal Highway Administration (FHWA) is issuing this notice of intent in order to advise the public that an Environmental Impact Statement (EIS) will be prepared to evaluate alternatives that would reduce congestion and improve safety and reliability of Hana Highway between the intersection of Hana Highway with Haleakala Highway and Maliko Gulch on the north side of the Island of Maui in the Paia-Haiku region. This section is the primary travel way for the movement of people and goods between east Maui and the Wailuku/Kahului area where connections are made to other parts of the island.

**FOR FURTHER INFORMATION CONTACT:** Pat V. Phung, Lead Civil Engineer, Federal Highway Administration, Hawaii Division, Box 50206, 300 Ala Moana Boulevard, Room 3-306, Honolulu, Hawaii 96850, Telephone: (808) 541-2305.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Hawaii Department of Transportation (HDOT), will prepare an Environmental Impact Statement (EIS) to evaluate alternatives that would reduce congestion and improve safety and reliability of Hana Highway between the intersection of

Hana Highway with Haleakala Highway and Maliko Gulch on the north side of the Island of Maui in the Paia-Haiku region.

Purposes and needs for the project have been established through a collaborative effort that has included community input. The Purpose and Need for the project will be finalized after the completion of the scoping process. The project's purposes have been defined to date as follows:

1. Reduce Vehicle Travel Times.
2. Alleviate Congestion in Paia.
3. Improve Safety for All Modes of Travel.

4. Provide Improved, More Convenient Access to the Towns of Paia and Haiku.

5. Support Paia's Quality of Life through Transportation Improvements.

The NEPA scoping process being initiated by the publication of this NOI is intended to generate a full range of project alternatives for subsequent evaluation. The No-Build alternative would leave Hana Highway in its current condition except for possible short-term and minor improvements such as safety upgrades and maintenance. A Transportation System Management (TSM) alternative would include elements such as restriping the roadway, enhancing transit service, establishing contra-flow lanes, and/or widening the roadway in place. The TSM alternative could also include establishing and improving intersections along the existing roadway through techniques such as channelization, parking removal, roundabouts, or left turn lanes. Build alternatives are anticipated to widen the existing Hana Highway, use different alignments to bypass Paia, or incorporate a combination of these measures.

The purpose of the EIS process is to explore in a public setting potentially significant effects of implementing the proposed action on the physical, human, and natural environment. Areas of investigation for this project will include but are not limited to cultural resources, archaeological resources, biological resources, social impact, engineering feasibility, schedule, land use pattern, shoreline access, residential displacements, impacts on existing businesses, air quality, and noise. Measures to avoid, minimize, or mitigate any significant adverse impacts will be identified. The documents that will be produced include the Draft and Final Environmental Impact Statement (DEIS and FEIS) and the Record of Decision (ROD).

The EIS will be prepared in accordance with regulations

implementing the National Environmental Policy Act (NEPA), as well as provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The purpose of this Notice of Intent is to alert interested parties regarding the plan to prepare the EIS, to provide information on the nature of the proposed project, to invite participation in the EIS process, including comments on the scope of the EIS proposed in this notice. An announcement of formal public scoping meeting will published at a later date.

Regulations implementing NEPA, as well as provisions of SAFETEA-LU, call for public involvement in the EIS process. Section 6002 of SAFETEA-LU requires that FHWA and HDOT do the following: (1) Extend an invitation to other government agencies and Native Hawaiian organizations that may have an interest in the proposed project to become "participating agencies," (2) provide an opportunity for involvement by participating agencies and the public in helping to define the purpose and need for this proposed project, as well as the range of alternatives for consideration in the impact statement, and (3) establish a plan for coordinating public and agency participation in and comment on the environmental review process.

To comply with these regulations, an invitation to become a participating agency will be extended to other government agencies and Native Hawaiian organizations that may have an interest in the proposed project.

The Paia Relief Route Advisory Group (PRAG) has also been formed to help advise HDOT on key aspects of the project such as project purpose and need, project goals, and development and ranking of alternatives. Similar to all community meetings, the Advisory Group meetings will be open to the public, accessible to people with disabilities, and held on Maui at times and locations convenient to those that live and work in the study area.

Issued on: October 29, 2009.

**Abraham Wong,**

*Division Administrator, Hawaii Division.*

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**BILLING CODE P**