

**PART 351—PROCEEDINGS**

■ 1. The authority citation for part 351 is revised to read as follows:

**Authority:** 17 U.S.C. 803.

■ 2. Part 351 is amended by adding § 351.15 to read as follows:

**§ 351.15 Remand.**

In the event of a remand from the United States Court of Appeals for the District of Columbia Circuit of a final determination of the Copyright Royalty Judges, the parties to the proceeding shall within 45 days from the issuance of the mandate from the Court of Appeals file with the Judges written proposals for the conduct and schedule of the resolution of the remand.

Dated: July 16, 2009.

**James Scott Sledge,**

*U.S. Chief Copyright Royalty Judge.*

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. E9-18462 Filed 8-3-09; 8:45 am]

**BILLING CODE 1410-72-P**

**POSTAL REGULATORY COMMISSION****39 CFR Part 3020**

[Docket Nos. MC2009-31 and CP2009-42; Order No. 255]

**Express Mail and Priority Mail Contract**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adding Express Mail & Priority Mail Contract 6 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

**DATES:** Effective August 4, 2009 and is applicable beginning July 27, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Stephen L. Sharfman, General Counsel, 202-789-6820 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

**SUPPLEMENTARY INFORMATION:** *Regulatory History*, 74 FR 33481 (July 13, 2009).

- I. Introduction
- II. Background
- III. Information Request
- IV. Comments
- V. Commission Analysis
- VI. Ordering Paragraphs

**I. Introduction**

The Postal Service seeks to add a new product identified as Express Mail & Priority Mail Contract 6 to the

Competitive Product List. For the reasons discussed below, the Commission approves the Request.

**II. Background**

On July 2, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30, *et seq.*, to add Express Mail & Priority Mail Contract 6 to the Competitive Product List.<sup>1</sup> On July 6, 2009, the Postal Service filed a revised version of its filing which includes attachments inadvertently omitted from the July 2, 2009 request.<sup>2</sup> The Postal Service asserts that the Express Mail & Priority Mail Contract 6 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009-31.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* The contract has been assigned Docket No. CP2009-42.

On July 8, 2009, the Postal Service filed under seal revised versions of the financial analysis workbooks originally filed under seal on July 2, 2009.<sup>3</sup>

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors’ Decision authorizing the new product which also includes an analysis of Express Mail & Priority Mail Contract 6 and certification of the Governors’ vote;<sup>4</sup> (2) a redacted version of the contract which, among other things, provides that the contract will expire 3 years from the effective date, which is proposed to be 1 day after the Commission issues all regulatory approvals;<sup>5</sup> (3) requested changes in the Mail classification Schedule product list;<sup>6</sup> (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;<sup>7</sup> and (5) certification of compliance with 39 U.S.C. 3633(a).<sup>8</sup>

<sup>1</sup> Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 6 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, July 2, 2009.

<sup>2</sup> Errata to Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 6 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, July 6, 2009 (Request).

<sup>3</sup> See Notice of the United States Postal Service of Filing Under Seal of Revised Financial Analysis Workbooks for Express Mail & Priority Mail Contract 6, July 8, 2009 (Revised Workbooks).

<sup>4</sup> Attachment A to the Request. The analysis that accompanies the Governors’ Decision notes, among other things, that the contract is not risk free, but concludes that the risks are manageable.

<sup>5</sup> Attachment B to the Request.

<sup>6</sup> Attachment C to the Request.

<sup>7</sup> Attachment D to the Request.

<sup>8</sup> Attachment E to the Request.

In the Statement of Supporting Justification, Mary Prince Anderson, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.*, Attachment D. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.* W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *See Id.*, Attachment E.

The Postal Service filed much of the supporting materials, including the unredacted Governors’ Decision and the unredacted contract, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer’s name and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain confidential. *Id.* at 2-3.

In Order No. 239, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.<sup>9</sup>

**III. Information Request**

On July 14, 2009, the Chairman issued an information request seeking responses to six questions.<sup>10</sup> The information request was filed under seal. *Id.* On July 20, 2009, the Postal Service filed its responses to CHIR No. 1.<sup>11</sup>

**IV. Comments**

Comments were filed by the Public Representative.<sup>12</sup> No filings were submitted by other interested parties. The Public Representative states that the Postal Service’s filing complies with applicable Commission rules of practice

<sup>9</sup> PRC Order No. 239, Notice and Order Concerning Express Mail & Priority Mail Contract 6 Negotiated Service Agreement, July 7, 2009 (Order No. 239).

<sup>10</sup> Chairman’s Information Request No. 1 and Notice of Filing of Questions under Seal, July 14, 2009 (CHIR No. 1).

<sup>11</sup> See Notice of the United States Postal Service of Filing Response to Chairman’s Information Request No.1 Under Seal, July 20, 2009 (Response to CHIR No. 1).

<sup>12</sup> Public Representative Comments in Response to United States Postal Service Request to Add Express Mail & Priority Mail Contract 6 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, July 15, 2009 (Public Representative Comments).

and concludes that the Express Mail & Priority Mail Contract 6 agreements comport with the requirements of title 39. *Id.* at 3–4. He further states that the agreement appears beneficial to the general public. *Id.* at 1.

The Public Representative notes that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 2–3. He also points out several contractual provisions that he believes are mutually beneficial to the parties and general public. *Id.* at 3.

#### V. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal, the Revised Workbooks, the Response to CHIR No. 1, and the comments filed by the Public Representative.

**Statutory requirements.** The Commission's statutory responsibilities in this instance entail assigning Express Mail & Priority Mail Contract 6 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

**Product list assignment.** In determining whether to assign Express Mail & Priority Mail Contract 6 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether

the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant. The competitive category of products shall consist of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private

companies. Request, Attachment D, at para. (d). The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* It further states that the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.* at para. (g). Finally, the Postal Service states that the market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.* at para. (h).

No commenter opposes the proposed classification of Express Mail & Priority Mail Contract 6 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Express Mail & Priority Mail Contract 6 is appropriately classified as a competitive product and should be added to the Competitive Product List.

**Cost considerations.** The Postal Service presents a financial analysis showing that Express Mail & Priority Mail Contract 6 results in cost savings while ensuring that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products.

Based on the data submitted, the Commission finds that Express Mail & Priority Mail Contract 6 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of proposed Express Mail & Priority Mail Contract 6 indicates that it comports with the provisions applicable to rates for competitive products.

**Other considerations.** The Postal Service shall promptly notify the Commission of the scheduled termination date of the agreement. If the agreement terminates earlier than anticipated, the Postal Service shall inform the Commission prior to the new termination date. The Commission will then remove the product from the Mail Classification Schedule at the earliest possible opportunity.

In conclusion, the Commission approves Express Mail & Priority Mail

Contract 6 as a new product. The revision to the Competitive Product List is shown below the signature of this Order and is effective upon issuance of this order.

#### VI. Ordering Paragraphs

*It is ordered:*

1. Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission of the scheduled termination date and update the Commission if termination occurs prior to that date, as discussed in this order.

3. The Secretary shall arrange for the publication of this order in the **Federal Register**.

#### List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

Issued: July 27, 2009.

By the Commission.

**Judith M. Grady,**  
*Acting Secretary.*

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 as follows:

#### PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail

Single-Piece Letters/Postcards

Bulk Letters/Postcards

Flats

Parcels

Outbound Single-Piece First-Class Mail

International

Inbound Single-Piece First-Class Mail

International

Standard Mail (Regular and Nonprofit)

High Density and Saturation Letters

High Density and Saturation Flats/Parcels

Carrier Route

Letters

Flats

Not Flat-Machinables (NFMs)/Parcels

Periodicals

Within County Periodicals

Outside County Periodicals

Package Services

Single-Piece Parcel Post

Inbound Surface Parcel Post (at UPU rates)

Bound Printed Matter Flats

Bound Printed Matter Parcels

Media Mail/Library Mail	Ancillary Services	[Reserved for Product Description]
Special Services	[Reserved for Product Description]	Bookspan Negotiated Service Agreement
Ancillary Services	Address Correction Service	[Reserved for Product Description]
International Ancillary Services	[Reserved for Product Description]	Bank of America Corporation Negotiated Service Agreement
Address List Services	Applications and Mailing Permits	The Bradford Group Negotiated Service Agreement
Caller Service	[Reserved for Product Description]	
Change-of-Address Credit Card Authentication	Business Reply Mail	
Confirm	[Reserved for Product Description]	Part B—Competitive Products
International Reply Coupon Service	Bulk Parcel Return Service	Competitive Product List
International Business Reply Mail Service	[Reserved for Product Description]	Express Mail
Money Orders	Certified Mail	Express Mail
Post Office Box Service	[Reserved for Product Description]	Outbound International Expedited Services
Negotiated Service Agreements	Certificate of Mailing	Inbound International Expedited Services
HSBC North America Holdings Inc. Negotiated Service Agreement	[Reserved for Product Description]	Inbound International Expedited Services 1 (CP2008–7)
Bookspan Negotiated Service Agreement	Collect on Delivery	Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
Bank of America corporation Negotiated Service Agreement	[Reserved for Product Description]	
The Bradford Group Negotiated Service Agreement	Delivery Confirmation	
Agreement	[Reserved for Product Description]	Priority Mail
Inbound International	Insurance	Priority Mail
Canada Post—United States Postal Service	[Reserved for Product Description]	Outbound Priority Mail International
Contractual Bilateral Agreement for Inbound Market Dominant Services	Merchandise Return Service	Inbound Air Parcel Post
Market Dominant Product Descriptions	[Reserved for Product Description]	Royal Mail Group Inbound Air Parcel Post Agreement
First-Class Mail	Parcel Airlift (PAL)	Parcel Select
[Reserved for Class Description]	[Reserved for Product Description]	Parcel Return Service
Single-Piece Letters/Postcards	Registered Mail	International
[Reserved for Product Description]	[Reserved for Product Description]	International Priority Airlift (IPA)
Bulk Letters/Postcards	Return Receipt	International Surface Airlift (ISAL)
[Reserved for Product Description]	[Reserved for Product Description]	International Direct Sacks—M—Bags
Flats	Return Receipt for Merchandise	Global Customized Shipping Services
[Reserved for Product Description]	[Reserved for Product Description]	Inbound Surface Parcel Post (at non-UPU rates)
Parcels	Restricted Delivery	Canada Post—United States Postal service
[Reserved for Product Description]	[Reserved for Product Description]	Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)
Outbound Single-Piece First-Class Mail International	Shipper-Paid Forwarding	International Money Transfer Service
[Reserved for Product Description]	[Reserved for Product Description]	International Ancillary Services
Inbound Single-Piece First-Class Mail International	Signature Confirmation	Special Services
[Reserved for Product Description]	[Reserved for Product Description]	Premium Forwarding Service
Standard Mail (Regular and Nonprofit)	Special Handling	Negotiated Service Agreements
[Reserved for Class Description]	[Reserved for Product Description]	Domestic
High Density and Saturation Letters	Stamped Envelopes	Express Mail Contract 1 (MC2008–5)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail Contract 2 (MC2009–3 and CP2009–4)
High Density and Saturation Flats/Parcels	Stamped Cards	Express Mail Contract 3 (MC2009–15 and CP2009–21)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Carrier Route	Premium Stamped Stationery	Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Letters	Premium Stamped Cards	Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Flats	International Ancillary Services	Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)
[Reserved for Product Description]	[Reserved for Product Description]	Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
Not Flat-Machinables (NFM)/Parcels	International Certificate of Mailing	Priority Mail Contract 1 (MC2008–8 and CP2008–26)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 2 (MC2009–2 and CP2009–3)
Periodicals	International Registered Mail	Priority Mail Contract 3 (MC2009–4 and CP2009–5)
[Reserved for Class Description]	[Reserved for Product Description]	Priority Mail Contract 4 (MC2009–5 and CP2009–6)
Within County Periodicals	International Return Receipt	Priority Mail Contract 5 (MC2009–21 and CP2009–26)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 6 (MC2009–25 and CP2009–30)
Outside County Periodicals	International Restricted Delivery	Priority Mail Contract 7 (MC2009–25 and CP2009–31)
[Reserved for Product Description]	[Reserved for Product Description]	
Package Services	Address List Services	
[Reserved for Class Description]	[Reserved for Product Description]	
Single-Piece Parcel Post	Caller Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Inbound Surface Parcel Post (at UPU rates)	Change-of-Address Credit Card Authentication	
[Reserved for Product Description]	[Reserved for Product Description]	
Bound Printed Matter Flats	Confirm	
[Reserved for Product Description]	[Reserved for Product Description]	
Bound Printed Matter Parcels	International Reply Coupon Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Media Mail/Library Mail	International Business Reply Mail Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Special Services	Money Orders	
[Reserved for Class Description]	[Reserved for Product Description]	
	Post Office Box Service	
	[Reserved for Product Description]	
	Negotiated Service Agreements	
	[Reserved for Class Description]	
	HSBC North America Holdings Inc. Negotiated Service Agreement	

Priority Mail Contract 8 (MC2009–25 and CP2009–32)  
 Priority Mail Contract 9 (MC2009–25 and CP2009–33)  
 Priority Mail Contract 10 (MC2009–25 and CP2009–34)  
 Priority Mail Contract 11 (MC2009–27 and CP2009–37)  
 Priority Mail Contract 12 (MC2009–28 and CP2009–38)  
 Priority Mail Contract 13 (MC2009–29 and CP2009–39)  
 Priority Mail Contract 14 (MC2009–30 and CP2009–40)  
 Outbound International  
 Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)  
 Global Expedited Package Services (GEPS) Contracts  
 GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)  
 Global Plus Contracts  
 Global Plus 1 (CP2008–9 and CP2008–10)  
 Global Plus 2 (MC2008–7, CP2008–16 and CP2008–17)  
 Inbound International  
 Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)  
 International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)  
 Competitive Product Descriptions  
 Express Mail  
 [Reserved for Group Description]  
 Express Mail  
 [Reserved for Product Description]  
 Outbound International Expedited Services  
 [Reserved for Product Description]  
 Inbound International Expedited Services  
 [Reserved for Product Description]  
 Priority  
 [Reserved for Product Description]  
 Priority Mail  
 [Reserved for Product Description]  
 Outbound Priority Mail International  
 [Reserved for Product Description]  
 Inbound Air Parcel Post  
 [Reserved for Product Description]  
 Parcel Select  
 [Reserved for Group Description]  
 Parcel Return Service  
 [Reserved for Group Description]  
 International  
 [Reserved for Group Description]  
 International Priority Airlift (IPA)  
 [Reserved for Product Description]  
 International Surface Airlift (ISAL)  
 [Reserved for Product Description]  
 International Direct Sacks—M-Bags  
 [Reserved for Product Description]  
 Global Customized Shipping Services  
 [Reserved for Product Description]  
 International Money Transfer Service  
 [Reserved for Product Description]  
 Inbound Surface Parcel Post (at non-UPU rates)  
 [Reserved for Product Description]  
 International Ancillary Services  
 [Reserved for Product Description]  
 International Certificate of Mailing  
 [Reserved for Product Description]  
 International Registered Mail  
 [Reserved for Product Description]

International Return Receipt  
 [Reserved for Product Description]  
 International Restricted Delivery  
 [Reserved for Product Description]  
 International Insurance  
 [Reserved for Product Description]  
 Negotiated Service Agreements  
 [Reserved for Group Description]  
 Domestic  
 [Reserved for Product Description]  
 Outbound International  
 [Reserved for Group Description]  
 Part C—Glossary of Terms and Conditions  
 [Reserved]  
 Part D—Country Price Lists for International Mail [Reserved]  
 [FR Doc. E9–18593 Filed 8–3–09; 8:45 am]  
**BILLING CODE 7710–FW–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2009–0033; FRL–8939–7]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Clean Air Interstate Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision establishes budget trading programs for nitrogen oxides (NO<sub>x</sub>) annual, NO<sub>x</sub> ozone season, and sulfur dioxides (SO<sub>2</sub>) annual emissions to address the requirements of EPA's Clean Air Interstate Rule (CAIR), and recodifies and revises provisions pertaining to internal combustion engines and cement kilns that are subject to the NO<sub>x</sub> SIP Call. West Virginia will meet its CAIR requirements by participating in the EPA-administered regional cap-and-trade program for NO<sub>x</sub> annual, NO<sub>x</sub> ozone season, and SO<sub>2</sub> annual emissions. EPA is determining that the SIP revision fully implements the CAIR requirements for West Virginia. Although the D.C. Circuit found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is continuing to take action on CAIR SIPs as appropriate. CAIR, as promulgated, requires States to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind State. CAIR establishes budgets for SO<sub>2</sub> and NO<sub>x</sub> for States that contribute significantly to nonattainment in downwind States and

requires the significantly contributing States to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions. In the SIP revision that EPA is approving, West Virginia will meet CAIR requirements by participating in these cap-and-trade programs. EPA is approving the SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for West Virginia. Consequently, this action will also cause the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions by West Virginia sources to be automatically withdrawn.

**DATES:** *Effective Date:* The final rule is effective on August 4, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2009–0033. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814–2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. What Action Did EPA Propose?
- II. Summary of West Virginia SIP Revision
- III. Final Action
- IV. What Is the Effective Date?
- V. Statutory and Executive Order Reviews

#### I. What Action Did EPA Propose?

On June 11, 2009 (74 FR 27731), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of a revision to the West Virginia SIP that