

Memorandum

Subject: **ACTION:** Patented and Proprietary Products: Database of FHWA Approvals Date: November 14, 2012

David A. Nicol

From: David Nicol
Director, Office of Program Administration

In Reply Refer To:
HIPA-30

To: Associate Administrators
Director, Office of Technical Services
Division Administrators
Federal Lands Highway Division Engineers

Following the issuance of King Gee's November 30, 2011 Memorandum "[INFORMATION: Guidance on Patented and Proprietary Product Approvals](#)", as well as the updated "[Questions and Answers Regarding Title 23 CFR 635.411](#)", we updated the Patented and Proprietary Products web page at <http://www.fhwa.dot.gov/construction/cqit/propriet.cfm> to inform internal and external customers of the actions FHWA has taken. Appendix A contains a summary of the updates to the web page. We have implemented the following procedures regarding the posting of FHWA approvals of patented and proprietary products:

1. As described in Appendix A, all FHWA approvals of patented and proprietary products issued from November 30, 2011 to date will now be posted to a database at the following link: <http://www.fhwa.dot.gov/construction/contracts/pnpapprovals/approvals.cfm>. To populate this database, I ask that you provide John Huyer (john.huyer@dot.gov) of my staff, with a summary list of all FHWA approvals of patented and proprietary products issued by your offices under the November 30, 2011 guidance. Specified products include the following:
 - a. Approvals for the use of a patented or proprietary item for the purpose of research, or for a distinctive type of construction on relatively short sections of road for experimental purposes under 23 CFR 635.411(a)(3); and
 - b. Public interest findings (PIFs) for patented and proprietary products, materials, or processes under 23 CFR 635.411(c).

Please provide this information as formatted in the attached Excel spreadsheet (Attachment 1) which includes dropdown menus. Form field definitions are described in a separate attached Word Document (Attachment 2).

2. To keep the above database current, we will post updates as we receive them. As a reminder, we will also request updates from the Division Offices on a quarterly basis, with response dates of March 1, June 1, September 1, and December 1 of each year.
3. FHWA encourages the State Departments of Transportation (State DOTs) to post their certifications for patented or proprietary products to the AASHTO APEL website at http://apel.transportation.org/all_certified_products.aspx. To date, the APEL website contains certifications from only one State DOT (Maine). We ask that the Division Offices urge their State DOT partners to post to the APEL site.
4. FHWA also recommends that, if a State DOT decides not to post to the APEL site, that it posts certifications to its own website. To date, we have noted pages on the Colorado, Washington State, and Wyoming DOT websites (see Appendix A). Please send information on any other State DOT websites posting patented or proprietary product certifications to John Huyer at john.huyer@dot.gov.
5. We recommend that the Division Offices reexamine active patented or proprietary product certifications or approvals that either:
 - a. Do not have a sunset date; or
 - b. Have a sunset date that exceeds the 2-5 year guideline recommended in Question and Answer #19 of our amended guidance.

If you have any questions or desire further information, please contact one of the following:

John Huyer at (651)291-6111, john.huyer@dot.gov

Gerald Yakowenko at 202-366-1562, gerald.yakowenko@dot.gov

**Appendix A - Revisions to Construction Program Guide page -
Patented & Proprietary Products**

Attachment 1 – Data Reporting Form

Attachment 2 - Data Reporting Form Definitions

Revisions to Construction Program Guide page Patented & Proprietary Products

1. Product Databases

- All FHWA approvals of patented and proprietary products issued from November 30, 2011 to date will now be posted to a database at the following link: <http://www.fhwa.dot.gov/construction/contracts/pnpapprovals/approvals.cfm>. Data can be filtered by Tracking Number, State, Basis of Participation, Product/Material, Product/Material Category, and Extent (project specific, multiple projects, district/region-wide, or statewide).
 - All FHWA approvals of patented and proprietary products issued prior to November 30, 2011 will be maintained as a legacy database at the following link: <http://www.fhwa.dot.gov/construction/contracts/pnpapprovals/index.cfm>. Data may be filtered by Tracking Number, State, Basis of Participation, Product/Material, Product/Material Category, and Extent (project specific, multiple projects, district/region-wide, or statewide). The database will include the following information:
 - Information on Patented & Proprietary Product Approvals collected from Division Offices in 2007 and 2009 to populate what was previously called the Public Interest Finding (PIF) Database, and
 - Information on Patented & Proprietary Product Approvals issued by the Division Offices between the 2009 information collection discussed above and November 30, 2011:
 - AASHTO Product Evaluation List (APEL)
 - Certified Products: http://apel.transportation.org/all_certified_products.aspx
 - State DOTs
 - Colorado – Findings in the Public Interest: <http://www.coloradodot.info/business/designsupport/other-specifications/fipi>
 - Washington State – Current Blanket Proprietary Approvals <http://www.wsdot.wa.gov/Design/ProjectDev/BlanketApprovals.htm>
 - Wyoming – Proprietary Products http://www.dot.state.wy.us/wydot/engineering_technical_programs/proprietary_products
2. Provides examples of product certifications (synchronization, no equally suitable alternative), approvals for research or experimental purposes, and approvals by public interest finding.
 3. Provides lists of Subject Matter Experts (SMEs) in the Resource Center, in Headquarters, and in the Division Offices that may be of assistance in evaluating patented or proprietary products.

FHWA Approvals of Patented & Proprietary Products Data Reporting Form Definitions

We ask that the Division Offices use the attached Excel spreadsheet to report FHWA Approvals of Patented and Proprietary Products. The following describes each field in the form

TRACKING NUMBER	Leave this column blank: for HIPA-30 use	
STATE	One of the 50 States, the District of Columbia, or Puerto Rico.	
BASIS OF PARTICIPATION	Experimental Public Interest Finding (PIF)	
PRODUCT/MATERIAL	As each Experimental product work plan or PIF document may list multiple products, please list each product individually.	
PRODUCT CATEGORY	Currently, the Database has the following 35* categories:	
	ADA Compliance	Noise Abatement
	Architectural	Non-Highway Items
	Coating	Pavement Markings
	Computer - Hardware	Roadway Weather Information System
	Computer - Other	Safety Hardware
	Computer - Software	Sign Sheeting
	Concrete - Admixtures	Structural System
	Concrete - Joints	Structure Component
	Concrete - Sealant	Structure System
	Drainage	Surfacing
	Equipment	Surfacing System
	Irrigation Systems	Testing Equipment
	ITS Computer Hardware/Software	Traffic Control Device
	ITS Hardware or System	Traffic Signal Equipment*
	ITS Services	Utilities-Other
	Landscaping	Utilities-Water/Sewer lines
	Lighting	Weigh-In-Motion Scales
	Miscellaneous	
	HIPA-30 will add new product categories as necessary.	
EXTENT	Project Specific	
	Multiple Projects	
	Region/ Districtwide	
	Statewide	
	Programmatic	
SUBMITTAL DATE	Date the STA submitted the Experimental Product Work Plan or PIF request to FHWA	
PARTICIPATION DATE	Date that Federal Participation in the product cost commences <ul style="list-style-type: none"> • Experimental Product Work Plan approved by FHWA • PIF request approved by FHWA 	
EXPIRATION DATE	Date that the Experimental Product work plan or PIF expires	
COMMENTS	Add additional clarifying information here.	

*Added 06/04/2013