

The estimated PRA burden per merchant to comply with the MTOR is likely overstated. The mail-order industry has been subject to the basic provisions of the Rule since 1976 and the telephone-order industry since 1994. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Moreover, arguably much of the estimated time burden for disclosure-related compliance would be incurred even absent the Rule. Industry trade associations and individual witnesses have consistently taken the position that compliance with the MTOR is widely regarded by direct marketers as being good business practice. Providing consumers with notice about the status of their orders fosters consumer loyalty and encourages repeat purchases, which are important to direct marketers' success. Accordingly, the Rule's notification requirements would be followed in any event by most merchants to meet consumer expectations regarding timely shipment, notification of delay, and prompt and full refunds. Thus, it appears that much of the time and expense associated with Rule compliance may not constitute "burden" under the PRA.<sup>8</sup>

**Estimated labor costs:** \$47,108,000 (rounded to the nearest thousand)

FTC staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. According to the most recent mean hourly income data available from the Bureau of Labor and Statistics, average payroll in 2008 for miscellaneous sales and related workers was \$19.62/hr. Because the bulk of the burden of complying with the MTOR is borne by clerical personnel, staff believes that the average hourly payroll figure for miscellaneous sales and related workers is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established businesses for MTOR compliance during the three-year period for which

<sup>8</sup> Conceivably, in the three years since the FTC's most recent clearance request to OMB for this Rule, many businesses have upgraded the information management systems needed to comply with the Rule and to track orders more effectively. These upgrades, however, were primarily prompted by the industry's need to deal with growing consumer demand for merchandise (resulting, in part, from increased public acceptance of making purchases over the telephone and, more recently, the Internet). Accordingly, most companies now provide updated order information of the kind required by the Rule in their ordinary course of business. Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

OMB approval is sought would be approximately \$47,108,000 (2,401,000 hours x \$19.62/hr.), rounded to the nearest thousand. Relative to direct industry sales, this total is negligible.<sup>9</sup>

**Estimated annual non-labor cost burden:** \$0 or minimal

The applicable requirements impose minimal start-up costs, as businesses subject to the Rule generally have or obtain necessary equipment for other business purposes, *i.e.*, inventory and order management, and customer relations. For the same reason, staff anticipates printing and copying costs to be minimal, especially given that telephone order merchants have increasingly turned to electronic communications to notify consumers of delay and to provide cancellation options. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the Rule.

**Willard K. Tom**

*General Counsel*

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**BILLING CODE 6750-01-S**

## GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0274]

### Public Buildings Service; Submission for OMB Review; Art-in-Architecture Program National Artist Registry

**AGENCY:** Public Buildings Service, (GSA).

**ACTION:** Notice of request for comments regarding a renewal to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Art-in Architecture Program

<sup>9</sup> Based on a \$13.786 billion average yearly increase in sales for "electronic shopping and mail-order houses" from 2000 to 2007 (according to the 2009 Statistical Abstract), staff estimates that total mail or telephone order sales to consumers in the three-year period for which OMB clearance is sought will average \$265.5 billion. Thus, the projected average labor cost for MTOR compliance by existing and new businesses for that period would amount to less than 0.018% of sales.

National Artist Registry. A request for public comments was published in the **Federal Register** at 74 FR 31278, on June 30, 2009. No comments were received.

The Art-in-Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator Bernard L. Boudin who had served on the Ad Hoc Committee on Federal Office Space in 1961-1962.

The program has been modified over the years, most recently in 2000 when a renewed focus on commissioning works of art that are an integral part of the building's architecture and adjacent landscape was instituted. The program continues to commission works of art from living American artists. One-half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

Public comments are particularly invited on: whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

**DATES:** Submit comments on or before: February 16, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Harrison, Public Buildings Service, Office of the Chief Architect, Art-in-Architecture Program, 1800 F Street, NW., Room 3341, Washington, DC 20405, at telephone (202) 501-1812 or via e-mail to [susan.harrison@gsa.gov](mailto:susan.harrison@gsa.gov).

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVPR), General Services Administration, 1800 F Street, Room 4041, NW., Washington, DC 20405. Please cite OMB Control No. 3090-0274, Art-in-Architecture Program National Artist Registry, in all correspondence.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

The Art-in-Architecture Program actively seeks to commission works from the full spectrum of American artists and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art-in-Architecture Program National Artist Registry, will be used to collect information from artists across the

country to participate and to be considered for commissions.

### B. Annual Reporting Burden

*Respondents:* 360.

*Responses Per Respondent:* 1.

*Total Responses:* .25.

*Hours Per Response:* .25.

*Total Burden Hours:* 90.

*Obtaining Copies of Proposals:*

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 3090-0274, Art-in-Architecture Program National Artist Registry, in all correspondence.

Dated: January 8, 2009.

**Teresa Sorrenti,**

*Chief Information Officer.*

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**BILLING CODE 6820-34-P**

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### GENERAL SERVICES ADMINISTRATION

#### Notice of Availability of a Draft Environmental Impact Statement for the Construction of a New Land Port of Entry in International Falls, Koochiching County, MI

**AGENCY:** Public Buildings Service, GSA.  
**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA) and its implementing regulations, the U.S. General Services Administration (GSA), Great Lakes Region, announces the availability of a Draft Environmental Impact Statement (Draft EIS) assessing the potential impacts of a proposed new land port of entry (LPOE) in International Falls, Minnesota (the "Proposed Action"). At the request of Customs and Border Protection, the GSA is proposing to construct and operate a larger improved LPOE which meets the needs of the Federal Inspection Services and the design requirements of the GSA.

The existing facilities are undersized and functionally obsolete and, consequently, incapable of fully providing the level of security now required. The Proposed Action includes: (a) Identification of land requirements, including property acquisition; (b) demolition of existing government structures at the existing LPOE; (c) construction of a main administration building and ancillary support buildings; and (d) incorporation of the principles of sustainable design through the Leadership in Energy and

Environmental Design Green Building Rating System of the U.S. Green Building Council.

The Proposed Action would improve the operational efficiency, safety, and security for federal agency personnel and cross-border travelers at International Falls, Minnesota. The specific objectives are to:

- Increase vehicle and pedestrian processing efficiency and capacity
- Reduce traffic queues and delays approaching the LPOE from both directions
- Minimize conflict points among different types of traffic crossing the border (passenger vehicles, commercial vehicles, trains, buses, and pedestrians)
- Add a functional secondary inspection area for commercial vehicles
- Accommodate future demands and new safety and security technologies and border initiatives

Alternatives being studied include alternative locations and layouts for the components of the LPOE that are identified in the concurrent GSA feasibility study including the main administration and ancillary support buildings, the associated transportation network, and parking. A no-build alternative also is being studied that evaluates the consequences of not constructing the LPOE. This alternative is included to provide a basis for comparison to the action alternatives described above as required by the NEPA regulations (40 CFR 1002.14(d)).

The GSA invites individuals, organizations and agencies to submit comments concerning the content and findings of the Draft EIS. The public comment period starts with the publication of this notice in the **Federal Register** and will continue for forty-five (45) days from the date of this notice. The GSA will consider and respond to comments received on the Draft EIS in preparing the Final EIS. The GSA expects to issue the Final EIS by Spring 2010 at which time its availability will be announced in the **Federal Register** and local media.

**ADDRESSES:** Written comments concerning the Draft EIS should be sent to Glenn Wittman, Regional Environmental Quality Advisor, U.S. General Services Administration, Public Buildings Service, Design & Construction Division, 230 South Dearborn Street, Room 3600, Chicago, IL 60604.

**FOR FURTHER INFORMATION CONTACT:** Glenn Wittman by phone at (312) 353-6871 or by e-mail at [glenn.wittman@gsa.gov](mailto:glenn.wittman@gsa.gov).

**SUPPLEMENTARY INFORMATION:** The public comment period provides stakeholders with an opportunity to comment on the content and findings of the EIS for the Proposed Action. Copies are being distributed to selected stakeholders and are available for public review at the International Falls Public Library, the International Falls Area Chamber of Commerce, and the Koochiching County Administration Office.

Dated: January 7, 2010.

**J. David Hood,**

*Regional Commissioner, Public Buildings Service, Great Lakes Region.*

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### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

[Docket No. FDA-2009-D-0600]

#### Draft Guidance for Industry on Tobacco Health Document Submission; Availability; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of December 28, 2009 (74 FR 68629). The notice announced the availability of a draft guidance entitled "Tobacco Health Document Submission." The notice published with an inadvertent error in the Supplementary Information, background section. This document corrects that error.

**FOR FURTHER INFORMATION CONTACT:** May Nelson, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850-3229, 240-276-1717, [May.Nelson@fda.hhs.gov](mailto:May.Nelson@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In FR Doc. E9-30657, appearing on page 68629, in the **Federal Register** of Monday, December 28, 2009, the following correction is made:

1. On page 68629, in the second column, in the **SUPPLEMENTARY INFORMATION, I. Background** section, in the second full paragraph, in the last sentence, the date "April 30, 2009" is corrected to read "April 30, 2010".