

if appropriate, smokeless tobacco plans specifying how affected companies planned to comply with the rotational warning requirements specified in the Smokeless Tobacco Act and the implementing regulations.

On March 7, 2000, the Commission published a request for public comment on the regulations, 65 FR 11944, as part of its periodic review of its trade regulation rules and guides. The purpose of the review was to determine whether the existing smokeless tobacco regulations continued to meet the goals of the Smokeless Tobacco Act and to provide the protections intended when they were promulgated. The comment period was extended twice in 2000, 65 FR 26534 (May 8, 2000) and 65 FR 60899 (Oct. 13, 2000). The request for comments elicited 39 written responses.<sup>2</sup> Virtually all of the comments supported the continuation of health warnings on smokeless tobacco packages and in advertising. Most comments also recommended that the FTC amend its regulations to require stronger, more effective, and more enforceable health warning requirements. Members of the smokeless tobacco industry recommended against any amendments, stating that the existing regulations effectively served the purpose of the Smokeless Tobacco Act.

On June 22, 2009, President Obama signed into law the Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31, 123 Stat. 1776 (2009) ("Family Smoking Prevention Act"). The Family Smoking Prevention Act, among other things, amends the Smokeless Tobacco Act to require new size, format, and display requirements for the statutory health warnings, and to transfer authority over the review and approval of rotational warning plans to the Secretary of the Department of Health and Human Services ("DHHS"). The Family Smoking Prevention Act also gives the Secretary of the DHHS authority to change the warning statements and to change the size, format, and display requirements of those warnings. The statute specifies that the new warning scheme for smokeless tobacco products will become effective by July 2010.

Given the new statutory size, format, and display requirements, and the transfer of authority over the health warnings to the DHHS, the

Commission's regulatory review has been terminated.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2010-1043 Filed 1-21-10; 8:45 am]

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 307

#### Regulations under the Comprehensive Smokeless Tobacco Health Education Act; Termination of Rulemaking Proceeding

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of Termination of Rulemaking Proceeding.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") has terminated its rulemaking concerning a proposed amendment to its regulations ("smokeless tobacco regulations"), implementing the Comprehensive Smokeless Tobacco Health Education Act of 1986 ("Smokeless Tobacco Act"). The proposed amendment expressly provided that sponsored racing vehicles and other event-related objects that display the brand name, logo, or selling message of smokeless tobacco products are advertising subject to the Smokeless Tobacco Act and the Commission's implementing regulations. In addition, the proposal set out a method for the display and rotation of the statutory health warnings on the objects subject to the amendment.

**EFFECTIVE DATE:** December 3, 2009.

**ADDRESSES:** Requests for copies of this notice should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580. The notice also is available on the Internet on the Commission's Web site, (<http://www.ftc.gov>).

**FOR FURTHER INFORMATION CONTACT:**

Shira Modell, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, 202-326-3116.

**SUPPLEMENTARY INFORMATION:** In 1991, the Coalition on Smoking OR Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring rotational health warnings on sponsored racing cars, banners, flags, and other event-related objects. On November 4, 1993 (58 FR 58810), the FTC published a Notice of Proposed Rulemaking ("Notice") requesting public comment

on a proposed amendment to the Commission's smokeless tobacco regulations that expressly provided that sponsored racing vehicles and other event-related objects bearing smokeless tobacco brand names, logos, or selling messages are subject to the statutory health warning requirements. The Notice also set out a method for displaying and rotating the health warnings on the objects encompassed by the proposed amendment.

During the public comment period, the Commission received approximately 217 substantive comments, numerous petitions signed by members of specific racing teams, and about 53,000 postcards.<sup>1</sup> Of the substantive comments, 200 opposed the proposed regulations and 17 supported the proposal to require warnings on vehicles and other event-related objects. The race team petitions likewise generally opposed the proposal, and the postcards contained a pre-printed message opposing the proposal.

On June 22, 2009, President Obama signed into law the Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31, 123 Stat. 1776 (2009) ("Family Smoking Prevention Act"). The Family Smoking Prevention Act, among other things, transfers authority over the size, format, and display of the smokeless tobacco health warnings to the Secretary of the Department of Health and Human Services ("DHHS"). Thus, pursuant to the Family Smoking Prevention Act, determinations as to whether and how to display and rotate warnings on various objects or vehicles will be made by DHHS. Further, the Family Smoking Prevention Act directs the DHHS to re-issue its Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents, 61 FR 44615-618 (Aug. 28, 1996). Those regulations would prohibit cigarette and smokeless tobacco manufacturers from sponsoring athletic and entertainment events using brand names, logos, or selling messages.

Given these legislative and likely regulatory changes, the Commission has determined that it would be more appropriate for the DHHS to consider the issues raised in this rulemaking proceeding. Accordingly, the Commission concludes that it is not in

<sup>2</sup> The commenters included Members of Congress, officials at federal, state, and local government health agencies, the largest smokeless tobacco manufacturer, the smokeless tobacco trade association, a manufacturer of cigarettes and smokeless tobacco products, public health organizations, and individuals.

<sup>1</sup> The comments were filed by Members of Congress, a state governor, four manufacturers of smokeless tobacco products, state health agencies, a local chamber of commerce, public health and public interest organizations, representatives of event-related businesses such as arenas, race track owners, team owners, sports sanctioning bodies, sporting event announcers, and racing car drivers, as well as other individuals.

the public interest to continue this proceeding and it hereby gives notice of its termination.

By direction of the Commission.

Donald S. Clark,  
Secretary.

[FR Doc. 2010-1041 Filed 1-21-10; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-101896-09]

RIN 1545-BI66

#### Basis Reporting by Securities Brokers and Basis Determination for Stock; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking that was published in the *Federal Register* on Thursday, December 17, 2009, relating to reporting sales of securities by brokers and determining the basis of securities.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations under section 1012, Edward C. Schwartz, (202) 622-4960; Concerning the proposed regulations under sections 3406, 6045, 6045A, 6045B, 6721, and 6722, Stephen Schaeffer, (202) 622-4910 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

A notice of proposed rulemaking that is the subject of this document is under sections 408, 1012, 6039, 6042, 6044, 6045, 6045A, 6045B and 6049 of the Internal Revenue Code.

##### Need for Correction

As published, a notice of proposed rulemaking (REG-101896-09), published Thursday, December 17, 2009 (74 FR 67010), contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking (REG-101896-09), which was the subject of FR Doc. E9-29855, is corrected as follows:

1. On page 67013, column 3, in the preamble, under paragraph heading “a.

Form and Manner of New Broker Reporting Requirements”, last line of the first paragraph of the column, the language “*pub/irs-dft/f1099k-dft.pdf*.” is corrected to read “*pub/irs-dft/f1099b-dft.pdf*.”.

#### § 1.6045-1 [Corrected]

2. On page 67035, column 2, paragraph (f)(2)(i), lines 6 thru 8, the language “shall show on Form 1099, “U.S. Information Return for Calendar Year 1971,” or any successor form the name,” is corrected to read “shall show on Form 1099-B, “Proceeds from Broker and Barter Exchange Transactions,” or any successor form the name”.

Guy R. Traynor,

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2010-1122 Filed 1-21-10; 8:45 am]

BILLING CODE 4830-01-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 383

[Docket No. 2009-2 CRB New Subscription II]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Royalty Judges are publishing for comment proposed regulations that set the rates and terms for the use of sound recordings in transmissions made by new subscription services and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2011, and ending on December 31, 2015.

**DATES:** Comments and objections, if any, are due by no later than February 22, 2010.

**ADDRESSES:** Comments and objections may be sent electronically to *crb@loc.gov*. In the alternative, send an original, five copies and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments and objections may not be delivered by an overnight delivery service other than U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments and objections must be

addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977. If hand delivered by a private party, comments and objections must be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, between 8:30 a.m. and 5 p.m. If delivered by commercial courier, comments and objections must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC, and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, Room LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707-7658 or by e-mail at *crb@loc.gov*.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 114(f)(2)(C) of the Copyright Act, title 17 of the United States Code, allows a new type of eligible nonsubscription service or a new subscription service on which sound recordings are performed that is or is about to become operational to file a petition with the Copyright Royalty Judges (“Judges”) for the purpose of determining reasonable terms and rates. 17 U.S.C. 114(f)(2)(C). Section 112(e) allows the making of ephemeral reproductions for the purpose of facilitating certain digital audio transmissions, including those made by new subscription services. 17 U.S.C. 112(e). Upon receipt of a petition filed pursuant to section 114(f)(2)(C), the Judges are required to commence a proceeding to determine said reasonable terms and rates. 17 U.S.C. 804(b)(3)(C)(ii). The Judges have conducted one proceeding pursuant to these provisions. *See* 70 FR 72471, 72472 (December 5, 2005) (after receipt of petition, commencing proceeding to determine rates and terms for a new type of subscription service that “performs sound recordings on digital audio channels programmed by the licensee for transmission by a satellite television distribution service to its residential customers, where the audio channels are bundled with television channels as part of a ‘basic’ package of service and not for a separate fee”). The parties to that proceeding ultimately reached an agreement on the rates and