

submission is preferred over U.S. postal mail delivery by the OMB, as the latter type of delivery is subject to delays due to heightened security precautions. Still, in case it is needed, the OMB mail address is: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503. The OMB requests that any comment filed in paper form be sent by courier or overnight service, if possible.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before the deadline specified above in the **DATES** section, whether filed in paper or electronic form. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

*Pre-Sale Availability Rule Burden Statement:* Total annual hours burden: 2,490,000 rounded to the nearest thousand.

In its 2007 submission to OMB, FTC staff estimated that the information collection burden of making the disclosures required by the Pre-Sale Availability Rule was approximately 2,328,000 hours per year. Although there has been no change in the Rule's information collection requirements since 2007, staff has adjusted its previous estimate of the number of manufacturers subject to the Rule based on recent Census data. From that, staff now estimates that there are approximately 478 large manufacturers and 15,444 small manufacturers subject to the Rule. In addition, recent Census data suggests that there are an estimated 6,892 large retailers and 452,553 small retailers impacted by the Rule.

In its 2007 submission to OMB, staff took note that some online retailers had begun to make warranty information directly available on their Web sites, thereby reducing their paperwork burden under the Rule. As e-commerce continues to grow, it is likely that even more retailers are posting warranty information online than they were in 2007. Nevertheless, because the staff assumes that only a small percentage of retailers would be significantly less burdened by posting warranty information online—namely, retailers with a large Internet presence or whose inventory is mainly composed of

warranted products<sup>4</sup>—the staff has retained its previous estimates of the hour burden for retailers. Therefore, staff continues to estimate that large retailers spend an average of 20.8 hours per year and small retailers spend an average 4.8 hours per year to comply with the Rule.<sup>5</sup> Accordingly, the total annual burden for retailers is approximately 2,315,608 hours ((6,892 large retailers × 20.8 burden hours) + (452,553 small retailers × 4.8 burden hours)).

Staff also estimates that more manufacturers are beginning to provide retailers with warranty information in electronic form in fulfilling their obligations under the Rule. Therefore, staff finds it necessary at this time to adjust the hour burden for manufacturers as it did with retailers in its previous submission to OMB. Applying a 20% reduction to its previous estimates, the staff now assumes that large manufacturers spend an average of 42 hours per year and that small manufacturers spend an average of 10 hours per year to comply with the Rule.<sup>6</sup> Accordingly, the total annual burden incurred by manufacturers is approximately 174,516 hours ((478 large manufacturers × 42 hours) + (15,444 small manufacturers × 10 hours)).

Thus, the total annual burden for all covered entities is approximately 2,490,124 hours (2,315,608 hours for retailers + 174,516 hours for manufacturers).

*Total annual labor cost:* \$47,000,000 rounded to the nearest thousand.

The work required to comply with the Pre-Sale Availability Rule entails a mix of clerical work and work performed by sales associates. Staff estimates that half of the total burden hours would likely be performed by sales associates. At the manufacturing level, this work would entail ensuring that the written warranty accompanies every consumer product or that the required warranty information otherwise gets to the retailer. At the retail level, this work would entail ensuring that the written warranty is made available to the consumer prior to sale. The remaining half of the work

<sup>4</sup> In addition, many online retailers also operate “brick-and-mortar” operations and still provide paper copies of warranties for review by customers who do not do business online.

<sup>5</sup> FTC staff recently contacted representatives from two retailer associations—the National Retail Federation and the North American Retail Dealers Association—but we have not received any additional information that indicated we need to update the hours estimates.

<sup>6</sup> FTC staff recently contacted representatives from the Association of International Automobile Manufacturers, but we have not received any additional information that indicated we need to further adjust the current hour estimates.

required to comply with the Pre-Sale Availability Rule is clerical in nature, e.g., shipping or otherwise providing copies of manufacturer warranties to retailers and retailer maintenance of them. Applying a sales associate wage rate of \$22/hour to half of the burden hours and a clerical wage rate of \$16/hour to half of the burden hours, the total annual labor cost burden is approximately \$47,312,356 (1,245,062 hours × \$22 per hour) + (1,245,062 hours × \$16 per hour).<sup>7</sup>

*Total annual capital or other non-labor costs: De minimis.*

The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails keeping warranties on file, in binders or otherwise, and posting an inexpensive sign indicating warranty availability. Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

**Willard K. Tom,**  
*General Counsel.*

[FR Doc. 2011-929 Filed 1-14-11; 8:45 am]

**BILLING CODE 6750-01-P**

## FEDERAL TRADE COMMISSION

[File No. 102 3064]

### Nonprofit Management LLC and Jeremy Ryan Claeys; Analysis of Proposed Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before February 11, 2011.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Tested Green, File No. 102 3064” to facilitate the organization of comments. Please note that your comment—including

<sup>7</sup> The wage rate used in this Notice reflect recent data from the Bureau of Labor Statistics National Compensation Survey (<http://www.bls.gov/ncs/ocs/sp/nctb1346.pdf>).

your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at <http://www.ftc.gov/os/publiccomments.shtm>.

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential \* \* \*," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>1</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: <https://ftcpublishcommentworks.com/ftc/testedgreen> and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link: <https://ftcpublishcommentworks.com/ftc/testedgreen>. If this Notice appears at <http://www.regulations.gov/search/index.jsp>, you may also file an electronic comment through that Web site. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC Web site at <http://www.ftc.gov/> to read the Notice and the news release describing it.

A comment filed in paper form should include the "Tested Green, File No. 102 3064" reference both in the text and on the envelope, and should be mailed or delivered to the following

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

**FOR FURTHER INFORMATION CONTACT:**

Elsie B. Kappler (202-326-2466), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 11, 2011), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either

paper or electronic form. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before the date specified in the DATES section.

**Analysis of Agreement Containing Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an Agreement Containing Consent Order from Nonprofit Management LLC and Jeremy Ryan Claeys, also doing business as Tested Green ("respondents").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising, marketing, and sale of environmental certifications. From approximately February 2009 to April 2010, respondents marketed the Tested Green certification using their Web site, <http://www.testedgreen.com>, as well as mass e-mails linking to their Web site. The marketing claimed that Tested Green was the "nation's leading certification program with over 45,000 certifications in the United States." However, respondents never tested any of the companies to which they issued certifications, and certified anyone willing to pay a designated fee of either \$189.95 for a "Rapid" certification, or \$549.95 for a "Pro" certification. Immediately upon certifying companies, respondents provided them with HTML text for the Tested Green logo and a "certification verification page" that they could, in turn, use to advertise their Tested Green certified status. Respondents also claimed that Tested Green was endorsed by the National Green Business Association ("NGBA") and the National Association of Government Contractors ("NAGC"), two organizations which they own and operate.

The Commission alleges that the Tested Green certification constituted an express or implied representation that the products, services, programs, or entities bearing the certification had been independently and objectively evaluated based on their environmental attributes or benefits, when, in fact, they had not. Additionally, by furnishing businesses with the certification and the tools to advertise it, respondents provided such businesses with the

means and instrumentalities for the commission of deceptive acts and practices, and accordingly, themselves committed a deceptive act in violation of Section 5 of the FTC Act.

The Commission also alleges that by stating that the NGBA and the NAGC endorsed Tested Green, respondents represented expressly or impliedly that they were independent from these organizations, when, in fact, they own and operate NGBA and NAGC. Therefore, respondents' statement of endorsement by NGBA and NAGC was false and misleading, in violation of Section 5. Similarly, in light of respondents' express and implied representation that these organizations were independent, respondents' failure to disclose their relationship to NGBA and NAGC was deceptive, in violation of Section 5.

Part I of the proposed order prohibits respondents from misrepresenting: (1) The fact that, or degree to which, they have, or a third party has, evaluated a product, package, service, practice, or program based on its environmental benefits or attributes; (2) that respondents have, or a third party has, the appropriate expertise to evaluate the environmental benefits or attributes of a product, package, service, practice, or program; (3) the number of certifications issued by respondents; and (4) that a product, package, certification, service, practice, or program is endorsed by an independent person or organization.

Part II of the proposed order bars respondents, in connection with the labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any product, package, certification, service, practice, or program, from providing others with the means and instrumentalities to make, expressly or impliedly, any false or misleading statement.

Part III of the proposed order bars respondents from making any representation, expressly or by implication, about any user or endorser of a product, package, certification, service, practice, or program, unless they clearly and prominently disclose a material connection with such user or endorser, where one exists.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires respondents to retain documents relating to their compliance with the order. Part V requires dissemination of the order to all current and future principals, officers, directors, managers, employees, agents, and representatives having responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in

respondent Nonprofit Management's corporate status. Part VII mandates that respondent Claeys notify the FTC of any changes in his business affiliations or employment. Part VIII mandates that respondents submit a report to the Commission detailing their compliance with the order. Part IX provides that the order expires after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 2011-926 Filed 1-14-11; 8:45 am]

**BILLING CODE 6750-01-P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Meeting of the National Vaccine Advisory Committee

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public. Pre-registration is required for both public attendance and comment. Individuals who wish to attend the meeting and/or participate in the public comment session should either e-mail [nvpo@hhs.gov](mailto:nvpo@hhs.gov) or call 202-690-5566 to register and provide name, organization, and e-mail address.

**DATES:** The meeting will be held on February 16, 2011 from 8:30 a.m. to 5 p.m., EDT, and February 17, 2011 from 8:30 am to 4 p.m., EDT.

**ADDRESSES:** Department of Health and Human Services; Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

**FOR FURTHER INFORMATION CONTACT:** National Vaccine Program Office, Department of Health and Human Services, Room 715-H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Phone: (202) 690-5566; Fax: (202) 260-1165; e-mail: [nvpo@hhs.gov](mailto:nvpo@hhs.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. 300aa-1), the

Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

Topics to be discussed at the meeting include the National Vaccine Plan, Influenza 2010-2011 Season, H1N1 Vaccine Safety, and other related issues. The meeting agenda will be posted on the Web site: <http://www.hhs.gov/nvpo/nvac> at least one week prior to the meeting. Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the National Vaccine Program Office at the address/phone listed above at least one week prior to the meeting. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Individuals who would like to submit written statements should e-mail or fax their comments to the National Vaccine Program Office at least five business days prior to the meeting.

Dated: January 7, 2011.

**Bruce Gellin,**

*Deputy Assistant Secretary for Health,  
Director, National Vaccine Program Office.*

[FR Doc. 2011-868 Filed 1-14-11; 8:45 am]

**BILLING CODE 4150-44-P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HIT Policy Committee's Meaningful Use Workgroup Meetings; Notice of Meetings and Request for Comments

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of Meetings and request for comments.

This notice announces the forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Subcommittee:* HIT Policy Committee Meaningful Use Workgroup.