

Dated: August 3, 2010.

Rebecca Clark,

Acting Director, National Center for  
Environmental Assessment.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9189-5; EPA-HQ-OEI-2010-0263]

### Establishment of a New System of Records for Personal Information Collected by the Environmental Protection Agency When Certifying Pesticide Applicators

**AGENCY:** Environmental Protection  
Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency's (EPA) Office of Pesticide Programs, Field & External Affairs Division, is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). This system of records contains personal information collected when EPA certifies persons to apply restricted use pesticides (RUPs).

**DATES:** Persons wishing to comment on this new system of records notice must do so by September 22, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-2010-0263, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- *E-mail:* [oei.docket@epa.gov](mailto:oei.docket@epa.gov).

- *Fax:* 202-566-1752.

- *Mail:* OEI Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- *Hand Delivery:* OEI Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OEI-2010-0263. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available (e.g., CBI or other information for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the OEI Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1745.

#### FOR FURTHER INFORMATION CONTACT:

Jenna Carter, Office of Pesticide Programs, Field & External Affairs Division, U.S. Environmental Protection Agency, Mail Code 7506P, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number 703-308-8370.

#### SUPPLEMENTARY INFORMATION:

## I. General Information

The U.S. Environmental Protection Agency plans to create a Privacy Act system of records to document the Agency's decisions on applications filed requesting certification to apply restricted use pesticides (RUP) under certification plans administered by EPA regional offices or the Office of Pesticide Programs. The types of information in the system include: (1) Contact information (e.g., name, address, telephone number, e-mail address); (2) identification information (e.g., birth date, proof of identification (e.g., driver's license no.)), physical description (e.g., height, weight, gender, race)) (3) certification information (e.g., EPA certified applicator number, certification type (private or commercial), certification categories (e.g., aerial, aquatic, fumigation), certification issuance and expiration dates, and (4) information regarding qualifications (e.g., scores from EPA certification examinations; records of training and continuing education; state, tribal or other federal agency certification number(s), types, categories, issuance and expiration dates; records of compliance with federal, state and tribal pesticide laws). Some of this information is provided by the pesticide applicators applying for EPA certification, and some is generated during the certification process.

The above information will be contained in one or more databases (such as Lotus Notes) that reside on servers in EPA offices. The database(s) may be specific to one particular pesticide applicator certification plan, or may encompass several EPA pesticide applicator certification plans. Records maintained in the database will include applications, certifications, Agency decisions and correspondence related to applicators seeking and maintaining EPA certifications.

Records protected under the Privacy Act are subject to Agency-wide security requirements governing all database systems at EPA. Privacy is maintained by limiting access to database systems containing personal information. Access to any such database system is limited to system administrators, individuals responsible for evaluating the applications and issuing the EPA certification, and program personnel responsible for data entry. Physical access to the area where certifications are processed is limited to EPA employees with building key cards. Paper applications are stored in a locked cabinet when not in use. System administrators will routinely disclose certain personal information (e.g.,

names, addresses, EPA certification numbers, categories of certification) upon request. EPA's Office of Pesticide Programs, Field & External Affairs Division, will exercise general oversight of the system of records associated with EPA-administered pesticide applicator certification plans; databases for particular pesticide applicator certification plans may be maintained by EPA regional offices and other divisions of the Office of Pesticide Programs as authorized by the Field & External Affairs Division.

Dated: July 19, 2010.

**Linda A. Travers,**

*Principal Deputy Assistant Administrator and Deputy Chief Information Officer.*

#### **EPA-59**

##### **SYSTEM NAME:**

Records of Pesticide Applicators Certified Under EPA-Administered Certification Plans

##### **SYSTEM LOCATION:**

USEPA, Office of Pesticide Programs, Field & External Affairs Division, Mail Code 7506P, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and other EPA offices authorized by the Field & External Affairs Division to maintain portions of the system.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons certified or seeking certification to apply restricted use pesticides (RUPs) under Certification Plans administered by EPA.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

(a) Contact information (e.g., name, address, telephone number, email address).

(b) Identification information (e.g., birth date, proof of identification (e.g., driver's license no.), physical description (e.g., height, weight, gender, race)).

(c) Data generated by EPA in the processing of the EPA certification (e.g., EPA certified applicator number, certification type (private or commercial), certification categories (e.g., aerial, aquatic, fumigation), certification issuance and expiration dates).

(d) Information regarding qualifications (e.g., scores from EPA certification examinations; records of training and continuing education; state, tribal or other federal agency certification number(s), types, categories, issuance and expiration dates; records of compliance with federal, state and tribal pesticide laws).

##### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 11(a)(1) provides for the certification of RUP applicators. 40 CFR 171.11 further describes certification procedures including the completion and submission of certification applications to EPA, issuance/revocation of certificates, monitoring of certifications, and applicator recordkeeping requirements.

##### **PURPOSE(S):**

The primary purpose of the system is to track RUP applicator certifications issued by EPA under pesticide applicator certification plans, including the initial applications/issuance and any renewals, denials, or revocations of certifications. Certified applicators are subject to RUP recordkeeping requirements under FIFRA, section 11 and 40 CFR part 171. The system may also be used to contribute to the development of inspection targeting schemes to verify compliance with recordkeeping requirements for RUPs.

##### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:**

RUPs may not be distributed, sold, or made available to persons other than certified applicators. The system will be used to record the identity and certification status of pesticide applicators certified by EPA. Certain personal information contained in the system (e.g., date of birth, drivers' license numbers) will be protected from general disclosure under the Privacy Act; however, many of the records will be subject to general routine uses (<http://www.epa.gov/privacy/notice/general.htm>), particularly routine uses A, B, C, F, G, H, and K. Such routine uses will include disclosures to RUP retailers and dealers in order to verify the status of persons claiming to be certified by EPA, and to state or tribal officials intending to grant certifications based upon EPA's prior certification. Information from this system also may be disclosed for law enforcement purposes to federal, state, and tribal officials responsible for pesticide enforcement. Disclosure will assist in determining compliance and non-compliance with Federal, State, and tribal requirements of certified applicators.

##### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

- Storage: Records will be stored using the Agency's standard database system (e.g., Lotus Notes) and managed

by system administrators and Pesticide Office personnel.

- Retrievability: Data will be retrieved by the applicator's name and certification action (e.g., new, recertification, duplicate).

- Safeguards:

- Standard Agency-wide protections for internal databases.

- The access control list is limited to Agency system administrators, individuals responsible for evaluating applications and issuing the EPA certifications and program personnel responsible for data entry. No other EPA personnel have access to the database(s). Program personnel are trained to protect sensitive and confidential information submitted under FIFRA. No external access to the system is provided.

- Retention and Disposal: Records stored in this system are subject to Schedule 090.

- System Manager(s) and Address: Jenna Carter, Office of Pesticide Programs, Field & External Affairs Division, U.S. Environmental Protection Agency, Mail Code 7506P, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number 703-308-8370.

##### **NOTIFICATION PROCEDURES:**

Requests to determine whether this system of records contains a record pertaining to you must be sent to the Agency's Freedom of Information Office. The address is: U.S. Environmental Protection Agency; 1200 Pennsylvania Ave., NW., Room 6416 West; Washington, DC 20460; (202) 566-1667; E-mail: ([hq.foia@epa.gov](mailto:hq.foia@epa.gov)); Attn: Privacy Act Officer.

##### **RECORD ACCESS PROCEDURES:**

Persons seeking access to their own personal information in this system of records will be required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card) and, if necessary, proof of authority. Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulations at 40 CFR part 16.

##### **CONTESTING RECORDS PROCEDURES:**

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out at 40 CFR part 16.

##### **RECORD SOURCE CATEGORIES:**

There are three sources of data for records stored in the system:

(1) State, tribal or other Federal certification data upon which the EPA certification is based.

(2) Data provided by the requesting applicator at the time of its request for EPA certification.

(3) Data generated by EPA in the processing of the EPA certification.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:**

None.

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**FEDERAL COMMUNICATIONS COMMISSION**

[CG Docket No. 03-123; FCC 10-115]

**Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; approval of new rates.

**SUMMARY:** In this document, the Commission adopts per-minute compensation rates for the July 1, 2010 through June 30, 2011 Interstate Telecommunications Relay Services (TRS) Fund (Fund) year. This action is necessary because the rates for the previous Fund year expired on June 30, 2010. The intended effect of this action is to establish reimbursement rates for TRS providers and an appropriate funding requirement for the 2010-2011 Fund year.

**DATES:** The new rates became effective July 1, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Diane Mason, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 418-7126 (voice), (202) 418-7828 (TTY), or e-mail at [Diane.Mason@fcc.gov](mailto:Diane.Mason@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, document FCC 10-115, adopted June 18, 2010, and released June 28, 2010 in CG Docket number 03-123 (*Order*). On April 30, 2010, the Fund administrator, the National Exchange Carrier Association, Inc. (NECA), filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the period of July 1, 2010 through June 30, 2011. That same day, the Commission's Consumer and Governmental Affairs Bureau (Bureau)

released a public notice requesting comment on NECA's filing. *See National Exchange Carrier Association Submits the Payment Formula and Fund Size Estimate for the Interstate Telecommunications Relay Services Fund for the July 2010 Through June 2011 Fund Year*, CG Docket No. 03-123, public notice, document DA 10-761, published at 75 FR 26701, May 12, 2010 (2010 TRS Rate PN). Over 22,000 comments, reply comments, and *ex partes* were filed in response to the 2010 TRS Rate PN.

The full text of document FCC 10-115 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 10-115 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via its Web site <http://www.bcpweb.com> or by calling 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document FCC 10-115 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html#orders>.

**Synopsis**

*The Compensation Rates for VRS for the 2010-2011 Fund Year*

1. The Commission adopts interim, one-year rates of \$6.2390 for Tier I, \$6.2335 for Tier II, and \$5.0668 for Tier III for VRS by averaging NECA's proposed per-minute rates calculated as a measure of actual, historical provider costs, and the current rates, which were based on providers' projected costs. Projected costs for VRS for a given Fund year have consistently proven to be higher than actual costs for that Fund year, and there is currently no "true-up" mechanism for reconciling, after the Fund year, the rates at which providers are reimbursed from the Fund and their actual costs for the Fund year. By NECA's calculation, the rates based on actual, historical costs would be \$5.7754 for Tier I, \$6.0318 for Tier II, and \$3.8963 for Tier III for the 2010-2011 Fund year, all of which include

allowances of 1.6% for cash working capital, 3.2% for growth in expenses, and \$0.0083 per minute for ongoing E911 and ten-digit numbering costs. However, in light of concerns expressed by providers and users, and to ensure sufficient, quality service for users while the Commission considers broad reform, the Commission declines to reduce the VRS rates to that level at this time.

2. *Interim VRS Rates for the 2010-2011 Fund Year.* The Commission finds that adopting a multi-year rate structure would be premature at this time. The Commission believes that establishing multi-year VRS rates at this time may hamper the Commission's efforts to implement in a timely manner reforms that the Commission may determine are needed as a result of the 2010 VRS NOI proceeding. *See Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Notice of Inquiry, FCC 10-111, published at 75 FR 41863, July 19, 2010 (2010 VRS NOI).

3. *Rates Based on Actual vs. Projected Costs for VRS.* The Commission finds that NECA's use of providers' actual, historical costs in proposing VRS rates provides a valuable point of reference for setting VRS rates. Specifically, a comparative analysis by NECA of providers' projected and actual cost and demand over the past several years reveals that there is a substantial disparity between providers' reported projected costs and demand, and what turns out to be their actual costs and demand. In particular, based on the data received from providers, NECA indicates that VRS providers' weighted average actual per-minute costs as submitted to NECA were \$4.4603 in 2006, \$3.9604 in 2007, \$4.1180 in 2008, and \$4.1596 in 2009. By contrast, the compensation rates were in the following ranges for each of those years: \$6.644 in 2006, \$6.444 to \$6.77 in 2007, \$6.30 to \$6.7632 in 2008, and \$6.2373 to \$6.7362 in 2009. In addition, in the past, the Commission has not provided a process for reconciling providers' actual costs to their compensation from the Fund, and the Commission declines to do so here.

4. With the benefit of four years' data showing that providers' projections consistently overstate their costs, the Commission concludes that it can no longer justify basing VRS compensation rates only on projected costs. Furthermore, NECA, which has been the Fund administrator since the inception of the Fund, used weighted averages in proposing tiered rates based on actual costs. To the extent that one provider commands a substantial share of the VRS market, the Commission finds that