consumers in their purchase and use of indoor tanning services, specifically, that consumers can increase their vitamin D levels through ultraviolet levels lower than the amount needed to get a tan, and that ultraviolet radiation can injure the eyes and increases the risk of skin cancer. The complaint alleges that respondent's failure to disclose these facts, in light of the representation made, is a deceptive practice. Finally, the complaint alleges that respondent provided to others the means and instrumentalities to engage in deceptive acts or practices.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. The order covers representations made in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce. It does not cover representations made in non-commercial settings or contexts, such as communications to legislative or executive bodies. The order defines a covered product or service as any ultraviolet lamp or sunlamp product, as defined in federal regulation 21 C.F.R. § 1040.20, or any commercial facility where consumers may use ultraviolet lamps or sunlamp products.

Part I of the order prohibits respondent from making the following representations: tanning, including indoor tanning, does not increase the risk of skin cancer; tanning, including indoor tanning, is safe or poses no danger; indoor tanning is approved by the government; and indoor tanning is safer than tanning outdoors because in indoor tanning facilities, the amount of ultraviolet light is monitored and controlled. The ban on representations that tanning, including indoor tanning, is safe, is fencing-in relief. Part II of the order prohibits respondent from misrepresenting (1) that research shows that vitamin D supplements may harm the body's ability to fight disease and (2) that a study in the Proceedings of the National Academy of Sciences determined: (a) that sun exposure does not cause skin cancer or melanoma, or that the risk of such cancer is only hypothetical; (b) that getting a tan is healthy; (c) that the risks of not getting enough ultraviolet light far outweigh the risk of skin cancer; or (d) that vitamin D has been linked to significantly decreasing the risk of contracting lung, kidney, or liver cancer.

Part III prohibits respondent from making any representation about the safety, health-related efficacy or performance, or health-related risks or benefits, of any covered product or service; or about the sources, performance, efficacy, or health-related risks or benefits of vitamin D; unless the representation is non-misleading, and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields to substantiate that the representation is true. For the purposes of the order, competent and reliable scientific evidence is defined as tests, analyses, research, studies, or other evidence that have been conducted and evaluated in an objective manner by qualified persons, that are generally accepted in the profession to yield accurate and reliable results, and whose results are consistent with the body of reliable scientific evidence relevant to the representation. Part IV of the order prohibits respondent from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, survey, or research.

Part V of the order is a disclosure provision. It prohibits respondent from making any representation about the safety or health benefits of any covered product or service unless it makes the following disclosure, clearly and conspicuously, and in close proximity to the representation: "**NOTICE:** Exposure to ultraviolet radiation may increase the likelihood of developing skin cancer and can cause serious eye injury." In the event, however, that respondent represents that exposure to ultraviolet radiation produces vitamin D in the body, or otherwise about the effectiveness or usefulness of such product for generation of vitamin D, the required disclosure shall be as follows: "**NOTICE:** You do not need to become tan for your skin to make vitamin D. Exposure to ultraviolet radiation may increase the likelihood of developing skin cancer and can cause serious eye injury."

Part VI of the order prohibits respondent from providing to any other person or entity any means or instrumentalities that contain any representation prohibited by the order. Part VII requires respondent to send a notice about the FTC's law enforcement action to all of its members, and all other entities to which it provided point-of-sale advertising on or after January 1, 2008; the required notice is attached to the order as Attachment A.

Parts VIII, IX, X, and XI of the consent order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2010–2129 Filed 2–1–10; 2:45 pm]

BILLING CODE 6750–01–S

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for an Unmodified OGE Form 201 Ethics Act Access Form

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of request for agency and public comments.

SUMMARY: After publication of this second round notice, OGE plans to submit an unmodified OGE Form 201 Ethics Act Access Form to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

DATES: Written comments by the public and the agencies on this proposed extension are invited and must be received by March 4, 2010.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Office of Government Ethics, by either of the following methods within 30 days from the date of publication in this **Federal Register**:

Fax: 202–395–6974, Attn: Ms. Sharon Mar, OMB Desk Officer for the Office of Government Ethics;

E-mail: smar@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Paul Ledvina at the Office of Government Ethics; telephone: 202–482–9247; TTY: 800–877–8339; FAX: 202–482–9237; E-mail: *paul.ledvina@oge.gov.* An electronic copy of the OGE Form 201 is available in the Forms Library section of

OGE's Web site at *http://www.usoge.gov.* A paper copy may also be obtained, without charge, by contacting Mr. Ledvina.

SUPPLEMENTARY INFORMATION:

Title: Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

Agency Form Number: OGE Form 201.

OMB Control Number: 3209–0002.

Type of Information Collection: Extension without change of a currently approved collection.

Type of Review Request: Regular.

Respondents: Individuals requesting access to executive branch public financial disclosure reports and other covered records.

Estimated Annual Number of Respondents: 450.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden: 75 hours.

Abstract: The OGE Form 201 collects information from, and provides certain information to, persons who seek access to SF 278 Public Financial Disclosure Reports and other covered records. The form reflects the requirements of the Ethics Act and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information collected about the identity of the requester, as well as any other person on whose behalf a record is sought, and notification of prohibited uses of SF 278 reports. See section 105 (b) and (c) of the Ethics Act, 5 U.S.C. appendix § 105 (b) and (c), and 5 CFR 2634.603 (c) and (f) of OGE's executive branchwide regulations. Executive branch departments and agencies are encouraged to utilize the OGE Form 201. OGE permits departments and agencies to use or develop their own forms as long as the forms collect and provide all of the required information. *Request for Comments:* OGE published a first round notice of its intent to request paperwork clearance for the proposed unmodified OGE Form 201 Ethics Act Access Form. See 74 FR 59185–59186. OGE received no responses to that notice. Agency and public comment is again invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

Approved: January 27, 2010.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. 2010–2172 Filed 2–1–10; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Implementation of Section 5001 of the American Recovery and Reinvestment Act of 2009 for Adjustments to the First Quarter of Fiscal Year 2010 Federal Medical Assistance Percentage Rates for Federal Matching Shares for Medicaid and Title IV–E Foster Care, Adoption Assistance and Guardianship Assistance Programs

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

SUMMARY: This notice provides the adjusted Federal Medical Assistance Percentage (FMAP) rates for the first quarter of Fiscal Year 2010 (FY10) as required under Section 5001 of the American Recovery and Reinvestment Act of 2009 (ARRA). Section 5001 of the ARRA provides for temporary increases in the FMAP rates to provide fiscal relief to states and to protect and maintain state Medicaid and certain other assistance programs in a period of economic downturn. The increased FMAP rates apply during a recession adjustment period that is defined in ARRA as the period beginning October 1, 2008 and ending December 31, 2010.

DATES *Effective Date:* These percentages are effective for the quarter beginning October 1, 2009 through December 31, 2009.

A. Background

The FMAP is used to determine the amount of federal matching for specified state expenditures for assistance payments under programs under the Social Security Act. Sections 1905(b) and 1101(a)(8)(B) of the Social Security Act ("the Act") require the Secretary of Health and Human Services to publish the FMAP rates each year. The Secretary calculates the percentages using formulas set forth in sections 1905(b) and 1101(a)(8)(B), and from the Department of Commerce's statistics of average income per person in each state and for the nation as a whole. The percentages must be within the upper and lower limits given in section 1905(b) of the Act. The percentages to be applied to the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified separately in the Act, and thus are not based on the statutory formula that determines the percentages for the 50 states.

Section 1905(b) of the Act specifies the formula for calculating the FMAP as follows:

> The FMAP for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the FMAP shall in no case be less than 50 per centum or more than 83 per centum, and (2) the FMAP for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum.

Section 4725 of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX (Medicaid) and XXI (CHIP) shall be 70 percent. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275) amended the FMAP applied to the District of Columbia for maintenance payments under title IV–E programs to make it consistent with the 70 percent Medicaid match rate.

Section 5001 of Division B of the ARRA provides for a temporary increase in FMAP rates for Medicaid and title IV–E Foster Care, Adoption Assistance and Guardianship Assistance programs. The purpose of the increases to the FMAP rates is to provide fiscal relief to states and to protect and maintain State Medicaid and certain other assistance programs in a period of economic downturn, referred to as the "recession adjustment period." The recession adjustment period is defined as the period beginning October 1, 2008 and ending December 31, 2010.

B. Calculation of the Increased FMAP Rates Under ARRA

Section 5001 of the ARRA specifies that the FMAP rates shall be temporarily increased for the following: (1) Maintenance of FMAP rates for FY09, FY10, and first quarter of FY11, so that the FMAP rate will not decrease from the prior year, determined by using as the FMAP rate for the current year the greater of any prior fiscal year FMAP rates between 2008–2010 or the rate calculated for the current fiscal year; (2) in addition to any maintenance increase, the application of an increase in each state's FMAP of 6.2 percentage