

- NERC Board of Trustees Meetings and its sub-committee meetings.
  - Monday, February 15, 2010 Phoenix, AZ (3).
  - Tuesday—Wednesday, May 11–12, 2010 Baltimore, MD (4).
- NERC Finance and Audit Committee Meetings.
  - TBD.
- Critical Infrastructure Protection Committee Quarterly Meetings and its sub-committee meetings.
  - Wednesday—Thursday, March 17–18, 2010 (TBD).
  - Wednesday—Thursday, June 16–17, 2010 (TBD).

The meetings will be held at the following locations:

1. North American Electric Reliability Corporation, 866–740–1260.
2. Hilton Phoenix Airport, 2435 S. 47th Street, Phoenix, AZ 85034, 480–894–1600.
3. Arizona Grand Resort, 800 South Arizona Grand Parkway, Phoenix, AZ 85044, 602–438–9000.
4. Hyatt Regency Baltimore on the Inner Harbor, 300 Light Street, Baltimore, MD 21202, 410–605–2854.

Further information may be found at <http://www.nerc.com>.

The above-referenced meetings are open to the public.

For more information, contact Mary Agnes Nimis, Office of Electric Reliability, Federal Energy Regulatory Commission at (202) 502–8235 or [maryagnes.nimis@ferc.gov](mailto:maryagnes.nimis@ferc.gov) or Nicholas Snyder, Office of Electric Reliability, Federal Energy Regulatory Commission at (202) 502–6408 or [nicholas.snyder@ferc.gov](mailto:nicholas.snyder@ferc.gov).

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010–1676 Filed 1–27–10; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2225–013—Washington]

#### Pend Oreille County Public Utility District; Notice of Designation of Commission Staff as Non-Decisional

January 21, 2010.

Commission staff member James Hastreiter (Office of Energy Projects, 503–552–2760; [james.hastreiter@ferc.gov](mailto:james.hastreiter@ferc.gov)) is hereby designated as “non-decisional” staff and assigned to participate in settlement discussions and provide guidance on the Commission’s policies and authorities for the surrender of the

Sullivan Creek Project No. 2225 in the above-referenced proceeding.

As “non-decisional” staff, Mr. Hastreiter will not participate in an advisory capacity in the Commission’s review of any offer of settlement or settlement agreement, or deliberations concerning the disposition of the surrender application.

Different Commission “advisory staff” will be assigned to review any offer of settlement or settlement agreement, and to process the surrender application, including providing advice to the Commission with respect to the agreement and the application. Non-decisional staff and advisory staff are prohibited from communicating with one another concerning the merits of the settlement and the relicensing application.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010–1678 Filed 1–27–10; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Docket Number EERE–BT–PET–0024]

#### Energy Efficiency Program for Consumer Products: Commonwealth of Massachusetts Petition for Exemption From Federal Preemption of Massachusetts’ Energy Efficiency Standard for Residential Non-Weatherized Gas Furnaces

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of Petition for Exemption.

**SUMMARY:** The Department of Energy (DOE) announces the filing of the Commonwealth of Massachusetts Petition for Exemption from Federal Preemption of Massachusetts’ 90% Annual Fuel Utilization Efficiency Standard for Non-weatherized Gas Furnaces (hereafter “Massachusetts Petition” or “Petition”). To help DOE evaluate the merits of the Massachusetts Petition, DOE invites interested members of the public to submit comments they might have on the Massachusetts Petition and information related to the evaluation factors outlined in the Energy Policy and Conservation Act (EPCA or “the Act”).

**DATES:** DOE will accept written comments, data, and information regarding the Massachusetts Petition until, but no later than March 29, 2010.

**ADDRESSES:** A document entitled “Massachusetts Petition for Exemption from Preemption” is available for review on the Internet at <http://www1.eere.energy.gov/buildings/appliance-standards/state-petitions.html> or from Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, EE–2J, Room 1J–018, 1000 Independence Ave., SW., Washington, DC 20585–0121, or by telephone (202) 586–2945. Please submit comments, identified by docket number EERE–BT–PET–0024 by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

2. *E-mail:* [MAExemptPetition@ee.doe.gov](mailto:MAExemptPetition@ee.doe.gov). Include either the docket number EERE–BT–PET–0024, and/or “Massachusetts Petition” in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Room 1J–018, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

5. *Instructions:* All submissions received must include the agency name and docket number for this proceeding. For detailed instructions on submitting comments and additional information on the proceeding, see section II. C of this document (Submission of Comments).

*Docket:* For access to the docket to read the background documents relevant to this matter, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: The Massachusetts Petition; correspondence from Massachusetts; correspondence from DOE, and any comments received. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room.

*Please note:* DOE’s Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking

materials. Electronic copies of the Petition are available online at DOE's Web site at the following URL address: [http://www2.eere.energy.gov/buildings/appliance\\_standards/state\\_petitions.html](http://www2.eere.energy.gov/buildings/appliance_standards/state_petitions.html).

**FOR FURTHER INFORMATION CONTACT:**

Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-7892, or e-mail:

*Mohammed.Khan@ee.doe.gov*.

Michael Kido, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8145, e-mail: *Michael.Kido@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

**A. Authority**

**B. Background**

1. History of Energy Conservation Standards for Residential Furnaces
2. Massachusetts Petition and Summary of Relevant State Laws
3. Factors to Consider in Granting or Declining an Exemption
- C. Submission of Comments

**I. Introduction**

This notice announces two items. First, it announces the receipt of a petition submitted by the Commonwealth of Massachusetts asking that DOE exempt the State's standard for non-weatherized gas furnaces from preemption. The following discussion presents a brief summary of the background relevant to this matter. Second, DOE is providing notice that it is availing itself of the additional time permitted under its regulations to respond to this petition. Accordingly, DOE anticipates issuing its decision on this matter by no later than October 6, 2010.

**A. Authority**

Part A of Title III of the Energy Policy and Conservation Act, as amended (hereafter "Act" or EPCA) established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291-6309) Products covered under the program, including residential furnaces, and the authority to regulate them, are listed in section 322. (42 U.S.C. 6292) Section 325(f) (42 U.S.C. 6295(f)) establishes standards for certain classes of residential furnaces and requires DOE to issue two rulemakings to consider further amendments. Federal conservation standards for residential products generally preempt State laws or regulations concerning energy

conservation testing, labeling, and standards. (42 U.S.C. 6297(a)-(c)) However, DOE can grant waivers of Federal preemption (hereafter "waiver" or "exemption") for particular State laws or regulations, in accordance with the procedures and other provisions of section 327(d) of the Act. (42 U.S.C. 6297(d)) In particular, section 327(d)(1)(A) of EPCA provides that any State or river basin commission with a State regulation regarding energy use, energy efficiency, or water use requirements for products regulated by the Energy Conservation Program, may petition for an exemption from Federal preemption and seek to apply its own State regulation. (42 U.S.C. 6297(d)(1)(A))

**B. Background**

**1. History of Energy Conservation Standards for Residential Furnaces**

Energy conservation standards for residential furnaces were initially specified by EPCA in terms of annual fuel utilization efficiency (AFUE). EPCA set minimum standards for all furnaces except for mobile home furnaces and "small" furnaces (*i.e.*, those units with an input capacity less than 45,000 British thermal units per hour (Btu/h)) at 78% AFUE, with a compliance date of January 1, 1992. EPCA also specified a separate 75% AFUE standard for mobile home furnaces with a compliance date of September 1, 1990. (42 U.S.C. 6295(f)(1)-(2)) For furnaces with an input capacity less than 45,000 Btu/h, DOE published a final rule on November 17, 1989 that set the minimum standard for those products at 78% AFUE, with a compliance date of January 1, 1992. 54 FR 47916.

**2. Massachusetts Petition and Summary of Relevant State Laws**

On October 6, 2009, the U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy received the Massachusetts Petition requesting an exemption from Federal Preemption its 90% Annual Fuel Utilization Efficiency Standard for Non-weatherized Gas Furnaces. The DOE believes that the Massachusetts Petition conforms to the filing requirements set out in 10 CFR 430.42 and accepts it for filing.

In its petition, the Commonwealth of Massachusetts asserts that its 90% AFUE efficiency standard for non-weatherized gas furnaces is needed to meet "unusual and compelling" interests that warrant granting of its petition. Massachusetts amended its 1986 laws regulating the efficiency of appliances in 2005 to establish the 90% AFUE

requirement. Additionally, in 2008, the Commonwealth passed the Green Communities Act (GCA), which requires the electric and gas utilities to meet resource needs through cost effective energy efficiency and demand reduction resources, and the Global Warming Solutions Act (GWSA) requiring greenhouse gas emissions limits be set by 2011. (Commonwealth of MA, No. 1, p.22, 23) The Commonwealth further asserts that, collectively, these laws also demonstrate it has interests that are "different in nature or magnitude than those prevailing in the United States generally." (Commonwealth of MA, No. 1, p.15).

Due to limited resources, DOE plans to issue a final decision on this issue by October 6, 2010, which is one year from the date of DOE's receipt of the Commonwealth's petition. This extension of time, which is permitted under 10 CFR 430.46(c), is necessary to provide DOE sufficient time to review the materials provided by the Commonwealth and to evaluate any data and information submitted by interested parties during the comment period.

**3. Factors To Consider in Granting or Declining an Exemption**

Section 327(d) of EPCA sets forth factors that the Secretary of Energy (hereafter "Secretary") is to consider in evaluating whether to grant an exemption. (42 U.S.C. 6297(d)) Section 327(d)(1)(B) requires the Secretary to grant an exemption if the Secretary determines that the proffered State regulation "is needed to meet unusual and compelling State or local water interests." (42 U.S.C. 6297(d)(1)(B)) According to section 327(d)(1)(C) of the Act, "unusual and compelling" interests are defined as interests which "(i) are substantially different in nature or magnitude than those prevailing in the United States generally; and (ii) are such that the costs, benefits, burdens, and reliability of energy or water savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy or water savings or production, including reliance on reasonably predictable market-induced improvements in efficiency of all products subject to the State regulation." (42 U.S.C. 6297(d)(1)(C)) According to sections 327(d)(3)-(4), the Secretary may not grant an exemption if the Secretary finds that the State regulation would "significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a

national basis,” or “result in the unavailability” in the State of any covered product’s “performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the State at the time of the Secretary’s finding, except that the failure of some classes (or types) to meet this criterion shall not affect the Secretary’s determination of whether to prescribe a rule for other classes (or types).” (42 U.S.C. 6297(d)(3) and (4)) To evaluate whether the State regulation will create a significant burden, the Secretary is to consider “all relevant factors,” including the following:

(A) The extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

(B) The extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State;

(C) The extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction—

(i) In the current models, or in the projected availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or

(ii) In the current or projected sales volume of the covered product type (or class) in the State and the United States; and

(D) The extent to which the State regulation is likely to contribute significantly to a proliferation of State appliance efficiency requirements and the cumulative impact such requirements would have. (U.S.C. 6297(d)(3)(A) through (D))

#### *C. Submission of Comments*

DOE will accept comments, data, and information regarding this notice no later than the date provided at the beginning of the notice. Please submit comments, data, and information electronically. Send them to the following e-mail address:

[MAExemptPetition@ee.doe.gov](mailto:MAExemptPetition@ee.doe.gov). Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Identify comments in electronic format by the docket number EERE-BT-PET-0024 and wherever possible include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

In accordance with 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Issued in Washington, DC, on January 22, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 2010-1749 Filed 1-27-10; 8:45 am]

**BILLING CODE 6450-01-P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

[Docket No. AC10-12-000]

#### **Black Marlin Pipeline Company; Notice of Filing**

January 21, 2010.

Take notice that on November 4, 2009, Black Marlin Pipeline Company submitted a request for a waiver of the reporting requirement to provide its certified public accountant (CPA) certification statement for the FERC Form No. 2-A for 2009.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, DC. There is an “eSubscription” link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* February 1, 2010.

**Kimberly Bose,**  
*Secretary.*

[FR Doc. 2010-1679 Filed 1-27-10; 8:45 am]

**BILLING CODE 6717-01-P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

[Docket No. AC10-23-000]

#### **Empire Pipeline, Inc.; Notice of Filing**

January 21, 2010.

Take notice that on December 1, 2009, Empire Pipeline, Inc. submitted a request for a waiver of the reporting requirement to provide its certified public accountant (CPA) certification statement for the FERC Form No. 2 for 2009 on the basis of the calendar year ending December 31, 2009, because it utilizes a fiscal year ending September 30, 2009.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to