



This document is scheduled to be published in the Federal Register on 03/12/2014 and available online at <http://federalregister.gov/a/2014-05403>, and on FDsys.gov

[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION
Agency Information Collection Activities;
Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (“Commission” or “FTC”).

ACTION: Notice.

SUMMARY: The FTC is seeking public comments on its proposal to extend through May 31, 2017, the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Fuel Rating Rule (“Rule”), which will expire on May 31, 2014.

DATES: Comments must be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may submit written comments electronically or in paper form by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Fuel Rating Rule PRA Comment, FTC File No. P144200 on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/fuelratingpra> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113, 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Miriam Lederer, Attorney, Division of Enforcement, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2975.

SUPPLEMENTARY INFORMATION: The Fuel Rating Rule, 16 CFR part 306 (OMB Control Number: 3084-0068), establishes standard procedures for determining, certifying, and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuels, as required by the Petroleum Marketing Practices Act. 15 U.S.C. 2822(a)-(c). The Rule also requires refiners, producers, importers, distributors, and retailers to retain records showing how the ratings were determined, including delivery tickets or letters of certification.

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Estimated annual hours burden¹ 33,700 total burden hours (13,750 recordkeeping hours + 19,950 disclosure hours).

Recordkeeping: Based on industry sources, staff estimates that 165,000 fuel industry members each incur an average annual burden of approximately five minutes to ensure retention of relevant business records for the period required by the Rule,² resulting in a total of 13,750 hours.

Disclosure: Staff estimates that affected industry members incur an average burden of approximately one hour to produce, distribute, and post octane rating labels. Because the labels are durable, only about one of every eight industry member retailers (19,950 of 159,597 industry member retailers) incur this burden each year, resulting in a total annual burden of 19,950 hours.

¹ Under the Fuel Rating Rule, refiners, producers, importers, distributors, and retailers of automotive fuel must retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post. *See* the Fuel Rating Rule's recordkeeping requirements, 16 CFR 306.7; 306.9; and 306.11. The term automotive fuel includes gasoline and alternative liquid automotive fuels. 16 CFR 306.0 (i). Therefore, staff derived the number of fuel industry members by adding up the number of refiners, producers, importers, distributors, and retailers of these types of fuel. Staff consulted government agencies and industry sources in estimating a population of approximately 165,000 fuel industry members, including 159,597 retailers of automotive fuel. Some of the government websites reviewed to update these numbers include: http://www.eia.gov/dnav/pet/pet_pnp_cap1_dcu_nus_a.htm (Gasoline Producers); <http://www.eia.gov/petroleum/ethanolcapacity/> (Ethanol Producers); <http://www.eia.gov/biofuels/biodiesel/production/> (Biodiesel Producers); <http://www.afdc.energy.gov/fuels/> (Alternative Fuel Stations); http://www.nacsonline.com/YourBusiness/FuelsReports/GasPrices_2014/Documents/2014NACSFuelsReport_full.pdf (Petroleum Stations).

² Under the Fuel Rating Rule, refiners, producers, importers, distributors, and retailers of automotive fuel must retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post. *See* the Fuel Rating Rule's recordkeeping requirements, 16 CFR 306.7; 306.9; and 306.11. The term automotive fuel includes gasoline and alternative liquid automotive fuels. 16 CFR 306.0 (i). Staff derived the number of fuel industry members by adding the number of refiners, producers, importers, distributors, and retailers of these types of fuel. Staff consulted government agencies and industry sources in estimating a population of approximately 165,000 fuel industry members, including 159,597 retailers of automotive fuel. Some of the government websites reviewed to update these numbers include: http://www.eia.gov/dnav/pet/pet_pnp_cap1_dcu_nus_a.htm (Gasoline Producers); <http://www.eia.gov/petroleum/ethanolcapacity/> (Ethanol Producers); <http://www.eia.gov/biofuels/biodiesel/production/> (Biodiesel Producers); <http://www.afdc.energy.gov/fuels/> (Alternative Fuel Stations); http://www.nacsonline.com/YourBusiness/FuelsReports/GasPrices_2014/Documents/2014NACSFuelsReport_full.pdf (Petroleum Stations).

Estimated annual labor costs: \$ 364,207

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Here, the average hourly wages of producers, distributors, and importers is \$30.56.³ The average hourly wages of retailers is \$10.54.⁴ The recordkeeping component is approximately 450 hours for producers, distributors, and importers and 13,300 hours for retailers. Thus, the total recordkeeping component has a combined annual labor cost of \$153,934 ((450 hours x \$30.56) + (13,300 hours x \$10.54)). The disclosure component is approximately 19,950 hours for retailers, therefore, the total disclosure component has an annual labor cost of \$210,273.

Estimated annual non-labor costs: \$ 39,000

Staff believes that the Rule does not impose any capital costs for producers, importers, or distributors of fuels. Retailers, however, incur the cost of procuring and replacing fuel dispenser labels to comply with the Rule. Staff conservatively estimates that the price per automotive fuel label is two dollars and that the average automotive fuel retailer has six dispensers.⁵ In addition, staff has previously estimated the useful life of dispenser labels to range from 6 to 10 years. Applying 8 years, the mean of that range, and distributing the costs on a per-year basis, staff estimates the total annual replacement labeling cost to be \$39,899 (159,597 retailers x 1/8 x \$2.00).

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 60

³ See <http://www.bls.gov/iag/tgs/iag211.htm#earnings> (Bureau of Labor Statistics, December 2013 Current Employment Statistics, Average Hourly Earnings for Oil and Gas Extraction Production and Nonsupervisory Employees).

⁴ See <http://www.bls.gov/iag/tgs/iag447.htm> (Bureau of Labor Statistics, December 2013 Current Employment Statistics, Average Hourly Earnings for Gasoline Station Production and Nonsupervisory Employees).

⁵ See 75 FR 12,470, 12,477 (Mar. 16, 2010) (proposed rulemaking) (estimating the price range per pump to be one to two dollars).

DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write “Fuel Rating Rule PRA Comment, FTC File No. P144200 on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’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. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do 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 FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure

explained in FTC Rule 4.9(c), 16 CFR 4.9(c).⁶ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fuelratingpra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Fuel Rating Rule PRA Comment, FTC File No. P144200 on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that 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 [60 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka
Principal Deputy General Counsel.

⁶ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

[FR Doc. 2014-05403 Filed 03/11/2014 at 8:45 am; Publication Date: 03/12/2014]