



BILLING CODE: 6750-01-S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The FTC plans to ask the Office of Management and Budget (OMB) to extend for an additional three years the current Paperwork Reduction Act (PRA) clearance for information collection requirements contained in the FTC's Consumer Product Warranty Rule (Warranty Rule or Rule). The current clearance expires on January 31, 2020.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Warranty Rule; PRA Comment: FTC File No. P072108" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3711.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501-3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require.

“Collection of information” means agency requests or requirements to 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 PRA clearance for the information collection requirements associated with the Commission’s Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions (Warranty Rule or Rule), 16 CFR 701 (OMB Control Number 3084-0111).

The Warranty Rule is one of three rules¹ that the FTC implemented pursuant to requirements of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq. (Warranty Act or Act).² The Warranty Rule specifies the information that must appear in a written warranty on a consumer product³ costing more than \$15. The Rule tracks Section 102(a) of the Warranty Act,⁴ specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used.⁵ Neither the Warranty Rule nor the Act requires that a manufacturer or retailer warrant a consumer product in writing, but if they choose to do so, the warranty must comply with the Rule.

¹ The other two rules relate to the pre-sale availability of warranty terms and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

² 40 FR 60168 (Dec. 31, 1975).

³ The definition of *consumer product* excludes products purchased solely for commercial or industrial use. 16 CFR 701.1(b).

⁴ 15 USC 2302(a).

⁵ 40 FR 60168, 60169-60170.

Warranty Rule Burden Statement:

Total annual hours burden: 142,384 hours.

In its 2016 submission to OMB, the FTC estimated that the information collection burden of including the disclosures required by the Warranty Rule was 140,280 hours per year.

Although the Rule's information collection requirements have not changed, the current estimate slightly increases the number of manufacturers subject to the Rule based on recent Census data. Further, because most warrantors likely would continue to disclose the information required by the Rule, even if there were no statute or rule requiring them to do so, staff's estimates likely overstate the PRA-related burden attributable to the Rule. Moreover, the Warranty Rule has been in effect since 1976, and warrantors have long since modified their warranties to include the information the Rule requires.

Based on conversations with various warrantors' representatives over the years, staff has concluded that eight hours per year is a reasonable estimate of warrantors' PRA-related burden attributable to the Warranty Rule.⁶ This estimate includes the number of hours warrantors may need to ensure new warranties and any changes to existing warranties comply with the Rule. Based on recent Census data, staff now estimates that there are 17,798 manufacturers covered by the Rule.⁷ This results in an annual burden estimate of approximately 142,384 hours (17,798 manufacturers x 8 hours of burden per year).

⁶ FTC staff has previously contacted two manufacturing associations – the Association of Home Appliance Manufacturers and the National Association of Manufacturers – and we have not located additional data that further clarifies this figure.

⁷ Because some manufacturers likely make products that are not priced above \$15 or not intended for household use—and thus would not be subject to the Rule—this figure is likely an overstatement.

Total annual labor costs: \$19,381,310.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The work required to comply with the Warranty Rule—ensuring that new warranties and changes to existing warranties comply with the Rule—requires a mix of legal analysis (50%), legal support (paralegals) (25%) and clerical help (25%). Staff estimates that half of the total burden hours (71,192 hours) requires legal analysis at an average hourly wage of \$250 for legal professionals,⁸ resulting in a labor cost of \$17,798,000. Assuming that 25% of the total burden hours requires legal support at the average hourly wage of \$26.20, and that the remaining 25% requires clerical work at an average hourly wage of \$18.28; the resulting labor cost is approximately \$1,583,310 (\$932,615 + \$650,695). Thus, the total annual labor cost is approximately \$19,381,310 (\$17,798,000 for legal professionals + \$932,615 for legal support + \$650,695 for clerical workers).

Total annual capital or other non-labor costs: \$0

The Rule imposes no appreciable current capital or start-up costs. As stated above, warrantors likely have already modified their warranties to include the information the Rule requires. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, which providers would already have available for general business use.

Request for Comments

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on:

(1) whether the proposed collection of information is necessary for the proper performance of the

⁸ Staff has derived an hourly wage rate for legal professionals based upon industry knowledge. The hourly wage rates for legal support workers and for clerical support are based on mean hourly wages found at <https://www.bls.gov/news.release/ocwage.htm> (“Occupational Employment and Wages—May 2018,” U.S. Department of Labor, released March 2019, Table 1 (“National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2018”).

functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 on those who are to respond. All comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Write "Warranty Rule; PRA Comment: FTC File No. P072108" on your comment. 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, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it through the <https://www.regulations.gov> website by following the instructions on the web-based form. Your comment -- including your name and your state -- will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on www.regulations.gov.

If you file your comment on paper, write "Warranty Rule; PRA Comment: FTC File No. P072108" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street

SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at www.regulations.gov, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else'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, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" – as provided by 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) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

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). 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.⁹ Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove

⁹ See FTC Rule 4.9(c).

your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <https://www.ftc.gov/site-information/privacy-policy>.

Heather Hipsley,

Deputy General Counsel.

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