



Billing code: 6750-01-S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice and request for comment.

SUMMARY: The FTC requests that the Office of Management and Budget (OMB) extend for three years the current PRA clearance for information collection requirements contained in the Contact Lens Rule (Rule). That clearance expires on October 31, 2019.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments in response to this notice should be submitted to the OMB Desk Officer for the Federal Trade Commission within 30 days of this notice. You may submit comments using any of the following methods:

Electronic: Write “Contact Lens Rule: PRA Comment, P072108,” on your comment and file your comment online at <https://www.regulations.gov>, by following the instructions on the web-based form.

Email: MBX.OMB.OIRA.Submission@OMB.eop.gov.

Fax: (202) 395-5806.

Mail: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Paul Spelman, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Mail Drop CC-10528, Washington, DC 20580, at (202) 326-2487.

SUPPLEMENTARY INFORMATION:

Title: Contact Lens Rule (Rule), 16 CFR Part 315.

OMB Control Number: 3084-0127.

Type of Review: Extension of a currently approved collection.

Abstract: The Rule was promulgated by the FTC pursuant to the Fairness to Contact Lens Consumers Act (FCLCA), Pub. L. 108-164 (Dec. 6, 2003), which was enacted to enable consumers to purchase contact lenses from the seller of their choice. The Rule became effective on August 2, 2004. As mandated by the FCLCA, the Rule requires the release and verification of contact lens prescriptions which are generally valid for one year and contains recordkeeping requirements applying to both prescribers and sellers of contact lenses.

Specifically, the Rule requires that prescribers provide a copy of the prescription to the consumer upon the completion of a contact lens fitting, even if the patient does not request it, and verify or provide prescriptions to authorized third parties. The Rule also mandates that a contact lens seller may sell contact lenses only in accordance with a prescription that the seller either: (a) has received from the patient or prescriber; or (b) has verified through direct communication with the prescriber. In addition, the Rule imposes recordkeeping requirements on contact lens prescribers and sellers. For

example, the Rule requires prescribers to document in their patients' records the medical reasons for setting a contact lens prescription expiration date of less than one year. The Rule requires contact lens sellers to maintain records for three years of all direct communications involved in obtaining verification of a contact lens prescription, as well as prescriptions, or copies thereof, which they receive directly from customers or prescribers.

The information retained under the Rule's recordkeeping requirements is used by the Commission to substantiate compliance with the Rule and may also provide a basis for the Commission to bring an enforcement action. Without the required records, it would be difficult either to ensure that entities are complying with the Rule's requirements or to bring enforcement actions based on violations of the Rule.

On July 5, 2019, the FTC sought comment on the information collection requirements associated with the Rule. 84 FR 32170. The FTC received no comments that were germane to the issues that the agency sought comment on pursuant to the Paperwork Reduction Act (PRA) renewal request. Pursuant to OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized below, see 84 FR 32170.

Likely Respondents: Contact lens prescribers and contact lens sellers.

Estimated Annual Hours Burden: 2,104,050 hours (derived from 1,045,650 hours + 1,058,400 hours).

- *Contact Lens Prescribers:* 750,000 hours (45 million contact lens wearers x 1 minute per prescription/60 minutes) + 295,650 hours (3,547,800 verification requests × 3 minutes/60 minutes) = 1,045,650 hours
- *Contact Lens Sellers:* 985,500 hours (11,826,000 orders x 5 minutes/60 minutes) + 72,900 burden hours (4,374,000 orders × 1 minute/60 minutes) = 1,058,400 hours

Estimated Annual Cost Burden: \$84,548,448, which is derived from (\$57.68 x 888,802.5 optometrist hours) + (\$98.02 × 156,847.5 ophthalmologist hours) + (\$16.92 x 1,058,400 office clerk hours).¹

Request for Comment

Your comment -- including your name and your state -- will be placed on the public record of this proceeding at the <https://www.regulations.gov> 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, such as 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, such as medical records or other individually identifiable health information. In addition, your comment should not

¹ The hourly wage rates for sales and related workers 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”).

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.

Heather Hipsley,
Deputy General Counsel.

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