



[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 FTC's Consumer Product Warranty Rule (Warranty Rule or Rule). The current clearance expires on January 31, 2020.

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 "Consumer Product Warranty 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: 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:

Title: Rule Concerning Disclosure of Written Consumer Product Warranty Terms and
Conditions (Warranty Rule or Rule).

OMB Control Number: 3084-0111.

Type of Review: Extension of a currently approved collection.

Abstract: 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.

On October 4, 2019, the Commission sought comment on the disclosure requirements associated with the Warranty Rule. 84 FR 53149. No relevant comments were received. Pursuant to the 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 those information collection requirements.

The following discussion presents the FTC's PRA burden analysis regarding the Warranty Rule. Please be advised that the Commission has updated the estimates that were previously presented in the 60-Day Notice.

Warranty Rule Burden Statement:

Total annual hours burden: 242,296 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 increases the number of manufacturers subject to the Rule based on recent Census data.⁶ 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.

⁶ Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2016 release date: 12/18/2018, available at <http://www.census.gov/programs-surveys/susb/technical-documentation/methodology.html>.

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.⁷ 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 30,287 manufacturers covered by the Rule.⁸ This results in an annual burden estimate of approximately 242,296 hours (30,287 manufacturers x 8 hours of burden per year).

Total annual labor costs: \$32,981,332.

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 (121,148 hours) requires legal analysis at an average hourly wage of \$250 for legal professionals,⁹ resulting in a labor cost of \$30,287,000. Assuming that 25% of the total burden hours requires legal support at the

⁷ 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.

⁸ 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.

⁹ 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”).

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 \$2,694,332 (\$1,587,039+1,107,293). Thus, the total annual labor cost is approximately \$32,981,332 (\$30,287,000 for legal professionals + \$1,587,039 for legal support + \$1,107,293 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 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 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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