



BILLING CODE: 6750-01-S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget (OMB) clearance for information collection requirements in its Fuel Rating Rule (the Rule). The current clearance expires on July 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 "Fuel Rating 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: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

Title: Fuel Rating Rule (the Rule), 16 CFR Part 306.

OMB Control Number: 3084-0068.

Type of Review: Extension of a currently approved collection.

Likely Respondents:

(a) Recordkeeping: Refiners, Producers, Importers, Distributors, and Retailers of the Covered Fuel Types.

(b) Disclosure: Retailers of the Covered Fuel Types.

Estimated Annual Burden Hours: 32,907 (derived from 13,417 recordkeeping hours added to 19,490 disclosure hours).

Estimated Annual Labor Costs: \$389,646.

Estimated Annual Capital or Other Non-labor Costs: \$77,960.

Abstract:

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, the FTC is requesting that OMB renew the clearance for the PRA burden associated with the Rule.

Burden statement:

Estimated annual burden hours: 32,907 (derived from 13,417 recordkeeping hours added to 19,490 disclosure hours).

Recordkeeping: Based on industry sources, staff estimates that approximately 161,000 fuel industry members¹ each incur an average annual burden of approximately five minutes to ensure retention of relevant business records² for the period required by the Rule, resulting in a total of 13,417 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 (19,490 of 155,920 industry member retailers) incur this burden each year, resulting in a total annual burden of 19,490 hours.

Estimated annual labor costs: \$389,646.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Here, the average hourly wages of refiners, producers, distributors, and importers is \$34.94.³ The average hourly wages of retailers is \$11.54.⁴ The recordkeeping

¹ 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 161,000 fuel industry members, including 155,920 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/biofuels/biodiesel/production/> (Biodiesel Producers); <http://www.afdc.energy.gov/fuels/> (Alternative Fuel Stations); http://www.nacsonline.com/YourBusiness/FuelsReports/2015/Documents/2015-NACS-Fuels-Report_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.

³ See <http://www.bls.gov/iag/tgs/iag211.htm#earnings> (Bureau of Labor Statistics, May 2019 Occupational Employment Statistics, Hourly mean wages for petroleum pump system operators, refinery operators, and gaugers).

component, 13,417 hours, consists of approximately 423 hours for producers, distributors, and importers; and 12,994 hours for retailers. Thus, the total annual labor cost for recordkeeping is \$164,731 ((423 hours x \$34.94) + (12,994 hours x \$11.54/hour)). The disclosure component, which concerns retailers, is approximately 19,490 hours. Thus, total annual labor cost for disclosure is \$224,915 (19,490 hours x \$11.54/hour).

Estimated annual non-labor costs: \$77,960.

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; thus, \$12 labeling cost at inception per retailer.⁵ Staff has previously estimated a dispenser useful life range of 6 to 10 years and, based on that, assumed a useful life of 8 years for labels, the mean of that range. Given that, replacement labeling will not be necessary for well beyond the relevant period at issue, *i.e.*, the immediate 3-year PRA clearance sought. However, conservatively annualizing the \$12 labeling cost at inception per retailer over that shorter period rather than average useful life, annualized labeling cost per retailer will be \$4. Cumulative labeling cost would thus be \$77,960 (155,920 retailers × 1/8⁶ x \$4 each, annualized).

⁴ See <http://www.bls.gov/iag/tgs/iag447.htm> (Bureau of Labor Statistics, May 2019 Occupational Employment Statistics, Hourly mean wages for service station attendants).

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).

⁶ On average, each label needs to be replaced once every 8 years. Annualizing this cost equates to 1/8 or 0.125.

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 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 maintaining records and providing disclosures to consumers. 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 "Fuel Rating 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. 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 provided. 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.

If you file your comment on paper, write "Fuel Rating 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 public record, 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. *See* FTC Rule 4.9(c). 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 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>.

Josephine Liu,

Assistant General Counsel

for Legal Counsel.

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