



[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 clearance for information collection requirements in the Fair Packaging and Labeling Act regulations (“FPLA Rules”). That clearance expires on April 30, 2021.

DATES: Comments must be filed by [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 Comment part of the SUPPLEMENTARY INFORMATION section below. Write “FPLA Rules, PRA Comment, P074200” 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, Bureau of Consumer Protection, (202) 326-2889, 600 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title of Collection: Regulations Under Section 4 of the Fair Packaging and Labeling Act (FPLA), 16 CFR parts 500-503.

OMB Control Number: 3084-0110.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 6,832,210.

Estimated Annual Labor Costs: \$163,973,040.

Estimated Annual Non-Labor Costs: \$0.

Abstract: The Fair Packaging and Labeling Act, 15 U.S.C. 1451 et seq., was enacted to enable consumers to obtain accurate package quantity information to facilitate value comparisons and prevent unfair or deceptive packaging and labeling of consumer commodities. Section 4 of the FPLA requires packages or labels to be marked with: (1) a statement of identity; (2) a net quantity of contents disclosure; and (3) the name and place of business of the company responsible for the product. The FPLA regulations, 16 CFR Parts 500-503, specify how manufacturers, packagers, and distributors of “consumer commodities” must comply with the Act’s labeling requirements.¹

¹ The term consumer commodity or commodity means any article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. 16 CFR 500.2(c). For the precise scope of the term’s coverage see 16 CFR 500.2(c); 503.2; 503.5.

Burden Estimates:

Estimated number of respondents: 683,221

FTC staff estimates there are approximately 683,221 retailers, wholesalers, and manufacturers that sell consumer commodities that are subject to the FPLA Rule's labeling requirements.²

Burden Hours: 6,832,210 hours

FTC staff estimates that covered entities spend approximately 10 hours per year to comply with the FPLA Rule's labeling requirements. As a result, the FTC estimates that the total burden hours attributable to FTC requirements is 6,832,210 hours (683,221 respondents × 10 hours).

Labor Costs: \$163,973,040

FTC staff derives labor costs by applying estimated hourly cost figures to the burden hours described above. Commission staff estimates the hours spent to comply with the Rule's labeling requirements will break down as follows: 1 hour of managerial and/or professional time per covered entity, at an hourly wage of \$60,³ 2 hours of graphic design support, at an hourly

² FTC staff based this estimate on a combination of Economic Census data and information from the North American Industry Classification System. Commission staff identified categories of retailers, wholesalers, and manufacturers under its jurisdiction that supply consumer commodities as defined in the FPLA Rules. Commission staff estimated the number of retailers (312,216) based on 2018 Economic Census data compiling NAICS subsector codes 445, 452, and 453, respectively, for food and beverage stores, general merchandise stores, and miscellaneous store retailers. *See* <https://data.census.gov>. Commission staff estimated the number of wholesalers (260,879) using Census data from the 2017 Economic Census concerning the number of firms covered by NAICS subset code 42 for merchant wholesalers, except manufacturers' sales branches and offices. *See* 2017 Economic Census, Table EC1700BASIC. FTC staff estimated the number of covered manufacturers (110,126) by compiling the estimated number of manufacturing entities covered by NAICS codes 321999, 322220, 322299, 324191, 324199, 325520, 3256, 325992, 325998, 326111, 326130, 326140, 326199, 323720, 327910, 331315, 335110, 339999. *See* <https://www.naics.com>.

³ Based on the mean hourly wage rate for "General and Operations Managers" (\$59.15), rounded up to \$60, available from Bureau of Labor Statistics, Economic News Release, March 31, 2019, Table 1, "National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2019" ("BLS Table 1"), available at: <https://www.bls.gov/news.release/ocwage.htm>.

wage of \$27,⁴ 7 hours of clerical time per covered entity, at an hourly wage of \$18,⁵ for a total of \$163,973,040 (\$240 blended labor cost per covered entity × 683,221 entities).

Capital/Non-Labor Costs: \$0

Commission staff believes that the FPLA Rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (e.g., offices and computers) for the information collections discussed above.

Request for Comment:

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 clearance for the information collection requirements contained in the Business Opportunity Rule, 16 CFR Part 437 (OMB Control Number 3084-0142).

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,

⁴ This wage estimate consists of work time for graphic designers who design the appearance and layout of product packaging, including the appropriate display of the disclosures required by the FPLA Rules. The corresponding wage estimate is based on mean hourly wages for “Graphic designers” (\$27.17), rounded to \$27. See BLS Table 1.

⁵ *See id.* The clerical wage estimate is based on the mean hourly wages for “data entry and information processing workers” (\$17.52), rounded to \$18.

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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

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 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Business Opportunity Rule Paperwork Comment, FTC File No. P114408” 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 “Business Opportunity Rule Paperwork Comment, FTC File No. P114408” 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, Washington, DC 20024. If possible, please 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 on the <https://www.regulations.gov> website – as legally required by FTC Rule 4.9(b) – 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]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2020-23417 Filed: 10/21/2020 8:45 am; Publication Date: 10/22/2020]