



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request;

Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its proposal to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Mail, Internet, or Telephone Order Merchandise Rule (“MITOR” or “Rule”). That clearance expires on August 31, 2025.

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 “Paperwork Reduction Act 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, N.W., Suite CC-5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michelle Schaefer, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC-6316, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-3515.

SUPPLEMENTARY INFORMATION:

Title of Collection: Mail, Internet, or Telephone Order Merchandise Rule (MITOR or Rule), 16 CFR part 435.

OMB Control Number: 3084-0106.

Type of Review: Extension of currently approved collection.

Affected Public: Businesses engaged in the sale of merchandise by mail, internet or telephone.

Estimated Annual Burden Hours: 4,003,250 hours [(68,358 established businesses × 50 hours) + (2,545 new entrants × 230 hours)].

Estimated Annual Labor Costs: \$104,084,500 (4,003,250 hours × \$26.00/hour).¹

Estimated Annual Non-Labor Costs: \$0.

Abstract: Generally, the MITOR requires a seller (or merchant) to: (1) have a reasonable basis for any express or implied shipment representation made in soliciting the sale (if no express time period is promised, the implied shipment representation is 30 days); (2) notify the buyer (or consumer) and obtain the buyer's consent to any delay in shipment; and (3) make prompt and full refunds when the buyer exercises a cancellation option or the seller is unable to meet the Rule's other requirements.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), 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 MITOR.

Burden Statement

A. Estimated Total Annual Hours Burden: 4,003,250 hours.

As discussed in prior *Federal Register* Notices related to this clearance,² FTC staff estimates that established companies each spend an average of 50 hours per year on compliance with the Rule, and that new industry entrants spend an average of 230 hours (an industry estimate) on compliance.³ Thus, the total estimated hours burden is calculated by multiplying the estimated

¹ The hourly wage rates for sales and related workers are based on the hourly mean wage rates found at <https://www.bls.gov/news.release/ocwage.htm> ("Occupational Employment and Wages-May 2024," U.S. Department of Labor, last modified April 2, 2025, Table 1 ("National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2024")).

² See, e.g., 62 FR 63717 (Dec. 2, 1997).

³ Most of this estimated time is start-up time tied to the development and installation of computer systems geared to more efficiently handle customer orders.

number of established companies by 50 hours, multiplying the estimated number of new entrants by 230 hours, and adding the two products.

Since the FTC’s renewal request in 2022, however, the number of businesses engaged in the sale of merchandise subject to the MITOR has increased. The most currently available data from the U.S. Census Bureau indicates that, between 2012 and 2022, the number of businesses subject to the MITOR grew from 30,185 to 55,633, or an average increase of 2,545 new businesses a year $[(55,633 \text{ businesses in 2022} - 30,185 \text{ businesses in 2012}) \div 10 \text{ years}]$.^{4 5} Assuming this growth rate continues from 2025 through 2028, the average number of established businesses during the three-year period for which OMB clearance is sought for the Rule would be 68,358.⁶

Year	Established Businesses	New Entrants
2025 – 26	65,813	2,545
2026 – 27	68,358	2,545
2027 – 28	70,903	2,545
Average	68,358	2,545

FTC staff estimates that, in an average year during the three-year OMB clearance period, established businesses and new entrants will devote 4,003,250 hours to comply with the MITOR $[(68,358 \text{ established businesses} \times 50 \text{ hours}) + (2,545 \text{ new entrants} \times 230 \text{ hours}) = 4,003,250]$.

The estimated PRA burden per seller to comply with the MITOR is likely overstated because much of the estimated time burden for disclosure-related compliance would arguably be incurred even absent the Rule. Over the years, industry trade associations and individual witnesses have consistently taken the position that providing consumers with notice about the

⁴ U.S. Census Bureau, *All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2022*, available at <https://data.census.gov/table/CBP2022.CB2200CBP?y=2022&n=4541>.

⁵ Conceptually, this might understate the number of new entrants. Given the virtually unlimited diversity of retail establishments, it is very unlikely that there is a reliable external measure; nonetheless, as in the past, the Commission invites public comment that might better inform these estimates. For example, many online marketplace sellers that use *Amazon.com*’s marketplace to sell to customers have agreements that provide that Amazon handles packaging and shipping the products to customers. Whether *Amazon.com* is also the entity responsible for sending customers delay notices when necessary could affect which entity is subject to MITOR disclosure requirements (Amazon or the individual marketplace seller).

⁶ As noted above, the existing OMB clearance for the Rule expires on August 31, 2025, and the FTC is seeking to extend the clearance for three years.

status of their orders fosters consumer loyalty and encourages repeat purchases, which are important to marketers' success. In recent years, the demands of the internet's online marketplace and its leading retailers, such as *Amazon.com*, *Walmart.com*, and *Ebay.com* have driven many businesses to upgrade the information management systems to track and ship orders more effectively.⁷ These upgrades were primarily prompted by the industry's need to deal with growing consumer demand for merchandise that is timely shipped. Accordingly, most companies now provide updated order information of the kind required by the Rule in their ordinary course of business to meet consumer expectations regarding timely shipment, notification of delay, and prompt and full refunds.⁸

B. Estimated Labor Costs: \$102,563,265.

FTC staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. According to the most recent data available from the Bureau of Labor and Statistics,⁹ the mean hourly income for workers in sales and related occupations was \$26.00/hour. The bulk of the burden of complying with the MITOR is borne by clerical personnel along with assistance from sales personnel. FTC staff believes that the mean hourly income for workers in sales and related occupations is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established businesses for MITOR compliance during the three-year period for which OMB approval is sought would be approximately \$104,084,500 (4,003,250 hours × \$26.00/hour). Relative to direct industry sales, this total is negligible.¹⁰

⁷ Brian Baskin, *Amazon's Free Shipping Pushes Small Retailers, Delivery Firms to Compete*, *The Wall Street Journal* (Apr. 8, 2017), available at <https://www.wsj.com/articles/amazons-free-shipping-pushes-small-retailers-delivery-firms-to-compete-1491649203>.

⁸ Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

⁹ See Table 1, *National Employment and Wage Data from the Occupational Employment Statistics Survey by Occupation, May 2024*, available at <https://www.bls.gov/news.release/ocwage.t01.htm>.

¹⁰ Considering that sales for "electronic shopping and mail order houses" grew from \$411.480 billion in 2015 to \$1,593.380 billion in 2022, FTC staff estimates the annual mail, internet, or telephone sales to consumers in the three-year period for which OMB clearance is sought will average \$1.3 trillion. Thus, the projected average labor cost for MITOR compliance by existing and new businesses for that period would amount to

Request for Comment:

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. 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.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write “Paperwork Reduction Act Comment: FTC File No. P072108” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Suite CC-5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at <https://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 (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) 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*]. 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.

