

and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**FOR FURTHER INFORMATION CONTACT:** Michelle A. Smith, Director, Office of Board Members; 202-452-2955.

**SUPPLEMENTARY INFORMATION:** You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bankholding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, August 26, 2005.

**Robert deV. Frierson,**  
*Deputy Secretary of the Board.*

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## FEDERAL TRADE COMMISSION

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

**AGENCY:** Federal Trade Commission ("Commission" or "FTC").

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA") (44 U.S.C. 3501-3520). The FTC is seeking public comments on its proposal to extend through August 31, 2008, the current Paperwork Reduction Act clearances for information collection requirements contained in four Commission rules and one clearance covering the Commission's administrative activities. Those clearances expire on August 31, 2005.

**DATES:** Comments must be received on or before September 30, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Paperwork Comment: FTC File No. P822108" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW.,

Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box:

[PaperworkComment@ftc.gov](mailto:PaperworkComment@ftc.gov). However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled "Confidential."<sup>1</sup>

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information requirements should be addressed as follows:

For the Negative Option Rule, contact Edwin Rodriguez, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3147.

For the Amplifier Rule, contact Neil Blickman, Attorney, Division of Enforcement, Federal Trade Commission, Bureau of Consumer Protection, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3038.

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

For the Franchise Rule, contact Steven Toporoff, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3135.

For the R-Value Rule, contact Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-2889.

For the Administrative Activities clearance, contact J. Ronald Brooke Jr., Attorney, Division of Planning and Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3484.

**SUPPLEMENTARY INFORMATION:** On May 19, 2005, the FTC sought comment on the information collection requirements associated with the Negative Option Rule, 16 CFR part 425 (OMB Control Number 3084-0104); the Amplifier Rule, 16 CFR part 432 (OMB Control Number 3084-0105); the Franchise Rule, 16 CFR part 436 (OMB Control Number 3084-0107); the R-Value Rule, 16 CFR part 460 (OMB Control Number 3084-0109); and the clearance covering the FTC's administrative activities (OMB Control Number 3084-0047). 70 FR 28937. As discussed below, one comment relating to the clearance for administrative activities was received. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before September 30, 2005.

#### 1. The Negative Option Rule, 16 CFR Part 425 (OMB Control Number: 3084-0104)

The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise, such as books, compact discs, or tapes, automatically to their subscribers and bill them for the merchandise if consumers do not expressly reject the merchandise within a prescribed time. The Rule protects consumers by: (a) requiring that promotional materials disclose the terms of membership clearly and conspicuously; and (b) establishing procedures for the administration of such "negative option" plans.

*Estimated annual hours burden:* 15,000 hours.

Staff estimates that approximately 190 existing clubs require annually about 75 hours each to comply with the Rule's disclosure requirements, for a total of 14,250 hours (190 clubs × 75 hours). These clubs should be familiar with the Rule, which has been in effect since 1974, with the result that the burden of compliance has declined over time. Moreover, a substantial portion of the existing clubs likely would make these disclosures absent the Rule because they have helped foster long-term relationships with consumers.

Approximately 5 new clubs come into being each year. These clubs require approximately 120 hours to comply with the Rule, including start-up time. Thus, cumulative PRA burden for new clubs is about 600 hours. Combined with the estimated burden for established clubs, total burden is 14,850 hours or 15,000, rounded to the nearest thousand.

*Estimated annual cost burden:* \$490,000, rounded to the nearest thousand (solely related to labor costs).

Based on recent data from the Bureau of Labor Statistics, the average compensation for advertising managers is approximately \$36 per hour. Compensation for clerical personnel is approximately \$13 per hour. Assuming that managers perform the bulk of the work, while clerical personnel perform associated tasks (e.g., placing advertisements and responding to inquiries about offerings or prices), the total cost to the industry for the Rule's paperwork requirements would be approximately \$489,750 [(65 hours managerial time × 190 existing negative option plans × \$36 per hour) + (10 hours clerical time × 190 existing negative option plans × \$13 per hour) + (110 hours managerial time × 5 new negative option plans × \$36 per hour) + (10 hours clerical time × 5 new negative option plans × \$13)].

Because the Rule has been in effect since 1974, the vast majority of the negative option clubs have no current start-up costs. For the few new clubs that enter the market each year, the costs associated with the Rule's disclosure requirements, beyond the additional labor costs discussed above, are *de minimis*. Negative option clubs already have access to the ordinary office equipment necessary to achieve compliance with the Rule. Similarly, the Rule imposes few, if any, printing and distribution costs. The required disclosures generally constitute only a small addition to the materials that a prospective subscriber sends to the seller to solicit enrollment in a negative option plan. Because printing and distribution expenditures are incurred

regardless of the Rule to market the product, adding the required disclosures to them would result in marginal incremental expense.

## **2. The Amplifier Rule, 16 CFR Part 432 (OMB Control Number: 3084-0105)**

The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

*Estimated annual hours burden:* 450 hours (300 testing-related hours; 150 disclosure-related hours).

The Rule's provisions require affected entities to test the power output of amplifiers in accordance with a specified FTC protocol. The staff estimates that approximately 300 new amplifiers and receivers come on the market each year. High fidelity manufacturers routinely conduct performance tests as part of any new product development. As a result, the Rule imposes incremental costs only to the extent that the FTC protocol is more time-consuming than alternative testing procedures. Specifically, a warm up ("precondition") period that the Rule requires before measurements are taken may add approximately one hour to the time testing entails. Thus, staff estimates that the Rule imposes approximately 300 hours (1 hour × 300 new products) of added testing burden annually.

The Rule requires disclosures if a media advertisement makes a power output claim or if a manufacturer specification sheet and product brochure for a covered product make a power output claim. This requirement does not impose any additional costs on manufacturers because, absent the Rule, media advertisements, as well as manufacturer specification sheets and product brochures, simply would contain a power specification obtained using an alternative to the Rule-required testing protocol. The Rule, though, also requires disclosure of harmonic distortion, power bandwidth, and impedance ratings in manufacturer specification sheets and product brochures. The staff's research suggests that approximately 300 new amplifiers and receivers are introduced each year. The cost of disclosing the ancillary distortion, bandwidth, and impedance information in the potentially 600 new specification sheets and brochures produced each year for those products (300 × 2) is limited to the time needed to draft and review the language pertaining to the aforementioned

specifications. Because this Rule became effective in 1974 and because members of the industry are familiar with its requirements, compliance is less burdensome today. Accordingly, staff continues to estimate the time involved for this task to be a maximum of ¼ hour for each new specification sheet and brochure (600 × .25 hours), for a total annual burden of 150 hours. The total annual burden imposed by the Rule, therefore, is approximately 450 burden hours for testing and disclosures.

*Estimated annual cost burden:* \$16,000, rounded to the nearest thousand (solely relating to labor costs).

Based on recent data from the Bureau of Labor Statistics, the average hourly compensation for electronics engineers is about \$36, and the average hourly compensation for advertising and promotions managers is about \$36. Generally, electronics engineers perform the testing of amplifiers and receivers (300 hours × \$36 = \$10,800), and advertising or promotions managers prepare product brochures and manufacturer specification sheets (including required disclosures) (150 hours × \$36 = \$5,400). Based on this information, staff estimates industry labor costs associated with the Rule of approximately \$16,000 per year, rounded to the nearest thousand.

The Rule imposes no capital or other non-labor costs because its requirements are incidental to testing and advertising done in the ordinary course of business.

## **3. The Franchise Rule, 16 CFR Part 436 (OMB Control Number: 3084-0107)**

The Franchise Rule requires franchisors and franchise brokers to furnish to prospective investors a disclosure document that provides information relating to the franchisor, the franchisor's business, the nature of the proposed franchise relationship, as well as additional information about any claims concerning actual or potential sales, income, or profits for a prospective franchisee ("financial performance claims"). The franchisor must also preserve the information that forms a reasonable basis for such claims. The FTC is seeking to extend the PRA clearance for the existing Rule. In addition, the FTC is seeking PRA clearance for the rule changes that have been proposed in the ongoing rulemaking proceeding.

*Estimated annual hours burden for existing Franchise Rule:* 33,500 hours.

The Rule's required disclosure document provides franchisees with information on broad-ranging subjects that affect franchisors and the nature of the proposed franchise relationship.

This includes not only generally available information, such as the official name and address and principal place of business of the franchisor, but also less commonly available information, such as, among other things, the previous five years business experience of a franchisor's current directors and executive officers and whether any of these individuals have been convicted of a felony or fraud or have filed for bankruptcy or been adjudged bankrupt during the previous seven years. All information in the disclosure statement must be updated and revised according to the express time requirements set forth in the Rule.

Based on a review of the trade publications and information from state regulatory authorities, staff believes that, on average, from year to year, there are approximately 5,000 American franchise systems, consisting of 2,500 business format franchises and 2,500 business opportunity sellers, with approximately 500 (or 10%) of the total reflecting new entrants who have replaced departing businesses. Staff has calculated burden based on the above estimates. Some franchisors, however, for various reasons, are not covered by the Rule in certain situations (e.g., when a franchisee buys bona fide inventory but pays no franchisor fees). Moreover, fifteen states have franchise disclosure laws similar to the Rule. These states use a disclosure document format known as the Uniform Franchise Offering Circular ("UFOC"). In order to ease compliance burdens on the franchisor, the Commission has authorized use of the UFOC in lieu of its own disclosure format to satisfy the Rule's disclosure requirements. Staff estimates that about 95 percent of all franchisors use the UFOC format. When that format is used, the franchisor is not required to prepare an additional federal disclosure document. The burden hours stated below reflect staff's estimate of the incremental burden that the Franchise Rule may impose beyond information requirements imposed by states and/or followed by franchisors who use the UFOC.

Staff estimates that the 500 or so new franchisors (including business opportunity ventures) require approximately 30 hours each to develop a Rule-compliant disclosure document. Staff additionally estimates that the remaining 4,500 established franchisors require no more than approximately 3 hours each to update the disclosure document. The combined cumulative burden is 28,500 hours.

The franchisor may need to maintain additional documentation for the sale of franchises in non-registration states,

which could take up to an additional hour of recordkeeping per year. This yields a cumulative total of 5,000 hours per year for affected entities.

*Estimated annual cost burden for existing rule:* \$7,190,000.

Labor costs are determined by applying applicable wage rates to associated burden hours. Staff assumes that an attorney likely would prepare or update the disclosure document. Accordingly, staff's estimate of the labor costs attributed to those tasks are as follows: (500 new franchisors  $\times$  \$250 per hour  $\times$  30 hours per franchisor) + (4,500 established franchisors  $\times$  \$250 per hour  $\times$  3 hours per franchisor) = \$7,125,000.

Staff anticipates that recordkeeping would be performed by clerical staff at approximately \$13 per hour. At 5,000 hours per year for all affected entities, this would amount to a total cost of \$65,000. Thus, combined labor costs for recordkeeping and disclosure is approximately \$7,190,000.

*Estimated increase in annual hours burden for proposed rule amendments:* 2750 hours.

The Commission is conducting a rulemaking proceeding to amend the Franchise Rule. 64 FR 57294 (1999) (Notice of Proposed Rulemaking). The Staff Report on the Proposed Revised Franchise Rule (Aug. 25, 2004) ("Staff Report"), which is available online at <http://www.ftc.gov>, sets forth the staff's recommendations to the Commission on various proposed amendments to the Franchise Rule. The Commission did not review or approve the staff report prior to its issuance. See 69 FR 53661 (2004) (Notice Announcing Publication of Staff Report). Among other things, the Rule amendments discussed in the Staff Report would accomplish five goals. First, the staff has recommended that the amended Rule address the sale of business format and product franchises exclusively. The existing requirements for business opportunity ventures would be renumbered as a separate rule limited to business opportunities only. See Staff Report at 13 and n.42. Accordingly, the burden for business opportunity ventures will remain the same.

Second, the amended Rule would reduce inconsistencies between federal and state disclosure requirements. Fifteen states have franchise disclosure laws similar to the Rule. These states use a disclosure document format known as the Uniform Franchise Offering Circular ("UFOC"). Staff estimates that about 95 percent of all franchisors use the UFOC format. The amended Rule would incorporate nearly all of the UFOC disclosures, thereby

harmonizing federal and state disclosure laws.

Third, the amended Rule would require the disclosure of more information on the quality of the franchise relationship. Among other things, franchisors would disclose litigation initiated against franchisees involving the franchise relationship and franchisee-specific trademark associations.

Fourth, the amended Rule would update the rule to address new technologies. Specifically, it would permit franchisors to furnish disclosures electronically. This includes transmission via CD ROM, e-mail, and access to a Web site.

Finally, the amended Rule would reduce compliance costs by expanding exemptions from disclosure. Specifically, the amended Rule would create new exemptions for sophisticated investors and for sales to managers and others within the franchise system who are already familiar with the franchise system's operations.

At the same time, the amended Rule would increase franchisors' recordkeeping obligations. Specifically, a franchisor would be required to retain copies of receipts for disclosure documents, as well as materially different versions of its disclosure documents. Such recordkeeping requirements are consistent with, or less burdensome, than those imposed by the states.

Staff estimates the increase in burden attributable to the proposed Rule amendments as follows: Each year, approximately 250 new franchisors will require 32 hours each (2 hours more than under the existing Rule) to develop a Rule-compliant disclosure document (increase of 500 hours). Staff also estimates that during the first year that the amended Rule is effective, the remaining 2250 established franchisors will require approximately 6 hours each (3 hours more than under the existing Rule) to update their existing disclosure document to comply with the amended Rule (increase of 6750 hours for the first year). After the first year, however, the time required should be the same as under the existing Rule, as the new disclosure format becomes familiar. Accordingly, the increase in the annual disclosure burden, averaged over the three-year clearance period, will be 2750 hours (500 hours per year for new franchisors + 2250 hours per year for established franchisors).

*Estimated increase in annual cost burden for proposed rule amendments:* \$688,000, rounded to the nearest thousand.

Labor costs are determined by applying applicable wage rates to associated burden hours. Staff assumes that an attorney likely would prepare the disclosure document. Accordingly, staff's estimate of the increase in labor costs that would be attributable to the proposed Rule amendments, averaged over the three-year clearance period, is as follows: (500 hours per year for new franchisors  $\times$  \$250 per hour) + (2250 hours per year for established franchisors  $\times$  \$250) = \$687,500.

#### 4. R-Value Rule, 16 CFR Part 460 (OMB Control Number: 3084-0109)

The R-value Rule establishes uniform standards for the substantiation and disclosure of accurate, material product information about the thermal performance characteristics of home insulation products. The R-value of an insulation signifies the insulation's degree of resistance to the flow of heat. This information tells consumers how well a product is likely to perform as an insulator and allows consumers to determine whether the cost of the insulation is justified.

*Estimated annual hours burden:* 121,000 hours.

The Rule's requirements include product testing, recordkeeping, and third-party disclosures on labels, fact sheets, advertisements, and other promotional materials. Based on information provided by members of the insulation industry, staff estimates that the Rule affects: (1) 150 insulation manufacturers and their testing laboratories; (2) 1,615 installers who sell home insulation; (3) 125,000 new home builders/sellers of site-built homes and approximately 5,500 dealers who sell manufactured housing; and (4) 25,000 retail sellers who sell home insulation for installation by consumers.

Under the Rule's testing requirements, manufacturers must test each insulation product for its R-value. The test takes approximately 2 hours. Approximately 15 of the 150 insulation manufacturers in existence introduce one new product each year. The total annual testing burden is therefore approximately 30 hours (15 manufacturers  $\times$  2 hours per test).

Staff further estimates that most manufacturers require an average of approximately 20 hours per year with regard to third-party disclosure requirements in advertising and other promotional materials. Only the five or six largest manufacturers require additional time, approximately 80 hours each. Thus, the annual third-party disclosure burden for manufacturers is approximately 3,360 hours [(144

manufacturers  $\times$  20 hours) + (6 manufacturers  $\times$  80 hours)].

While the Rule imposes recordkeeping requirements, most manufacturers and their testing laboratories keep their testing-related records in the ordinary course of business. Staff estimates that no more than one additional hour per year per manufacturer is necessary to comply with this requirement, for an annual recordkeeping burden of approximately 150 hours (150 manufacturers  $\times$  1 hour).

Installers are required to show the manufacturers' insulation fact sheet to retail consumers before purchase. They must also disclose information in contracts or receipts concerning the R-value and the amount of insulation to install. Staff estimates that two minutes per sales transaction is sufficient to comply with these requirements. Approximately 1,520,000 retrofit insulations are installed by approximately 1,615 installers per year, and, thus, the related annual burden total is approximately 50,667 hours (1,520,000 sales transactions  $\times$  2 minutes). Staff anticipates that one hour per year per installer is sufficient to cover required disclosures in advertisements and other promotional materials. Thus, the burden for this requirement is approximately 1,615 hours per year (1,615 installers  $\times$  1 hour). In addition, installers must keep records that indicate the substantiation relied upon for savings claims. The additional time to comply with this requirement is minimal—approximately 5 minutes per year per installer—for a total of approximately 135 hours (1,615 installers  $\times$  5 minutes).

New home sellers must make contract disclosures concerning the type, thickness, and R-value of the insulation they install in each part of a new home. Staff estimates that no more than 30 seconds per sales transaction is required to comply with this requirement, for a total annual burden of approximately 14,167 hours (1.7 million new home sales  $\times$  30 seconds). New home sellers who make energy savings claims must also keep records regarding the substantiation relied upon for those claims. Because few new home sellers make these claims, and the ones that do would likely keep these records regardless of the R-value Rule, staff believes that the 30 seconds covering disclosures would also encompass this recordkeeping element.<sup>2</sup>

<sup>2</sup> In previous requests for clearance under the PRA, the FTC staff assumed that the requirements related to new home sales contracts require one minute per sales transaction. See, e.g., 67 FR 21243, 21246 (April 30, 2002). The FTC staff now estimates that the inclusion of such information should take

The Rule requires that the approximately 25,000 retailers who sell home insulation make fact sheets available to consumers before purchase. This can be accomplished by, for example, placing copies in a display rack or keeping copies in a binder on a service desk with an appropriate notice. Replenishing or replacing fact sheets should require no more than approximately one hour per year per retailer, for a total of 25,000 annual hours, industry-wide.

The Rule also requires specific disclosures in advertisements or other promotional materials to ensure that the claims are fair and not deceptive. This burden is very minimal because retailers typically use advertising copy provided by the insulation manufacturer, and even when retailers prepare their own advertising copy, the Rule provides some of the language to be used. Accordingly, approximately one hour per year per retailer should suffice to meet this requirement, for a total annual burden of approximately 25,000 hours.

Retailers who make energy savings claims in advertisements or other promotional materials must keep records that indicate the substantiation they are relying upon. Because few retailers make these types of promotional claims and because the Rule permits retailers to rely on the insulation manufacturer's substantiation data for any claims that are made, the additional recordkeeping burden is *de minimis*. The time calculated for disclosures, above, would be more than adequate to cover any burden imposed by this recordkeeping requirement.

To summarize, staff estimates that the Rule imposes a total of 120,624 burden hours, as follows: 150 recordkeeping and 3,390 testing and disclosure hours for manufacturers; 135 recordkeeping and 52,282 disclosure hours for installers; 14,667 disclosure hours for new home sellers; and 50,000 disclosure hours for retailers. Rounded to the nearest thousand, the total burden is 121,000 burden hours.

*Estimated annual cost burden:* \$2,738,000, rounded to the nearest thousand (solely related to labor costs).

The total annual labor costs for the Rule's information collection requirements is \$2,737,902, derived as follows: \$690 for testing, based on 30 hours for manufacturers (30 hours  $\times$  \$23 per hour for skilled technical

no more than 30 seconds per sales transaction because of increased automation, the wide-spread use of standard contracts, and the prevalence of large firms in the housing market. In addition, there was a calculation error in the previous requests that significantly overestimated the total burden imposed by new home sale contract disclosures.

personnel); \$3,705 for complying with the recordkeeping requirements of the Rule, based on 285 hours (285 hours × \$13 per hour for clerical personnel); \$43,680 for manufacturers' compliance with third-party disclosure requirements, based on 3,360 hours (3,360 hours × \$13 per hour for clerical personnel); and \$2,689,827 for compliance by installers, new home sellers, and retailers (116,949 hours × \$23 per hour for sales persons).

There are no significant current capital or other non-labor costs associated with this Rule. Because the Rule has been in effect since 1980, members of the industry are familiar with its requirements and already have in place the equipment for conducting tests and storing records. New products are introduced infrequently. Because the required disclosures are placed on packaging or on the product itself, the Rule's additional disclosure requirements do not cause industry members to incur any significant additional non-labor associated costs.

#### 5. FTC Administrative Activities (OMB Control Number: 3084-0047)

This category consists of: (a) applications to the Commission, including Applications and notices contained in the Commission's Rules of Practice (primarily Parts I, II, and IV); (b) the FTC's consumer complaint systems; (c) FTC program evaluation activities and (d) Applicant Background Form.

*Estimated annual hours burden:* 139,000 hours, rounded to the nearest thousand.

(a) Applications to the Commission, including applications and notices contained in the Commission's Rules of Practice: 125 hours.

Most applications to the Commission generally fall within the "law enforcement" exception to the Paperwork Reduction Act.<sup>3</sup> Over the last decade, the Commission has received only one application for an exemption under the Fair Debt Collection Practices Act provisions. Staff has estimated that such a submission can be completed well within 50 hours. Applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission's Rule of Practice) are also infrequent and difficult to

quantify. Nonetheless, in order to cover any potential "collections of information" for which separate clearance has not been sought, staff is projecting 125 hours as its estimate of the time needed to submit any applicable responses.<sup>4</sup>

(b) Complaint Systems: 138,415 hours.

#### *Consumer Response Center*

Consumers can submit complaints about fraud and other practices to the FTC's Consumer Response Center by telephone or through the FTC's website. Telephone complaints and inquiries to the FTC are answered both by FTC staff and contractors. These telephone counselors ask for the same information that consumers would enter on the applicable forms available on the FTC's Web site. For telephone inquiries and complaints, the FTC staff estimates that it takes 4.5 minutes per call to gather information, somewhat less time than the 5 minutes estimated for consumers to enter a complaint online.<sup>5</sup> The burden estimate conservatively assumes that all of the phone call is devoted to collecting information from consumers, although frequently telephone counselors devote a small portion of the call to providing requested information to consumers.

#### *Complaints Concerning National Do Not Call Registry*

To receive complaints from consumers of possible violations of the rules governing the National Do Not Call Registry, 16 CFR 310.4(b), the FTC maintains both an online form and a toll free hotline with automated voice response system. Consumer complainants must provide either the name or telephone number of the company about which they are complaining, the phone number that was called and the date of the call; they may also provide their name and address so they can be contacted for additional information. The FTC staff estimates that the time required of consumer complainants is 2.5 minutes

for phone complaints and 2 minutes for online complaints.

The FTC received a comment from T-Mobile USA, Inc. ("T-Mobile") contending that the FTC should require more information from consumer complainants in order to reduce the burden on companies such as T-Mobile investigating complaints against them of possible violations of the Registry. T-Mobile, which describes itself as a nationwide commercial mobile radio service carrier that currently serves more than 18 million customers as well as the largest carrier-owned Wi-Fi network in the world, proposes increasing the burden on each consumer submitting a complaint of an unwanted telemarketing call in two ways.

First, T-Mobile proposes that the FTC require consumers to include an "express description of the goods or services that were offered" or other similar information about what the call was about. T-Mobile asserts it is the subject of some consumer complaints for exempt calls such as debt collection, customer service inquiries, and other calls that do not constitute telemarketing. Indeed, T-Mobile emphasizes that it "does not conduct any outbound telemarketing to anyone other than its existing subscribers," which suggests it may also receive complaints about calls exempt from the Registry due to an established business relationship.

The FTC declines to require this proposed field of additional information from all consumer complainants in order to eliminate a limited set of complaints about exempt calls against companies like T-Mobile. Preliminarily, if it is true that T-Mobile is not engaged in telemarketing covered by the Registry, T-Mobile's investigation would appear to be a relatively simple matter. In addition, the proposed solution is not a good fit for the problem asserted. For example, if a company such as T-Mobile calls for debt collection or a customer service inquiry, the consumer complainant may describe the call as an offer about the company's goods or services. Moreover, it is not at all clear that this indirect method of reminding consumers that the call must be a telemarketing call in order to be covered by the Registry would be more effective than the FTC announcements on the online complaint form and the toll-free hotline that already inform consumers that certain types of calls are permitted by the Registry rules.

Second, T-Mobile suggests that the FTC require consumers to collect, record and provide both the name and telephone number of the company about which they are complaining. Because

<sup>4</sup> This includes Commission Rule of Practice 4.11(e), 16 CFR § 4.11(e), which establishes procedures for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the agency is not a party. The rule requires that a person who seeks such testimony submit a statement in support of the request. Staff estimates that agency personnel receive roughly 2 such requests per month or 24 per year, and conservatively estimates that it would require up to 2 hours to prepare the statement, for a cumulative total of 24 hours.

<sup>5</sup> Because the fraud-related form is closely patterned after the general complaint form, burden estimates per respondent for each are the same.

<sup>3</sup> The "law enforcement" exception to the PRA excludes most items in this subcategory because they involve collecting information during the conduct of a Federal investigation, civil action, administrative action, investigation, or audit with respect to a specific party, or subsequent adjudicative or judicial proceedings designed to determine fines or other penalties. See 44 U.S.C. 3518(c)(1); 5 CFR 1320.4(a)(1)-(3).

consumer complainants may provide both pieces of information, and many already do so, T-Mobile's proposal to require both imposes an extra requirement on precisely those consumers who are already indicating that providing such additional information is burdensome, if not impossible. As T-Mobile recognizes in its comment, not all consumers have Caller ID and they may not have \*69 service. Furthermore, \*69 service may not always identify the phone number from which the call originated. Consumers may not record the number from which the call originated, particularly if the call is received during dinner or another inopportune time, which is precisely when they should be protected from unwanted telemarketing. In addition, calls left upon a consumer's telephone answering machine or through call waiting service may not be the last call received and thus would not be identifiable using \*69 service. Finally, consumer unfamiliarity with \*69 and concerns about whether it would result in a charge to the consumer would discourage consumers from making complaints at all.

The FTC, as a law enforcement agency that enforces compliance with the Registry, is well aware of the investigatory burden of investigating Do Not Call complaints by beginning with the limited information that consumers provide. The FTC, as a consumer protection agency, is also well aware of the importance of providing consumers with a convenient means of submitting complaints. The FTC must not so burden consumers so as to discourage the submission of complaints. While more information may be helpful in some circumstances, that benefit must be balanced against the burden of requiring all consumers to submit the additional information in all complaints. The FTC, based on its agency experience and familiarity with the financial and technical constraints of operating the complaint system, has concluded that the current complaint system collects the appropriate amount and type of information from consumers. Accordingly, the FTC declines to adopt T-Mobile's suggestions at this time. The FTC staff periodically

considers whether its complaint system can be improved as a part of ongoing system upgrades and may make changes at a future date.

*Identity theft*

To handle complaints about identity theft, the FTC must obtain more detailed information than is required of other complainants. Identity theft complaints generally require more information (such as a description of actions complainants have taken with credit bureaus, companies, and law enforcement, and the identification of multiple suspects) than general consumer complaints and fraud complaints. In addition, the FTC is considering expanding the information required on its online complaint form (such as collecting additional information about the fraudulent activity at affected companies and creating an attachment summarizing all of the fraudulent account activity as well as all fraudulent information on the consumer's credit report). Consumers would be able to print out a copy of the revised form and use it to assist them in completing a police report, if appropriate, and, as also may be necessary, an ID Theft report. See 16 CFR 603.3 (defining the term "identity theft report"). The FTC estimates that the revised form would take consumers up to 13 minutes to complete (instead of the 7.5 minutes estimated for the current online form).

The FTC is also planning to make some revisions in the information it collects from consumers who call the Consumer Response Center (CRC) with identity theft complaints. Staff estimates that it will take 9 minutes per call to obtain identity-theft related information (instead of the 8 minutes estimated for the current call procedure). A substantial portion of identity theft-related calls typically consists of counseling consumers on other steps they should consider taking to obtain relief (which may include directing consumers to a revised online complaint form). The time needed for counseling is excluded from the estimate.

*Surveys*

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the Consumer Response Center (CRC). The CRC surveys roughly 1 percent of complainants who file IDT or general consumer complaints. Subsets of consumers contacted throughout the year are questioned about specific aspects of CRC customer service. Each consumer surveyed is asked several questions chosen from a list prepared by staff. The questions are designed to elicit information from consumers about the overall effectiveness of the call center. Half of the questions ask consumers to rate CRC performance on a scale or require a yes or no response. The second half of the survey asks more open-ended questions seeking a short written or verbal answer. Staff estimates that each respondent will require 4 minutes to answer the questions (approximately 20–30 seconds per question).

Finally, Consumer Sentinel user surveys give the agency information about the overall effectiveness of its Consumer Sentinel Network. Consumer Sentinel allows federal, state and local law enforcement organizations common access to a secure database containing over two million complaints from victims of consumer fraud and identity theft. To date, Consumer Sentinel has over 1200 members, including law enforcement agencies from Canada and Australia. FTC staff plan to survey roughly 50% (approximately 2,500 respondents) of Consumer Sentinel users each year about such things as overall satisfaction, performance, and possible improvements. Generally, the surveys should take approximately 10 minutes per respondent (417 hours total).

What follows are staff's estimates of burden for these various collections of information, including the surveys. The figures for the online forms and consumer hotlines are an average of annualized volume for the respective programs including both current and projected volumes over the 3-year clearance period sought and are rounded to the nearest thousand.

Activity	Number of respondents	Number of minutes/activity	Total hours
Miscellaneous and fraud-related consumer complaints (phone)* .....	315,000	4.5	23,625
Miscellaneous and fraud-related consumer complaints (online)** .....	135,000	5	11,250
IDT complaints (phone)* .....	380,000	9	57,000
IDT complaints (online)** .....	128,000	13	27,733
Do-Not-Call related consumer complaints (phone) .....	82,000	2.5	3,417
Do-Not-Call related consumer complaints (online) .....	430,000	2	14,333
Customer Satisfaction Questionnaire .....	9,600	4	640

Activity	Number of respondents	Number of minutes/activity	Total hours
Consumer Sentinel User Surveys .....	2,500	10	417
Totals .....	1,482,100	.....	138,415

\* Number of consumer calls calculated by projecting over the 3-year clearance period sought 5% annual growth and a telephone contractor response rate of 95% (contracted level of service) with regard to consumers who call the toll free lines and opt to talk to a counselor.

\*\* Number of online collections projected from number of consumers who use the FTC's online complaint forms noted in the text above. These figures also assume 5% annual growth for miscellaneous and fraud-related complaints, and 8% annual growth for ID Theft online complaints, over the 3-year clearance period requested.

#### Annual cost burden:

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

(c) Program Evaluations: 355 hours.

#### Review of Divestiture Orders

The Commission issues, on average, approximately 10–15 orders in merger cases per year that require divestitures. As a result of a 1999 study authorized by the OMB and conducted by the staffs of the Bureau of Competition and the Bureau of Economics,<sup>6</sup> the Bureau of Competition (“BC”) intends to enhance its monitoring of these required divestitures by interviewing representatives of the Commission-approved buyers of the divested assets within the first year after the divestiture is completed. For the first several years of this new evaluation process, however, BC staff will be focusing on older orders and thus anticipates reviewing up to 40 divestitures per year.

BC staff will interview representatives of the buyers to ask whether all assets required to be divested were, in fact, divested;<sup>7</sup> whether the buyer has used the divested assets to enter the market of concern to the Commission and, if so, the extent to which the buyer is participating in the market; whether the divestiture met the buyer's expectations; and whether the buyer believes the divestiture has been successful. BC staff may also interview other participants, including customers or trustee monitors, as appropriate. In all these interviews, staff will seek to learn about pricing and other basic facts regarding competition in the markets of concern to the agency.

<sup>6</sup> The Staff of the Bureau of Competition of the Federal Trade Commission compiled its findings from the study in its report: *A Study of the Commission's Divestiture Process, 1999*, available at <http://www.ftc.gov/os/1999/08/divestiture.pdf>.

<sup>7</sup> To the extent that the staff interviews focus on a law enforcement activity (whether the party to the order complied with all its obligations), the interviews are not subject to the requirements of the Paperwork Reduction Act. See *supra* note 3.

Participation by the buyers will be voluntary. Each responding company will designate the company representative most likely to have the necessary information; in all likelihood, it will be a company executive and a lawyer for the company may also be present. BC staff estimates that each interview will take approximately one hour to complete, with no more than an hour's preparation required by each of the participants. In some instances, staff may do additional interviews with customers of the responding company or the monitor. Staff conservatively estimates that for each interview, two individuals (a company executive and a lawyer) will devote two hours each to responding to our questions for a total of four hours. In addition, for approximately half of the divestitures, staff will seek to question two additional respondents, adding four participants (a company executive and a lawyer for each of the two additional respondents) devoting two hours each, for a total of eight additional hours. Assuming that staff evaluates up to 40 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 320 hours per year ((40 × 4 hours) + (20 × 8 hours)).

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on a conservative estimated average of \$425/hour for executives' and attorneys' wages, would be approximately \$136,000 (320 hours × \$425).

#### Review of Competition Advocacy Program

The FTC's competition advocacy program draws on the Commission's expertise in competition and consumer protection matters to encourage federal and state legislators, courts and other state and federal agencies to consider the competitive effects of their proposed actions. Since June of 2001, the FTC Office of Policy Planning (“OPP”) has sent out 51 letters or written comments to different government officials, which have advocated the passage or repeal of various laws or regulations based on

their likely competitive effects. OPP intends to evaluate the effectiveness of these advocacy comments.

The evaluation will target the recipients of each of the 51 written comments, as well as 18 sponsors of the relevant legislation, by means of a written questionnaire. Most of the questions ask the respondent to agree or disagree with a statement concerning the advocacy comment that they received. Specifically, these questions inquire as to the applicability, value, persuasive influence, public effect, and informative value of the FTC's comments. The questionnaire also provides respondents with an opportunity to provide additional remarks related either to the written comments received or the FTC's advocacy program in general. Participation is voluntary.

OPP staff estimates that on average, respondents will take 30 minutes or less to complete the questionnaire. OPP staff does not intend to conduct any follow-up activities that would involve the respondents' participation. If all respondents complete the questionnaire, the total hours burden for the evaluation will be approximately 35 hours (69 respondents × .5 hours). OPP staff estimates a conservative hourly labor cost of \$250 for the time of the survey participants (primarily state representatives and senators). Thus, the total annual labor cost would be approximately \$8750 (35 hours × \$250).

(d) Applicant Tracking Form: 400 hours.

The FTC's Human Resources Management Office intends to survey job applicants on their ethnicity, race, and disability status in order to determine if recruitment is effectively reaching all aspects of the relevant labor pool, in compliance with management directives from the Equal Opportunity Employment Commission. Response by applicants is optional. The information obtained will be used for evaluating recruitment only and plays no part in the selection of who is hired. The information is not provided to selecting officials. Instead, the information is used in summary form to determine

trends over many selections within a given occupational or organizational area. The information is treated in a confidential manner. No information from the form is entered into the official personnel file of the individual selected and all forms are destroyed after the conclusion of the selection process. The format of the questions on ethnicity and race are compliant with OMB requirements and comparable to those used by other agencies.

The FTC staff estimates that up to 5,000 applicants will submit the form as part of the new online application process and that the form will require 5 minutes to complete, for an annual burden total of approximately 400 hours.

*Annual cost burden:*

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

**Christian S. White,**

*Acting General Counsel.*

[FR Doc. 05-17326 Filed 8-30-05; 8:45 am]

**BILLING CODE 6750-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

*Name:* National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security (SSS).

*Time and Date:* September 21, 2005: 9 a.m.–5 p.m.; September 22, 2005: 8:30 a.m.–12 p.m.

*Place:* Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

*Status:* Open.

*Purpose:* On the first day the Subcommittee will focus on two topics: introductory discussions of the issues surrounding matching patients with their records, and then continued explorations into issues around HIPAA Return on Investment (ROI). The second day open with an overview of the e-prescribing pilots required under Medicare Modernization Act (MMA) and will move to continued discussions on the secondary use of clinical data.

*Contact Person for More Information:* Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from

Maria Friedman, Health Insurance Specialist, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5-24-04, 7500 Security Boulevard, Baltimore, MD 21244-1850, telephone: 410-786-6333 or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone: (301) 458-4245. Information also is available on the NCVHS home page of the HHS Web site: <http://www.nevhs.hhs.gov/> where an agenda for the meeting will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458-3EEO (4336) as soon as possible.

Dated: August 23, 2005.

**James Scanlon,**

*Acting Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.*

[FR Doc. 05-17345 Filed 8-30-05; 8:45 am]

**BILLING CODE 4151-05-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Notice of Meeting

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards announces the following meeting.

*Name:* ICD-9-CM Coordination and Maintenance Committee meeting.

*Times and Dates:* 9 a.m.–4 p.m., September 29, 2005. 9 a.m.–4 p.m., September 30, 2005.

*Place:* Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

*Status:* Open to the public.

*Purpose:* The ICD-9-CM Coordination and Maintenance (C&M) Committee will hold its final meeting of the 2005 calendar year cycle on Thursday and Friday, September 29–30, 2005. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, and Clinical Modification.

*Matters to be Discussed:* Agenda items include: Complex and simple febrile seizures, family history of colonic polyps, mucositis, newborn post discharge check, benign prostatic hypertrophy with lower urinary tract symptoms, acute and chronic gingival disease, anal sphincter tear, addenda (diagnosis), cervical stump prolapse, growth-guidance device/8-plate, M-brace dynamic spinal stabilization system, implantable hemodynamic monitor, injection or infusion of Levosimendan, laparoscopic hysterectomy, Taylor spatial frame, bifurcated vessel procedure, EPS studies, addenda (procedures), ICD-10-Procedure Coding System (PCS) update.

*For Further Information Contact:* Amy Blum, Medical Systems Specialist,

Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, e-mail [alb8@cdc.gov](mailto:alb8@cdc.gov), telephone 301-458-4106 (diagnosis), Mady Hue, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Blvd., Baltimore, Maryland 21244, e-mail [Marilu.Hue@cms.hhs.gov](mailto:Marilu.Hue@cms.hhs.gov), telephone 410-786-4510 (procedures).

*Notice:* Because of increased security requirements, CMS has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show an official form of picture I.D., (such as a driver's license), and sign-in at the security desk upon entering the building. Those who wish to attend a specific ICD-9-CM C&M meeting in the CMS auditorium must submit their name and organization for addition to the meeting visitor list. Those wishing to attend the September 29–30, 2005 meeting must submit their name and organization by September 26, 2005 for inclusion on the visitor list. This visitor list will be maintained at the front desk of the CMS building and used by the guards to admit visitors to the meeting. Those who attended previous ICD-9-CM C&M meetings will no longer be automatically added to the visitor list. You must request inclusion of your name prior to each meeting you attend. Register to attend the meeting on-line at: <http://cms.hhs.gov/events>.

*Notice:* This is a public meeting. However, because of fire code requirements, should the number of attendees meet the capacity of the room, the meeting will be closed.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 2005.

**B. Kathy Skipper,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 05-17325 Filed 8-30-05; 8:45 am]

**BILLING CODE 4163-18-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Community and Tribal Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act