

Missouri; and State Bank of Jefferson County, De Soto, Missouri.

Board of Governors of the Federal Reserve System, June 20, 2001.

**Robert deV. Frierson**

*Associate Secretary of the Board.*

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## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in its Telemarketing Sales Rule ("TSR" or "Rule"). The FTC is seeking public comments on its proposal to extend through August 31, 2004 the current PRA clearance for information collection requirements contained in the regulations. That clearance expires on August 31, 2001.

**DATES:** Comments must be submitted on or before July 25, 2001.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission, and to Secretary, Federal Trade Commission, Room H-159, Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned "Telemarketing Sales Rule: Paperwork comment."

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the proposed information requirements should be addressed to Karen Leonard, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H-238, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3597.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On May 4, 2001, the FTC sought comment on the information collection requirements associated with the TSR, 16 CFR Part 310 (OMB Control Number: 3084-0097). See 66 FR 22562. No comments were

received on any aspect of the notice, including staff's PRA burden estimates. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeing OMB approval to extend the existing paperwork clearance for the Rule.

The TSR implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101-6108 ("Act"). The Act seeks to prevent deceptive or abusive telemarketing practices. It mandates certain disclosures by telemarketers, and directs the Commission to consider recordkeeping requirements in its promulgation of a telemarketing rule to address such practices. As required by the Act, the TSR mandates certain disclosures regarding telephone sales and requires telemarketers to retain certain records regarding advertising, sales, and employees. The disclosures provide consumers with information necessary to make informed purchasing decisions. The records are available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule. Records may also yield information helpful in measuring and redressing consumer injury stemming from Rule violations.

#### Burden Statement

*Estimated annual hours burden:* 2,301,000 hours.

The estimated recordkeeping burden is 50,000 hours for all industry members affected by the Rule. The estimated burden related to the Rule's required disclosures is 2,251,000 hours (rounded to nearest thousand) for all affected industry members, for a total of 2,301,000 burden hours.

*Recordkeeping:* At the time the Commission issued the Rule, it estimated that during the initial and subsequent years after the Rule took effect, 100 new telemarketing entities per year would find it necessary to revise their practices to conform with the Rule, each requiring approximately 100 hours to develop a compliant recordkeeping system, for a cumulative yearly total of 10,000 burden hours. The Commission received no comments relating to this estimate either when it issued the Rule nor during the ensuing rule review and PRA clearance processes, and staff believes the estimate remains representative. There is no reason to believe that the number of affected new entrants each year has increased.

Of the estimated 39,900 industry members who have already assembled and retained the required records in

their recordkeeping systems, staff estimates that each member requires only one hour per year to file and store records required by the Rule. For purposes of estimation, staff has rounded up the cumulative sub-total of 39,900 hours to 40,000 hours. Thus, total estimated annual recordkeeping burden for new and existing entities is 50,000 hours.

*Disclosure:* Staff believes that a substantial majority of telemarketers now make in the ordinary course of business the disclosures the Rule requires because doing so constitutes good business practice.<sup>1</sup> To the extent this is so, the time and financial resources needed to comply with disclosure requirements do not constitute "burden." 16 CFR 1320.3(b)(2). Moreover, many state laws require the same or similar disclosures the Rule mandates. Thus, the disclosure hours burden attributable solely to the Rule is far less than the total number of hours associated with the disclosures overall. As it had done when last seeking OMB clearance and related public comment, staff estimates that the disclosures the Rule requires would be made in at least 75 percent of telemarketing presentations even absent the Rule. See 63 FR 40713, July 30, 1998. Staff received no comments refuting this estimate. Accordingly, staff determined that the hours burden estimate for the Rule's disclosure requirements is 25 percent of the total hours associated with disclosures of the type the TSR requires. Staff estimates the portion attributable to the Rule to be 2,251,000, rounded to the nearest thousand. The components of this total are detailed in the immediately following paragraphs that address hours burden.

In connection with the Rule's issuance and in the ensuing rule review and PRA clearance processes, staff estimated that the 39,900 (rounded to 40,000) industry members make approximately 9 billion calls per year, or 225,000 calls per year per company. The TSR provides that if an industry member chooses to solicit inbound calls from consumers by advertising media other than direct mail or by using direct mail solicitations that make certain required disclosures (providing for an inbound telephone call as a possible response), that member is exempted

<sup>1</sup> Although telemarketing fraud causes significant harm to consumers—Congress has estimated that misrepresentations or material omissions in telemarketing sales presentations result in \$3 billion to \$40 billion annually in consumer injury—the harm by telemarketing fraud remains a small fraction of the \$400 billion in total annual sales through telemarketing.

from complying with the Rule's oral disclosures. Staff estimates that at least 9,000 firms will choose to adopt marketing methods that exempt them from complying with the Rules oral disclosure requirements. This assumption is based on industry data indicating that slightly over 20% of industry members engage in direct mail solicitations involving telemarketing<sup>2</sup> (and staff's corollary assumption that these solicitations will include written disclosures the Rule alternatively requires).

When the Commission issued the TSR, staff estimated that it takes 7 seconds for telemarketers to disclose the required outbound call information orally. Staff also estimated that at least 60 percent of calls result in "hang-ups" before the seller or telemarketer can make all the required disclosures and that "hang-up" calls consume only 2 seconds. Accordingly, staff estimates that the total time associated with these initial disclosure requirements is approximately 250 hours per firm [(90,000 non-hang up calls (.40 × 225,000) × 7 seconds per call] + [135,000 hang-up calls (.60 × 225,000) × 2 seconds per call]. Thus, the total time expenditure for the 31,000 firms choosing marketing methods that require these oral disclosures is 7.75 million hours. The Commission has received no comments on this estimate, and staff believes it remains reasonable. Based on the assumption that no more than 25 percent of this time constitutes "burden" imposed solely by the Rule (as opposed to the normal business practices of most affected entities apart from the Rule's requirements), the burden subtotal attributable to these basic disclosures is 1,937,500 hours.

The TSR also requires further disclosures before the customer pays for goods or services. Specifically, telemarketers must disclose the total cost of the offered goods or services; all material restrictions; and all material terms and conditions of the seller's refund, cancellation, exchange, or repurchase policies (if a representation about such a policy is a part of the sales offer). If a prize promotion is involved in connection with the sale of goods or services, the telemarketer must also disclose information about the non-purchase entry method for the prize promotion. Staff estimates that these disclosures consume approximately 10 seconds. However, the Rule requires these disclosures only when a call

results in a sale. Staff estimates that sales occur in approximately 6 percent of telemarketing calls. Accordingly, the estimated amount of time for these disclosures is 37.5 hours per firm [13,500 calls resulting in a sale (.06 × 225,000 × 10 seconds)] or 1.163 million hours for the 31,000 firms choosing marketing methods that require oral disclosures. The Commission has received no comments on this estimate. Again, staff believes the estimate remains reasonable. Based on the assumption that no more than 25 percent of this time constitutes "burden" imposed solely by the Rule, the burden subtotal attributable to these additional disclosures is 290,750 hours.

As noted above, staff estimates that approximately 9,000 telemarketing firms will choose the written disclosure option. Firms electing this option are likely to be those using written advertising materials. Thus, the burden of adding the required disclosures should be minimal. Staff previously estimated that a typical firm will spend approximately 10 hours per year engaged in activities ensuring compliance with this provision of the Rule, for an estimated total burden of 90,000 hours for all 9,000 firms using written disclosure. As was the case regarding the other estimates stated above, when the Commission initially published this estimate, it received no comments on it nor had the Commission received any such comments in the ensuing Rule review and PRA clearance processes. Staff believes this estimate also remains reasonable. Based on the assumption that no more than 25 percent of this time constitutes "burden" imposed solely by the Rule, residual burden attributable to these written disclosures is 22,500 hours.

*Estimated annual labor cost burden:* \$34,365,000.

The estimated labor cost for recordkeeping is \$600,000. Assuming a cumulative burden of 10,000 hours/year to set up compliant recordkeeping systems, and applying to that a skilled labor rate \$20/hour, start-up costs would approximate \$200,000 yearly for all new telemarketing entities. Staff also estimates that existing industry members require 40,000 hours, cumulatively, to maintain compliance with the TSR's recordkeeping provisions. Applying a clerical cost rate of \$10/hour, cumulative recordkeeping maintenance would cost approximately \$400,000 annually. The estimated labor cost for disclosure is \$33,765,000, based on an estimate of 2,251,000 disclosure burden hours and a wage rate of \$15/hour. Thus, total labor cost, rounded to the nearest thousand, is \$34,365,000.

*Estimated annual non-labor cost burden:* \$10,022,000.

*Total capital and start-up cost:* Staff estimates that the capital and start-up costs associated with the TSR's information collection requirements are de minimis. The Rule's recordkeeping requirements mandate that companies maintain records but not in any particular form. While those requirements necessitate that affected entities have a means of storage, industry members should have that already regardless of the rule. Even if an entity finds it necessary to purchase a storage device, the cost is likely to be minimal, especially when annualized over the item's useful life. The Rule's disclosure requirements require no capital expenditures.

*Other non-labor costs:* Affected entities need some storage media such as file folders, computer diskettes, or paper in order to comply with the Rule's recordkeeping requirements. Although staff believes that most affected entities would maintain the required records in the ordinary course of business, staff estimated that the approximately 40,000 industry members affected by the Rule spend an annual amount of \$50 each on office supplies as a result of the Rule's recordkeeping requirements, for a total recordkeeping cost burden of \$2,000,000.

To comply with the Rule's disclosure requirements, telemarketing firms likely incur additional costs for telephone service, assuming that the firms spend more time on the telephone with customers due to the required disclosures. As further detailed above, staff believes that the burden relating to the required oral disclosures amounts to 8,913,000 hours (7.75 million initial disclosure hours + 1.163 million hours regarding sales). Assuming all calls to customers are long distance, at a commercial calling rate of 6 cents per minute (\$3.60 per hour), affected entities as a whole may incur up to \$32,086,800 in telecommunications costs as a result of the Rule's disclosure requirements. However, as also noted above, staff estimates that only 25 percent of such disclosures constitute "burden." Accordingly, the oral disclosure cost burden, adjusted for this apportionment, is \$8,022,000, rounded to the nearest thousand.

Staff believes that the estimated 9,000 entities choosing to comply with the Rule through written disclosures incur no additional capital or operating expenses as a result of the Rule's requirements because they are likely to provide written information to prospective customers in the ordinary course of business. Adding the required

<sup>2</sup>Direct Marketing Association Statistical Fact Book 2000 (22d ed. 2000) (based on data for 1997-1998, the two most recent years included within this source information).

disclosures to that written information likely requires no supplemental expenditures.

Thus, total estimated non-labor cost burden associated with the Rule is \$10,022,000 (\$2,000,000 for recordkeeping + \$8,022,000 for oral disclosures).

**William E. Kovacic,**  
*General Counsel.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Program Announcement 01120]

#### Public Health Preparedness for the 2002 Winter Olympic Games; Notice of Availability of Funds

##### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a grant program for Public Health Preparedness for the 2002 Winter Olympic Games. This program addresses the "Healthy People 2010" focus areas of Environmental Health and Public Health Infrastructure. The purpose of the program is to prepare the public health system in the areas of the safety of food, air, water, waste handling, disease surveillance and outbreak response, and emergency medical services coordination in response to the 2002 Winter Olympic Games to be held in Utah.

##### B. Eligible Applicant

Assistance will be provided only to the Utah Department of Health. No other applications are solicited. Eligibility is limited to the Utah Department of Health to prepare the State's public health system for the 2002 Winter Olympic Games.

**Note:** Title 2 United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

##### C. Availability of Funds

Approximately \$250,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001, and will be made for a one-year project period. Funding estimates may change.

##### D. Where to Obtain Additional Information

To obtain business management technical assistance, contact: Sharron P. Orum, Lead Grants Management Specialist, Grants Management Branch Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone number: (770) 488-2716, E-mail address: spo2@cdc.gov.

For program technical assistance, contact: Edwin Kent Gray, Chief, Emergency Preparedness and Response Branch, National Center for Environmental Health, Centers for Disease Control and Prevention 4770 Buford Highway, Mailstop F38, Atlanta, GA 30341 Telephone number: (770) 488-7100, Email address: keg1@cdc.gov.

Dated: June 19, 2001.

**John L. Williams,**

*Director, Procurement and Grants Office,  
Centers for Disease Control and Prevention  
(CDC).*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Program Announcement 01113]

#### Environmental Health Epidemiology Resource Development for Mexico and Latin American Countries Notice of Availability of Funds

##### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program with the Instituto Nacional de Salud Publica (INSP). This program addresses the "Healthy People 2010" focus area of Environmental Health.

The purpose of the program is to establish an environmental health epidemiology, environmental health professional training, and demonstration and training service delivery program based in a university setting in Mexico, with the objective to: Measurably improve and increase human resource expertise in the field of environmental epidemiology and health services delivery, in terms of availability and quality of practice, in Mexico and throughout the Latin American and Caribbean country region.

No human subjects research will be supported under this cooperative agreement.

##### B. Eligible Applicant

Assistance will be provided only to the Instituto Nacional de Salud Publica (INSP). No other applications are solicited.

The INSP, as the national institute of public health of the Government of Mexico, is the most appropriate and qualified agency to provide the services specified under this cooperative agreement because:

The INSP is a leading environmental health epidemiology teaching institution, both at the undergraduate and graduate levels, in Mexico and the Latin American and Caribbean country region, and is the only public health teaching institution in the region whose mission scope covers the entire region.

The INSP has formal collaborative arrangements with other teaching institutions in Mexico, including those located near the Mexico-U.S. border, and with those in other countries in the region which provide the entre for establishing and maintaining the environmental health epidemiology training and demonstration program supported by this cooperative agreement.

The INSP has a highly qualified doctoral and master's level teaching staff whose responsibilities include the conduct of programs related to the achievement of the environmental health epidemiology and fellow training activities which are the intended objectives of this cooperative agreement.

**Note:** Title 2 of the United States Code, Section 1611, states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

##### C. Availability of Funds

Approximately \$229,000 is available in FY 2001 to support this program. It is expected that the award will begin on September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

##### D. Where to Obtain Additional Information

To obtain business management technical assistance, contact: Sharron Orum, Lead Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention,