confirm receipt of all applications within 10 days thereof.

All eligible applications will be reviewed and scored by a Grant Review Board. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director or his/her designee will finalize the scoring and selection process. All FY2009 grant applicants will be notified of results and *all* grant awards will be made by September 30, 2009. Applications that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director or his/her designee.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*http://www.fmcs.gov*) to download forms and information. These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427, Linda Stubbs at (202) 606–8181 (*lstubbs@fmcs.gov*). Please consult the FMCS Web site (*http://www.fmcs.gov*) to download forms and information.

Fran Leonard,

Chief Financial Officer, Federal Mediation and Conciliation Service.

[FR Doc. E9–6042 Filed 3–19–09; 8:45 am]

BILLING CODE 6732–01–P

FEDERAL TRADE COMMISSION

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

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

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''). The FTC is seeking public comments on its proposal to extend through May 31, 2012, the current PRA clearance for information collection requirements contained in its Telemarketing Sales Rule (''TSR'' or ''Rule''). On November 26, 2008, OMB granted the FTC's request for a short-term extension of this clearance to May 31, 2009, which focused on recent amendments to the Rule.

DATES: Comments must be received on or before May 19, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Telemarketing Sales Rule: FTC File No. P994414'' to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual'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. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://secure.commentworks.com/ftc-TSRPRA*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://secure.commentworks.com/ftc-TSRPRA*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at *http://www.ftc.gov* to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Telemarketing Sales Rule: FTC File No. P994414'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay 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. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. 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.shtm*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be sent to Craig Tregillus, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Room H-238, Washington, D.C. 20580, (202) 326-2970.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork

[1] FTC 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* FTC Rule 4.9(c), 16 CFR 4.9(c).

clearance for the regulations noted herein.

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 19, 2009.

The TSR, 16 CFR 310, implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101-6108 (''Telemarketing Act''), as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terroism Act (''USA PATRIOT Act''), Pub. L. 107056 (Oct. 25, 2001). The Act seeks to prevent deceptive or abusive telemarketing practices in telemarketing, which, pursuant to the USA PATRIOT Act, includes calls made to solicit charitable contributions by third-party telemarketers. The Telemarketing Act mandated certain disclosures by telemarketers, and directed the Commission to include recordkeeping requirements in promulgating a rule to prohibit such practices. As required by the Telemarketing Act, the TSR mandates certain disclosures regarding telephone sales and requires telemarketers to retain certain records regarding advertising, sales, and employees. The required disclosures provide consumers with information necessary to make informed purchasing decisions. The required records are to be made available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule. Required records may also yield information helpful to measuring and redressing consumer injury stemming from Rule violations.

In 2003, the Commission amended the TSR to include certain new disclosure requirements and to expand the Rule in other ways. *See* 68 FR 4580 (Jan. 29, 2003). Specifically, the Rule was amended to cover upsells[2] (not only in outbound calls, but also in inbound calls) and additional transactions were included under the Rule's purview. For example, the Rule was extended to the solicitation by telephone of charitable donations by third-party telemarketers in response to the mandate of the USA PATRIOT Act. Finally, the amendments established the National Do Not Call Registry (''Registry''), permitting consumers to register, via either a toll-free telephone number or the Internet, their preference not to receive certain telemarketing calls.[3] Accordingly, under the TSR, most sellers and telemarketers are required to refrain from calling consumers who have placed their numbers on the Registry.[4] Moreover, sellers and telemarketers must periodically access the Registry to remove from their telemarketing lists the telephone numbers of those consumers who have registered.[5]

In 2008, the Commission promulgated amendments to the TSR regarding pre-recorded calls, 16 CFR 310.4(b)(1)(v), and call abandonment rate calculations, 16 CFR 310.4(b)(4)(i).[6] The amendment regarding prerecorded calls added certain information collection requirements.[7] Specifically, the amendment expressly authorized sellers and telemarketers to place outbound prerecorded telemarketing calls to consumers if: (1) the seller has obtained written agreements from those consumers to receive prerecorded telemarketing calls after a clear and conspicuous disclosure of the purpose of the agreement; and (2) the call discloses and provides an automated telephone keypress or voice-activated opt-out mechanism at the outset of the call.[8] Although the opt-out mechanism requirement took effect on December 1, 2008, the Commission deferred the compliance date for the written agreement requirement until September 1, 2009, one year from its promulgation, to afford time for an orderly phase-in.[9] Thus affected entities may still be taking steps toward compliance. Accordingly, with implementation of the opt-out mechanism presumably now satisfied by affected entities, the relevant focus going forward in estimating PRA burden centers on: (1) the establishment of recordkeeping and disclosure systems for the express agreement requirement of the prerecorded call amendment; and (2) the remaining provisions of the TSR that impose recordkeeping and disclosure obligations.

Burden Statement:

Estimated Annual Hours Burden: 1,655,455 hours

The estimated burden for recordkeeping is 22,772 hours for all industry members affected by the Rule. The estimated burden for the disclosures that the Rule requires for both the live telemarketing call provisions of the TSR and the prerecorded call amendments is 1,632,683 hours (rounded to the nearest thousand) for all affected industry members. Thus, the total PRA burden is 1,655,455 hours. These estimates are explained below.

Number of Respondents: As a preliminary matter, only telemarketers and sellers, not telefunders (third-party telemarketers soliciting contributions on behalf of charities), are subject to the

---

[2] An ''upsell'' is the solicitation in a single telephone call of the purchase of goods or services after an initial transaction occurs. The solicitation may be made by or on behalf of a seller different from the seller in the initial transaction, regardless of whether the initial transaction and the subsequent solicitation are made by the same telemarketer (''external upsell''). Or, it may be made by or on behalf of the same seller as in the initial transaction, regardless of whether the initial transaction and subsequent solicitation are made by the same telemarketer (''internal upsell'').

[3] 68 FR 4580 (Jan. 29, 2003). The Registry applies to any plan, program, or campaign to sell goods or services through interstate phone calls. This includes telemarketers who solicit consumers, often on behalf of third party sellers. It also includes sellers who provide, offer to provide, or arrange to provide goods or services to consumers in exchange for payment. It does not limit calls by political organizations, charities, or telephone surveyors.

[4] 16 CFR § 310.4(b)(1)(iii)(B).

[5] 16 CFR § 310.4(b)(3)(iv). Effective January 1, 2005, the TSR was amended to require telemarketers to access the Registry at least once every 31 days. *See* 69 Fed. Reg. 16368 (Mar. 29, 2004).

[6] *See* 73 FR 51164 (Aug. 29, 2008).

[7] By contrast, the revised standard for measuring the call abandonment rate does not impose any new or affect any existing reporting, recordkeeping or third-party disclosure requirements within the meaning of the PRA. That amendment relaxes the prior requirement that the abandonment rate be calculated on a ''per day per campaign'' basis by permitting, but not requiring, its calculation over a 30-day period, as industry requested. Sellers and telemarketers already had established automated recordkeeping systems to document their compliance with the prior standard. The amendment likely reduces their overall compliance burden. The prior ''per day'' requirement effectively forced telemarketers to turn off their predictive dialers on the many occasions when spikes in call abandonment rates occur late in the day, thereby preventing realization of the cost savings that predictive dialers provide.

[8] The prerecorded call amendment provides the first ever explicit authorization in the TSR for sellers and telemarketers to place prerecorded telemarketing calls to consumers. The pre-amended call abandonment prohibition of the TSR implicitly barred such calls by requiring that all telemarketing calls be connected to a sales representative, rather than a recording, within two seconds of the completed greeting of the person who answers. The amendment applies not only to prerecorded calls that are answered by a consumer, but also to prerecorded messages left on consumers' answering machines or voicemail services.

[9] *See* 73 FR 51164, 51166.

Registry provisions of the Rule, and only sellers, not telemarketers or telefunders, are subject to the new express agreement obligations attributable to the prerecorded call amendments.[10] The Registry data does not separately account for telefunders; they are a subset of the overall number of telemarketing entities known to access the Registry for any given year. Thus, past FTC estimates that separately accounted for telefunders over-counted them.[11] The following estimates have been adjusted accordingly.

In calendar year 2008, 50,245 telemarketing entities accessed the Registry. Of these entities, 1,158 were ''exempt'' entities obtaining access to data.[12] By definition, none of the exempt entities are subject to the TSR. In addition, 38,815 sellers and 10,272 telemarketers accessed the Registry. Of those, however, 25,574 sellers and 7,178 telemarketing entities with independent access to the Registry obtained data for just one state. Staff assumes that these entities are operating solely intrastate, and thus would not be subject to the TSR.[13] Applying this Registry data, staff estimates that 14,335 telemarketing entities (50,245 - 1,158 - 34,752) are currently subject to the TSR, of which 11,241 (38,815 - 27,574) are sellers and 3,094 (10,272 - 7,178) are telemarketers.[14]

Absent information to the contrary, staff retains its prior estimate that 25 new-entrant telefunders per year would need to set up recordkeeping systems that comply with the TSR.

Recordkeeping Hours:

A. Live Telemarketing Call Provisions of the TSR

Staff estimates that the above-noted 14,335 telemarketing entities subject to the Rule each require approximately 1 hour per year to file and store records required by the TSR for an annual total of 14,335 burden hours. The Commission staff also estimates that 75 new entrants per year would need to spend 100 hours each developing a recordkeeping system that complies with the TSR for an annual total of 7,500 burden hours. These figures, based on prior estimates, are consistent with staff's current knowledge of the industry. Thus, the total estimated annual recordkeeping burden for new and existing telemarketing entities, including the effects of the prerecorded call amendment, is 21,835 hours.

B. Prerecorded Call Amendment

As noted above, after September 1, 2009, no prerecorded call may be placed by or on behalf of a seller unless the seller has obtained a written agreement from the person called to receive such calls. Thus, the recordkeeping obligations of the prerecorded call amendment fall on sellers rather than telemarketers.[15]

In view of its phase-in and the prerecorded call amendment's clarification allowing written agreements to be created and maintained electronically pursuant to the Electronic Signatures In Global and National Commerce Act (commonly, ''E-SIGN''), any initial burden caused by the transition from the previously required records of an established business relationship to the newly required records of a written agreement should not be material. Once the necessary systems and procedures are in place, any ongoing incremental burden to create and retain electronic records of agreements by new customers to receive prerecorded calls should be minimal.[16] Accordingly, staff estimates that existing sellers subject to the prerecorded call amendment will require approximately 1 hour to prepare and maintain records required by the amendment, and an estimated 75 new entrant-telemarketers (including telefunders) per year would require the same. This reflects a one-time modification of existing customer databases to include an additional field to record consumer agreements.

Most of the 11,241 existing sellers, however, in anticipation of the September 1, 2009 compliance deadline, presumably will have set up already the necessary systems and procedures by or before the May 31, 2009 expiration of the PRA clearance for the TSR. At that point, sellers will have had 9 months' advance notice, with just 3 months remaining between the expiring clearance and the compliance deadline. Allowing for this apportionment, 2,810 remaining existing sellers (*i.e.*, 3/12 of the 11,241 existing sellers) would still be setting up compliant systems between May 31,2009 and the September 1, 2009 compliance deadline, with no further set-up burden thereafter.[17] Thus, annualized for an ''average'' year over the prospective 3-year PRA clearance (May 31, 2009 - May 31, 2012), this amounts to 937 hours per year.

Disclosure Hours

A. Live Telemarketing Call Provisions of the TSR

Staff believes that in the ordinary course of business a substantial majority of sellers and telemarketers make the disclosures the Rule requires because to do so constitutes good business practice. 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 as 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 when the FTC last sought 3-year OMB clearance for this Rule, staff estimates that most of the disclosures the Rule requires would be made in at least 75 percent of telemarketing calls even absent the Rule. Accordingly, staff has continued to estimate that the hours burden for most of the Rule's disclosure requirements is 25 percent of the total hours associated with disclosures of the type the TSR requires.

Based on previous assumptions, staff estimates that of the 14,335

---

[10] Telemarketers and telefunders must comply, however, with the abandoned call provisions of the TSR, and the opt out provisions of the 2008 amendments.

[11] For the sake of simplicity and to err conservatively, FTC staff's burden estimates for provisions less likely to be applicable to telefunders (*e.g.*, prize promotion disclosure obligations for outbound live calls, under 16 CFR 310.4(d)), will not be reduced by a separate estimate for the subset of telemarketers that are telefunders. Conversely, estimates of the number of new-entrant telemarketers will incorporate new-entrant telefunders.

[12] An exempt entity is one that, although not subject to the TSR, chooses to voluntarily scrub its calling lists against the data in the Registry.

[13] These entities would nonetheless likely be subject to the Federal Communications Commission's (''FCC'') Telephone Consumer Protection Act regulations (''FCC regulations''), including the requirement that entities engaged in intrastate telephone solicitations access the Registry.

[14] Staff assumes, for purposes of these calculations, that those telemarketers that make prerecorded calls download telephone numbers listed on the Registry, rather than conduct online searches, as the latter may consume considerably more time. Other telemarketers not placing the high-volume of automated prerecorded calls may elect to search online, rather than to download.

[15] Although telemarketers that place prerecorded telemarketing calls on behalf of sellers must capture and transmit to the seller any requests they receive to place a consumer's telephone number on the seller's entity-specific do-not-call list, this *de minimis* obligation extends both to live and prerecorded telemarketing calls, and is subsumed within the PRA estimates shown above.

[16] If it is not feasible to obtain a written agreement at the point of sale after the written agreement requirement takes effect, sellers could, for example, obtain a customer's email address and request an agreement via email to receive prerecorded calls.

[17] Staff has already attributed 100 hours for each new-entrant seller to develop a recordkeeping system compliant with the TSR, which would also factor in the time to create and retain electronic records of agreements by customers to receive prerecorded calls.

telemarketing entities noted above, 7,342 conduct inbound telemarketing.[18] Inbound calls from consumers in response to direct mail solicitations that make certain required disclosures are exempt from the TSR.[19] Although such calls are exempt from the Rule, the Commission believes it is likely that industry members who choose to make the requisite disclosures in direct mail solicitation may do so in an effort to qualify for the exemption. Thus, Commission staff believes it is appropriate to include in the relevant burden hour calculation both the burden for compliance with the Rule's oral disclosures and the burden incurred by entities who make written disclosures in order to qualify for the inbound direct mail exemption. Accordingly, staff estimates that, of the 7,342 entities that conduct inbound telemarketing, approximately one-third (2,447) will choose to incorporate disclosures in their direct mail solicitations that exempt them from complying with the Rule.

Staff necessarily has made additional assumptions in estimating burden. From the total volume of outbound and inbound calls, staff first calculated disclosure burden for initial transactions that resulted in sales, derived from external data and/or estimates drawn from a range of calendar years (2001-2008). Staff recognizes that disclosure burdens may still be incurred regardless of whether or not a call results in a sale. Conversely, a substantial percentage of outbound calls result in consumers hanging up before the seller or telemarketer makes the required disclosure(s). However, because the requirements in § 310.3(a)(1) for certain disclosures before a consumer pays for a telemarketing purchase apply only to sales, early call cessation (*i.e.*, consumers hanging up pre-disclosure or before full disclosure) is excluded from staff's burden estimates for § 310.3(a)(1).

For transactions in which a sale is not a precursor to a required disclosure, *i.e.*, the upfront disclosures required in all outbound telemarketing calls and outbound or inbound ''upsell'' calls by § 310.4(d) , staff has calculated burden for initial transactions based on estimates of the total volumes of outbound and inbound calls, discounted for anticipated early hang-ups. For transactions in which a sale is a precursor to required disclosure, *i.e.*, § 310.3(a)(1), the calculation is based on the volume of direct sales.

Based on the most recently available applicable industry data and further FTC extrapolations, staff estimates that 2.9 billion outbound calls are subject to FTC jurisdiction and attributable to direct orders, that 570 million of these calls result in direct sales,[20] and that there are 2.8 billion inbound calls. Staff retains its longstanding estimate that, in a telemarketing call involving the sale of goods or services, it takes 7 seconds[21] for telemarketers to disclose the required outbound call information orally plus 3 additional seconds[22] to disclose the information required in the case of an upsell. Staff also retains its longstanding estimates that at least 60 percent of sales calls result in ''hang-ups'' before the telemarketer can make all the required disclosures and that ''hang-up'' calls consume only 2 seconds.[23]

Staff bases all ensuing upsell calculations on the volume of additional sales after an initial sale, with the assumption that a consumer is unlikely to be predisposed to an upsell if he or she rejects an initial offer—whether through an outbound or an inbound call. Using industry information, staff assumes an upsell conversion rate of 40% for inbound calls as well as outbound calls.[24] Moreover, staff assumes that consumers who agree to an upsell will not terminate an upsell before the seller or telemarketer makes the full required disclosures.

Based on the above inputs and assumptions, staff estimates that the total time associated with these disclosure requirements is approximately 1.10 million hours per year [(2.9 billion outbound calls x 40% lasting the duration x 7 seconds of full disclosures = 2,255,556) + (2.9 billion outbound calls x 60% terminated after 2 seconds of disclosures = 966,667) + (570 million outbound calls resulting in direct sales x 40% upsell conversions x 3 seconds of related disclosures = 190,000) + (2.8 billion inbound calls x 40% upsell conversions x 3 seconds = 933,333) x an estimated 25% of affected entities not already making such disclosures independent of the TSR = 1,086,389 hours].

The TSR also requires further disclosures in telemarketing sales calls before the customer pays for goods or services. These disclosures include the total costs 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). Additional specific disclosures are required if the call involves a prize promotion, the sale of credit card loss protection products or an offer with a negative option feature.

Staff estimates that the general sales disclosures require 472,562 hours annually. This figure includes the burden for written disclosures [(2,447 inbound telemarketing entities estimated to use direct mail[25] x 10 hours[26] per year x 25% burden) = 6,118 hours], as well as the figure for oral disclosures [(570 million calls x 8 seconds x 25% burden = 316,667 hours) + (570 million outbound calls x 40% (upsell conversion) x 20% sales conversion x 25% burden x 8 seconds = 25,333 hours) + (2.8 billion inbound calls x 40% upsell conversion x 20% sales conversion x 25% burden x 8 seconds) = 124,444 hours].[27]

Staff also estimates that the specific sales disclosures require 48,162 hours annually [(570 million calls x 5% [estimate for outbound calls involving

[18] While staff does not have information directly stating the number of inbound telemarketers, it notes that, according to the DMA 21% of all direct marketing in 2007 was by inbound telemarketing and 20% was by outbound telemarketing. *See DMA Statistical Fact Book* (30th ed. 2008) at p. 17. Accordingly, based on such relative weighting, staff estimates that the number of inbound telemarketers is approximately 7,342 (14,335 x 21 ÷ (20 + 21)).

[19] Some exceptions to this broad exemption exist, including solicitations regarding prize promotions, investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule, advertisements involving goods or services described in § 310.3(a)(1)(vi), advertisements involving goods or services described in § 310.4(a)(2)-(5); and any instances of upselling included in such telephone calls.

[20] For staff's PRA burden calculations, only direct orders by telephone are relevant. That is, sales generated through leads or customer traffic are excluded from these calculations because such sales are not subject to the TSR's recordkeeping and disclosure provisions. The direct sales total of 570 million is based on an estimated 1.9 billion sales transactions from outbound calls being subject to FTC jurisdiction reduced by an estimated 30 percent attributable to direct orders. This percentage estimate is drawn from DMA published data last appearing in the DMA Statistical Fact Book (2001), at p. 301.

[21] *See, e.g.*, 60 FR 32682, 32683 (June 23, 1995); 63 FR 40713, 40714 (July 30, 1998); 66 FR 33701, 33702 (June 25, 2001); 71 FR 28698, 28700 (May 17, 2006).

[22] 71 FR 3302, 3304 (Jan. 20, 2006); 71 FR 28698, 28700.

[23] *See, e.g.*, 60 FR at 32683.

[24] This assumption originated with industry response to the Commission's 2003 Final Amended TSR. *See* 68 FR 4580, 4597 n.183 (Jan. 29, 2003). Although it was posited specifically regarding inbound calls, FTC staff will continue to apply this assumption to outbound calls as well, barring the receipt of any information to the contrary.

[25] *See* the discussion in the text immediately following note 19.

[26] FTC staff believes a typical firm will spend approximately 10 hours per year engaged in activities ensuring compliance with this provision of the Rule; this, too, has been stated in prior FTC notices inviting comment on PRA estimates. No comments were received, and staff continues to believe this estimate remains reasonable.

[27] The percentage and unit of time measurements are FTC staff's estimates.

prize promotions] x 3 seconds x 25% burden = 5,937 hours) + (570 million calls x .1% [estimate for outbound calls involving credit card loss protection (''CCLP'')] x 4 seconds x 25% burden = 158 hours) + (570 million calls x 40% upsell conversions x 20% sales conversions x .1% [estimate for outbound calls involving CCLP upsells] x 4 seconds x 25% burden = 13 hours) + (2.8 billion inbound calls x 40% upsell conversion x 20% sales conversion x .1% [estimate for inbound calls involving CCLP] x 4 seconds x 25% burden = 62 hours) + (570 million calls x 10% [estimate for outbound calls involving negative options] x 4 seconds x 25% burden = 15,833 hours) + (570 outbound million calls x 40% upsell conversion x 20% sales conversions x 10% [estimate for outbound calls involving negative option upsells] x 4 seconds x 25% burden = 1,267 hours) + (2.8 billion inbound calls x 40% upsell conversions x 20% sales conversions x 10% [estimate for inbound calls involving negative option upsells] x 4 seconds x 25% burden) = 6,222 hours] + (2.8 billion inbound calls x .3% [estimate for inbound calls involving business opportunities] x 8 seconds = 18,667 hours).[28]

The total annual burden for all of the sales disclosures is 520,724 hours (472,562 general + 48,162 specific sales disclosures) or, by rough approximation (allowing that some entities conducting inbound telemarketing will be exempt from oral disclosure if making certain written disclosures), 36 hours annually per firm (520,724 hours ÷ 14,335).

Finally, any entity that accesses the Registry, regardless whether it is paying for access, must submit minimal identifying information to the operator of the Registry. This basic information includes the name, address, and telephone number of the entity; a contact person for the organization; and information about the manner of payment. The entity also must submit a list of the area codes for which it requests information and certify that it is accessing the Registry solely to comply with the provisions of the TSR. If the entity is accessing the Registry on behalf of other seller or telemarketer clients, it has to submit basic identifying information about those clients, a list of the area codes for which it requests information on their behalf, and a certification that the clients are accessing the Registry solely to comply with the TSR.

As it has since the Commission's initial proposal to implement user fees under the TSR, FTC staff estimates that affected entities will require no more than two minutes for each entity to submit this basic information, and anticipates that each entity will have to submit the information annually.[29] Based on the number of entities accessing the Registry that are subject to the TSR, this requirement will result in 479 burden hours (14,355 entities x 2 minutes per entity). In addition, FTC staff continues to estimate that up to one-half of those entities may need, during the course of their annual period, to submit their basic identifying information more than once in order to obtain additional area codes of data. Thus, this would result in an additional 240 burden hours. Accordingly, accessing the Registry will impose a total burden of approximately 719 hours per year.

Cumulative of the above components, disclosure burden for the live telemarketing call provisions of the TSR is 1,621,443 hours (1,100,000 + 472,562 + 48,162 + 719).

B. Prerecorded Call Amendment

Staff estimates that the 2,810 sellers[30] will require, on average, 4 hours each—11,240 hours—to implement the incremental disclosure requirements mandated by the 2008 TSR amendments. Those amendments require the following tasks: (1) one-time creation, recording, and implementation of a brief telephone script requesting a consumer's agreement via a telephone keypad response;[31] (2) one-time modification of or newly created electronic forms to obtain agreements to receive prerecorded calls for use in emails to consumers or on a website[32] (3) one-time revision of any existing paper forms (*e.g.*, credit card or loyalty club forms, or printed consumer contracts) to include a request for the consumer's agreement to receive prerecorded calls;[33] and (4) related legal consultation, if needed, regarding compliance.

The required opt-out disclosure for all prerecorded calls mandated by the 2008 amendments would not require any greater time increment, and arguably less, than the pre-existing FCC disclosure provision.[34] In any event, because the ''opt-out'' disclosure applies only to prerecorded calls, which are fully automated, no additional manpower hours would be expended in its electronic delivery.

Estimated Annual Labor Cost: $22,014,913

Estimated Annual Non-Labor Cost: $5,837,195

Recordkeeping Labor and Non-Labor Costs:

A. Live Telemarketing Call Provisions of the TSR

1. Labor Costs

Assuming a cumulative burden of 7,500 hours/year to set up compliant recordkeeping systems for new telemarketing entities (75 new entrants/year x 100 hours each), and applying to that a skilled labor rate of $25/hour,[35] labor costs would approximate $187,500 yearly for all new telemarketing entities. As indicated above, staff estimates that existing telemarketing entities require 14,335 hours, cumulatively, to maintain compliance with the TSR's recordkeeping provisions. Applying a

[28] The estimate for § 310.3(a)(1) disclosures in outbound calls involving business opportunities is subsumed in the overall figure for outbound telemarketing call disclosures in the prior paragraph, and the estimate for outbound business opportunity call upsells is subsumed in the figures in this paragraph for outbound calls involving CCLP upsells.

[29] *See* 67 FR 37366 (May 29, 2002). The two minute estimate likely is conservative. The OMB regulation defining ''information'' under the PRA generally excludes disclosures that require persons to provide facts necessary simply to identify themselves, *e.g.*, the respondent, the respondent's address, and a description of the information the respondent seeks in detail sufficient to facilitate the request. *See* 5 CFR 1320.3(h)(1).

[30] *See* note 18, *supra*. As noted above, only sellers, not telemarketers, will have compliance obligations attributable to the 2008 TSR amendments.

[31] During the initial three months of overall PRA clearance sought that will overlap with the remaining phase-in period (May 31 - August 31, 2009) before the written agreement requirement takes effect, the Commission will permit sellers to use prerecorded message calls made to existing customers to secure their agreements to receive prerecorded calls by pressing a key on their telephone keypad. Once a script is written and recorded, it can be used in all calls made by or on behalf of the seller to obtain the required agreements. Sellers will be able to include the request for the agreement in their regular prerecorded calls, thus making the time necessary to request the required agreements, and the cost of doing so, *de minimis* during the year-long phase-in that will partly overlap with the final year of the current PRA clearance.

[32] This figure includes both the minimal time required to create the electronic form and the time to encode it in HTML for the seller's website.

[33] The Commission has provided suggested language for this purpose that should minimize the time required to modify any paper disclosures. 73 FR at 51181.

[34] The FCC has required a similar disclosure for all prerecorded calls to consumers since 1993. 47 CFR 64.1200(b)(2) (requiring disclosure of a telephone number ''[d]uring or after the message'' that consumers who receive a prerecorded message call can use to assert a company-specific do-not-call request).

[35] This rounded figure is derived from the mean hourly earnings shown for computer support specialists found in the National Compensation Survey: Occupational Earnings in the United States 2007, U.S. Department of Labor released August 2008, Bulletin 2704, Table 3 (''Full-time civilian workers,'' mean and median hourly wages). *See* *http://www.bls.gov/ncs/ncswage2007.htm*.

clerical wage rate of $14/hour, recordkeeping maintenance for existing telemarketing entities would amount to an annual cost of approximately $200,690.

Thus, estimated labor cost for recordkeeping associated with the TSR for both new and existing entities, including the prerecorded call amendment, is $388,190.

2. Non-Labor Costs

Staff believes 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.

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 estimates that the approximately 14,335 telemarketers subject to 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 $716,750.

B. Prerecorded Call Amendment

1. Labor Costs

As noted above, staff estimates that 2,810 existing sellers that make use of prerecorded calls will require 937 hours, cumulatively, on an annualized basis projected over the anticipated future term of PRA clearance, to comply with the amendment's recordkeeping requirements. Staff assumes that the aforementioned tasks will be performed by managerial and/or professional technical personnel, at an hourly rate of $42.[36] Accordingly, incremental labor cost on an annualized basis would total $39,354.

2. Non-Labor Costs

Other than the initial recordkeeping costs, the amendment's written agreement requirement will impose *de minimis* costs, as discussed above. The one possible exception that might arise involves credit card or loyalty program agreements that retailers revise to request agreements from consumers to receive prerecorded calls. Retailers might have to replace any existing supplies of such agreements. Staff believes, however, that the one-year phase-in of the written agreement requirement will allow retailers to exhaust existing supplies of any such preprinted forms, so that no material additional cost would be incurred to print revised forms.

Disclosure Burden Labor & Non-labor Costs

A. Live Telemarketing Call Provisions of the TSR

1. Labor Costs

The estimated annual labor cost for disclosures for all telemarketing entities is $21,078,759. This total is the product of applying an assumed hourly wage rate of $13[37] to the earlier stated estimate of 1,621,443 hours pertaining to general and specific disclosures in initial calls, upsells, and supplying basic identifying information to the Registry operator.

2. Non-Labor Costs

Oral disclosure estimates, discussed above, and totaling 1,621,443 hours, applied to a retained estimated commercial calling rate of 6 cents per minute ($3.60 per hour), amounts to $5,837,195 in phone-related costs.[38]

Staff believes that the estimated 2,447 inbound telemarketing 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 disclosures to that written information likely requires no supplemental non-labor expenditures.

B. Prerecorded call amendment

1. Labor Costs

Staff estimates that approximately 75% of the disclosure-related tasks previously noted would be performed by managerial and/or professional technical personnel, again, at an hourly rate of $42, with 25% allocable to legal staff, at an hourly rate of $55.[39]

Thus, of the 11,240 total estimated disclosure burden hours, 8,430 hours would be attributable to managerial and/or professional technical personnel, with the remaining 2,810 hours attributable to legal staff. This yields $354,060 and $154,550, respectively, in labor costs—in total, $508,610.

2. Non-Labor Costs

Other than the initial recordkeeping costs, the amendment's written agreement requirement will impose *de minimis* costs, as discussed above. The one possible exception that might arise involves credit card or loyalty program agreements that retailers revise to request agreements from consumers to receive prerecorded calls. Retailers might have to replace any existing supplies of such agreements. Staff believes, however, that the one-year phase-in of the written agreement requirement will allow retailers to exhaust existing supplies of any such preprinted forms, so that no material additional cost would be incurred to print revised forms.

Similarly, staff has no reason to believe that the amendment's requirement of an automated interactive opt-out mechanism will impose other than *de minimis* costs, for the reasons discussed above. The industry comments on the amendment uniformly support the view that automated interactive keypress technologies are now affordable, cost-effective, and widely available.[40] Moreover, most, if not all of the industry telemarketers who commented, including many small business telemarketers, said they are currently using interactive keypress mechanisms. Thus, it does not appear that this requirement will impose any

[36] This hourly wage is based on (*http://www.bls.gov/ncs/ncswage2007.htm*) (National Compensation Survey: Occupational Earnings in the United States 2007, U.S. Department of Labor released August 2008, Bulletin 2704, Table 3 (''Full-time civilian workers,'' mean and median hourly wages), and reflects a blending of mean hourly earnings for various managerial subcategories (operations, advertising, marketing, sales) and computer systems analysts.

[37] This rounded figure is derived from the mean hourly earnings shown for telemarketers found in the National Compensation Survey: Occupational Earnings in the United States 2007, U.S. Department of Labor released August 2008, Bulletin 2704, Table 3 (''Full-time civilian workers,'' mean and median hourly wages). *See* (*http://www.bls.gov/ncs/ncswage2007.htm*).

[38] Staff believes that remaining non-labor costs would largely be incurred by affected entities, regardless, in the ordinary course of business and/or marginally be above such costs.

[39] This rounded figure is derived from the mean hourly earnings shown for lawyers found in the National Compensation Survey: Occupational Earnings in the United States 2007, U.S. Department of Labor released August 2008, Bulletin 2704, Table 3 (''Full-time civilian workers,'' mean and median hourly wages). *See* (*http://www.bls.gov/ncs/ncswage2007.htm*).

[40] *See, e.g.*, Comment by IAC/InterActiveCorp & HSN LLC (December 18,2006), at 3, *available at* (*http://www.ftc.gov/os/comments/tsrrevisedcallabandon/525547-00600.pdf.*)

material capital or other non-labor costs on telemarketers.

Thus, cumulatively for the live telemarketing call provisions of the TSR and the prerecorded call amendment, total labor costs are $22,014,913 ($388,190 + $39,354 + $21,078,759 + $508,610); total capital and other non-labor costs are $5,837,195 (phone-related costs).

David C. Shonka,

Acting General Counsel.

[FR Doc. E9–6035 Filed 3–19–09: 8:45 am]

[BILLING CODE 6750–01–S]

GENERAL SERVICES ADMINISTRATION

Federal Travel Regulation (FTR); Maximum Per Diem Rates for the States of Idaho, Maryland, and South Carolina

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of Per Diem Bulletin 09–05, revised continental United States (CONUS) per diem rates.

SUMMARY: The General Services Administration (GSA) has reviewed the per diem rates for certain locations in the States of Idaho and Maryland and determined that they are inadequate. GSA has also reviewed and is amending the county boundaries of Columbia, South Carolina.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Cy Greenidge, Office of Governmentwide Policy, Travel Management Policy, at (202) 219–2349. Please cite FTR Per Diem Bulletin 09–05.

SUPPLEMENTARY INFORMATION:

A. Background

After an analysis of the per diem rates established for FY 2009 (see the **Federal Register** notice at 73 FR 46271, August 8, 2008), the per diem rate is being changed in the following locations:

State of Idaho

- Boundary County.
- Bonner County.
- Teton County.
- Bonneville County.
- Fremont County.

State of Maryland

- Frederick County.

State of South Carolina

- Lexington County.

Per diem rates are published on the Internet at *http://www.gsa.gov/perdiem* as FTR per diem bulletins. This process ensures timely increases or decreases in per diem rates established by GSA for Federal employees on official travel within CONUS. Notices published periodically in the **Federal Register**, such as this one, now constitute the only notification of revisions in CONUS per diem rates to agencies.

Dated: March 17, 2009.

Becky Rhodes,

Deputy Associate Administrator, Office of Travel, Transportation and Asset Management.

[FR Doc. E9–6261 Filed 3–19–09; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Coordinating Office for Terrorism Preparedness and Emergency Response (BSC, COTPER)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC announces the following meeting of the aforementioned committee:

Times and Dates:

9 a.m.–5:15 p.m., April 27, 2009.

9 a.m.–3:15 p.m., April 28, 2009.

Place: CDC, 1600 Clifton Road, NE., Global Communications Center, Building 19, Auditorium B3, Atlanta, Georgia 30333.

Status: Open to the public for observation and comment, limited only by the space available. The meeting room accommodates approximately 50 people. Visitors to the CDC campus must be processed in accordance with established federal policies and procedures and should pre-register for the meeting as described in Additional Information for visitors. Public comment periods are planned for both meeting days.

Purpose: This Board is charged with advising the Secretary of HHS and Director of CDC concerning strategies and goals for the programs and research within COTPER, monitoring the strategic direction and focus of the Divisions, and conducting peer review of scientific programs. For additional information about the COTPER BSC, please visit: *http://emergency.cdc.gov/cotper/science/counselors.asp.*

Matters To Be Discussed: A briefing on the findings of the workgroup for external peer review of COTPER's fiscal allocation process; status updates on other external peer reviews of COTPER programs and funded projects; updates from COTPER activities and programs; and a discussion of external peer review topics for fiscal year 2010.

Agenda items are subject to change as priorities dictate.

Additional Information for Visitors: All visitors are required to present a valid form of picture identification issued by a state, federal or international government. To expedite the security clearance process for visitors to the CDC Roybal campus, all visitors must pre-register by submitting the following information by e-mail or phone (see Contact Person for More Information) no later than 12 noon (EST) on Wednesday, April 1, 2009:

- Full Name,
- Organizational Affiliation,
- Complete Mailing Address,
- Citizenship, and
- Phone Number or E-mail Address.

For foreign nationals or non-U.S. citizens, pre-approval is required. Please contact the BSC Coordinator (see Contact Person for More Information) in advance of the posted pre-registration deadline for additional security requirements that must be met.

Contact Person for More Information: Matthew Jennings, BSC Coordinator, COTPER, CDC, 1600 Clifton Rd., NE., Mailstop D–44, Atlanta, GA 30333, Telephone: (404) 639–7357; Facsimile: (404) 639–7977; E-mail: *COTPER.BSC.Questions@cdc.gov.*

The Director, Management Analysis and Service 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 Agency for Toxic Substances and Disease Registry.

Dated: March 13, 2009.

Elaine L. Baker,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.

[FR Doc. E9–6099 Filed 3–19–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10133, CMS–250–254, CMS–R–5, CMS–10157 and CMS–10279]

Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper