

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>EMPOWERING BROADBAND</b>	)	<b>FCC Docket No. 22-2</b>
<b>CONSUMERS THROUGH</b>	)	<b>OMB 3060-XXXX</b>
<b>TRANSPARENCY: BROADBAND</b>	)	<b>FR ID 126104</b>
<b>CONSUMER LABELS</b>	)	

**COMMENTS OF  
NTCA–THE RURAL BROADBAND ASSOCIATION  
*PAPERWORK REDUCTION ACT REVIEW***

To the Commission:

**I. INTRODUCTION**

NTCA–The Rural Broadband Association (NTCA) hereby submits comments in the above-captioned proceeding. Pursuant to the Paperwork Reduction Act (PRA) of 1995, the Commission is required to seek comment on the proposed collection of information contemplated by recently adopted rules in the instant proceeding.<sup>1</sup> The rules address, specifically, the creation of labels to help consumers shop among broadband services, pursuant to Section 60504 of the Infrastructure Investment and Jobs Act (IIJA).<sup>2</sup> As an active participant in this proceeding, NTCA has worked closely with its members and other stakeholders to develop its understanding of how companies will implement the new rules, and shared those

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<sup>1</sup> *Empowering Broadband Consumers Through Transparency: Report and Order and Further Notice of Proposed Rulemaking*, CG Docket No. 22-2, FCC 22-86 (rel. Nov. 17, 2022) (“*Broadband Labels Order*”).

<sup>2</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (IIJA).

perspectives borne of on-the-ground experience with the Commission.<sup>3</sup> Based on discussions with service providers as well as management consulting firms serving the broadband industry, NTCA submits that the Commission’s estimated “Total Annual Capital, Operation, and Maintenance Costs Required for All Respondents: \$0” does not reflect the actual projected financial inputs that will be necessary to comply with broadband label requirements.<sup>4</sup> Moreover, the hourly burden estimates are inconsistent with industry estimates. Accordingly, NTCA urges the Commission to revisit these projections and to supplement the instant PRA inquiry with data and assumptions that reflect more accurately and realistically the projected burdens of compliance.

## **II. DISCUSSION**

Pursuant to the Section 60504 of the IIJA, the Commission adopted rules that require internet service providers (ISPs) to display, at the point of sale, a broadband consumer label that contains information about pricing; introductory rates; data allowances; performance metrics; and whether the ISP participates in the Affordable Connectivity Program (ACP). The labels are intended to help consumers comparison shop among services. As noted in its joint reply comments in the instant proceeding, NTCA concluded that the Commission arrived at predominantly rational and reasonable conclusions in the *Broadband Labels Order* (NTCA has joined several parties in a yet-pending Petition for Clarification/Reconsideration that addresses

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<sup>3</sup> See, i.e., *Joint Comments of NTCA and WISPA–Broadband Without Boundaries (WISPA)*, CG Docket No. 22-2 (Mar. 9, 2022); *Joint Reply Comments of NTCA and WISPA* (Mar. 24, 2022); *Joint Comments of NTCA and WISPA on the Further Notice of Proposed Rulemaking* (Feb. 16, 2023); *Joint Reply Comments of NTCA and WISPA on the Further Notice of Proposed Rulemaking* (Mar. 16, 2023).

<sup>4</sup> See, Supporting Statement OMB 3060-XXXX Broadband Consumer Labels 3 13 23, at 15 (PRA Worksheet) (attached hereto as Attachment A).

several discrete issues).<sup>5</sup> NTCA appreciates the dialogue the Commission has engaged with entities subject to these requirements and supports the intended value that a properly conceived and constructed label can bring to the market. Markets develop efficiently when consumers understand the product and providers can respond to market trends and demands. At the same time, it is important for regulatory actions to work effectively with natural market conditions. The *Broadband Labels Order* generally reflects those intentions, as the rules adopted there reflect collective views of stakeholders ranging from providers to public interest representatives. The projections of the PRA Worksheet, however, drift from those sound moorings by making assumptions that are not consistent with industry practices as experienced by NTCA members and similarly situated providers.

As the Commission explains in the PRA Worksheet, the broadband label requirements extend beyond the creation of a label that itself must meet specific formatting and content requirements. The PRA Worksheet lists no fewer than 11 information points that each label must minimally include.<sup>6</sup> To these are added additional obligations, including:

1. Labels must be displayed on providers' websites and at alternate sales channels such as retail locations and over the phone.
2. The labels must be accessible for people with disabilities and non-English speakers.

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<sup>5</sup> *Joint Petition for Clarification or, in the Alternative, Reconsideration of ACA Connects, CTIA, NCTA–The Internet and Television Association, NTCA, and USTelecom–The Broadband Association* (Jan. 17, 2023).

<sup>6</sup> The PRA Worksheet enumerates the following information that must be included on the label: Monthly price information (including introductory rate and contract plan information); any additional provider discretionary monthly charges (e.g., equipment rentals) and one-time fees (e.g., activation fees); Government taxes will apply; links to any available billing discounts and pricing options for bundled services; Information about the Affordable Connectivity Program (ACP) and whether the provider participates in the ACP; performance information (specifically download and upload speeds and latency measurements); the amount of data included with the monthly price and the charges for additional data that exceeds that allowance; links to the provider's network management policies (e.g., blocking, throttling, and paid prioritization) and privacy policies; customer support contact information; a link to the FCC's website containing a glossary of terms used on the label and other related information; and a Unique Plan Identifier. PRA Worksheet at 4.

3. The labels must be available via a customer's online account portal.
4. ISPs must maintain an archive of labels for no less than two years from the time the referenced service is no longer available to new customers.
5. ISPs must provide the labels in machine readable format.

Accordingly, the PRA Worksheet projections of "\$0" burden for compliance with these rules beg significant questions.

The PRA Worksheet acknowledges that each step toward compliance will require hours from professional-level workers including technical writers, staff administrators, web administrators, engineers, and attorneys. The Commission lists several processes, including creation of the label; display of the label at point of sale; display of the label on online customer portals; display of label contents in machine readable format; and archiving of labels. However, both the hourly burdens and cost estimates presented by the Commission are inconsistent with projections offered by industry participants, and moreover leave off such critical details as translating labels to non-English languages or requirements to read labels over the phone. The PRA Worksheet estimates that affected providers will need to devote between 30 minutes and nine hours per response.<sup>7</sup> In contrast, NTCA review of these regulations, undertaken with management firms that serve the rural industry, project "time in" requirements of eight-to-16 hours per respondent. Requirements to publish individual labels for each service will increase those burdens, and the possibility that requirements could expand to numerous permutations based on bundled services would increase those obligations further.

Moreover, the costs presumed by the PRA Notice, based on hourly professional rates, are substantially lower than what firms can expect to pay in the market for trained professionals. By

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<sup>7</sup> Information Collection Being Reviewed by the Federal Communications Commission, 88 Fed. Reg. 7973, 7974 (Feb. 7, 2023).

way of example, the Commission projects that attorney’s fees associated with the “creation of a label” will sum to \$42.28 per respondent.<sup>8</sup> Or that the cost of displaying labels in machine readable format will incur \$12.79 of web administrator fees.<sup>9</sup> The burden estimates are further flawed by an unsupported assumption that “most, if not all, reporting requirements will be met respondents’ ‘in-house’ staff . . .” This conclusion is not only unsupported by surveys, data, or other evidence, but conflicts squarely with statements the Commission included in both the *Broadband Labels Order* and the PRA Worksheet. Both documents effectively quote the Joint Comments of NTCA and WISPA, wherein the parties cautioned, “Unlike large companies, the vast majority of the Joint Commenters’ members do not have in-house attorneys and compliance departments to assist in preparing their broadband labels and will need to engage outside legal resources to implement several proposed requirements.”<sup>10</sup> The Commission repeated most of this observation verbatim in the *Broadband Labels Order* and PRA Worksheet, explaining the extended deadline for small ISP compliance.<sup>11</sup> Small companies will most likely need to outsource label compliance tasks. By way of example, small ISPs that use third-party billing services will need to outsource certain label functions. Many companies can manage basic web changes in-house but will need to outsource for more complicated web-based label changes. Language translations will nearly always require outsourcing. While staff at small providers

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<sup>8</sup> PRA Worksheet at 11.

<sup>9</sup> PRA Worksheet at 11.

<sup>10</sup> Joint Comments of NTCA and WISPA at 22 (Mar. 9, 2022).

<sup>11</sup> See, *Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking*, CG Docket No. 22-2, FCC 22-86, at para. 118 (Nov. 17, 2022) (“ . . . tasks may require more time for providers that are less likely to have in-house attorneys and compliance departments to assist in preparing their broadband labels, and thus will need to engage outside legal resources to implement several proposed requirements.”) and PRA Worksheet at 8, 9 (“Thus, the Commission concluded that additional time was warranted for these providers that are less likely to have in-house attorneys and compliance departments to assist with their broadband labels and will need to engage outside legal resources to implement several proposed requirements.”).

generally wear the many proverbial different hats. the use of outside professionals is common. It is therefore unrealistic to propose that small companies will endure “zero cost” in the implementation of these requirements. (It is further unclear why, even were in-house staff available to perform some or all of these functions for some providers, this would be deemed to come at “\$0” when those staff would still be paid for performing such functions at the opportunity cost of performing other functions.)

Working with its small company providers and management consulting firms, NTCA has developed the following examples of tasks associated with broadband labels *beyond the initial creation* of the label:

- (a) Translating the label to non-English languages; the costs of compliance are anticipated to be higher when the language is not commonly spoken; translation costs are also expected to be higher when translating to Native American and Alaskan Native languages and dialects.
- (b) “Over the phone” requirements, with additional costs if the Commission includes non-English languages in the obligation to read labels over the phone, as this could implicate the costs of real-time, on-demand foreign language translation services.
- (c) On-going updating of labels, including amendments to reflect new service offerings or changes in government and similar fees.
- (d) Document retention and tracking of labels presented in alternative sales channels; the latter may require embedding labels into service orders, which would require amendments to billing software.

These tasks are in addition to the steps enumerated by the Commission; are not expected to be managed by in-house staff for smaller providers; and will cost companies significantly more than the rates anticipated by the Commission.

Given the unreasonably low estimates of fees for professionals, including for example designers, attorneys, website technicians, and translators; the fact that most small companies will need to outsource compliance activities; and the low hourly burdens projected by the PRA

Worksheet, NTCA recommends the Commission to develop a more accurate PRA analysis for presentation to the Office of Management and Budget (OMB). To the extent that the OMB must approve data collections, such approval can be made only upon the basis of reasonable and realistic estimates of cost and other burdens. The conclusion in the instant analysis that respondents will incur “zero cost” does not reflect the normal and ordinary manner of business for NTCA members and similarly situated providers, and therefore provides insufficient basis for a valid OMB approval. Moreover, the inherent contradiction of the PRA Worksheet that acknowledges that small companies generally lack in-house capabilities to address label compliance, but then proposes “zero cost” estimates based on the assumption that companies will use in-house staff, must be resolved before the OMB can offer rational judgment on the PRA Worksheet conclusions.

### **III. CONCLUSION**

The PRA Worksheet estimates of both hours and cost burdens are inconsistent with the needs anticipated by rural broadband providers as well as outside firms to which many requirements associated with creating, displaying, and maintaining broadband labels will be outsourced. The need for small companies to outsource was noted in initial statements offered by NTCA in joint comments, and effectively adopted by the Commission in the subsequent Order and the PRA Worksheet. Moreover, even where work might not be outsourced, staff costs related to labels will accrue as work hours are devoted to compliance efforts. NTCA accordingly urges

the Commission to revise the PRA Worksheet so that the OMB can review projections that are consistent with industry practices.

Respectfully submitted,

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# ATTACHMENT A

Supporting Statement OMB 3060-XXXX Broadband Consumer Labels  
“PRA WORKSHEET”

April 10, 2023

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)****A. Justification**1. *Circumstances that Make the Information Collection Necessary.*

The Infrastructure Investment and Jobs Act (Infrastructure Act), in relevant part, directed the Federal Communications Commission (Commission or FCC) “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband Internet access service plans.”<sup>1</sup> Further, the Infrastructure Act required that the label “include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.”<sup>2</sup> The Infrastructure Act also directed the Commission to conduct a series of public hearings to assess: 1) how consumers evaluate broadband Internet access service plans; and 2) whether disclosures to consumers of information regarding broadband Internet access service plans, including the disclosures required under 47 CFR § 8.1, are available, effective, and sufficient.<sup>3</sup>

On January 27, 2022, the Commission released a Notice of Proposed Rulemaking (*Broadband Label NPRM*) initiating a proceeding to implement section 60504 of the Infrastructure Act.<sup>4</sup> Specifically, the Commission proposed to require that broadband Internet access service providers (ISPs or providers) display, at the point of sale, labels that disclose to consumers certain information about prices, introductory rates, data allowances, broadband speeds, and management practices, among other things.<sup>5</sup>

Consistent with the Infrastructure Act’s mandate, the Commission proposed to require the display of labels that it had allowed ISPs to use as a safe harbor from enforcement of the broadband transparency requirements in 2016. Those 2016 labels were largely the product of recommendations by the Commission’s Consumer Advisory Committee (CAC).<sup>6</sup> In the *Broadband Label NPRM*, the Commission sought comment on whether broadband service offerings and consumers’ use of broadband services had changed sufficiently since 2016 to

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<sup>1</sup> The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (Infrastructure Act). *See also* *Consumer and Governmental Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels*, GN Docket No. 14-28, Public Notice, 31 FCC Rcd 3358 (CGB/WCB/WTB 2016) (*2016 Public Notice*). Before enactment of the Infrastructure Act, the President issued Executive Order 14036, which, in relevant part, encouraged the Commission to consider “initiating a rulemaking that requires broadband service providers to display a broadband consumer label, such as that described in the [2016 Public Notice] so as to give consumers clear, concise, and accurate information regarding provider prices and fees, performance, and network practices.” *See* Executive Order No. 14036, Promoting Competition in the American Economy, 86 FR 36987 (July 9, 2021).

<sup>2</sup> Infrastructure Act § 60504(b)(1).

<sup>3</sup> *See id.* § 60504(c).

<sup>4</sup> *See Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking, FCC 22-7 (rel. Jan. 27, 2022) (*Broadband Label NPRM*).

<sup>5</sup> *Broadband Label NPRM*, para. 14.

<sup>6</sup> *See 2016 Public Notice*; *see also* FCC Consumer Advisory Committee Recommendation, Broadband Consumer Disclosures (Oct. 26, 2015) at <https://docs.fcc.gov/public/attachments/DOC-336136A1.pdf>.

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

necessitate modifications to the labels' content and/or format, or whether there were any other reasons to change the content or format of the labels.<sup>7</sup> The Commission also sought comment on where the labels should be displayed to best inform consumers.<sup>8</sup> In addition, the Commission conducted three public hearings to solicit input from various stakeholders on the content, format, and location of the labels.<sup>9</sup>

On November 14, 2022, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (*Broadband Label Order*) requiring ISPs to display a new broadband label to help consumers comparison shop among broadband services, thereby implementing section 60504 of the Infrastructure Act.<sup>10</sup> Specifically, the Commission required ISPs to display, at the point of sale, a broadband consumer label containing critical information about the provider's service offerings, including information about pricing, introductory rates, data allowances, performance metrics, and whether the provider participates in the Affordable Connectivity Program (ACP).<sup>11</sup> The Commission required that ISPs display the label for each stand-alone broadband Internet access service they currently offer for purchase, and that the label link to other important information such as network management practices, privacy policies, and other educational materials.

Consistent with the Infrastructure Act, the label adopted for fixed and mobile broadband Internet access service is similar to the two labels the Commission approved in 2016, with certain modifications. In addition to label content, the Commission adopted requirements for the label's format and display location to ensure consumers can make side-by-side comparisons of various service offerings from an individual provider or from alternative providers—something essential for making informed decisions. In this way, the label resembles the well-known nutrition labels that consumers have come to rely on when shopping for food products. The label must be accessible for people with disabilities and for non-English speakers. A customer's label must also be available via the provider's online account portal. In addition, third parties will be able to easily analyze information contained in the labels and help consumers with their purchase decisions, as providers are required to make the label content available in a machine-readable format on their websites. Finally, the Commission adopted a label template (shown below) that all ISPs are required to display at the point of sale. This label establishes the formatting and content of all requirements adopted in the *Broadband Label Order*:

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<sup>7</sup> *Broadband Label NPRM*, para 14.

<sup>8</sup> *Id.*

<sup>9</sup> See FCC, *Broadband Consumer Labels, Public Hearings on Broadband Labels* (Mar. 11, 2022, Apr. 7, 2022, and May 25, 2022), <https://www.fcc.gov/broadbandlabels>.

<sup>10</sup> Infrastructure Act § 60504(a).

<sup>11</sup> In the Infrastructure Act, Congress appropriated \$14.2 billion to transform the Emergency Broadband Benefit Program into the Affordable Connectivity Program (ACP), which provides eligible low-income households discounted Internet service and a one-time discount on a connected device. See *Affordable Connectivity Program, Emergency Broadband Benefit Program*, WC Docket Nos. 21-450 and 20-445, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2 (Jan. 21, 2022) (*ACP Order*). The ACP provides a monthly discount of up to \$30 for broadband service and up to \$75 a month for households on qualifying Tribal lands. See 47 CFR § 54.1803(a).

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

<b>Broadband Facts</b>	
<b>Provider Name</b>	
<b>Service Plan Name and/or Speed Tier</b>	
Fixed or Mobile Broadband Consumer Disclosure	
<hr/>	
<b>Monthly Price</b>	<b>[\$]</b>
This Monthly Price [is/is not] an introductory rate. [if introductory rate is applicable, identify length of introductory period and the rate that will apply after introductory period concludes]	
This Monthly Price [does not] require[s] a [x year/x month] contract. [only required if applicable: if so, provide link to terms of contract]	
<hr/>	
<b>Additional Charges &amp; Terms</b>	
Provider Monthly Fees	<b>[\$]</b>
[Itemize each fee]	
One-time Fees at the Time of Purchase	<b>[\$]</b>
[Itemize each fee]	
Early Termination Fee	<b>[\$]</b>
Government Taxes	Varies by Location
<hr/>	
<b>Discounts &amp; Bundles</b>	
Click Here for available billing discounts and pricing options for broadband service bundled with other services like video, phone, and wireless service, and use of your own equipment like modems and routers. [Any links to such discounts and pricing options on the provider's website must be provided in this section.]	
<hr/>	
<b>Affordable Connectivity Program (ACP)</b>	
The ACP is a government program to help lower the monthly cost of internet service. To learn more about the ACP, including to find out whether you qualify, visit <a href="https://affordableconnectivity.gov">affordableconnectivity.gov</a> .	
<b>Participates in the ACP</b>	<b>[Yes/No]</b>
<hr/>	
<b>Speeds Provided with Plan</b>	
Typical Download Speed	<b>[ ] Mbps</b>
Typical Upload Speed	<b>[ ] Mbps</b>
Typical Latency	<b>[ ] ms</b>
<hr/>	
<b>Data Included with Monthly Price</b>	<b>[ ] GB</b>
Charges for Additional Data Usage	<b>[\$/GB]</b>
<hr/>	
<b>Network Management</b>	<b>Read our Policy</b>
<b>Privacy</b>	<b>Read our Policy</b>
<hr/>	
<b>Customer Support</b>	
Contact Us: <a href="https://example.com/support/">example.com/support/</a> / (555) 555-5555	
<hr/>	
Learn more about the terms used on this label by visiting the Federal Communications Commission's Consumer Resource Center.	
<a href="https://fcc.gov/consumer">fcc.gov/consumer</a>	
[Unique Plan Identifier Ex. F0005937974123ABC456EMC789]	

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

***Information Collection Requirements:***

- (a) Section 8.1(a)(1). Any person providing broadband Internet access service shall create and display an accurate broadband consumer label for each stand-alone broadband Internet access service it currently offers for purchase. The label must be prominently displayed, publicly available, and easily accessible to consumers, including consumers with disabilities, at the point of sale, with the content and in the format prescribed by the Commission in “[Fixed or Mobile] Broadband Consumer Disclosure.” See label template above.

The label must display the following:

- (i) Monthly price information (including introductory rate and contract plan information);
- (ii) Any additional provider discretionary monthly charges (e.g., equipment rentals) and one-time fees (e.g., activation fees);
- (iii) Government taxes will apply;
- (iv) Links to any available billing discounts and pricing options for bundled services;
- (v) Information about the Affordable Connectivity Program (ACP) and whether the provider participates in the ACP;
- (vi) Performance information (specifically download and upload speeds and latency measurements);
- (vii) The amount of data included with the monthly price and the charges for additional data that exceeds that allowance;
- (viii) Links to the provider’s network management policies (e.g., blocking, throttling, and paid prioritization) and privacy policies;
- (ix) Customer support contact information;
- (x) A link to the FCC’s website containing a glossary of terms used on the label and other related information; and
- (xi) A Unique Plan Identifier.

As noted above, the Commission provided a template of the required label in the *Broadband Label Order*, and explained that it will also post a sample template, along with terms used on the label, on the FCC’s website no later than 30 days before the label requirements become effective.

The Commission also notes that, for performance information, providers must display their typical upload and download speeds and typical latency, consistent with their current obligations under the existing transparency rule and the Commission’s *2011 Advisory Guidance*.<sup>12</sup> Thus, for purposes of satisfying this requirement, fixed broadband service providers that choose to participate in the Measuring Broadband America (MBA) program may disclose their results as a sufficient representation of the actual performance their customers can expect to experience for the relevant speed tier. Fixed broadband

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<sup>12</sup> See 47 CFR § 8.1(a); *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd 311, 441, para. 222 & n.818 (2017) (*2017 Restoring Internet Freedom Order*); *FCC Enforcement Bureau and Office of General Counsel Issue Advisory Guidance for Compliance with Open Internet Transparency Rule*, GN Docket No. 09-191, WC Docket No. 09-191, Public Notice, 26 FCC Rcd 9411, 9411 (EB/OGC 2011) (*2011 Advisory Guidance*).

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

service providers that do not participate may use the methodology from the MBA program to measure actual performance, or may disclose actual performance based on internal testing, consumer speed test data, or other data regarding network performance, including reliable, relevant data from third-party sources.<sup>13</sup> Mobile broadband service providers that have access to reliable information on network performance may disclose the results of their own or third-party testing. Those mobile broadband service providers that do not have reasonable access to such network performance data may disclose a Typical Speed Range (TSR) representing the range of speeds and latency that most of their consumers can expect, for each technology and service tier offered.<sup>14</sup> The Commission does not anticipate that the new rules will require providers to gather any new performance information; rather, they will need only to display currently available performance information in the broadband label format.

- (b) Section 8.1(a)(2). Broadband Internet access service providers shall display the label required under section 8.1(a)(1) at each point of sale. “Point of sale” is defined to mean a provider’s website and any alternate sales channels through which the provider’s broadband Internet access service is sold, including a provider-owned retail location, third-party retail location, and over the phone.
- (i) Websites. For labels displayed on provider websites, the actual label must be displayed in close proximity to the associated advertised service plan. Providers are not required to display the label information in any particular font size; however, providers should ensure that the labels are prominently displayed on any device on which the consumer accesses and views the labels, including mobile devices. “Point of sale” also means the time a consumer begins investigating and comparing broadband service offerings available to them at their location. Thus, providers must display the labels only after the consumer enters any required location information. Once the consumer has done so, the label must appear on the provider’s primary advertising web page that identifies the plans available to the consumer.
- (ii) Alternate Sales Channels. If the provider has a provider-owned retail location or third-party retail location, it must make the label available to consumers at each point of sale. If the provider cannot ensure the consumer will be able to access the label either with an Internet connection at home or in the retail location, it must make the label available in hard copy. Thus, in the case of alternate sales channels, while a provider may satisfy the label requirement by providing a hard copy of the label, it may do so through other means. This could include directing the consumer to the specific web page on which the label appears by, for example, providing Internet access in the retail location or giving the customer a card with the printed URL or a Quick Response (QR) code, or orally providing information from the label to the consumer over the phone. In such circumstances, the provider must read the entire label to the consumer over the

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<sup>13</sup> 2017 Restoring Internet Freedom Order, 33 FCC Rcd at 441 n.818 (citing 2011 Advisory Guidance, 26 FCC Rcd at 9414-15).

<sup>14</sup> *Id.* at 441 n.818 (citing 2011 Advisory Guidance, 26 FCC Rcd at 9415-16).

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

phone. Providers shall document each instance when it directs a consumer to a label at an alternate sales channel and retain such documentation for two years.

- (iii) E-Rate and Rural Health Care Programs. “Point of sale” for purposes of the E-Rate and Rural Health Care programs is defined as the time a service provider submits its bid to a program participant. Providers participating in the E-Rate and Rural Health Care programs must provide their labels to program participants when they submit their bids to participants.
- (c) Section 8.1(a)(2). Online Account Portals. Broadband Internet access service providers that offer online account portals to their customers shall also make each customer’s label easily accessible to the customer in such portals.
- (d) Section 8.1(a)(3). Machine-Readable Format. The content of the label required under section 8.1(a)(1) must be displayed on the broadband Internet access service provider’s website in a machine-readable format. Broadband Internet access service providers must provide the information in any label separately in a spreadsheet file format on their websites via a dedicated URL that contains all of their labels. Providers must publicize the URL with the label data in the transparency disclosures required under 47 CFR § 8.1(a).
- (e) Section 8.1(a)(4). Languages. The label required under section 8.1(a)(1) must be provided in English and in any other languages in which the broadband Internet access service provider markets its services in the United States.
- (f) Section 8.1(a)(5). Archive of Labels. Broadband Internet access service providers shall maintain an archive of all labels required under section 8.1(a)(1) for a period of no less than two years from the time the service plan reflected in the label is no longer available for purchase by a new subscriber and the provider has removed the label from its website or alternate sales channels.

Providers must provide any archived label to the Commission, upon request, within thirty days. Providers must provide an archived label, upon request and within thirty days, to an existing customer whose service plan is associated with the particular label. A provider is not required to display a label once the associated service plan is no longer offered to new subscribers.

- (g) Section 8.1(a)(6). Broadband consumer label requirements and the transparency rule in section 8.1(a) are subject to enforcement using the same processes and procedures. The label required under section 8.1(a)(1) is not a safe harbor from the transparency rule or any other requirements established by the Commission. (Note: This rule does not involve a distinct information collection, but is being submitted to OMB as part of this overall information collection.)

Implementation Timelines. The Commission adopted several different implementation timelines to ensure providers have a reasonable amount of time to comply with the *Broadband Label Order* requirements:

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

- 1) Apart from the exceptions explained below, the Commission established a six-month period for most providers to come into compliance with the new requirements to ensure they can implement necessary changes in a cost-effective way that makes sense for their individual business models and potential customers. This six-month period will begin with the announcement in the Federal Register that OMB has completed its review of the rules;
- 2) The Commission adopted a one-year implementation period for providers with 100,000 or fewer subscriber lines;
- 3) Compliance with the requirement to make labels accessible in customer online account portals will not be required for all providers until one year after OMB completes its review of such requirement; and
- 4) Compliance with the requirement to make label information available in a machine-readable format will not be required for all providers until one year after OMB completes its review of such requirement.

This collection does not affect individuals or households; thus, there are no impacts under the Privacy Act because it does not require the collection of personally identifiable information (PII) from individuals.

The statutory authority for the information collection requirements is contained in sections 4(i), 4(j), 13, 201(b), 254, 257, 301, 303, 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 163, 201(b), 254, 257, 301, 303, 316, 332, section 60504 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021), and section 904 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), as amended.

## 2. *Use of Information.*

The information will be used to implement section 60504(a) of the Infrastructure Act. The Infrastructure Act, in relevant part, directs the Commission “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16-357), to disclose to consumers information regarding broadband Internet access service plans.”<sup>15</sup> The information will help consumers easily compare a provider’s broadband service offerings and the services among different providers, and that they have the information necessary to make smart choices without overwhelming them with too much information or unnecessarily burdening providers.

## 3. *Technological Collection Techniques.*

The required label disclosures must be provided primarily over the Internet (i.e., on provider websites). Similarly, the label information that must be provided in machine-readable formats will be available on provider websites through dedicated URLs. Providers must also archive their

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<sup>15</sup> Infrastructure Act § 60504(a).



**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

labels electronically. Hard copies will be necessary only when the consumer cannot access the label with an Internet connection at home or in the provider's retail location.

4. *Efforts to Identify Duplication.*

The information collection requirements generally are not duplicative of any currently existing federal regulatory obligation.<sup>16</sup> While the information that must be disclosed is likely already available to the public at various locations (on websites and retail locations), the information is not all currently and consistently available in a single location and format that would aid in a consumer's ability to comparison shop, which is the specific purpose of the Infrastructure Act.

In addition, the Commission noted in the *Broadband Label Order* that although there is overlap between the purpose of the new broadband labels and that of the existing transparency rule at 47 CFR § 8.1(a), those purposes are not identical. There are different—albeit overlapping—purposes served by the two requirements. For example, helping consumers make informed choices regarding broadband Internet access service plans is a goal of both broadband labels and the transparency rule.<sup>17</sup> Broadband labels, however, are designed to play a unique role in that regard by providing a quick reference tool enabling easy comparisons among different service plans at the time of purchase. By contrast, the transparency rule seeks to enable a deeper dive into details of broadband Internet service offerings, which could be relevant not only for consumers as a whole, but also for consumers with particularized interests or needs, as well as a broader range of participants in the Internet community—notably including the Commission itself.<sup>18</sup> Providers must therefore take steps to comply with the labeling and transparency rules independently to the extent that the details of the requirements diverge.

5. *Impact on Small Entities.*

The collection of information will impact ISPs that are small business entities. The Commission is committed to reducing the regulatory burdens on small businesses whenever possible, consistent with the Commission's other public interest responsibilities. Therefore, pursuant to the *Broadband Label Order*, the Commission's label requirements balance reducing these burdens and ensuring that consumers have the necessary information to make comparisons among broadband providers and select the services that best meet their budgets and needs. As discussed above, the Commission adopted a different implementation period for providers with 100,000 or fewer subscribers, which will likely include substantially all small entities. Specifically, the Commission determined that these providers should have more to comply with the new label requirements and adopted a one-year implementation period for these providers. The Commission was persuaded that implementing broadband labels may require providers to complete certain tasks such as compiling the information that must be presented in the label and posting labels on their websites. Thus, the Commission concluded that additional time was warranted for these providers that are less likely to have

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<sup>16</sup> OMB PRA Guide at 42.

<sup>17</sup> See, e.g., Infrastructure Act § 60504(a); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, para. 209.

<sup>18</sup> See, e.g., *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, 438, paras. 209-10, 216.

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

in-house attorneys and compliance departments to assist with their broadband labels and will need to engage outside legal resources to implement several proposed requirements.

6. *Consequences if Information is Not Collected.*

The information collection is required by section 60504(a) of the Infrastructure Act and is necessary to assist consumers with comparison shopping for broadband services. All broadband Internet access service providers are subject to enforcement action by the Commission's Enforcement Bureau if they do not meet the applicable requirements. In addition, members of the public may file informal or formal complaints against providers they believe have not complied with the label requirements.

7. *Special Circumstances.*

The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.

8. *Federal Register Notice; Efforts to Consult with Persons Outside of the Commission.*

The Commission published a *Notice* in the *Federal Register*, as required by 5 CFR Section 1320.8(d), on February 7, 2023 at 88 FR 7973, seeking comments from the public on the information collection requirements contained in this supporting statement.<sup>19</sup> [Insert either "The Commission did not receive any comments during the publication of this notice." OR To date, the Commission has received # comments in response to the *Notice*. Then identify and respond to such comments.]

9. *Payments or Gifts to Respondents.*

The Commission does not anticipate providing any payment or gift to respondents.

10. *Assurances of Confidentiality.*

The Commission is not requesting that respondents submit confidential information to the Commission.

11. *Questions of a Sensitive Nature.*

There are no questions of a sensitive nature with respect to the information collected.

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<sup>19</sup> See *Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested*, 88 Fed. Reg. 7973 (Feb. 7, 2023) (*Notice*).

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

12. *Estimates of the Hour Burden for the Collection of Information.*

The Commission currently has one approved information collection related to the Transparency Rule, OMB Control No. 3060-1158, which included *voluntary* broadband labels as a safe harbor from enforcement of the transparency rule, 47 CFR § 8.1(a). The Commission, however, is submitting this as a new information collection, as the collection stems from section 60504(a) of the Infrastructure Act, which requires that the Commission adopt broadband consumer labels. The disclosures required under this information collection may need to be updated on occasion. The details of the collection for which the Commission seeks approval are described below.

**Annual Burden Hours Under the Broadband Consumer Label Requirements:**

(a) Sections 8.1(a)(1), 8.1(a)(4) – Creation of Broadband Consumer Label (using label template)

The Commission believes that most broadband Internet access service providers already have and already disclose most, if not all, of the required label information in some manner, and that creating labels using the Commission’s label template will therefore not be a significant additional burden. The Commission also believes that the information is not all currently and consistently available at each point of sale location and in a form that serves the purposes of the Infrastructure Act and the *Broadband Label Order*. Thus, complying with the new label requirements will entail some implementation costs. In addition, this estimate recognizes that a small number of respondents that advertise in languages other than English may need to translate the information on the label to meet the requirement that the label be displayed in the languages in which they market their services. The Commission anticipates that many respondents will automate this process and that the level of effort required will decrease over time either through automation or familiarity with the process.

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that will be subject to the label requirements over a three-year period. While respondents may need to display numerous labels, the process to create the required labels will be done one time and will require approximately 3.5 hours to complete. Thus, one response does not necessarily equate to one label.

**Annual Number of Respondents: 6,010**

**Annual Number of Responses: 1 per respondent (6,010 responses)**

**Annual Burden Hours: 3.5 per respondent**

6,010 respondents x 1 response x 3.5 hours = **21,035 Total Burden Hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). As detailed below, the Commission estimates respondent’s average cost to be \$61.98 per hour to comply with the requirement to create a label associated with its broadband service offering:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.5	\$51.15	\$25.58
GS-12/5 Staff Administrator	0.5	\$51.15	\$25.58

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

GS-12/5 Web Administrator	1	\$51.15	\$51.15
GS-14/5 Engineer	1	\$71.88	\$71.88
GS-15/5 Attorney	0.5	\$84.55	\$42.28
<b>Total Hours and Average Cost</b>	<b>3.5</b>	<b>\$61.98</b>	<b>\$216.47</b>

**Annual “In-House” Cost:**

6,010 respondents x 1 response x 3.5 hours x \$61.98/hr = **\$1,303,749.30**

(b) Section 8.1(a)(2) – Display of Broadband Consumer Label at Each Point of Sale

As noted above, the Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display labels at each point of sale (on websites and at alternate sales channels). This process will be done “on occasion” and will require approximately 1.5 hours to comply with the requirement. This estimate contemplates that the effort to display the label at the point of sale should be minimal for the majority of respondents. Displaying the label at the point of sale may require more effort for a small number of respondents if they cannot ensure consumers have access to the Internet at home or at their retail locations and thus will need to print the label and keep a record documenting that they provided the physical record to the customer. This estimate therefore assumes that 25 respondents will also provide hard copy records (4 hours) and the remaining respondents will only need to provide the label electronically (1.5 hours), as detailed below:

**Annual Number of Respondents: 6,010**

**Annual Number of Responses: 1 per respondent (6,010 responses)**

**Annual Burden Hours: 1.5 per respondent (4 for a small number of respondents)**

- 1) Respondents that need only display labels on websites and on the Internet at alternate sales channels: 5,985

5,985 respondents x 1 response x 1.5 hours = **8,977.50 Burden Hours**

- 2) Respondents that must also provide hard copies of the labels: 25

25 respondents x 1 response x 4 hours = **100 Burden Hours**

8,977.50 + 100 = **9,078 Total Burden Hours (rounded)**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5 and GS-14/5). The Commission estimates respondent’s average cost to be \$56.33 per hour to comply with the point of sale requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.25	\$51.15	\$12.79
GS-12/5 Staff Administrator	0.25	\$51.15	\$12.79

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

GS-12/5 Web Administrator	0.5	\$51.15	\$25.58
GS-14/5 Engineer	0.5	\$71.88	\$35.94
<b>Total Hours and Average Cost</b>	<b>1.5</b>	<b>\$56.33</b>	<b>\$87.10</b>

**Annual “In-House” Cost:**

6,010 respondents x 1 response x 1.5 hours x \$56.33/hr = **\$507,814.95**

(c) Section 8.1(a)(2) – Display of Broadband Consumer Label on Online Account Portals

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display labels on their customers’ online account portals. This process will be done “on occasion” and will require approximately 5 hours to comply with the requirement. This estimate contemplates that the initial setup of the system is likely to require significantly more effort than the effort to maintain it in the subsequent years. The 5-hour estimate reflects the average level of effort over a three-year period.

**Annual Number of Respondents: 6,010**

**Annual Number of Responses: 1 per respondent (6,010 responses)**

**Annual Burden Hours: 5 per respondent**

6,010 respondents x 1 response x 5 hours = **30,050 Total Burden Hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). The Commission estimates respondent’s average cost to be \$61.98 per hour to comply with online account portal requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.25	\$51.15	\$12.79
GS-12/5 Staff Administrator	0.5	\$51.15	\$25.58
GS-12/5 Web Administrator	2	\$51.15	\$102.30
GS-14/5 Engineer	2	\$71.88	\$143.76
GS-15/5 Attorney	0.25	\$84.55	\$21.14
<b>Total Hours and Average Cost</b>	<b>5</b>	<b>\$61.98</b>	<b>\$305.57</b>

**Annual “In-House” Cost:**

6,010 respondents x 1 notification x 5 hours x \$61.98/hr = **\$1,862,499**

(d) Section 8.1(a)(3) – Display of Label Contents in Machine-Readable Format

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display the content of the broadband labels on their websites through a dedicated URL in a file format such as .csv. This process will be done “on occasion” and will require approximately 0.5 hours to comply with the requirement. The Commission believes doing so should be a straightforward technical task and that most respondents will likely automate the task. This estimate assumes that 25 respondents will not automate the task.

**Annual Number of Respondents: 6,010**

**Annual Number of Responses: 1 per respondent (6,010 responses)**

**Annual Burden Hours: 0.5 per respondent (1 hour for respondents that do not automate process)**

- 1) Respondents using automation to make information available in machine-readable format: 5,985

5,985 respondents x 1 response x 0.5 hours = **2,992.50 Burden Hours**

- 2) Respondents that will not use automation to make label information available in machine-readable format: 25

25 respondents x 1 response x 1 hour = **25 Burden Hours**

2,992.50 + 25 = **3,018 Total Burden Hours (rounded)**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5). The Commission estimates respondent’s average cost to be \$51.15 per hour to comply with the machine readability requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Staff Administrator	0.25	\$51.15	\$12.79
GS-12/5 Web Administrator	0.25	\$51.15	\$12.79
<b>Total Hours and Average Cost</b>	<b>0.5</b>	<b>\$51.15</b>	<b>\$25.58</b>

**Annual “In-House” Cost:**

6,010 respondents x 1 response x 0.5 hours x \$51.15/hr = **\$153,705.75**

(e) Section 8.1(a)(5) – Archive of Labels

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to archive labels for two years from the time a service plan is no longer available for purchase and the label associated with the plan is not posted on any website or alternate sales channel. This estimate

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

includes the effort required to archive the labels as well as the cost to retrieve the information upon the request of the Commission or a customer. Because each customer's label is available to the customer on their online account portal, we anticipate respondents will receive a small number of requests for historical data. We estimate that 10% of respondents may receive one request per week and the remaining respondents may receive one request per month. The process will be done "on occasion" and will require approximately 9 hours to comply with the requirements.

**Annual Number of Respondents: 6,010**

**Annual Number of Responses: 1 per respondent (6,010 responses)**

**Annual Burden Hours: 9 per respondent**

6,010 respondents x 1 response x 9 hours = **54,090 Total Burden Hours**

The Commission assumes that respondents use "in house" personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). The Commission estimates respondent's average cost to be \$61.98 per hour to comply with label archiving and retrieval requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.5	\$51.15	\$25.58
GS-12/5 Staff Administrator	3	\$51.15	\$153.45
GS-12/5 Web Administrator	2.5	\$51.15	\$127.88
GS-14/5 Engineer	2.5	\$71.88	\$179.70
GS-15/5 Attorney	0.5	\$84.55	\$42.28
<b>Total Hours and Average Cost</b>	<b>9</b>	<b>\$61.98</b>	<b>\$528.89</b>

**Annual "In-House" Cost:**

6,010 respondents x 1 notification x 9 hours x \$61.98/hr = **\$3,352,498.20**

**Cumulative Totals for the Information Collection:**

**Total Annual Number of Respondents: 6,010 respondents**

**Total Annual Number of Responses: 30,050 responses**

**Total Annual Burden Hours: 117,271 hours**

**Total Annual "In-House" Costs: \$7,180,267.20**

13. *Estimates of the Cost Burden of the Collection to Respondents.*

The Commission expects most, if not all, reporting requirements will be met by respondents' "in-house" staff as described above. The Commission believes that respondents will have negligible additional capital costs to comply with the requirements. Any such costs will be related to updating existing software and equipment, rather than purchasing new equipment. Thus, the Commission estimates the following:

**Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)**

- (a) Total annualized capital/start-up costs for all respondents: **\$0**
- (b) Total annual costs (Operation & Maintenance) for all respondents: **\$0**
- (c) **Total Annual Capital, Operation, and Maintenance Costs Required for All Respondents: \$0**

14. *Estimates of the Cost Burden to the Commission.*

The Commission has determined there are no costs to the Federal Government for requiring respondents to comply with these requirements.

15. *Program Change or Adjustment.*

As this is a new information collection, there are program changes which will be added to OMB's inventory once approved as follows: 6,010 to the number of respondents, 30,050 to the number of annual responses, and 117,271 to the annual burden hours.

16. *Collection of Information Whose Results will be Published.*

There are no plans to publish the result of the collection of information.

17. *Display of Expiration Date of OMB Approval of Collection.*

The Commission is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. *Exception to the Certification Statement for Paperwork Reduction Act Submissions.*

There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

The Commission does not anticipate that the collection of information will employ any statistical methods.