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FEDERAL TRADE COMMISSION

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

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (“OMB”) to extend through February 28, 2017, the current Paperwork Reduction Act (“PRA”) clearance for the FTC’s enforcement of the information collection requirements in its regulation “Used Motor Vehicle Trade Regulation Rule” (“Used Car Rule” or “Rule”), which applies to used vehicle dealers. That clearance expires on February 28, 2014.

DATES: Comments must be filed by [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Used Car Rule, PRA Comment, P137606” on your comment and file your comment online at <https://ftcpublishcommentworks.com/ftc/usedcarrulepra> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe, Suite 1825, Chicago, IL 60603, 312-960-5634.

SUPPLEMENTARY INFORMATION: The Used Car Rule promotes informed purchasing

decisions by requiring used car dealers to disclose information about warranty coverage, if any, and purchasing advice on used cars that they offer for sale. The Rule requires that used car dealers display a form called a “Buyers Guide” on each used car offered for sale that, among other things, discloses information about warranty coverage.

Burden statement:

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The Rule has no recordkeeping or reporting requirements; as detailed further under the Request for Comment, the FTC seeks clearance for the Rule’s disclosure requirements and the estimated PRA burden for them.

Estimated total annual hours burden: 2,296,227 hours

As explained in more detail below, this estimate is based on the number of used car dealers (55,432¹), the number of used cars sold by dealers annually (approximately 28,958,000²), and the time needed to fulfill the information collection tasks required by the Rule.³

¹ 37,892 independent dealers in 2012. *NIADA Used Car Industry Report* (2013), at 16. 17,540 franchised new car dealers in 2012. *NADA Data State-of-the Industry Report 2013*, at 5.

² The number of used car sales conducted by dealers in 2012 is calculated by multiplying the percentage of used car sales conducted by dealers (71.5%) by the 40.5 million used cars sold in 2012. *NIADA Used Car Industry Report* (2013), 16-17. In 2012, franchised new car dealers conducted 36.9%, and independent used car dealers conducted 34.6%, of used car sales. *Id.* Private parties sold the remaining used cars. *Id.*

³ Some dealers opt to contract with outside contractors to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar cost as dealers to perform these tasks. Accordingly, the hour and cost burden totals shown, while referring to “dealers,” incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule. The time estimates repeat those that the FTC published, without receiving public comment, when the FTC last pursued renewed clearance for the Rule. *See* 75 FR 62538 (Oct. 12, 2010); 76 FR 144 (Jan. 3, 2011). Absent prospective specific industry estimates to the contrary, staff will continue to apply these estimates.

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide on each used car that they offer for sale. The component tasks associated with the Rule's required display of Buyers Guides include: (1) ordering and stocking Buyers Guides; (2) entering data on Buyers Guides; (3) displaying the Buyers Guides on vehicles; (4) revising Buyers Guides as necessary; and (5) complying with the Rule's requirements for sales conducted in Spanish.

1. *Ordering and Stocking Buyers Guides:* Dealers should need no more than an average of two hours per year to obtain Buyers Guides, which are readily available from many commercial printers or can be produced by an office word-processing or desk-top publishing system.⁴ Based on an estimated population of 55,432 dealers in 2012, the annual hours burden for producing or obtaining and stocking Buyers Guides is 110,864 hours.

2. *Entering Data on Buyers Guides:* The amount of time required to enter applicable data on Buyers Guides may vary substantially, depending on whether a dealer has automated the process. For used cars sold "as is," copying vehicle-specific data from dealer inventories to Buyers Guides and checking the "No Warranty" box may take two to three minutes per vehicle if done by hand, and only seconds for those dealers who have automated the process or use pre-printed forms. Staff estimates that dealers will require an average of two minutes per Buyers Guide to complete this task. Similarly, for used cars sold under warranty, the time required to check the "Warranty" box and to add warranty information, such as the additional information required in the Percentage of Labor/Parts and the Systems Covered/Duration sections of the Buyers Guide, will depend on whether the dealer uses a manual or automated process or Buyers Guides that are pre-printed with the dealer's standard warranty

⁴ Buyers Guides are also available online from the FTC's Web site, www.ftc.gov, at <http://business.ftc.gov/selected-industries/automobiles>.

terms. Staff estimates that these tasks will take an average of one additional minute, *i.e.*, cumulatively, an average total time of three minutes for each used car sold under warranty.

Staff estimates that dealers sell approximately fifty percent of used cars “as is” and the other half under warranty. Therefore, staff estimates that the overall time required to enter data on Buyers Guides consists of 482,633 hours for used cars sold without a warranty (28,958,000 vehicles x 50% x 2 minutes per vehicle) and 723,950 hours for used cars sold under warranty (28,958,000 vehicles x 50% x 3 minutes per vehicle) for a cumulative estimated total of 1,206,583 hours.

3. *Displaying Buyers Guides on Vehicles:* Although the time required to display the Buyers Guides on each used car may vary substantially, FTC staff estimates that dealers will spend an average of 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and to display it on the vehicle. The estimated burden associated with this task is approximately 844,608 hours for the 28,958,000 vehicles sold in 2012 (28,958,000 vehicles x 1.75 minutes per vehicle).

4. *Revising Buyers Guides as Necessary:* If negotiations between the buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Buyers Guide to reflect the actual terms of sale. According to the original rulemaking record, bargaining over warranty coverage rarely occurs. Staff notes that consumers often do not need to negotiate over warranty coverage because they can find vehicles that are offered with the desired warranty coverage online or in other ways before ever contacting a dealer. Accordingly, staff assumes that dealers will revise the Buyers Guide in no more than two percent of sales, with an average time of two minutes per revision. Therefore, staff estimates that dealers annually will spend approximately 19,305 hours revising

Buyers Guides (28,958,000 vehicles x 2% x 2 minutes per vehicle).

5. *Spanish Language Sales:* The Rule requires dealers to make contract disclosures in Spanish if the dealer conducts a sale in Spanish.⁵ The Rule permits displaying both an English and a Spanish language Buyers Guide to comply with this requirement.⁶ Many dealers with large numbers of Spanish-speaking customers likely will post both English and Spanish Buyers Guides to avoid potential compliance violations.

Calculations from United States Census Bureau surveys indicate that approximately 5.6 percent of the United States population speaks Spanish at home, without also speaking fluent English.⁷ Staff therefore projects that dealers will conduct approximately 5.6 percent of used car sales in Spanish. Dealers will incur the additional burden of completing and displaying a second Buyers Guide in 5.6 percent of sales assuming that dealers choose to comply with the Rule by posting both English and Spanish Buyers Guides. The annual hours burden associated with completing and displaying Buyers Guides is 2,051,191 hours (1,206,583 hours for entering data on Buyers Guides + 844,608 hours for displaying Buyers Guides). Therefore, staff estimates that the additional burden caused by the Rule's requirement that dealers display Spanish language Buyers Guides when conducting sales in Spanish is 114,867 hours (2,051,191 hours x 5.6% of sales). The other components of the annual hours burden, *i.e.*, purchasing Buyers Guides and revising them for changes in warranty coverage, remain unchanged.

⁵ 16 CFR 455.5.

⁶ *Id.*

⁷ U.S. Census Bureau, TableB16001. *Language Spoken at Home. 2011 American Community Survey 1-Year Estimates*, available at: http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_B16001&prodType=table (5.6% of the United States population 5 years or older who speaks Spanish or Spanish Creole in the home speaks English less than “very well.”).

Estimated annual cost burden: \$32,307,914 in labor costs and \$8,687,400 in non-labor costs.

1. *Labor costs:* Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed, including the corresponding tasks associated with Spanish Buyers Guides, are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of \$14.07 per hour⁸ and an estimated burden of 2,296,227 hours for disclosure requirements, the total labor cost burden is \$32,307,914 (\$1,407 per hour x 2,296,277 hours).

2. *Capital or other non-labor costs:* Although the cost of Buyers Guides can vary considerably, staff estimates that the average cost of each Buyers Guide is thirty cents based on industry input. Therefore, the estimated cost of Buyers Guides for the 28,958,000 used cars sold by dealers in 2012 is approximately \$8,687,400. In making this estimate, staff conservatively assumes that all dealers will purchase pre-printed forms instead of producing them internally, although dealers may produce them at minimal expense using current office automation technology. Capital and start-up costs associated with the Rule are minimal.

Request for Comment: Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the

⁸ The hourly rate is based on the Bureau of Labor Statistics estimate of the mean hourly wage for office clerks, general. *Occupational Employment and Wages, May 2012, 43-9061 Office Clerks, General*, available at: <http://www.bls.gov/oes/current/oes439061.htm#nat>.

required information to consumers. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 60 days from FEDERAL REGISTER date of publication]. Write “Used Car Rule, PRA Comment, P137606” on your comment. Your comment – including your name and your state - will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential” as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file

it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c).⁹ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/usedcarrulepra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Used Car Rule, PRA Comment, P137606,” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission website at www.ftc.gov to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [insert date 60 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses

⁹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

permitted by the Privacy Act, in the Commission's privacy policy, at

<http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka
Principal Deputy General Counsel.

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