



[Billing code: 6750-01-S]

FEDERAL TRADE COMMISSION

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

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years, the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in its Funeral Industry Practice Rule (“Funeral Rule” or “Rule”). That clearance expires on June 30, 2020.

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 “Funeral Rule PRA Comment: FTC File No. P084401” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Patricia H. Poss, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, pposs@ftc.gov, (202) 326-2413.

SUPPLEMENTARY INFORMATION:

Title of Collection: Funeral Industry Practice Rule, 16 CFR 453.

OMB Control Number: 3084-0025.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 164,006.

Estimated Annual Labor Costs: \$5,429,859.

Abstract: The Funeral Rule ensures that consumers who are purchasing funeral goods and services have access to accurate itemized price information so they can purchase only the funeral goods and services they want or need. Among other things, the Rule requires a funeral provider to: (1) provide consumers a copy of the funeral provider's General Price List that itemizes the goods and services it offers; (2) show consumers a Casket Price List and an Outer Burial Container Price List at the outset of any discussion of those items or their prices, and in any event before showing consumers caskets or vaults; (3) provide price information from its price lists over the telephone; and (4) give consumers a Statement of Funeral Goods and Services Selected after determining the funeral arrangements with the consumer during an "arrangements conference." The Rule requires that funeral providers disclose this information to consumers and maintain records documenting their compliance with the Rule.

Burden Statement

Estimated burden hours for the tasks described below are based on the number of funeral

providers (approximately 19,136),¹ the number of funerals per year (an estimated 2,813,503),² and the time needed to complete the information collection tasks required by the Rule. Labor costs associated with the Funeral Rule are derived by applying hourly cost figures to the burden hours for each task.

Recordkeeping: The Rule requires that funeral providers retain copies of price lists and statements of funeral goods and services selected by consumers for one year. Commission staff estimates that providers will spend approximately one hour per provider per year on compliance with this task, resulting in a total burden of 19,136 hours per year (19,136 providers × 1 hour per year = 19,136 hours).

Staff anticipates that clerical personnel, at an hourly rate of \$12.58,³ will typically perform these tasks. Based on the estimated burden of 19,136 hours, the estimated labor cost for recordkeeping is \$240,731.

Disclosure: The Rule's disclosure requirements mandate that funeral providers: (1) maintain current price lists for funeral goods and services, (2) provide written documentation of the funeral goods and services selected by consumers making funeral arrangements, and (3)

¹ The estimated number of funeral providers is from 2019 data provided on the National Funeral Directors Association ("NFDA") website (see <http://www.nfda.org/news/statistics>) (within "General Funeral Service Facts").

² The estimated number of funerals conducted annually is derived from the National Center for Health Statistics ("NCHS"), <https://www.cdc.gov/nchs/nvss/deaths.htm>. According to NCHS, 2,813,503 deaths occurred in the United States in 2017, the most recent year for which final data is available. Staff believes this estimate overstates the number of funeral transactions conducted annually because not all remains go to a funeral provider covered by the Rule (*e.g.*, remains sent directly to a crematory that does not sell urns, remains sent to a non-profit funeral provider, remains donated to a medical school, unclaimed remains handled by a local morgue or local government entity, etc.). NFDA reports its member home handled about 113 calls in 2018, which, if multiplied by the total number of homes (19,136 in 2019) would amount to approximately 2,162,368 funerals.

³ Bureau of Labor Statistics, "May 2015 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 812200 - Death Care Services," *available at* https://www.bls.gov/oes/current/naics4_812200.htm#11-0000. Clerical estimates are based on the mean hourly wage data for "receptionists and information clerks."

provide information about funeral prices in response to telephone inquiries.

1. Maintaining accurate price lists may require that funeral providers revise their price lists occasionally to reflect price changes. Staff estimates that this task requires 2.5 hours per provider per year. Thus, the total burden for covered providers is 47,840 hours (19,136 providers × 2.5 hours per year = 47,840 hours).

Staff estimates that the 2.5 hours required, on average, to update price lists consists of approximately 1.5 hours of managerial or professional time, at \$45.09 per hour,⁴ and one hour of clerical time, at \$12.58 per hour, for a total annual labor cost of \$1,535,090 for maintaining price lists:

Hourly wage and labor category	Hours per respondent	Total hourly labor cost	Number of respondents	Approx. total annual labor costs
\$45.09 Management Employees	1.5	\$67.64	19,136	\$1,294,359
\$12.58 Clerical Workers	1	\$12.58		\$240,731
				\$1,535,090

2. The rulemaking record indicates that 87% or more of funeral providers provided written documentation of funeral arrangements prior to the enactment of the Rule and would continue to do so absent the Rule’s requirements.⁵ Based on this data, Staff estimates that 13% of funeral providers (typically, small funeral homes) may prepare written documentation for funeral goods and services selected by consumers specifically due to the Rule’s mandate. Staff estimates that these smaller funeral homes arrange, on average, approximately 20 funerals per year and that it would take about three minutes to record prices for each consumer on the

⁴ *Id.* Managerial or professional estimates are based on the mean hourly wage data for “funeral service managers.”

⁵ *See* 87 FR 12602 (2017). In a 2002 public comment, the National Funeral Directors Association asserted that nearly every funeral home had been providing consumers with some kind of final statement in writing even before the Rule took effect. Nonetheless, Staff retains its estimate that 13% of funeral providers may provide written disclosures solely due to the Rule’s requirements based on the original rulemaking record.

standard form. This yields a total annual burden of 2,488 hours [(19,136 funeral providers × 13%) × (20 statements per year × 3 minutes per statement) = 2,488 hours].

Staff anticipates that managerial or professional staff will typically perform these tasks, at an hourly rate of \$45.09 per hour. Based on the estimated burden of 2,488 hours, the associated labor cost would be \$112,184.

3. The Funeral Rule also requires funeral providers to provide information about funeral prices in response to telephone inquiries. The rulemaking record indicates that approximately 12% of funeral purchasers request funeral prices through telephone inquiries, with each call lasting an estimated 10 minutes.⁶ Assuming that the average purchaser who makes telephone inquiries places one call per funeral to determine prices,⁷ the estimated burden is 56,270 hours (2,813,503 funerals per year × 12% × 10 minutes per inquiry = 56,270 hours).

Staff understands that managerial or professional time is typically required to respond to telephone inquiries about prices, at an hourly rate of \$45.09 per hour.⁸ Based on the estimated burden of 56,270 hours, the associated labor cost is \$2,537,214.

Compliance Training: Staff believes that annual training burdens associated with the Rule are minimal because compliance training is typically included in continuing education for state licensing and voluntary certification programs. Staff estimates that four employees per firm

⁶ 82 FR at 12603.

⁷ Although consumers who pre-plan their own arrangements may comparison shop and call more than one funeral home for pricing and other information, consumers making “at need” arrangements after a death are less likely to take the time to seek pricing information from more than one home. Many do not seek pricing information by telephone. Staff therefore believes that an average of one call per funeral is an appropriate estimate.

⁸ Although some funeral providers may permit staff who are not funeral directors to provide price information by telephone, the great majority reserve that task to a licensed funeral director. Since funeral home managers are also licensed funeral directors in most cases, Staff has used the mean hourly wage for “funeral service managers,” rather than “funeral directors,” for this calculation.

would each require one half-hour, at most, per year, for training attributable to the Rule's requirements.⁹ Thus, the total estimated time for required training is 38,272 hours (19,136 providers × 4 employees per firm × 0.5 hours = 38,272 hours).

Based on past consultations with funeral directors, FTC staff estimates that funeral homes will require no more than two hours of training per year of licensed and non-licensed funeral home staff to comply with the Funeral Rule,¹⁰ with four employees of varying types each spending one half-hour on training. FTC staff further estimates labor costs for employee time required for compliance training as follows: (a) funeral service manager (\$45.09 per hour); (b) non-manager funeral director (\$27.61); (c) funeral service workers (\$19.70 per hour); and (d) a clerical receptionist or administrative staff member (\$12.58).¹¹ This amounts to \$1,004,640, cumulatively, for all funeral homes:

Hourly wage and labor category	Hours per respondent	Total hourly labor cost	Number of respondents	Approx. total annual labor costs
\$45.09 Management Employees	0.5	\$22.55	19,136	\$431,517
\$27.61 Non-manager Funeral Directors	0.5	\$13.81		\$264,268
\$19.70 Funeral Service Workers	0.5	\$9.85		\$188,490
\$12.58 Clerical Workers	0.5	\$6.29		\$120,365

⁹ Funeral homes, depending on size and other factors, may be run by as few as one owner, manager, or other funeral director or multiple directors at various compensation levels. Extrapolating from past NFDA survey input, staff has estimated that the average funeral home employs approximately four employees (a funeral services manager, funeral director, funeral service worker, and a clerical receptionist) that may require training associated with Funeral Rule compliance. Compliance training for other employees (e.g., drivers, maintenance personnel, attendants) would not be necessary.

¹⁰ Rule compliance is generally included in continuing education requirements for licensing and voluntary certification programs. Moreover, as noted above, the FTC provides its compliance guide to all funeral providers at no cost, and it is available on the FTC web site. Additionally, the NFDA provides online guidance for compliance with the Rule: <http://www.nfda.org/onlinelearning-ftc.html>.

¹¹ Bureau of Labor Statistics, "May 2015 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 812200 - Death Care Services," available at http://www.bls.gov/oes/current/naics4_812200.htm#11-0000 (mean hourly wages for funeral service managers, funeral directors, funeral service workers, and receptionists and information clerks).

				\$1,004,640
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Capital and other non-labor costs: Staff estimates that the Rule imposes minimal capital costs and no current start-up costs. Funeral homes already have access, for ordinary business purposes, to the ordinary office equipment needed for compliance, so the Rule likely imposes minimal additional capital expense.

Compliance with the Rule, nonetheless, does entail some expense to funeral providers for printing and duplication of required disclosures. Assuming, as required by the Rule, that one copy of the general price list is provided to consumers for each funeral or cremation conducted, at a cost of 25¢ per copy,¹² this would amount to 2,813,503 copies per year at a cumulative industry cost of \$703,376 (2,813,503 funerals per year × 25¢ per copy). In addition, small funeral providers that furnish consumers with a statement of funeral goods and services solely because of the Rule’s mandate will incur printing and copying costs. Assuming that those 2,488 providers (19,136 funeral providers × 13%) use the standard two-page form shown in the compliance guide, at 25 cents per copy, at an average of twenty funerals per year, the added cost burden would be \$12,440 (2,488 providers × 20 funerals per year × 25¢). Thus, estimated non-labor costs total \$715,816 (\$703,376 + 12,440).

Request for Comment:

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping 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) ways to enhance the quality, utility, and clarity

¹² Although copies of the casket price list and outer burial container price list must be shown to consumers, the Rule does not require that they be given to consumers. Thus, the cost of printing a single copy of these two disclosures to show consumers is *de minimis*, and is not included in this estimate of printing costs.

of the information to be collected; and (4) ways to minimize the burden of the collection of information.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Funeral Rule PRA Comment: FTC File No. P084401” on your comment. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

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 through the <https://www.regulations.gov> website by following the instructions on the web-based form provided.

If you file your comment on paper, write “Funeral Rule PRA Comment: FTC File No. P084401” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’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, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

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). 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). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

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 AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy

Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Heather Hipsley,

Deputy General Counsel.

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