

**Supporting Statement for Information Collection
Provisions of the FTC Funeral Industry Practices Rule
16 C.F.R. 453
(OMB Control No. 3084-0025)**

1. Necessity for Collection of Information

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 its casket price list and its 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 burial containers; (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 consumers (the "arrangements conference").

Consumers often make purchase decisions regarding funeral goods and services subject to extreme time pressure and emotional vulnerability. The price lists and statement of goods and services required by the Rule increase consumer welfare by: (1) allowing consumers to make purchase decisions based on itemized price information and accurate information about what they are and are not required to purchase, and (2) allowing consumers to review their selections and the related prices. The Funeral Rule also requires that funeral providers retain records demonstrating their compliance with the price list and other provisions of the Rule for a one-year period. These recordkeeping provisions help the Commission effectively monitor and ensure compliance with the Rule. The recordkeeping requirements do this by assuring that much of the information that must be disclosed to consumers is readily available for examination by Commission staff and state regulators for law enforcement purposes.

2. Use of information

The collection of information required by the Funeral Rule involves the preparation and printing of price lists and statements of goods and services, including required disclosures, the retention of these price lists and statements, and the provision of price information in response to telephone inquiries. These requirements help to ensure that price information is readily available to consumers. In addition, disclosures required to appear on the general price list inform consumers that they have the right to purchase only those goods and services that they specifically select. The Rule seeks to promote informed decision-making so that consumers are able to purchase just the funeral goods and services they want and need, and ensure they know the total cost of the goods and services selected. The Rule's recordkeeping provision allows the Commission to verify compliance with the Rule's requirements.

3. Consideration of the Use of Improved Information Technology to Reduce Burden

Consistent with the objectives of the Government Paperwork Elimination Act, 44 U.S.C. § 3504 note, the Rule permits providers to use a variety of technologies to reduce the burden of compliance. For example, funeral providers may maintain their price lists and statements of

goods and services electronically and thereby reduce the time it may take to produce or revise them.

4. Efforts to Identify Duplication

The Rule requires the preparation, distribution, and retention of price lists and statements of goods and services. No other federal law or regulation requires that these records be prepared or kept. Many states have disclosure requirements that are similar to those the Rule requires, and these states may also impose their own recordkeeping requirements. Although states may impose their own requirements, most incorporate by reference the Rule's requirements or substantially mirror them.

5. Impact on Small Businesses

Many of the approximately 19,000 funeral providers in the United States are small businesses. A continuing trend in the industry, however, is the corporate ownership of funeral homes across the country. Corporate or "chain" ownership of funeral homes currently characterizes approximately 20-25 percent of the funeral industry, meaning that a significant portion of the impact of the Funeral Rule may be borne by larger business entities. In any event, the Commission estimates that the burden of complying with the Rule is fairly minimal for both small businesses and large corporations. The Rule contains no reporting requirement for funeral providers, the price lists that funeral providers must prepare and retain are uncomplicated, and the recordkeeping requirements are simple and short in duration (one year). The Rule also allows funeral providers the flexibility to consolidate the price lists they are required to provide to consumers into a single general price list.

6. Consequences of Conducting Collection Less Frequently

Less frequent disclosure of prices and other information relating to funeral goods and services would undermine the Rule's purpose. Every consumer benefits from receiving information about funeral requirements and prices. Requiring less frequent disclosure of this information would mean that some consumers would not have the same ability to make informed funeral purchasing decisions.

The Rule's recordkeeping provision requires funeral providers to retain certain records for one year. A shorter record retention period would hamper the Commission's ability to verify a funeral provider's compliance with the Rule and make it harder for the Commission to gather the information necessary to pursue enforcement actions.

7. Circumstances Requiring Collection Inconsistent With Guidelines

None. The Funeral Rule's recordkeeping requirements are consistent with the guidelines contained in 5 C.F.R. § 1320.5(d)(2).

8. Public Comments/Consultation Outside the Agency

As required by 5 C.F.R. § 1320.8(d)(1), the FTC sought public comments on its proposal to extend its current OMB clearance for the Rule’s information collection requirements. *See* 85 FR 6185 (Feb. 4, 2020). No relevant comments were received. The Commission is providing a second opportunity for public comment while seeking OMB approval to extend the PRA clearance for the Rule.

9. Payment or Gift to Respondents

Not applicable.

10. Assurances of Confidentiality

No assurance of confidentiality is necessary as funeral providers do not register or file any documents with the Commission. To the extent that information covered by a recordkeeping requirement is collected by the Commission for law enforcement purposes, the confidentiality provisions of Sections 6(f) and 21 of the FTC Act will apply. 15 U.S.C. §§ 46(f), 57b-2.

11. Sensitive or Private Information

The Funeral Rule does not require the disclosure of any information of a private or sensitive nature. Some records retained due to the Rule’s requirements may contain, at the option of the funeral provider, personal information regarding a consumer’s funeral choices, including religious affiliation, and personal information regarding the consumer. This information, if collected by the Commission for law enforcement purposes, would be protected by Sections 6(f) and 21 of the FTC Act.

12. Estimated Hours Burden

Annual hours burden: 164,006 hours

The estimated burden associated with the collection of information required by the Rule is 19,136 hours for recordkeeping, 106,598 hours for disclosure, and 38,272 hours for compliance training for a cumulative total of 164,006 hours. This estimate is 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.

¹ The estimated number of funeral providers is based on 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 may overstate 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

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).

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) 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).

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.³ 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 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].

3. The Funeral Rule also requires funeral providers to tell anyone who asks by telephone about the provider's offerings or prices, any accurate information from the prices lists and any other readily available information that reasonably answers the question.. The rulemaking record indicates that approximately 12% of funeral purchasers request funeral prices through telephone inquiries, with each call lasting an estimated 10 minutes.⁴ Assuming that the average purchaser who makes telephone inquiries places one call per funeral to determine prices,⁵ the estimated burden is 56,270 hours (2,813,503 funerals per year × 12% × 10 minutes per inquiry = 56,270 hours).

funeral provider, remains donated to a medical school, unclaimed remains handled by a local morgue or local government entity, etc.). NFDA reports its member funeral homes handled about 113 calls per home in 2018, which, if multiplied by the total number of homes (19,136 in 2019) would amount to approximately 2,162,368 funerals.

³ 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.

⁴ 82 FR at 12603.

⁵ 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

Compliance Training: In addition to the recordkeeping and disclosure-related tasks noted above, funeral homes may also have training requirements specifically attributable to the Rule. 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 would each require one half-hour, at most, per year, for training attributable to the Rule’s requirements.⁶ 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).

Annual labor cost: \$5,429,859

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above.

Recordkeeping: Staff anticipates that clerical personnel, at an hourly rate of \$12.58,⁷ will typically perform the recordkeeping tasks associated with the Rule. Based on the estimated burden of 19,136 hours, the estimated labor cost for recordkeeping is \$240,731.

Disclosure:

1. Staff estimates that the 2.5 hours required, on average, to maintain current price lists for funeral goods and services consists of approximately 1.5 hours of managerial or professional time, at \$45.09 per hour,⁸ 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

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.

⁶ 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.

⁷ 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.”

⁸ *Id.* Managerial or professional estimates are based on the mean hourly wage data for “funeral service managers.”

2. Staff anticipates that managerial or professional staff will typically perform the tasks required to provide written documentation of the funeral goods and services selected by consumers making funeral arrangements, 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. Staff understands that managerial or professional time is typically required to provide information about funeral prices in response to telephone inquiries, at an hourly rate of \$45.09 per hour.⁹ Based on the estimated burden of 56,270 hours, the associated labor cost is \$2,537,214.

Compliance Training: 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
				\$1,004,640

⁹ 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.

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).

13. Estimated Capital/Other Non-Labor Costs Burden

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).

14. Estimated Cost to the Federal Government

Staff estimates that the yearly cost to the Federal Government resulting from administration of the Rule's disclosure requirements will be approximately \$120,000. This estimate includes attorney, clerical, and other support staff costs.

15. Adjustments/Changes in Burden

There are no program changes. The differences in burden estimates from the prior clearance reflect updates in the estimated number of funerals (based on newer data on the number of deaths in the U.S.) and a decrease in the estimated number of covered funeral providers (based on updated data on the NFDA website).

16. Plans for Tabulation and Publication

There are no plans to publish any information obtained pursuant to this information collection.

17. Failure to Display Expiration Date for OMB Approval

Not applicable.

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.

18. Exceptions to Certification

The FTC certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), and is not seeking an exemption to these certification requirements.