

Federal Trade Commission
Motor Vehicle Dealers Trade Regulation Rule
16 C.F.R. Part 463
OMB Control Number 3084-XXXX
Justification – Part A Supporting Statement

Overview of Information Collection:

- The FTC has issued a Notice of Proposed Rulemaking (“NPRM”) related to the sale, financing, and leasing of motor vehicles by motor vehicle dealers and is requesting approval for a New Collection for the associated information collections.
- The proposed rule would (i) prohibit motor vehicle dealers from making certain misrepresentations in the course of selling, leasing, or arranging financing for motor vehicles, (ii) require accurate pricing disclosures in dealers’ advertising and sales discussions, (iii) require dealers to obtain consumers’ express, informed consent for charges, (iv) prohibit the sale of any add-on product or service that confers no benefit to the consumer, and (v) require dealers to keep records of advertisements and customer transactions.
- The proposed rule includes information collection requirements that would require covered entities to provide pricing disclosures as part of motor vehicle sales transactions and retain records to demonstrate compliance with the proposed rule’s disclosure requirements.

1. Need & Method for the Information Collection.

The proposed Motor Vehicle Dealers Trade Regulation Rule would require accurate pricing disclosures in dealers’ advertising and sales discussions, require dealers to obtain consumers’ express informed consent for charges, and require dealers to keep records of advertisements and customer transactions.

Providing consumers with accurate and timely pricing and financing information is critical, especially in the context of motor vehicle sales and leasing, where such information has proved singularly confusing to consumers. If buyers can see and compare the actual prices and costs for the same or similar goods offered by different sellers, buyers can choose to visit the seller that offers the terms most important to them, instead of wasting time and expense exploring offers based on deceptive information. Proposed Section 463.4(a) would require a motor vehicle dealer to disclose the true “Offering Price” of a vehicle in advertisements that reference a specific vehicle or price or financing terms. Under the proposed rule, the “Offering Price” of a vehicle means “the full cash price for which a dealer will sell or finance the motor vehicle to any consumer,” excluding only required government charges.

Proposed Section 463.4(b) would require dealers to provide consumers with information about optional add-on charges at each dealership and on any website, online service, or mobile application on which vehicles are offered for sale. For optional add-on products and services, proposed Section 463.4(c) would require dealers to disclose that the optional add-on product or service is not required and a consumer can purchase the vehicle without the add-on. Section 463.4(d) would require dealers to disclose the total of payments when quoting monthly payment amounts to a prospective buyer or lessee. Proposed Section 463.4(e) would require dealers,

when they compare different monthly payment options with consumers, to inform consumers that a lower monthly payment will increase the total amount the consumer will pay when that is the case.

The proposed rule also includes recordkeeping requirements to help ensure compliance with the rule's disclosure requirements. Section 463.6 of the proposed rule would require motor vehicle dealers to retain for a period of 24 months the following records: all materially different advertisements, sales scripts, training materials, and marketing materials regarding vehicle price, financing, or leasing terms; all materially different copies of lists of add-on products and services; consumer transaction documents such as purchase orders, financing and leasing agreements (and related correspondence, including declination documents as required by the preceding section); records to show compliance with monthly payment disclosure and add-on sales requirements; written consumer complaints and consumer inquiries regarding add-ons or individual vehicles; and other records needed to demonstrate compliance with this rule. These recordkeeping provisions are necessary to ensure that dealers make required disclosures under the rule.

2. Use of the Information.

The proposed information requirements are intended to ensure consumers receive accurate pricing disclosures in motor vehicle dealers' advertising and sales discussions and ensure that dealers retain records of advertisements and customer transactions sufficient to demonstrate their compliance with the Rule and its disclosure requirements.

The rule's recordkeeping requirements will assist the FTC in enforcing the proposed rule and ensuring that covered motor vehicle dealers can adequately demonstrate compliance with the rule.

3. Use of Information Technology.

The proposed amendments permit the use of any technologies that covered firms may wish to employ and that may reduce the burden of information collection. In some instances, however, the need to disclose transaction-related information to consumers at the point of sale requires disclosures to be in hard copy; as such, electronic disclosure pursuant to the Government Paperwork Elimination Act, 44 U.S.C. § 3504 note, is impracticable for such disclosures.

For recordkeeping requirements, the proposed rule provides that covered motor vehicle dealers may retain the required records in any legible form, and in the same manner, format, or place as they may already keep such records in the ordinary course of business.

4. Efforts to Identify Duplication

Commission staff have not identified any other federal statutes, rules, or policies that would duplicate the information collection requirements included in the proposed rule.

5. Burden on Small Business.

The proposed rule applies to all motor vehicle dealers predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, as defined in Section 1029 of the Dodd-Frank Act. FTC staff anticipate that most covered dealers would be classified as small businesses, as explained below. Mindful of this fact, the Commission drafted the proposed rule in a manner designed to avoid imposing undue burden on small entities. In its NPRM, the Commission also sought comment and information on the need, if any, for alternative compliance methods that would, consistent with the statutory requirements, further reduce the economic impact of the proposed rule on small entities.

6. Consequences of Conducting the Collection Less Frequently

The proposed rule requires covered motor vehicle dealers to provide mandated disclosures at specified points during motor vehicle sales transactions. These disclosures are necessary to ensure consumers receive accurate pricing disclosures when motor vehicle dealers advertise vehicles for sale and at key points during sales discussions. The proposed rule would also require covered motor vehicle dealers to retain specified records that are necessary to demonstrate their compliance with the Rule and its disclosure requirements for 2 years from the date the record is created. The Commission has sought to tailor this requirement to limit the potential burden on covered entities. The specified records primarily consist of records that FTC staff anticipate that dealers already retain in the ordinary course of business irrespective of the Rule's requirements, including records associating vehicle financing and customer contracts and leases. In addition, the Commission has proposed a 24-month retention period to limit the potential burden on covered entities.

7. Paperwork Reduction Act Guidelines.

The proposed information collection requirements are consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

8. Consultation and Public Comments.

The Commission is seeking public comment on the proposed information collection requirements and its associated PRA burden analysis.

9. Gifts or Payment.

Not applicable.

10. & 11 Privacy & Confidentiality/Sensitive Questions.

The information to be disclosed is of a routine business nature, including for example the sales price and financing terms applicable in motor vehicle sales transactions. Motor vehicle

dealers routinely make this information available to the public. No personal or sensitive information or commercially confidential information required to be disclosed.

12. Burden Estimate.

The Commission estimates that there are approximately 46,525 franchise, new motor vehicle and independent/used motor vehicle dealers in the U.S.¹

Estimated Annual Hours Burden: 7,816,819 hours

Estimated Annual Labor Cost: \$221,870,782

Disclosure Requirements

The proposed rule includes disclosure requirements designed to curb pricing, leasing, and financing-related deception and unfairness, particularly regarding the truthfulness of key terms and the costs of add-on products and services and obtaining consumers' consent to charges and to promote competition by ensuring that transparent, law-abiding dealers are not competitively disadvantaged.

Add-on List Disclosures: Under Section 463.4(b), the proposed rule would require covered motor vehicle dealers that charge for optional add-on products and services to disclose clearly and conspicuously in advertisements and on any website, online service, or mobile application through which they market motor vehicles and at any dealership, an itemized Add-on List of such products and services and their prices. This information is necessary to prevent misrepresentations regarding add-ons and unfair charges to consumers without their awareness. Of the 46,525 motor vehicle dealers that would be subject to this Rule, the Commission anticipates those that charge for such add-ons and do not already maintain a list will require approximately 14 hours to create an initial disclosure system, including the time necessary to create and review the required Add-on List, and to design a system that provides for display of the Add-on List on websites or other online services. In addition, the Commission anticipates that periodic revision of these lists will be required, at an estimated 1 hour of clerical staff time per year. Finally, for dealers with an online presence, the Commission estimates 8 additional hours of programmer time to integrate this system across the dealership's online and mobile applications. Assuming all covered dealers charge for such add-ons and do not already maintain this information for consumers yields an initial burden estimate of approximately 651,350 hours for the industry (46,525 covered motor vehicle dealers × 14 hours). The Commission further estimates an ongoing, annual periodic revision burden at 46,525 hours (46,525 covered motor

¹ See U.S. Census Bureau, All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2019, available at <https://data.census.gov/cedsci/table?q=CBP2019.CB1900CBP&n=44111%3A44112&tid=CBP2019.CB1900CBP&hidePreview=true&nkd=EMPSZES~001,LFO~001> (listing 21,427 establishments for "new car dealers," NAICS code 44111, and 25,098 establishments for "used car dealers," NAICS code 44112). The discussion in this section of the NPRM concerns facts and statistics for automobiles; we invite submissions of comparable information for other types of motor vehicles.

vehicle dealers × 1 hour). Combined, this yields an overall estimated annual burden of 697,875 hours for the initial design and periodic revision of Add-on Lists.

The Commission estimates the associated labor costs for these disclosures by applying appropriate hourly labor cost-rates to the hours calculated above.² The Commission anticipates that managerial, administrative, and programming staff are likely to perform the tasks associated with preparation of Add-on Lists, including entering data, posting the Add-on Lists in dealerships or submitting them for inclusion on a dealer's website or mobile application, and revising them as needed. In particular, the Commission estimates as follows: 5 hours of time for a finance manager to compile and review a master Add-on List, at a cost-rate of \$65.54 per hour; 1 hour of review by a compliance officer, at a cost-rate of \$26.83 per hour; 8 hours of time for an programmer to design a system for posting prices on location, at a cost-rate of \$28.90 per hour; and 1 hour of time for administrative support staff to make periodic revisions, at a cost-rate of \$18.37 per hour. This yields an associated annual labor cost burden of \$28,105,752 for the industry.

The Commission also anticipates that the estimated 81% of dealers with an online presence will require 8 hours of programmer work for integration work across online and mobile applications. This yields an estimated annual hours burden of 301,480 hours (46,525 motor vehicle dealers × 81% × 8 hours). Applying associated costs to this estimate yields an annual labor cost burden of \$8,712,722 (\$28.90 per hour × 81% × 8 hours).

Disclosures relating to Cash Price without Optional Add-ons: Under Section 463.5(b), the proposed rule would require covered motor vehicle dealers that charge consumers for optional add-on products or services to disclose pricing and cost information without such add-ons. First, before discussing any aspect of financing for a specific vehicle, aside from its Offering Price, the dealer must provide the consumer with an itemized disclosure of the vehicle's Cash Price without Optional Add-ons, along with the option to purchase or finance the vehicle for this price, which excludes optional add-on products or services. Second, before charging a consumer for an add-on product or service in a financed transaction, the dealer must provide the consumer with an itemized disclosure of the vehicle's Cash Price without Optional Add-ons, the finance charge, and any consumer-provided consideration. These disclosures must be dated and signed by the consumer and a manager for the dealer prior to consummation of the transaction. As with the proposed Add-on List provision, this information is necessary to prevent misrepresentations regarding the costs of add-ons and to make clear that these products and services are optional to the consumer. This requirement is also intended to prevent unfair practices where dealers include add-ons in contracts without consumer awareness.

The Commission anticipates that dealers that charge for optional add-ons will incur certain initial and ongoing costs to provide the disclosures relating to Cash Price without Optional Add-ons. Dealers likely will incur some costs to create and implement templates for these disclosures, either in paper or electronic form. The Commission estimates that these tasks will require approximately 8 hours of work by a compliance officer, at a cost-rate of \$26.83 per

² Applicable wage rates are based on data from the Bureau of Labor Statistics' May 2020 National Industry-Specific Occupational Employment and Wage Estimates for NAICS industry category 441100—Automobile Dealers, at https://www.bls.gov/oes/current/naics4_441100.htm.

hour; 4 hours by a sales manager, at a cost-rate of \$63.93 per hour; and 8 hours of programmer time, at a cost-rate of \$28.90 per hour, for a total of \$701.56 and 20 hours per average dealer (($\$26.83 \text{ per hour} \times 8 \text{ hours}$) + ($\$63.93 \text{ per hour} \times 4 \text{ hours}$) + ($\$28.90 \text{ per hour} \times 8 \text{ hours}$)). This yields an estimated hours burden for all dealers, in the first year, of 930,500 hours and an associated labor cost burden of \$32,640,079.

Dealers are also likely to incur some annual labor costs to populate data into these disclosures. The Commission anticipates that the added time to input this data for the disclosures relating to Cash Price without Optional Add-ons will be minimal, as they consist of information that dealers already obtain from the consumer in the ordinary course of business in order to complete these vehicle sales transactions. The Commission estimates that inputting the data needed for the disclosures in Section 463.5(b)(1), (b)(2), and (b)(3) will take two minutes for a salesperson to complete at a rate of \$21.84 per hour. This yields an average cost per disclosure of \$0.73 (rounded to the nearest cent) for completing the required disclosures. Dealers would need to provide the Section 463.5(b)(1) disclosure for every vehicle they offer for sale with any optional add-on products or services; the 463.5(b)(2) disclosure for every vehicle sale that is financed and includes an optional add-on; and the 463.5(b)(3) disclosure for every vehicle sale that includes an optional add-on.

The Commission estimates that approximately 57,866,000 vehicles are sold annually, including an estimated 17,059,000 new vehicles and 40,807,000 used vehicles.³ The Commission assumes that each vehicle sale involves an offer of optional add-ons, and further estimates that approximately 81% of new vehicle sales and 35% of used vehicle sales are financed,⁴ and that approximately 94% of new vehicle sales and 86% of used vehicle sales includes an optional add-on.⁵

Given these estimates and assumptions, the Commission anticipates that dealers will be required to provide the disclosures in Section 463.5(b)(1) in an average of 1,244 transactions per dealer (57,866,000 transactions \div 46,525 motor vehicle dealers).⁶ This yields an annual hours burden of 1,929,237 hours or approximately 41 hours per average dealer (1,244 \times 2/60 hours). The associated annual estimated labor cost is \$42,250,283 for all dealers (1,244 transactions \times 46,525 dealers \times \$0.73 per transaction) or approximately \$908.12 per average auto dealer.

The Commission anticipates that the average dealer will be required to provide the disclosures in Section 463.5(b)(2) in an average of 543 transactions per year. This results in an estimated annual burden of 842,103 hours across the industry or an average of approximately 18

³ U.S. Dept. of Trans., Bureau of Trans. Stat., *New and Used Passenger Car and Light Truck Sales and Leases*, <https://www.bts.gov/content/new-and-used-passenger-car-sales-and-leases-thousands-vehicles> (last visited Apr. 25, 2022) (listing 17,059,000 new vehicle sales and 40,807,000 used vehicle sales in 2019).

⁴ Melinda Zabritski, Experian Info. Sol's Inc., *State of the Automotive Finance Market Q4 2020* at 5, <https://www.experian.com/content/dam/marketing/na/automotive/quarterly-webinars/credit-trends/2020-quarterly-trends/y2-2020-q4-state-automotive-market.pdf> (listing 81.12% of new vehicles and 34.59% of used vehicles with financing in 2020).

⁵ Nat'l Auto. Dealers Ass'n, *Average Dealership Profile* at 1 (Aug. 2021), <https://www.nada.org/media/4129/download?inline> (reporting "F&I penetration" figures of approximately 93.6% for new vehicles and 86.2% for used vehicles).

⁶ The Commission calculates the estimated number of covered transactions as follows: 57,866,000 total vehicle sales \div 46,525 dealers.

hours per average auto dealer ($543 \times 2/60$ hours).⁷ The associated annual labor cost is estimated at approximately \$18,442,045 for the entire industry or approximately \$396 per average auto dealer (543 transactions \times \$0.73 per transaction).

The Commission estimates that the average dealer will be required to provide the disclosures in Section 463.5(b)(3) in an estimated 1,099 transactions.⁸ This yields an annual hours burden for providing required itemizations of optional add-ons that are estimated at 1,704,366 across the industry or approximately 37 hours per average auto dealer ($46,525$ auto dealers \times $1,099 \times 2/60$ hours). The associated labor cost is an estimated \$37,325,612 for the industry or approximately \$802 per average auto dealer ($46,525$ motor vehicle dealers \times $1,099$ transactions \times \$0.73).

Other Required Disclosures. The proposed rule would prohibit dealers from making certain misrepresentations in the course of selling, leasing, or arranging financing for motor vehicles. The proposed prohibitions are consistent with the existing prohibition on misrepresentations under Section 5 of the FTC Act, and do not themselves require additional information collection or disclosures. Thus, while dealers may elect to undertake monitoring or review to ensure compliance, the Commission estimates for present purposes that any additional costs associated with the proposed misrepresentation prohibitions to be *de minimis*.

The proposed rule also would require covered motor vehicle dealers to clearly disclose the Offering Price of a motor vehicle in advertisements and in response to consumer inquiries. This requirement is necessary to address deceptive and unfair practices with respect to vehicle pricing representations, whether add-on products and services are optional and their costs, and consumer consent to purchase such optional products and services. Vehicle pricing activities are usually and customarily performed by dealers in the course of their regular business activities. While the proposed provision may increase the importance of these activities, or alter when in the course of business they are undertaken, the Commission estimates, for present purposes, that any additional costs associated with the proposed offering price requirement to be *de minimis*.

In addition, the proposed rule would require dealers, when making any representation about the monthly payment for a vehicle, to disclose the total amount the consumer will pay to purchase the vehicle at that monthly payment after making all payments as scheduled, as well as the amount of consideration to be provided by the consumer if the total amount disclosed assumes the consumer will provide consideration. The Commission anticipates that such disclosures would contain information already produced in the ordinary course of business and known to dealership staff at the time such disclosures would be required. As such, the Commission anticipates that this proposed provision would merely require a covered motor vehicle dealer to provide readily available information, and that the disclosure burdens associated with these requirements is likely *de minimis*. Finally, the proposed rule would require covered dealers that sell optional add-on products and services to disclose to consumers that

⁷ The Commission estimates the estimated number of covered transactions as follows: $((17,059,000 \text{ new vehicle sales} \times 81\% \text{ financed} \times 94\% \text{ with optional add-ons (i.e., 12,988,722)}) + (40,807,000 \text{ used vehicle sales} \times 35\% \text{ financed} \times 86\% \text{ with optional add-ons (i.e., 12,282,907)}) \div 46,525 \text{ dealers}$).

⁸ The Commission calculates the estimated number of covered transactions as follows: $((17,059,000 \text{ new vehicle sales} \times 94\% \text{ with optional add-ons}) + (40,807,000 \text{ used vehicle sales} \times 86\% \text{ with optional add-ons})) \div 46,525 \text{ dealers}$.

these products are not required. This requirement is necessary to address deceptive and unfair practices regarding these products and services, including misrepresentations that these products are required when they are not, and charging consumers for such products without the consumers' Express, Informed Consent. The proposed rule would also require covered dealers to disclose the total cost of a vehicle when making representations about the monthly payment for the vehicle, as well as that a lower monthly payment will increase the total cost where applicable. These requirements are necessary to address deceptive practices with respect to vehicle pricing representations, including the use of monthly payment amounts to incorrectly imply savings or parity between offers.

The Commission anticipates that the disclosure burdens associated with these requirements is likely *de minimis*. These proposed rule provisions would merely require a covered motor vehicle dealer to provide readily available information to consumers in advertisements or direct communications with customers, as applicable.

Recordkeeping

The proposed rule would require covered motor vehicle dealers to retain, for a period of twenty-four months from the date the record is created, records sufficient to demonstrate their compliance with the Rule and its disclosure requirements. Such records would include advertising materials regarding the price, financing or lease of a motor vehicle; copies of Add-on Lists offered to consumers; copies of the disclosures relating to Cash Price without Optional Add-ons required by the Rule; copies of purchase orders and financing and lease documents signed by the consumer; and records demonstrating compliance with the proposed rule's requirements for add-ons in consumer contracts.

The Commission anticipates some incremental recordkeeping burden for covered motor vehicle dealers who would be required to retain copies of Add-on Lists, disclosures relating to Cash Price without Optional Add-ons, and other transaction records necessary to demonstrate compliance with the Proposed rule's requirements.

The Commission anticipates that it will take covered motor vehicle dealers approximately 15 hours to modify their existing recordkeeping systems to retain the required records for the 24-month period specified in the proposed rule. This yields a general recordkeeping burden of 697,875 hours annually (46,525 motor vehicle dealers × 15 hours per year).

The Commission anticipates that programming, administrative, compliance, and clerical staff are likely to perform the tasks necessary to comply with these recordkeeping requirements. In particular, the Commission estimates as follows: 8 hours of time for a programmer to design, implement, or update systems for record storage, at a cost-rate of \$28.90 per hour; 5 hours of additional clerical staff work, at a cost-rate of \$18.37 per hour; 1 hour of sales manager review, at a cost-rate of \$63.93 per hour; and 1 hour of review by a compliance officer, at a cost-rate of \$26.83 per hour. Applying these cost-rates to the estimated hours burden described above, the total estimated initial labor cost burden is \$413.81 per average dealership (($\$28.90 \text{ per hour} \times 8 \text{ hours}$) + ($\$18.37 \text{ per hour} \times 5 \text{ hours}$) + ($\$63.93 \text{ per hour} \times 1 \text{ hour}$) + ($\$26.83 \text{ per hour} \times 1 \text{ hour}$)), totaling \$19,252,510 (rounded to the nearest dollar) across the industry ($\$413.81 \text{ per average dealership} \times 46,525 \text{ dealerships}$).

Beyond those records already created and retained in the ordinary course of business, proposed Section 463.6(a)(4) would require covered motor vehicle dealers to create and retain calculations of loan-to-value ratios in contracts including GAP agreements. This requirement is necessary to prevent deception and unfairness relating to the sale of GAP agreements under circumstances in which the consumer would not benefit from such products. As described above, the Commission estimates that covered motor vehicle dealers sell approximately 57,866,000 vehicles each year. The Commission further estimates that approximately 25.7% of such sales include GAP agreements, for an estimated total of 14,871,562 covered vehicle sales.⁹

The Commission estimates that covered motor vehicle dealers will require approximately 1 hour for a sales manager to create and implement a loan-to-value calculation template, at a cost-rate of \$63.93 and 1 hour for a compliance officer to review the template, at a cost-rate of \$26.83. This yields an estimated initial hours burden for the creation of loan-to-value calculation templates for all dealers of 93,050 hours (46,525 covered motor vehicle dealers × 2 hours). Applying the above-described cost-rates, the associated labor cost burden is estimated at \$4,222,609 for all dealers (($\$63.93$ per hour × 1 hour × 46,525 dealerships) + ($\$26.83$ per hour × 1 hour × 46,525 dealerships)).

The Commission also anticipates that, with the template in place, covered motor vehicle dealers will expend one minute per sales transaction for a salesperson to perform the calculation contemplated by this requirement, at a cost rate of \$21.84 per hour. As described previously, the Commission estimates that covered motor vehicle dealers sell approximately 57,866,000 vehicles each year and approximately 25.7% of such sales include GAP agreements, for an estimated total of 14,871,562 covered vehicle sales. While the number of motor vehicles sold will vary by dealership, this yields an average sales volume of 320 sales transactions per average dealership per year that include a GAP agreement. This yields an estimated annual hours burden for all dealers of 248,133 hours (46,525 covered dealers × 320 covered transactions × 1/60 hours). Applying the associated labor rates yields an estimated annual labor cost for all dealers of \$5,419,232 (248,133 hours × \$21.84 per hour).

13. Estimated nonrecurring costs.

Capital and Other Non-Labor Costs: \$14,769,361.

The Commission anticipates that the proposed rule would impose limited capital and non-labor costs. Covered motor vehicle dealers already have in place existing systems for providing sales and contract-related disclosures to motor vehicle buyers and lessees as well as persons seeking information during the vehicle-shopping process. While the proposed rule's disclosure requirements might make limited additions to the types of forms and disclosures that must be provided during the process of selling or leasing a motor vehicle, the Commission anticipates that these changes will not require substantial investments in new systems. Moreover, many dealers may elect to furnish some disclosures electronically, further reducing total costs.

⁹ See Nat'l Consumer Law Ctr., *Auto Add-ons Add Up: How Dealer Discretion Drives Excessive, Inconsistent, and Discriminatory Pricing* 9 (Oct. 11, 2017), available at https://www.nclc.org/images/pdf/car_sales/report-auto-add-on.pdf (nationwide dataset of 1.8 million car sale transactions, of which 462,170 included GAP agreements).

Section 463.4(b) would require dealers who engage in advertising and who also charge for optional add-ons to have a website, online service, or other mobile application by which to disclose an Add-on List. In the Commission's estimation, dealers who engage in covered advertising generally already operate a website or other application by which they could make such disclosures. As such, the Commission estimates that the capital costs associated with such additional disclosures are likely *de minimis*.

Covered motor vehicle dealers already have in place existing recordkeeping systems for the storage of documentation they would retain in the ordinary course of business irrespective of the Rule's requirements, including records associating vehicle financing and customer contracts and leases. The Commission anticipates that the proposed rule's additional recordkeeping requirements may result in incremental non-labor costs to add capacity to these systems in order to store the records. The proposed rule provides that covered motor vehicle dealers may keep the required records in any legible form, and in the same manner, format, or place as they may already keep such records in the ordinary course of business. Accordingly, the proposed rule would not require covered persons to invest in new recordkeeping systems and may retain records in whatever form they prefer, whether hard copy or electronic.

The Commission estimates that the non-labor costs incurred by dealers for providing disclosures in written or electronic form will differ based on the method of disclosure employed by the dealer. As explained in detail in the Preliminary Regulatory Analysis,¹⁰ the Commission estimates an average physical cost of disclosure of \$0.11 across paper and electronic disclosure methods—a figure which includes (1) an estimated cost of \$0.15 per printed disclosure at one single-sided page per disclosure, which is based on industry input regarding the printing costs associated with the FTC's Used Car Rule Buyers Guides;¹¹ and (2) a cost of \$0.02 per disclosure made electronically.¹² As noted above, dealers would need to provide the Section 463.5(b)(1) disclosure for every vehicle they offer with any optional add-on products or services; the 463.5(b)(2) disclosure for every vehicle sale that is financed and includes an optional add-on; and the 463.5(b)(3) disclosure for every vehicle sale that includes an optional add-on. The estimated cost of providing these three disclosures annually is approximately \$317.45 per average covered dealer,¹³ totaling approximately \$14,769,361.

¹⁰ *Id.*

¹¹ Fed. Trade Comm'n, Agency Information Collection Activities; Proposed Collection; Comment Request; Extension, 84 Fed. Reg. 38979, 38981 (Aug. 8, 2019) (estimating that average printing cost for the one-page, double-sided Buyers Guide is thirty cents). In making this estimate for printed disclosures, the Commission assumes that all dealers will purchase pre-printed template forms instead of producing them internally, although dealers may produce them at lower expense using their own office automation technology.

¹² The Commission arrived at this figure based on the approximate estimated cost differential between hard copy and electronic disclosures under the Commission's Franchise Rule. Fed. Trade Comm'n, Agency Information Collection Activities; Proposed Collection; Comment Request, 85 Fed. Reg. 19479, 19480 (estimating \$35 for paper disclosures and \$5 for comparative electronic disclosures).

¹³ The Commission obtains this cost estimate as follows: (a) $(\$0.11 \times 57,866,000 \text{ total vehicle sales}) \div 46,525 \text{ dealers}$ + (b) $(\$0.11 \times (17,059,000 \text{ new vehicle sales} \times 81\% \text{ financed} \times 94\% \text{ with optional add-ons}) + (40,807,000 \text{ used vehicle sales} \times 35\% \text{ financed} \times 86\% \text{ with optional add-ons})) \div 46,525 \text{ dealers}$ + (c) $(\$0.11 \times (17,059,000 \text{ new vehicle sales} \times 94\% \text{ with optional add-ons}) + (40,807,000 \text{ used vehicle sales} \times 86\% \text{ with optional add-ons})) \div 46,525 \text{ dealers}$)).

The Commission further estimates that covered motor vehicle dealers that store records in hard copy are unlikely to require extensive additional storage for physical document retention. Further, due to the low cost of electronic storage, the Commission anticipates that motor vehicle dealers who store their records electronically would incur minimal incremental cost to expand their storage capacity in order to comply with the proposed rule's recordkeeping requirements due to the low cost of cloud and other electronic storage options. Any other capital costs associated with the proposed rule are likely to be minimal.

14. Estimated cost to the Government.

FTC staff estimates that the cost to the Federal Government of implementing the proposed rule will total approximately \$304,568. This estimate is based on the assumption that one attorney work year (\$186,342) and one investigator work year (\$118,166) will be expended to enforce the proposed rule. These estimates include employee benefits.

15. Reasons for Changes.

The proposed rule will result in an estimated 7,816,819 burden hours annualized, \$221,870,782 in labor costs, and \$14,769,361 in capital/non-labor costs.

16. Publicizing Results.

Not applicable. There are no plans to publish any information for statistical use.

17. Failure to Display OMB Expiration Date.

Not applicable. The Commission will display the control number assigned by OMB to any information collection requirements proposed herein and adopted in any final rule.

18. Exceptions to "Certification for Paperwork Reduction Act Submissions."

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