

FEDERAL TRADE COMMISSION**Agency Information Collection Activities; Submission for OMB Review; Comment Request****AGENCY:** Federal Trade Commission.**ACTION:** Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act (“PRA”). The Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its proposal to extend through December 31, 2010, the current OMB clearance for information collection requirements contained in its Used Motor Vehicle Trade Regulation Rule (“Used Car Rule” or “Rule”). That clearance expires on December 31, 2007.

DATES: Comments must be filed by January 18, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to “Used Car Rule: FTC Matter No. P067609,” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H-135 (Annex J), 600 Pennsylvania Ave., N.W., Washington, D.C. 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled “Confidential.”¹

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-UsedCarRule>. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the <https://secure.commentworks.com/ftc-UsedCarRule> weblink. If this notice appears at www.regulations.gov, you

may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it.

Comments also should be submitted to: Office of Management and Budget, ATTN: Desk Officer for the Federal Trade Commission. Comments should be submitted by facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC website, to the extent practicable, at www.ftc.gov. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe, Suite 1825, Chicago, Illinois 60603, (312) 960-5634.

SUPPLEMENTARY INFORMATION: On August 20, 2007, the FTC sought comment on the information collection requirements associated with the Used Car Rule. 16 CFR Part 455. See 72 FR 46487. No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501-3521, the FTC is providing this second opportunity to comment while seeking OMB approval to extend the existing paperwork clearance for the Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before January 18, 2008.

The Used Car Rule facilitates informed purchasing decisions by requiring used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of 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:

Estimated total annual hours burden: 2,250,000 hours

The Rule has no recordkeeping requirements. The estimated burden relating solely to disclosure requirements is 2,250,000 hours. As explained in more detail below, this estimate is based on the number of used car dealers (approximately 63,000²), the number of used cars sold by dealers annually (approximately 28,029,000³), and the time needed to fulfill the information collection tasks required by the rule.⁴

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,⁵ which are readily available from many commercial printers or can be produced by an office word-processing or desk-top publishing system.⁶ Based on a population of 63,000 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 126,000 hours.

2. Entering Data on Buyers Guides: The amount of time required to enter applicable data on Buyers Guides may vary substantially, depending on

² CNW Marketing Research, Inc. CNW lists franchised outlets with used car operations as 19,017 and independent used car outlets as 43,521 in June 2007, for a total of 62,538 outlets. Staff rounded that figure to 63,000.

³ *Id.*

⁴ 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.

⁵ In the FTC’s 2004 PRA notice staff estimated the time needed to purchase Buyers Guides as one hour per year. 69 FR 63535, 63536 (Nov. 2, 2004) (addressing comments). Based on industry input, staff believes that more time may be spent purchasing Buyers Guides than previously estimated because dealers periodically may change the warranty coverage that they offer and the corresponding preprinted Buyers Guides that they purchase.

⁶ Buyers Guides are also available online from the FTC’s Web site, www.ftc.gov, as links to A Dealer’s Guide to the Used Car Rule at <http://www.ftc.gov/bcp/online/pubs/buspubs/usedcarc.shtm>.

¹ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

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 this task will require an average of two minutes per Buyers Guide.⁷ 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 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 approximately fifty percent of used cars sold by dealers are sold “as is,” with the other one half sold under warranty.⁸ Therefore, staff estimates that the overall time required to enter data on Buyers Guides consists of 467,000 hours for used cars sold without a warranty (28,029,000 vehicles x 50% x 2 minutes per vehicle) and 701,000 hours for used cars sold under warranty (28,029,000 vehicles x 50% x 3 minutes per vehicle) for a cumulative estimated total of 1,168,000 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.⁹

⁷ The 2004 PRA notice estimated the average time spent for this task as one-and-one half minutes. 69 FR at 63536. Based upon comments received at that time and additional industry input in preparing this notice, staff has revised its estimate upward to 2 minutes.

⁸ The 2004 PRA notice estimated that sixty percent of sales were “as is.” 69 FR at 63536. Industry input suggests that more used cars are now sold with warranties because of an increase in the availability of manufacturers’ certified used car programs and a longer duration of manufacturers’ original new car warranties. *See also* Manheim Market Report, at 35 (citing Autodata Corporation (Table noting that 1.6 million certified pre-owned used cars were sold in 2006, which constitutes a two percent increase in certified used car sales from 2004 and approximately six percent of the used cars sold by dealers in 2006)). Staff therefore has decreased its estimate of the number of “as is” sales from the prior PRA notice.

⁹ The 2004 PRA notice also stated this estimate. *See* 69 FR at 63536. Absent specific industry

The estimated burden associated with this task is approximately 818,000 hours for the 28,029,000 vehicles sold in 2006 (28,029,000 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 the Buyers Guide will be revised 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 19,000 hours revising Buyers Guides (28,029,000 vehicles x 2% x 2 minutes per vehicle).

5. Spanish Language Sales: The Rule requires that contract disclosures be made in Spanish if a sale is conducted in Spanish.¹⁰ The Rule permits displaying both an English and a Spanish language Buyers Guide to comply with this requirement.¹¹ 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 six percent of the United States population speaks Spanish at home, without also speaking fluent English.¹² Staff therefore projects that approximately six percent of used car sales will be conducted in Spanish. Dealers will incur the additional burden of completing and displaying a second Buyers Guide in six 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

estimates to the contrary, staff continues to believe this estimate is reasonable.

¹⁰ 16 CFR 455.5.

¹¹ *Id.*

¹² U.S. Census Bureau, Table S1601. Language Spoken at Home. 2005 American Community Survey, available at: http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2005_EST_G00_S1601&-ds_name=ACS_2005_EST_G00_-lang=en&-redoLog=false&-CONTEXT=st. The table indicates that 19.4% of the U.S. population do not speak English at home, 62% of this group speaks Spanish at home, and 47.8% of those home Spanish speakers speak English less than “very well.”

completing and posting Buyers Guides is 1,986,000 hours (1,168,000 hours for entering data on Buyers Guides + 818,000 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 119,000 hours (6% x 1,986,000 hours). The other components of the annual hours burden, *i.e.*, purchasing Buyers Guides and revising them for changes in warranty coverage, remain unchanged.

Estimated annual cost burden:

\$32,876,000, consisting of \$27,270,000 in labor costs and \$5,606,000 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 \$12.12 per hour¹³ and an estimated burden of 2,250,000 hours for disclosure requirements, the total labor cost burden would be approximately \$27,270,000.

2. Capital or other non-labor costs: Although the cost of Buyers Guides can vary considerably, based on industry input staff estimates that the average cost of each Buyers Guide is 20 cents. The estimated cost of Buyers Guides for the 28,029,000 used cars sold by dealers in 2006 is approximately \$5,606,000. In making this estimate, staff conservatively assumes that all dealers will purchase preprinted 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.

William Blumenthal

General Counsel

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FEDERAL TRADE COMMISSION

Charges for Certain Disclosures

AGENCY: Federal Trade Commission.

¹³ The hourly rate is based on Bureau of Labor Statistics estimate of the mean hourly wage for office clerks, general, No. 43-9061. National Occupational Employment and Wage Estimates, May 2006 available at: <http://www.bls.gov/oes/current/oes439061.htm>.