

**BEFORE THE
FEDERAL TRADE COMMISSION**

**COMMENTS OF THE
NATIONAL FUNERAL DIRECTORS ASSOCIATION
ON THE
FEDERAL TRADE COMMISSION'S
REQUEST TO THE
OFFICE OF MANAGEMENT AND BUDGET
FOR EXTENSION OF THE
EXISTING PAPERWORK CLEARANCE
FOR THE FUNERAL RULE**

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I. INTRODUCTION

The National Funeral Directors Association (“NFDA”) submits the following comments to the Federal Trade Commission (“FTC”) pursuant to its request for interested parties to comment on the FTC’s proposed submission to the Office of Management of Budget (“OMB”) concerning the FTC’s estimate of the paperwork burden of the Funeral Rule. (See *66 Fed.Reg.* at 58492 – 93 (November 21, 2001)). In the FTC’s proposed submission to OMB, the Commission is estimating that the aggregate cost of compliance for the nation’s 22,300 funeral homes arising from the Funeral Rule’s recordkeeping and disclosure requirements totals \$4,177,123.

NFDA is the nation’s largest funeral service organization. It has over 13,000 members ranging in size from small family-owned funeral homes to large publicly-held corporations. In its role as the national representative of the funeral profession, NFDA has been actively involved in all facets of the FTC’s development and implementation of the Funeral Rule. For the past 18 years, NFDA has provided extensive training and assistance to its members to insure compliance with the many requirements of the Funeral Rule. Given that experience, NFDA is well aware of our member’s experiences and costs in meeting their compliance obligations under the Funeral Rule.

In conducting its cost analysis, the FTC examined the following separate categories of recordkeeping and disclosure requirements imposed by the Funeral Rule:

1. Recordkeeping of Price Lists;
2. Maintaining and Updating Price Lists;
3. Filling Out Statements of Funeral Goods and Services Selected;
4. Disclosing Prices Over the Telephone;

5. Copying or Printing of Price Lists;
6. Preparing Statements of Funeral Goods and Services Selected; and
7. Training Licensed and Non-Licensed Funeral Home Staff.

From these seven categories, the FTC estimated that the recordkeeping and disclosure requirements of the Funeral Rule imposed an aggregate cost of approximately \$4,200,000 on the nation's 22,300 funeral homes. NFDA, on the other hand, believes the actual cost is slightly over \$17,000,000, or more than four times as much as the FTC estimates. As shown below, NFDA has arrived at those cost projections using the similar analysis that was employed by the FTC.

Before turning to that analysis, it is important to note that, although NFDA believes that the FTC has significantly understated the recordkeeping and disclosure costs of the Funeral Rule, it is not advocating in any respect that the Funeral Rule be repealed because of these compliance costs. As explained in detail in NFDA's August 10, 1999 Comments on the current FTC Review of the Funeral Rule, the cost of Funeral Rule compliance is the burden that those who sell in the funeral marketplace should be expected to bear in order to provide basic safeguards to the consumers they serve. Funeral directors have borne these costs for the past 18 years and are willing to bear them in the future to insure that funeral consumers are provided legally enforceable rights. We look forward to the day when the FTC strengthens the Funeral Rule to protect every consumer who purchases goods or services from those in the deathcare industry, and not just those consumers who purchase from funeral directors.

II. COMPLIANCE COST ANALYSIS

1. **Recordkeeping.** The Funeral Rule requires that funeral homes retain in their records for one year after their last use a copy of the General Price List, Casket Price List and

Outer Burial Container Price List. In addition, funeral homes are required to maintain for one year after the arrangement conference a copy of the Statement of Funeral Goods and Services Selected.

The FTC calculated the burden of recordkeeping at one hour per year for each of the nation's 22,300 funeral homes. Assuming that the recordkeeping task would be performed by an administrative employee, it assigned a cost of \$10.00 per hour for the recordkeeping responsibilities. Therefore, it came up with a total aggregate cost of \$223,000 for the recordkeeping requirement.

NFDA believes that the FTC has substantially understated the hourly cost of the administrative employee performing the service. When factoring not only the cost of wages, but also health benefits, social security and medicare taxes, disability and group life insurance costs, and other employee benefits, NFDA believes the actual cost of an administrative employee is \$15.00 per hour rather than the \$10.00 utilized by the FTC. NFDA is also aware that funeral homes can rarely depend upon low level clerical assistants in conducting its operations. Rather, most funeral home employ experienced administrative assistants whose salary would be more substantial than entry level employees.

Utilizing the more accurate \$15.00 per hour cost for administrative employees, the recordkeeping compliance cost of the Funeral Rule increases from \$230,000 to \$334,500.

2. **Maintaining and Updating Price Lists.** As the FTC explained in its analysis, funeral providers are required to maintain current price lists for funeral goods and services. The FTC estimated that it takes on average two hours of labor per funeral home to perform this task. According to the FTC, of the two hours of labor spent on the updating of the price lists, three-quarters of the task would be done by a funeral director at \$75.00 an hour and one-quarter of it

by an administrative assistant at \$10.00 an hour. This would total \$117.50 per funeral home. Multiplying that figure by the nation's 22,300 funeral homes provides an aggregate compliance cost of \$2,620,250 for updating price lists.

It has been NFDA's experience that its members have spent substantially more time per year in reviewing and setting prices among the many items on the General Price List ("GPL"). We confirmed our observation when we sent the FTC's analysis to a large northeastern funeral home for its review. Management at that funeral home reported that it spends on average five hours per year in reviewing and adjusting its prices. Using a figure of \$60 per hour for a licensed funeral director (as opposed to the more expensive \$75 figure used by the FTC), the funeral home estimated that \$300 in funeral directors' time was utilized in this task. It also recommended adding one hour of secretarial time to make the changes, proof the changes, and finalize the document. Therefore, compliance costs for the updating of price lists totaled \$315 per funeral home or \$7,024,000 in the aggregate for the 22,300 funeral homes in the country.

3. **Filling Out the Statement of Funeral Goods and Services Selected.** The Funeral Rule requires funeral directors at the end of the arrangement conference to provide a list of the goods and services purchased by the consumer. This list is referred to as the Statement of Funeral Goods and Services Selected (the "Statement").

In its analysis, the FTC indicated that prior to the Funeral Rule, 87% of funeral homes were already providing Statements to consumers at the end of the arrangement conference. Therefore, it believes that only 13% of funeral homes had to begin filling out Statements due to the requirements of the Funeral Rule. Based on its projection that it takes three minutes to record prices on the Statement and that the 13% of funeral homes not providing Statements before the Funeral Rule probably only did an average of 20 funerals per year, this compliance obligation

totaled 2,899 hours. Multiplying that figure by \$75 per hour led the FTC to calculate a compliance burden of \$217,425.

In the NFDA analysis, there was no compliance cost assigned to this task. NFDA believes that prior to the Rule, nearly every funeral home was providing a written statement of the goods and services provided to the consumer. While in some cases, this Statement may not have been given immediately upon the conclusion of the funeral arrangement, it was being provided to the consumer at a later time. Therefore, NFDA did not assign any cost to this obligation of the Funeral Rule.

4. **Disclosing Prices Over the Telephone.** The Funeral Rule requires funeral providers to disclose prices to consumers who telephone the funeral home and ask for price information. The FTC estimates that of the 2,300,000 funerals in the country, only 9% involved price shopping. Of that 9% making price inquiries, the FTC projects that only half of the time is spent making disclosures required because of the Funeral Rule. The FTC further estimates that the calls take only three minutes and that the average price shopper makes only two calls per funeral.

Applying hard figures to the FTC's estimates indicate that of the 2,300,000 funerals, only 207,000 funerals (9%) involve price shoppers. If each made two calls per funeral and spent one and one-half minutes of the call talking about funeral prices, the hourly aggregate burden is 10,350. Multiplying this by a rate of \$75 an hour equals a total dollar compliance figure of \$776,250.

NFDA believes that the FTC has significantly understated the amount of time imposed by the telephone price disclosure requirement. Management at the large northeast funeral home (which has both small rural funeral homes as well as larger suburban operations), informed us

that approximately 12% of their clientele price shop for funerals. Furthermore, management informed us that on average, it takes 20 minutes for a funeral director to respond to the price inquiries of a shopper. Since funeral services involve many components, it is necessary for the funeral director to provide a thorough explanation so that the consumer has a full appreciation of the price of funeral services and merchandise.

If we assume a price shopper level of 12%, there would be 276,000 shoppers on an annual basis arising from the 2,300,000 deaths per year. Rather than applying the 20 minute per call utilized by the northeastern funeral home, NFDA employed a more conservative figure of 15 minutes per call. Multiplying this by the \$60 per hour compensation for funeral directors lead to an aggregate compliance cost of \$4,140,000.

5. **Copying or Printing Price Lists.** The FTC estimated that each of the nation's 22,300 funeral homes would utilize approximately 300 pages per year to make copies of various price lists. Using a figure of 5¢ per page, the FTC estimated the total burden of copying or printing price lists at \$334,500.

Management at the northeast funeral home believes that the funeral home provides 2,000 copies of its General Price List for its 1,000 funeral call volume. Because of the GPL distribution requirements, it is customary for funeral homes to provide several copies of the GPL to family members. GPL's may be distributed at the removal and again at the arrangement conference. In addition, price shoppers are given copies of the General Price List as well as casual visitors to the funeral home. Therefore, the funeral home estimates that it utilizes at least 2,000 copies of its General Price List in providing 1,000 funerals.

Applying this two-to-one ratio on a nationwide basis would lead to a total use of 4,600,000 copies of the GPL by the nation's 22,300 funeral homes. While photocopying

typically cost around 5¢ per page, many funeral homes utilize more expensive printing services in producing the GPL. Using a conservative figure of 25¢ per GPL, NFDA arrived at a total figure of \$1,150,000 as the cost of providing 4,600,000 General Price Lists to the public. This, of course, does not take into effect the cost of the Casket Price List and Outer Burial Container Price List.

6. **Preparing Statement of Funeral Goods and Services Selected.** As stated in Section 3, the FTC believed that an estimated 2,899 funeral homes are providing written statements because of the requirements of the Funeral Rule. The copying cost for those statements would, in the FTC's estimates, total \$5,798.

For the same reasons we set forth in Section 3 above, NFDA does not believe that this obligation imposed any significant cost compliance to funeral consumers. Therefore, we did not assign a dollar value to this item.

7. **Training Licensed and Non-Licensed Funeral Home Staff.** The FTC stated that since the cost of training associated with Funeral Rule compliance is generally included in continuing education requirements for licensed funeral directors, it was not necessary to assign any additional costs for this item. Moreover, the FTC noted that it provides its Compliance Guide to all funeral providers at no cost. Accordingly, in the FTC's opinion, the Funeral Rule imposes no additional training costs on funeral homes.

NFDA strongly disagrees with the premise of this conclusion. First, it should be noted that approximately half of the states in the country do not have continuing education requirements. Moreover, simply because a state has continuing education requirements does not mean that a funeral home will not experience training costs for the Funeral Rule. Funeral homes are compelled to train non-licensees in Funeral Rule compliance. In addition, many funeral

homes conduct in-house training for licensed staff which does not qualify for continuing education credits.

Management at the northeast funeral home that NFDA consulted estimated that each of its 12 licensed funeral directors spends two hours per year in Funeral Rule training. In addition, its 40 support staff spend one hour in Funeral Rule compliance training. Using personnel cost of \$60 per licensee and \$15 per support staff, the Funeral Rule training compliance obligation for this funeral home would total \$1,400 for licensees (24 hours x \$60) and \$600 for support staff (40 staff x \$15). The combined cost would be \$2,000.

Since the northeast funeral home we consulted is substantially larger than most of the funeral homes in the United States, it would not be appropriate to apply its training costs to the 22,300 funeral homes in the country. However, if we assumed that its training costs are proportionate to the funeral volume it is performing, we can estimate that its training cost per funeral would equal \$2.00 per funeral. (\$2,000 divided by 1,000 funerals). Applying that figure to the nation's 2,300,000 funerals would provide a Funeral Rule training compliance cost of \$4,600,000.

III. CONCLUSION

Set forth below is a chart which compares how the FTC arrived at its estimated compliance cost of \$4,177,223 versus NFDA's estimated compliance cost of \$17,248,500:

FUNERAL RULE COMPLIANCE COST SUMMARY

	ACTIVITY	FTC ESTIMATE	NFDA ESTIMATE
1.	Recordkeeping of Price Lists	\$223,000	\$334,500
2.	Maintaining and Updating Price Lists	\$2,620,250	\$7,024,000
3.	Filling Out Statement of Funeral Goods and Services Selected	\$217,425	\$0.00
4.	Disclosing Prices Over the Telephone	\$776,250	\$4,140,000
5.	Copying or Printing of Price Lists	\$334,500	\$1,150,000
6.	Copying Statement of Funeral Goods and Services Selected	\$5,798	\$0.00
7.	Training Licensed and Non-Licensed Funeral Home Staff	\$0.00	\$4,600,000
	TOTAL	\$4,177,223	\$17,248,500

If the Staff of the Federal Trade Commission has any questions regarding the NFDA Funeral Rule Compliance Cost Analysis, please feel free to contact the undersigned.

Respectfully submitted,
 NATIONAL FUNERAL DIRECTORS
 ASSOCIATION

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