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Part II

Federal Trade Commission

16 CFR Part 455
Used Motor Vehicle Trade Regulation Rule; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 455

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice of proposed rulemaking; request for public comments.

SUMMARY: Except as specifically described below, the FTC has completed its regulatory review of its Used Motor Vehicle Trade Regulation Rule (''Used Car Rule'' or ''Rule'') as part of the FTC's systematic review of all current Commission regulations and guides. The Commission has decided to retain the Rule and, in a separate **Federal Register** document, to amend it by changing the Spanish translation of the Buyers Guide. In addition, the Commission also has decided to issue a notice of proposed rulemaking (''NPR'') soliciting comments on proposed changes to the Rule. In this NPR, the Commission addresses the comments received during its review and invites public comment on the following four proposed changes to the Buyers Guide: adding boxes to the back of the Buyers Guide where dealers would have the option to indicate manufacturers' and other third-party warranties; adding a statement to the Buyers Guide encouraging consumers to seek vehicle history information and directing consumers to an FTC Web site for more information about vehicle histories; adding catalytic converters and airbags to the List of Systems on the back of the Buyers Guide; and adding a statement in Spanish to the English Buyers Guide directing consumers who cannot read the Buyers Guide in English to ask for a copy of it in Spanish.

DATES: Written comments relating to the Used Car Rule must be received on or before February 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. For important information concerning the comments you file, please review the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be filed at the following electronic address: *https://ftcpublic.commentworks.com/ftc/usedcarrulenprm* by following the instructions on the web-based form. Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex T), 600 Pennsylvania Avenue NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, (312) 960–5634, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Used Car Rule Regulatory Review, Project No. P087604'' to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.*

Because comments will be made public, they should not include any sensitive personal information, such as any individual'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. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential'' as provided in § 6(f) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter 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).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: *https://ftcpublic.commentworks.com/ftc/usedcarrulenprm* and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink *https://ftcpublic.commentworks.com/ftc/usedcarrulenprm.* If this Notice appears at *http://www.regulations.gov/#!home;tab=search,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov* to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Used Car Rule Regulatory Review, Project No. P087604'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex T), 600 Pennsylvania Avenue NW. Washington, DC 20580. The FTC requests that any comment filed in paper form be sent by courier or overnight service, if possible, to avoid security related delays.

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, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* 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 Web site. 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.*

Comments on the proposed disclosure amendments, which are subject to review under the Paperwork Reduction Act, 44 U.S.C. 3501–3521, additionally should be submitted to the Office of Management and Budget (''OMB''). If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to: (202) 395–5167.

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[1] 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* FTC Rule 4.9(c), 16 CFR 4.9(c).

I. Overview of the Used Car Rule

A. The Rule

In 1975, Congress passed the Magnuson-Moss Warranty-Federal Trade Commission Improvements Act (''Magnuson-Moss Act''), which required the Commission to initiate a rulemaking in connection with used car warranties using both the authority granted by the Magnuson-Moss Act and the rulemaking procedures set forth in § 18 of the FTC Act, 15 U.S.C. 57a.[2] Pursuant to this authority, the Commission issued its final Used Car Rule, which became effective on May 9, 1985, to create a remedy for oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage, such as untrue and unenforceable promises about dealers' responsibilities and willingness to make repairs after sale. To accomplish that goal, the Rule provides a uniform method for disclosing warranty information on a window sticker called the ''Buyers Guide'' that dealers are required to display on used cars offered for sale to consumers.

The Rule requires used car dealers to disclose on the Buyers Guide whether they are offering a used car for sale with a dealer's warranty and, if so, the basic terms and conditions of the offered warranty, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty. The Rule also requires dealers to disclose that a used car is offered for sale without a warranty by checking a box marked ''AS IS—NO WARRANTY'' on the Buyers Guide. An ''as is'' sale voids implied warranties that arise under state law, such as an implied warranty of merchantability (which may mean, among other things, that goods are fit for the purposes for which such goods are ordinarily used). The Rule specifies an alternative version of the Buyers Guide for use in states that do not permit ''as is'' sales.

The Rule also requires certain other disclosures, including: a recommendation that consumers ask the dealer if a pre-purchase inspection is permitted; a warning against reliance on spoken promises and a recommendation to have all promises confirmed in writing; and a list of fourteen major systems of an automobile and the major defects that may occur in these systems. The Rule provides that the Buyers Guide disclosures are incorporated by reference into the sales contract and govern in the event of an inconsistency between the Buyers Guide and the sales contract.

The Rule attempts to protect consumers from potential post-purchase problems in several ways. First, the Buyers Guide may prompt consumers to have a car inspected before purchase. Second, the Buyers Guide requires dealers to provide consumers with warranty information so that they can shop for a car with a warranty that protects them in the event that the car subsequently has mechanical problems. Third, the Buyers Guide warns consumers not to rely on spoken promises and to get any assurances about a car from the dealer in writing.

In addition, the Rule requires that dealers use Spanish language versions of the Buyers Guide and make Spanish contract disclosures related to the Buyers Guide when conducting used car sales in Spanish.[3] In practice and as recommended by staff,[4] dealers who conduct substantial numbers of sales in Spanish should display both English and Spanish Buyers Guides to ensure that Spanish-speaking customers receive the required Spanish disclosures.

The Commission last reviewed and amended the Used Car Rule in 1995.[5] Specifically, the Commission amended the Rule by: (1) Adopting several minor grammatical changes to the Spanish language version of the Buyers Guide; (2) permitting dealers to display a Buyers Guide in any location on a used vehicle so long as the Buyers Guide is displayed conspicuously and prominently and with both sides of it readily readable; and (3) allowing dealers to obtain a consumer's signature on the Buyers Guide to acknowledge receipt if accompanied by a disclosure that the buyer is acknowledging receipt at the close of the sale.

As discussed in Section III below, the Commission initiated a review of the Rule in 2008.[6] The Commission is publishing this NPR based upon that Regulatory Review and its consideration of the comments received during the review.

B. Rulemaking History

The Rule promulgated by the Commission in 1984 has a long and complicated rulemaking history. The Rule grew out of an investigation begun by FTC staff in 1973. That investigation eventually led to a staff recommendation for the adoption of a trade regulation rule that would have required mandatory inspections by dealers, disclosure of defects, and mandatory warranties on parts that were found to be without defects.[7] In 1975, in the midst of the staff investigation, the Magnuson-Moss Act became effective, which required the Commission to initiate this rulemaking using certain procedures as set forth in § 18 of the FTC Act, 15 U.S.C. 57a.[8] The Magnuson-Moss Act explicitly prohibits the Commission from mandating warranties.[9]

The Commission published an initial staff report in December 1975 and issued an initial notice of proposed rulemaking in January 1976. The notice contained a proposed rule requiring a window sticker that disclosed warranty terms, warranty disclaimers, prior use of the vehicle, mileage, prior repairs, and dealer identification information. The proposed rule also specified a disclaimer for ''as is'' contracts.[10] The Commission issued a second notice asking for public comment on whether dealers should be required to disclose known defects and whether a vehicle had been inspected for defects. After receiving comments and conducting hearings in six cities, the staff recommended a revised rule that

[2] 15 U.S.C. 2309(b). This provision requires that the Commission ''initiate * * * a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles.'' Trade Regulation Rule Concerning Used Motor Vehicles, Statement of Basis and Purpose and Regulatory Analysis (''SBP''), 49 FR 45692, 45703 (Nov. 19, 1984).

[3] 16 CFR 455.5. The Spanish language requirement was part of the Rule as promulgated in 1984. SBP, 49 FR at 45728.

[4] Staff Compliance Guidelines, Used Motor Vehicle Trade Regulation Rule (''Staff Compliance Guidelines''), 53 FR 17658, 17667 (May 17, 1988) (Illustration 3.10). The Staff Compliance Guidelines are available at *http://www.ftc.gov/bcp/guides/usedcar-comply.pdf.*

[5] 60 FR 62195 (Dec. 5, 1995). The history of the Used Car Rule is summarized in the SBP. 49 FR at 45692–95.

[6] 73 FR 42285 (July 21, 2008) (''Regulatory Review Notice'').

[7] SBP, 49 FR at 45692–95.

[8] These procedural requirements include issuing an advance notice of proposed rulemaking, providing an opportunity for an informal hearing, and submitting the advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives. 15 U.S.C. 57a.

[9] 15 U.S.C. 2302(b)(2) (''Nothing in this chapter * * * shall be deemed to authorize the Commission * * * to require that a consumer product or any of its components be warranted.''); SBP, 49 FR at 45718.

[10] SBP, 49 FR at 45693.

required mandatory inspections, disclosure of defects regarding certain mechanical and safety components of used cars, warranty coverage, repair cost estimates, prior use, mileage, availability of service contracts, vehicle identification information, and dealership identification information.[11]

The Commission itself met and heard oral presentations from selected rulemaking participants concerning the proposed rule [12] and, without making a final determination, rejected staff's recommendation for mandatory inspections, and directed staff to analyze an optional inspection approach. The staff then recommended optional inspections, and, in May 1980, the Commission tentatively adopted an optional inspection rule.[13] The Commission also directed staff to delete a requirement that dealers provide an estimated cost of repair for systems marked ''NOT OK'' and a disclosure relating to vehicles that an insurer had declared to be a ''total loss.'' [14]

In August 1981, the Commission adopted a final rule that did not include the optional inspection provision. Instead, the Commission decided to require that dealers disclose on a window sticker warranty information and major defects known to the dealer.

In May 1982, both houses of Congress vetoed the 1981 Rule, under the authority of the FTC Improvements Act of 1980. Several consumer groups then brought suit against the FTC, the U.S. Senate, and the U.S. House of Representatives to block the veto, arguing that the legislative veto was unconstitutional.[15] In 1983, the Supreme Court held that the legislative veto that invalidated the 1981 Rule was unconstitutional.[16]

Prior to the Congressional veto, several parties had sought review of the 1981 Rule in the Second Circuit.[17] This review was stayed following the legislative veto and reinstated after the Supreme Court's reversal of the veto. In 1983, the Commission decided that the Rule would become effective six months after the Second Circuit's entry of a judgment that disposed of the reinstated petitions for review, and, on the same date, also decided to reexamine the 1981 Rule. The parties filed a motion with the Second Circuit seeking leave to make additional submissions and written presentations to the Commission. Pursuant to that motion and the Commission's own decision to reexamine the 1981 Rule, the Commission and the parties agreed to a remand to the Commission from the Second Circuit. The remand order required the Commission to reopen the record, particularly with respect to sections of the 1981 Rule dealing with the disclosure of known defects, and to provide notice and an opportunity to submit comments and rebuttal comments. Other than the remand, the Second Circuit retained jurisdiction over the Rule.

In 1984, the Commission adopted a final rule that superseded the 1981 Rule. The Commission eliminated the known defects provision, among others, in the final 1984 Rule.[18] The 1984 Rule was not challenged further in the Second Circuit or elsewhere. The 1984 Rule became effective in 1985 and applies throughout the United States, except Wisconsin and Maine.[19]

During the Commission's last regulatory review of the Rule in 1995, a number of the proposals raised during the original rulemaking, or similar proposals, were again considered and rejected by the Commission. For example, in 1995, the Commission rejected requiring dealers to disclose known defects,[20] requiring dealers to keep copies of the Buyers Guides,[21] and expanding the Rule to encompass private used car sales.[22] The Commission decided to retain the Rule, with minor amendments, and since then the Rule has remained unchanged.

II. Rulemaking Procedures

Pursuant to the Dodd-Frank Act Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), the FTC is authorized to prescribe rules under Section 553 of the Administrative Procedure Act (''APA'') [23] with respect to unfair or deceptive acts or practices by motor vehicle dealers.[24] Under the Dodd-Frank Act, the FTC's APA rulemaking authority became effective as of July 21, 2011, the designated ''transfer date'' established by the Treasury Department.[25]

Because the Dodd-Frank Act authorized the Commission to use APA procedures for notice and public comment in issuing or amending rules with respect to motor vehicle dealers, the FTC will not use the procedures set forth in Section 18 of the FTC Act, 15 U.S.C. 57a, with respect to these proposed revisions to the Used Car Rule and the Used Car Buyers Guide. Accordingly, the Commission is publishing this Notice of Proposed Rulemaking pursuant to Section 553 of the APA.

III. Summary of Comments

The Commission received comments addressing the three categories of specific questions expressly asked by the Regulatory Review Notice: [26] comments concerning the Spanish translation of the Buyers Guide and whether a bilingual Buyers Guide would be feasible and beneficial; [27] comments concerning the utility of the List of Systems and defects on the reverse side of the Buyers Guide; and comments concerning whether the Buyers Guide could better disclose manufacturer and other third-party warranties. In addition, many commenters again raised issues as to whether the Rule should or should not be expanded to broaden the types of information that dealers are required to disclose on the Buyers Guide, such as information concerning an individual vehicle's prior use, title history, and mechanical condition.

The Commission received twenty-five comments from twenty-one

[11] *Id.*

[12] The selected participants included several organizations that have also commented during the current rule review, including the National Automobile Dealers Association, National Independent Automobile Dealers Association, and National Consumer Law Center. *Id.* at 45694 n.19.

[13] *Id.* at 45694.

[14] *Id.*

[15] Consumers Union of the U.S., Inc., and Public Citizen, Inc., were plaintiffs in the underlying suit. *Consumers Union of the U.S., Inc.* v. *FTC,* 691 F.2d 575 (DC Cir. 1982), *aff'd sub nom., Process Gas Consumers Group* v. *Consumers Energy Ass'n of America,* 463 U.S. 1216 (1983).

[16] *Process Gas Consumers Group,* 463 U.S. 1216.

[17] SBP, 49 FR at 45694 (*citing Miller Motor Car Corp.* v. *FTC,* No. 81–4144 (2d Cir. 1981)).

[18] *See id.* at 45694–95.

[19] The Rule provides that the Commission will exempt a state from the Rule's coverage upon application by an appropriate state agency if the Commission determines that the state has a requirement that affords equal or greater protections to consumers than the Rule. The exemption shall last as long as the state administers and enforces its requirement effectively. 16 CFR 455.6.

The Commission granted Wisconsin an exemption pursuant to 455.6 in 1986. 51 FR 20936 (June 9, 1986). The Commission granted Maine an exemption in 1988. 53 FR 16390 (May 9, 1988).

[20] 60 FR at 62196–97.

[21] *Id.* at 62197.

[22] *Id.* at 62197–98.

[23] 5 U.S.C. 553.

[24] Public Law 111–203, Title X, § 1029(d); 12 U.S.C. 5519(d). The term ''motor vehicle dealer'' refers to ''any person or resident in the United States, or any territory of the United States, who—(A) is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles; and (B) takes title to, holds an ownership in, or takes physical custody of motor vehicles.'' 12 U.S.C. 5519(f)(2).

[25] *See* 75 FR 57252 (Sept. 20, 2010); Dodd-Frank Act § 1029A.

[26] 73 FR 42285, *supra* note 6.

[27] Along with this NPR, the FTC is also publishing a final rule revising the Spanish translation of the Buyers Guide. In issuing this final rule, the FTC concluded that it would continue to require translations of the Buyers Guide only into Spanish rather than into multiple languages as some commenters proposed. Spanish is the second most commonly spoken language in the United States after English.

commenters.[28] The commenters include: an automobile auction firm,[29] an automotive repair firm,[30] an online seller of used cars,[31] automobile dealers,[32] individual consumers,[33] a consumer protection attorney,[34] a group of consumer advocacy organizations,[35] national automobile dealers' associations,[36] state automobile dealers' associations,[37] suppliers of dealer forms,[38] county consumer protection agencies,[39] the National Association of Attorneys General,[40] the International Association of Lemon Law Administrators,[41] and the Wisconsin Department of Transportation.[42]

Although not specifically raised in the Regulatory Review Notice, a number of comments address whether dealers should be required to provide consumers with vehicle history information, including title history, damage history, prior use, and whether a vehicle ever was a lemon law buyback. A group of consumer advocacy organizations recommended mandatory dealer inspections and that dealers be required to disclose known defects.[43] This group also proposed that the Rule require dealers to disclose state title record information, and, in particular, information that is now being made available through the National Motor Vehicle Title Information System (''NMVTIS''), a Department of Justice system that provides consumers with automobile information to prevent the sale of stolen and unsafe vehicles.[44]

Industry commenters opposed these proposals to expand the Rule to require the display of vehicle history and title information. They expressed concern that dealers would have difficulties complying with a federal standard in light of the large variation in state regulation of vehicle titles. Industry commenters also raised concerns about the costs that dealers would face in attempting to comply with Buyers Guide disclosures of title information and with the increased risk of liability that dealers could face if they are required by the Rule to make such disclosures.

Commenters also discussed the specific issues raised in the Regulatory Review Notice: whether to permit a bilingual Buyers Guide and to change the Spanish translation; whether to retain the List of Systems; and whether to modify the Rule to address disclosures of manufacturers' and other third-party warranties. On all but one of these issues, the various commenters often expressed differing views, as described and analyzed below. The only commenter to discuss the proposed Spanish translation changes supported the changes.

None of the commenters provided studies or other empirical evidence in support of the positions taken.

IV. Analysis of Comments and Regulatory Alternatives Under Further Consideration

The Commission is considering several revisions to the Buyers Guide based upon its review of the comments received in response to the Regulatory Review Notice. The Commission has determined to retain the Rule and is seeking comments on the following potential revisions to the Rule: (1) Revising the Buyers Guide to provide additional boxes where dealers would have the option to indicate manufacturers' and third-party warranties; (2) adding a statement to the Buyers Guide encouraging consumers to seek vehicle history information and directing consumers to an FTC Web site for more information about vehicle histories and sources for that information;[45] (3) retaining the List of Systems and adding catalytic converters and airbags to it; and (4) adding a statement in Spanish to the English Buyers Guide directing consumers who cannot read the Buyers Guide in English to ask for a copy of it in Spanish.

A. Proposed Revisions to Buyers Guide Warranty Disclosures

The Regulatory Review Notice asked a series of questions seeking comments about possible changes to the Buyers Guide intended to enhance the disclosure of warranties, such as unexpired manufacturers' warranties, certified used car warranties, and other third-party warranty products (Questions III.B(4)–(8)). The Commission proposes revising the Buyers Guide as described in this NPR to improve the way in which dealers can indicate whether a manufacturer's or other third-party warranty applies.[46] The Commission invites comments on its proposal.

The Regulatory Review Notice included a proposed Buyers Guide containing boxes where dealers could indicate whether a vehicle was covered by third-party warranties other than warranties from the dealer. To

[28] Comments were submitted in response to the Regulatory Review Notice from: Allain-Geisel (''Allain-Geisel''); Anderson, David (Folsom Lake Dodge) (''Anderson''); Broward County, Florida, Permitting, Licensing and Consumer Protection Division (''Broward County''); Campbell, James (Carlabels.com) (''Carlabels''); CarMax Auto Superstores, Inc. (''CarMax''); Copart, Inc. (''Copart''); Dealer Specialties (''Dealer Specialties''); Hillig, Rebecca for Hillig Auto Center (''Hillig''); Howard County Office of Consumer Affairs (''Howard County''); Oregon Vehicle Dealer Association (''Ore. Vehicle Dealer Ass'n''); Minnesota Automobile Dealers Association (''MADA''); National Association of Attorneys General (''NAAG'') (appending and incorporating comment from International Association of Lemon Law Administrators (''IALLA'') (Att. A.)); National Automobile Dealers Association (''NADA''); Consumers for Auto Safety and Reliability, *et al.* (collectively referred to here as ''CARS,'' *see* note 35); National Independent Automobile Dealers Association (''NIADA''); Barbara Sachau (''Sachau''); Stephen Swann (''Swann''); Wholesale Forms, Inc. (''Wholesale Forms''); and Wisconsin Department of Transportation (''WI DOT''). These comments are available online at *http://www.ftc.gov/os/comments/usedcarrule/index.shtm.*

Comments from Downey Brand LLP (''Downey Brand'') and NAAG submitted during the reopened comment period are available at:

http://www.ftc.gov/os/comments/usedcarrulereopen/index.shtm.

[29] Copart.

[30] Hillig.

[31] Downey Brand.

[32] Anderson; CarMax.

[33] Allan-Geisel; Sachau.

[34] Swann.

[35] The comment from the consumer advocacy groups collectively referred to as ''CARS'' is a joint letter from the National Consumer Law Center, Consumer Action, Consumers for Auto Reliability and Safety (''CARS''), Consumer Federation of America (''CFA''); Consumer Federation of California (''CFC''), National Consumer Law Center (''NCLC'') (on behalf of its low income clients); U.S. Public Interest Research Group (''PIRG''); and Watsonville Law Center (''WLC''). CARS signed the comment on behalf of the other members of the group.

[36] NIADA and NADA. On March 17, 2009, NIADA and NADA submitted supplemental comments. NIADA's comments are identified respectively as NIADA1 and NIADA2. NADA's comments are similarly identified as NADA1 and NADA2.

[37] Ore. Vehicle Dealer Ass'n; MADA.

[38] Carlabels; Dealer Specialties; Wholesale Forms.

[39] Broward County; Howard County. Howard County joins the CARS comment.

[40] NAAG. Forty-two attorneys general signed onto the NAAG comment. On June 15, 2009, during the reopened comment period, NAAG submitted a second comment responding to NADA and NIADA. NAAG=s comments submitted during the initial comment period are identified as NAAG1, and its second comment is identified as NAAG2.

[41] IALLA. IALLA=s comment is appended to NAAG1.

[42] WI DOT.

[43] CARS at 17–18.

[44] NMVTIS was created pursuant to the Anti-Car Theft Act of 1992, 49 U.S.C. 30501–05. NMVTIS Final Rule, 74 FR 5740 (Jan. 30, 2009). NMVTIS provides consumers with vehicle history information such as title issue date, latest odometer data, any theft history data, any brand assigned to a vehicle and date applied, and any salvage history. National Motor Vehicle Title Information System Frequently Asked Questions, *http://www.nmvtis.gov/nmvtis_faq.html#info.* For a more extensive discussion of NMVTIS, see *infra* Part III.B.1.

[45] The Web site would be created if the Commission amends the Rule and adopts such a Buyers Guide statement. The Commission also is exploring, and invites comments on, additional ways that this information could be made available to consumers for whom Internet access may not be readily available.

[46] In the proposed rule appearing at the end of this NPR, the Commission also proposes corresponding changes to ' 455.2 Consumer sales-window form, which discusses the Buyers Guide.

differentiate among the various types of possible warranties, this Buyers Guide used the term ''dealer warranty.'' Industry commenters generally favored the approach outlined in the Regulatory Review Notice, but suggested alternatives that might make a revised Buyers Guide clearer to consumers. In light of the comments from industry, the Commission proposes that disclosing manufacturers' warranties should be optional because dealers often do not know whether a manufacturer's warranty applies.

1. Current Buyers Guide Warranty Disclosures

The Buyers Guide's primary purpose is to create a readily understandable disclosure of the warranty coverage offered by a used car dealer. Currently, the Buyers Guide has two large boxes where dealers can indicate whether they offer a warranty on a used car or offer it without a warranty, *i.e.,* ''as is:''

☐ **AS IS - NO WARRANTY**

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ **WARRANTY**

The Rule currently provides for an alternative Buyers Guide in states that prohibit dealers from waiving implied warranties by selling vehicles ''as is.''

☐ **IMPLIED WARRANTIES ONLY**

This means that the dealer does not make any specific promises to fix things that need repair when you buy the vehicle or after the time of sale. But, state law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **WARRANTY**

Beneath these large boxes is a space where dealers are instructed to provide details of the warranty coverage they offer by identifying the ''Systems Covered'' and the ''Duration'' of coverage for each system. Dealers are required to indicate the warranties that they offer by checking the appropriate large warranty box and completing the Systems Covered/Duration section. The Rule does not require dealers to identify any other applicable warranties, such as unexpired manufacturers' warranties, that are the responsibility of third parties. The Rule also does not provide any mechanism comparable to the large boxes to identify these warranties.

Instead, the Rule permits (but does not require) dealers to indicate the applicability of an unexpired manufacturer's warranty by adding the following statement in the Systems Covered/Duration section:

MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.[47]

When a vehicle is still covered by an unexpired manufacturer's warranty but is not warranted by the dealer, the Staff Compliance Guidelines advise that dealers may add an optional statement that: ''[t]he dealership assumes no responsibility for any repairs, regardless of any oral statements about the vehicle. All warranty coverages comes from the unexpired manufacturer's warranty.'' [48]

[47] 16 CFR 455.2(b)(2)(v). The SBP does not discuss the optional unexpired manufacturer's warranty statement.

[48] 53 FR at 17663 (1988).

2. Proposal for Disclosing Third-Party Warranties on Buyers Guide

The Regulatory Review Notice contained a proposed Buyers Guide that included additional boxes, comparable to those now used to identify dealer warranties, where dealers could easily identify third-party warranties, such as unexpired manufacturers' warranties. The Regulatory Review Notice version of the Guide included the boxes for third-party warranty information on the front of the Guide. After reviewing the comments, the Commission is seeking public comment on a modified Buyers Guide format that differs slightly from the version included in the Regulatory Review Notice.

Specifically, the Commission proposes a revised Buyers Guide that contains some minor wording changes designed to increase readability. More important, the proposed revised Buyer Guide places the additional boxes for

third-party warranty disclosures on the reverse side, above the List of Systems. Dealers who choose to disclose warranty coverage from manufacturers or other third parties may do so by checking the appropriate box or boxes on the reverse side of the Buyers Guide. This format leaves more space for dealers to describe details of their own warranties in the Systems Covered/Duration section than was available in the modified Buyers Guide that appeared in the Regulatory Review Notice, and it separates the ''Dealer Warranty'' section from the ''Non-Dealer Warranty'' section. The face of the proposed revised Buyers Guide includes a statement directing consumers to the back of the Buyers Guide for ''more about warranties and other information that applies to this vehicle,'' instead of the current instruction to see the back for the List of Systems.[49]

The Commission seeks comments on the following proposed revised Buyers Guide: In states that do not permit ''as is'' sales, the face of the Buyers Guide would appear as:

BILLING CODE 6750–01–P

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

DEALER STOCK NUMBER (Optional)

WARRANTIES FOR THIS VEHICLE:

☐ **IMPLIED WARRANTIES ONLY**

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

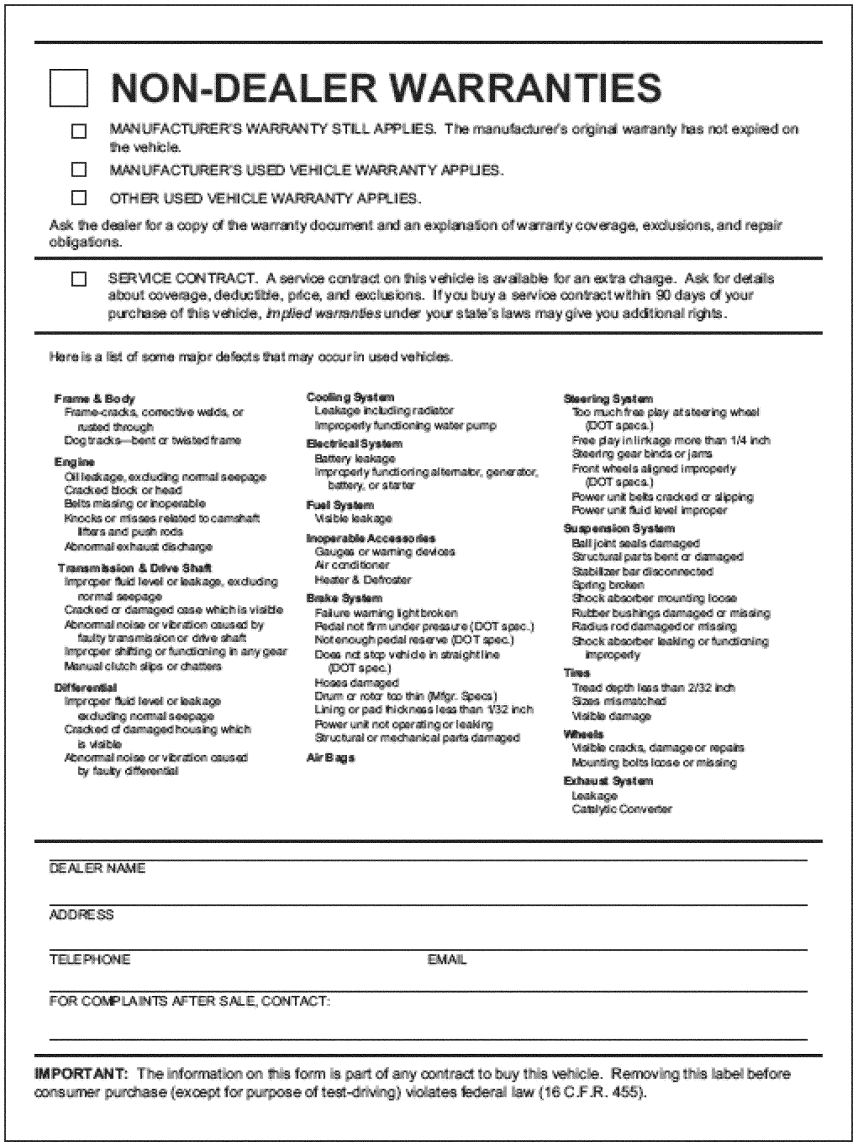
Before you buy this used vehicle:

1. **Get information about its history. Visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.**
2. **Ask the dealer if your mechanic can inspect the vehicle on or off the lot.**

SEE OTHER SIDE for more about warranties and other information that applies to this vehicle.

Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.

[49] The Buyers Guide currently states, ''SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.''



☐ **NON-DEALER WARRANTIES**

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *Implied warranties* under your state's laws may give you additional rights.

Here is a list of some major defects that may occur in used vehicles.

Frame & Body
Frame-cracks, corrective welds, or rusted through
Dog tracks—bent or twisted frame

Engine
Oil leakage, excluding normal seepage
Cracked block or head
Belts missing or inoperable
Knocks or misses related to camshaft lifters and push rods
Abnormal exhaust discharge

Transmission & Drive Shaft
Improper fluid level or leakage, excluding normal seepage
Cracked or damaged case which is visible
Abnormal noise or vibration caused by faulty transmission or drive shaft
Improper shifting or functioning in any gear
Manual clutch slips or chatters

Differential
Improper fluid level or leakage excluding normal seepage
Cracked of damaged housing which is visible
Abnormal noise or vibration caused by faulty differential

Cooling System
Leakage including radiator
Improperly functioning water pump

Electrical System
Battery leakage
Improperly functioning alternator, generator, battery, or starter

Fuel System
Visible leakage

Inoperable Accessories
Gauges or warning devices
Air conditioner
Heater & Defroster

Brake System
Failure warning light broken
Pedal not firm under pressure (DOT spec.)
Not enough pedal reserve (DOT spec.)
Does not stop vehicle in straight line (DOT spec.)
Hoses damaged
Drum or rotor too thin (Mfgr. Specs)
Lining or pad thickness less than 1/32 inch
Power unit not operating or leaking
Structural or mechanical parts damaged

Air Bags

Steering System
Too much free play at steering wheel (DOT specs.)
Free play in linkage more than 1/4 inch
Steering gear binds or jams
Front wheels aligned improperly (DOT specs.)
Power unit belts cracked or slipping
Power unit fluid level improper

Suspension System
Ball joint seals damaged
Structural parts bent or damaged
Stabilizer bar disconnected
Spring broken
Shock absorber mounting loose
Rubber bushings damaged or missing
Radius rod damaged or missing
Shock absorber leaking or functioning improperly

Tires
Tread depth less than 2/32 inch
Sizes mismatched
Visible damage

Wheels
Visible cracks, damage or repairs
Mounting bolts loose or missing

Exhaust System
Leakage
Catalytic Converter

DEALER NAME

ADDRESS

TELEPHONE EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removing this label before consumer purchase (except for purpose of test-driving) violates federal law (16 C.F.R. 455).

BILLING CODE 6750–01–C

The back of the Buyers Guides in both cases would appear as:

Both NADA and NIADA generally favored revising the Buyers Guide by adding boxes that dealers could check to disclose third-party warranties.[50] No commenters raised significant objections to the proposed additional boxes.[51] The comments, however, also raise questions about how to make the disclosures clearer and about how dealers would complete the revised Buyers Guide included in the Regulatory Review Notice, including (1) whether dealers can check multiple boxes in the ''Non-Dealer Warranty'' section; (2) what dealers should do when they cannot determine if a manufacturer's warranty applies; (3) what dealers should do when only portions of a manufacturer's warranty apply; and (4) how to treat warranties from third parties other than manufacturers.

Several commenters addressed the statement in the version of the Buyers Guide in the Regulatory Review Notice that directs consumers to ''[c]onsult the warranty booklet for details as to warranty coverage, expiration, service location, etc.'' [52] Some consumer advocacy groups argued that dealers should be required to provide warranty booklets to consumers for these third-party warranties. Industry groups, on the other hand, explained that dealers often do not have such warranty booklets, do not receive them from trade-in customers, and cannot obtain them from manufacturers. Moreover, dealer groups commented that many manufacturers do not provide booklets and, therefore, dealers cannot possibly comply with a requirement that they provide the books.

Considering the comments as a whole, the Commission is proposing to modify

[50] The proposed revised Buyers Guide in this NPR may address some of the questions raised by NADA and NIADA about how to complete the Buyers Guide proposed in the Regulatory Review Notice. *See* NADA1 at 6–10; NIADA1 at 8–11. The Commission will reexamine those comments in light of the comments it receives concerning the proposed revised Buyers Guide.

[51] One commenter, Wholesale Forms, thought that using the terms ''dealer warranty'' and ''manufacturer's warranty'' in the same document could confuse consumers. Wholesale Forms at 5–6. That commenter and others also voiced concerns that any changes to the Buyers Guide should be carefully considered because of the costs that would be imposed on dealers to change to a new form after more than twenty-five years of using the same Buyers Guide.

[52] This statement was set forth in the ''Non-Dealer Warranties'' section, below the ''other used car warranty applies'' box. The proposed revised Buyers Guide in this NPR uses the term ''vehicle'' in place of ''car'' to recognize that the Rule applies to vehicles, such as light duty pickup trucks, in addition to cars.

the warranty booklet statement. Commenters have noted that dealers may not have full information on manufacturers' warranties. Franchised dealers may have warranty information on their own manufacturers' products but not on other manufacturers' vehicles, and independent nonfranchised dealers may not have ready access to warranty terms from manufacturers. Other types of warranty products such as so-call ''certified'' manufacturers' warranties also may not be memorialized by actual ''booklets.'' [53] Therefore, the proposed revised Buyers Guide advises: ''Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations.'' The current Buyers Guide already contains a similar statement with respect to dealer warranties.[54] The proposed revised Buyers Guide is not intended to provide full details about any non-dealer warranty and would simply alert consumers to obtain additional information for details about the warranty coverage.

The Commission proposes removing a box from the Buyers Guide proposed in the Regulatory Review Notice that would have stated:

''NO INFORMATION PROVIDED. The dealer provides no information about other warranties that may apply.''

Industry groups questioned when to check this box, including whether dealers should check the box when they have reason to believe, but are not certain, that a manufacturer's warranty applies.[55] In addition to confusing dealers about when to check the box, the ''NO INFORMATION'' box also could confuse consumers into believing that third-party warranty coverage applies, although the dealer has not determined that it does. Moreover, the box is not actually needed because dealers could indicate that they offer no information about third-party warranties simply by leaving the boxes associated with third-party non-dealer warranties blank. The Commission believes that these points are well taken and, therefore, the proposed revised Buyers Guide included in this NPR does not contain the ''NO INFORMATION'' box.

3. Disclosure of Unexpired Manufacturers' Warranties

The Regulatory Review Notice asked for comments on the Rule's current system for disclosing unexpired manufacturers' warranties, which permits, but does not require, dealers to indicate that an unexpired manufacturer's warranty applies. Some commenters suggested that the Rule should require dealers to disclose unexpired manufacturers' warranties, but industry commenters opposed such a requirement.

Consumer protection authorities and a consumer advocacy group commented that dealers should be required to disclose any manufacturers' warranties and whether a manufacturer's warranty has been terminated because of a salvage title or other vehicle history.[56] The comments differ in the amount of information that each would require dealers to disclose, but all assume that dealers have, or can readily determine, whether a manufacturer's warranty applies to an individual vehicle.

Industry groups opposed mandatory disclosure of manufacturers' warranties, noting that dealers often cannot determine readily whether a manufacturer's warranty applies.[57] The association of franchised new car dealers (NADA) commented that franchised dealers may not have access to warranty information from manufacturers other than the ones for which they have a franchise.[58] NADA also commented that trade-in customers may not provide dealers with sufficient information to determine if a manufacturer's warranty still applies because coverage can be denied for so many reasons in addition to expiration of the warranty term, such as damage, poor maintenance, differing terms for separate vehicle systems, and non-transferability.[59] An automobile auction firm commented that a mandatory disclosure requirement could expose dealers to potential liability for a manufacturer's warranty because the Buyers Guide is incorporated into the final contract of sale.[60]

The Rule does not now require dealers to disclose warranties, such as manufacturers' warranties, for which the dealers are not responsible, and the comments do not present compelling reasons to expand the Rule's current scope. Industry groups noted that dealers do not necessarily have, and cannot easily acquire, the warranty information that the consumer advocacy groups assume they possess. Consequently, dealers may not always be able to provide consumers with accurate information and may be unable to comply with a mandatory disclosure provision.[61] Therefore, the Commission does not propose making mandatory the optional disclosure of unexpired manufacturers' warranties.

B. Proposals on Vehicle History and Condition

As in the earlier proceedings involving this Rule, many commenters urged that the Buyers Guide provide a variety of information on the history of the vehicle and let consumers know whether the car has problems at the time of sale. As noted above, many of these proposals were previously considered and rejected, in part because the information is already provided in a different form, dealers do not necessarily themselves have reliable information for making disclosures, and it is not clear that, overall, placing some of this information on a buyers guide would actually aid consumer purchase decisions.

The Rule as it currently stands attempts to address some of the concerns consumers might have about post-sale problems. The Buyers Guide makes it easier for consumers to shop for and choose a warranty that would provide protection in the event of mechanical problems. It alerts

[53] Certified used car programs began appearing in the mid-1990s. The programs vary, but typically a manufacturer attaches a new warranty to vehicles that have been returned to a dealer from a lease or a trade-in if they are ''certified'' by its franchised dealer to meet certain mechanical, age, and mileage requirements. Some dealerships offer their own warranties on used cars that are ''certified'' to meet certain mechanical, age, and mileage requirements. *See Certified Used Cars—The Wave of the Future, Edmunds.com, Inc., http://www.edmunds.com/car-buying/certified-used-cars-the-wave-of-the-future.html.*

[54] Adjacent to the full or limited warranty boxes above the Systems Covered/Duration section of the Buyers Guide, the Buyers Guide states, ''[a]sk the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations.''

[55] NADA1 at 10.

[56] NAAG1 at 8 (also urges that Buyers Guide list past history indicating salvage, damage, or manufacturer buyback); *id.* at 10; CARS at 19; Broward County at 2–3, 10–11.

[57] NADA1 at 4–6; NIADA1 at 8; Ore. Vehicle Dealer Ass'n at 2.

[58] NADA1 at 5.

[59] *Id.*

[60] Copart.

[61] NADA proposed permitting dealers to state on the Buyers Guide that an unexpired manufacturer's new car warranty *may* apply and, because of the uncertainty in confirming coverage, simultaneously stating that ''[t]he dealer makes no representation regarding any non-dealer warranty or other coverage.'' NADA1 at 6. A consumer protection attorney, however, commented that dealers sometimes check the Buyers Guide's Warranty box and add statements such as ''balance of factory warranty, if any, may apply'' to suggest falsely that a vehicle is covered by an unexpired manufacturer's warranty. Swann at 1. The Rule necessarily requires dealers to determine whether a manufacturer's warranty applies before stating so because it permits, but does not require, dealers to state that a manufacturer's warranty applies 455.2(b)(2)(v), when such a warranty applies. In light of the potential for deception when dealers suggest coverage that the dealer has not confirmed, no change concerning the disclosure of unexpired manufacturers' warranties is proposed in this NPR.

consumers not to rely on spoken promises, so that they can avoid false assurances about steps the dealer would take in the event of future problems. The Buyers Guide also suggests that consumers get an independent inspection of a vehicle before buying it.

Since the Rule was promulgated, however, there have been significant changes in the types of vehicle history available to those buying used cars—both for dealers purchasing cars for resale and for consumers who are shopping for one. State automobile title information is being combined into a database where it can be searched through DOJ's NMVITIS. In addition, firms such as CARFAX and AutoCheck provide individualized vehicle history reports which include not only the information in a NMVITIS report but also may include a wealth of information about prior wrecks, odometer readings, and even maintenance history. Although these reports are not necessarily perfect, they do provide far more useful information than was available previously.

The Commission is proposing a Buyers Guide accompanying this NPR that contains a statement advising consumers to obtain vehicle history information. This statement would be combined with the Buyers Guides' existing recommendation that consumers obtain an independent inspection before purchase. The statement directs consumers to an FTC Web site that the Commission would create where consumers could obtain information about vehicle history reports and sources for those reports. The FTC site could also provide other useful information for consumers who are shopping for a used car.

Dealers would not be required to obtain vehicle histories or to display specific vehicle history information on the proposed revised Buyers Guide. The Buyers Guide would continue to recommend to consumers that they protect themselves by obtaining an independent inspection before making a purchase.

1. Availability of Vehicle History Information

Since the Rule's promulgation in 1984, a variety of public and private sources offering information about the history of individual vehicles have become available. When the Rule was adopted, vehicle history information was available primarily from prior owners of used cars or from state car titling agencies like a state department of motor vehicles (''DMV''). For cars titled in several states, that information sometimes was difficult both for consumers and dealers to obtain. Today consumers can obtain useful title information from NMVITIS, and commercial services offer that in combination with vehicle history information from a variety of sources.

Car titles usually are issued by state DMVs, and the titles typically show the legal owner of the vehicle and other identifying information. The amount of information in a car title varies widely from state to state. Some states issue car titles that include ''brands,'' the descriptive labels assigned by state titling agencies to describe the current or past condition of a vehicle, such as ''junk,'' ''salvage,'' or ''flood.'' [62] The brands that states use on their car titles differ in important ways from state to state. The definitions of those brands also vary from state to state so that, for example, a brand of ''junk'' in one state may mean something different in another state. At the time of the original rulemaking, state DMVs may have been the only source, other than prior owners, of vehicle history information.

One source for vehicle history information that has become available since the Rule was promulgated is NMVTIS. The Department of Justice began its implementation of NMVTIS in January 2009.[63] NMVTIS is a federal system designed to enable nationwide access to title information submitted by state titling agencies. NMVTIS includes odometer readings from state titling data and brands that state titling agencies assign to vehicles. NMVTIS does not create federal uniform definitions for brands or require that state DMVs assign brands in issuing car titles. Consumers may purchase some forms of NMVTIS reports for fewer than five dollars.[64] However, not all states fully participate in NMVTIS, and the program is still being developed.

In addition, state title information, combined with other information about individual vehicles, can be obtained from commercial sources such as CARFAX and AutoCheck, among others. CARFAX obtains data for its reports from state titling agencies, insurers, repair facilities, automobile auctions, salvage facilities, and fleet rental firms. AutoCheck competes with CARFAX and obtains information from similar sources.[65]

Vehicle history reports available from CARFAX and AutoCheck may often include information on prior ownership, usage, odometer readings, damage, and repair history, among other things. Consumers can use the vehicle identification number (''VIN'') for a particular vehicle to purchase a report on that vehicle from these commercial sources. Both CARFAX and AutoCheck also offer consumers the option of paying a flat fee to receive reports on as many individual vehicles as the consumer wishes during a designated time frame. Some dealers also have chosen to distribute commercial vehicle history reports to their customers for free.

2. Comments Received on Disclosure of Title Information

The Commission received many comments suggesting that vehicle title information be disclosed on the Buyers Guide. Comments from NAAG, CARS, WI DOT, and an individual consumer favored requiring dealers to disclose prior title status information on the Buyers Guide.[66] The comments assume that dealers have this information or could easily obtain it. For example, WI DOT noted that dealers usually have a copy of the title or direct access to state DMV databases in relation to their state-imposed duty to process title applications on behalf of buyers.[67] The commenters who favored including vehicle history information generally recommended requiring dealers to obtain the information and to report that information on the Buyers Guide.

CARS proposed a separate warning label stating that a vehicle is listed in NMVTIS as ''salvage, junk, or otherwise totaled by an insurer or sold at auction.'' [68] An individual consumer commented that the Buyers Guide should disclose whether the vehicle was recently sold at an auction.[69]

Industry groups stated that better information about title brands would benefit them as well as consumers but, for a variety of reasons, suggested that it is impracticable to require disclosure of this information on the Buyers Guide. First, these groups contended that dealers often do not themselves have accurate information about titles or vehicle histories. They noted that consumers trading in a car may well not have the title itself, either because it is held by a financing company or a consumer has simply lost it. They stated

[62] *See* NMVTIS Final Rule, 74 FR 5740 n.1 (Jan. 30, 2009).

[63] *Id.* at 5740.

[64] *See* information concerning approved NMVTIS data providers at: *www.nmvtis.gov/nmvtis_vehiclehistory.html.*

[65] *See, e.g., CARFAX* v. *AutoCheck, https://www.autocheck.com/consumers/content/carfax-autocheck-compare.do.*

[66] NAAG1 at 1–10; CARS at 19–21; WI DOT at 2–3; Allan-Geisel.

[67] WI DOT at 2.

[68] CARS at 19–21.

[69] Allan-Geisel.

that some of that information may be available from the online databases at state DMVs, but may take time to obtain and may be as much as six weeks out of date.

Industry groups also contended that even if dealers do have a title, it may not provide an accurate history of the vehicle because the title may have been ''washed.'' [70] Removing or ''washing'' brands from a title—generating a ''clean title''—is accomplished by transporting a vehicle with a branded title in one state to a state that does not check either with the state that issued the previous title (or with all states that may have previously issued titles on that vehicle) to determine if the vehicle has any existing brands not shown on the current paper title.[71] Indeed, NADA's examples of how states treat brands from other states differently, and how a brand or other negative title information reported in one state may not be carried over in a different state,[72] highlight the regulatory conditions that make title washing possible.

Dealers offered strong support for NMVTIS—which is designed in part to prevent or defeat title ''washing'' by providing a national ''brand carry forward'' function—but contend that it is not fully functioning. NMVTIS retains and makes available to users of the system all reported brands applied to a vehicle so that transporting the vehicle from one state to another will not ''wash'' the brand. Once a vehicle is branded by a state motor vehicle titling agency, that brand becomes a permanent part of the vehicle's NMVTIS record. NMVTIS also is intended to prevent criminal title washing, in which a salvage or destroyed vehicle is used to generate a clean paper title that is subsequently attached to a stolen vehicle ''cloned'' to the destroyed vehicle.

NADA raised concerns about NMVTIS's completeness and pointed out that NMVITIS had complete information from only thirteen states (as of March 17, 2009, the date of NADA's comment).[73] Since then, NMVITIS is now receiving data from forty states.[74] Thus, while still in development, NMVITIS already provides a great deal of useful information.

A second concern offered by dealer groups is that, even if consumers know the brand appearing on a car title, they may not understand the significance of that brand because title brands vary dramatically from state to state. In fact, a particular brand in one state may have a different meaning in another.[75] NADA noted, for example, that the term ''salvage'' has different legal meanings in Arkansas, Connecticut, Colorado and Montana.[76]

Third, dealers are concerned about their potential legal liability if they are made the ''guarantors'' of information that they could be required to disclose on a Buyers Guide. NIADA noted that ''the types of damage, repair and history issues noted [on forms required by state law] are considered material facts affecting a consumer transaction, such that the information must be disclosed under [each state's Unfair and Deceptive Acts and Practices Act] statute.'' [77] It added that many disclosures are already required or otherwise dealt with by other laws and administrative regulations. According to NIADA, radical changes as to what information is required to be displayed on what forms and the time when disclosures must be made would expose dealers to significant legal costs by making them the ''guarantors of information over which they have no control.'' [78]

NIADA stated that dealers are concerned that they may be liable if they put out of date or incomplete information on Buyers Guides that they obtain from vehicle history reports or other databases. NIADA noted that information in vehicle history reports is only as good as the data that goes into them. In addition, NIADA stated that there is a lag time before information is included in vehicle history reports. NIADA opined that, even if dealers complete a Buyers Guide with current information, they would have to consistently recheck and update that information. Industry groups noted that such disclosures may duplicate existing legal requirements, and that dealers might be subject to legal action if the information they report later turns out to be inaccurate or incomplete.

3. Analysis of Vehicle History Disclosure Comments

Both consumer and industry commenters agreed that consumers benefit from better information about the history of vehicles. In addition, dealers themselves often purchase cars, either at auction or as trade-ins, and thus also have a real use for better information. However, it is not practicable to include all available vehicle history information on a Buyers Guide. Complete vehicle histories may be several pages long.

Thus the question is whether some subset of that information, particularly from titles, should be provided on the Buyers Guide. Because title records, especially brands, vary considerably from state to state, there may be a risk that consumers could be confused or misled by these terms. Moreover, providing a partial vehicle history on the Buyers Guide also could discourage consumers from seeking more complete vehicle history information.

In addition, industry groups raised a concern about dealers' potential liability for reporting information that they do not control. Vehicle history information is available from multiple sources, and that information could be inaccurate, untimely, or incomplete. Dealers face potential legal risks for reporting third-party information that turns out to be deficient.

Thus, while commenters agreed that consumers could benefit from additional information, even if it has potential deficiencies, the Commission believes that requiring dealers to place potentially misleading partial or deficient information on the Buyers Guide would not necessarily benefit consumers. Instead, the Commission believes that consumers should be alerted to the existence of this information and encouraged to obtain and to evaluate it themselves—while combining that knowledge with an independent inspection of the vehicle.

4. Proposed Buyers Guide Vehicle History Statement

Having considered all of these comments, and to facilitate consumer access to vehicle history information, the Commission proposes adding the following statement to the Buyers Guide that would encourage consumers to obtain vehicle history reports and that would direct consumers to an FTC Web site, to be created by the Commission, where consumers could learn details about vehicle history information and sources, including NMVTIS, for that information:

Before you buy this used vehicle:

1. Get information about its history.

Visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.

2. Ask the dealer if your mechanic can inspect the vehicle on or off the lot.

The proposed statement would further two principal purposes of the Rule: (1) Providing consumers with important pre-sale information about a vehicle

[70] NADA2 at 7.

[71] *See* 74 FR at 5741.

[72] NADA2 at 5.

[73] NADA2 at 6.

[74] *See National Motor Vehicle Title System: For States, www.nmvtis.gov/nmvtis_states.html.*

[75] NADA2 at 4–5.

[76] *Id.* at 5.

[77] NIADA2 at 2.

[78] *Id.*

they may purchase, and (2) diminishing the degree to which consumers must rely solely upon the selling dealer for information when they are shopping for used cars.

In much the same way that the current Buyers Guide encourages consumers to ask the dealer about an independent inspection, the proposed vehicle history statement would encourage consumers to obtain information about a particular vehicle's history from independent sources. Both the proposed vehicle history statement and the existing independent inspection statement direct consumers to independent sources of information about the mechanical condition of vehicles that are not controlled by the selling dealer. Under this proposal, dealers would not be required to obtain vehicle history reports or to provide those reports to consumers in conjunction with the Buyers Guide, thereby alleviating concerns that a dealer could be held responsible for shortcomings in vehicle history information that is controlled by others.

5. Other Mechanical Condition and Vehicle History Disclosures Recommended by Some Comments

In addition to recommending that the Buyers Guide include vehicle history information from NMVTIS and other sources, some commenters also recommended expanding the Rule to require disclosure of prior damage, prior use history (such as whether a vehicle was a taxi, rental, police car, etc.), and manufacturer buyback or ''lemon law'' status. These, or similar proposals, were extensively argued, carefully considered, and ultimately rejected by the Commission during the original rulemaking. Many were raised again and rejected during the 1995 Rule review. The current comments do not provide sufficient new evidence or point to any change in circumstances that compel the Commission to reach a different conclusion during this review of the Rule. Moreover, the Commission's proposal to revise the Buyers Guide—by adding a recommendation that consumers obtain a vehicle history report, in addition to an independent inspection, before purchasing a used car—should serve to provide consumers with the means to obtain important information about the mechanical condition of individual vehicles. The Commission continues to believe that consumers can obtain more reliable information about the mechanical condition of a used vehicle from independent sources than they can from relying on dealers.[79] Accordingly, for these and the additional reasons discussed below, the Commission declines to reverse its long-held position on these issues in this NPR.

a. Disclosure of Prior Vehicle Damage

The Commission declines to propose amending the Rule to require dealers to disclose prior damage history, as several commenters recommended.[80] Several commenters who broadly favored disclosure of vehicle title history stressed the particular importance of disclosing damage history. For example, NAAG urged that the Buyers Guide should require dealers to disclose past damage, including title history showing such damage.[81] Similarly, CARS recommended a warning label for used vehicles with salvage title histories.[82] NAAG and CARS also recommended that the Buyers Guide disclose if a manufacturer's warranty has been terminated because of salvage or other title history.[83]

NIADA opposed a Rule requirement to disclose damage history, for the same reasons that it opposed a requirement that dealers disclose title history: (1) Lack of reliable information, and (2) potential liability for third-party vehicle history statements.[84] As with title history disclosures, NIADA recommended a ''safe harbor'' from liability should dealers be required to disclose damage history.[85]

The Commission did not directly address a damage history disclosure requirement during the 1984 rulemaking. In 1979, however, it had adopted a staff recommendation to drop a proposed provision requiring the disclosure of any repair work performed by the dealer.[86] The Commission agreed with staff's conclusion that the record did not show that prior repairs are ''reliable indicators of current mechanical condition'' and that requiring disclosure of repair history would reduce a dealer's incentive to make necessary repairs.[87] Like repair history, damage history would not be an indicator of current mechanical condition and forced disclosure of it could reduce dealer incentives to ascertain damage and repair it.

For reasons similar to those outlined above in discussing vehicle history information generally, the Commission does not propose mandatory disclosure by dealers of the prior damage history of individual vehicles. Nevertheless, prior damage information may be available to consumers if it is reported in title documents or vehicle history reports. The vehicle history statement on the proposed revised Buyers Guide encourages consumers to seek out and to obtain these reports.

b. Disclosure of Prior Use

The Commission declines to propose the prior use disclosure urged by three commenters[88] because such a requirement was rejected by the Commission in 1979 and the comments do not provide sufficient new evidence for the Commission to revisit that conclusion. In any event, prior use information may be available to consumers in a NMVTIS report or a commercial vehicle history report.

In 1979, the Commission rejected a staff recommendation that the Buyers Guide disclose prior use because the record did not demonstrate either that consumers were injured by the lack of such a disclosure or that prior use was an accurate indicator of a vehicle's mechanical condition.[89] Commenters did not present new evidence about the possible benefits of a prior use disclosure on the Buyers Guide. To the extent that individual consumers are interested in prior use information, however, they may be able to obtain it from a NMVTIS report or a commercial vehicle history report. The Commission thus declines to alter its long-held view on this issue.

c. Disclosure of ''Manufacturer Buyback'' or ''Lemon Law'' Status

The Commission does not propose requiring that dealers disclose a vehicle's ''lemon law'' (also called ''manufacturer buyback'' or ''repurchase'') status on the Buyers Guide. All fifty states have some form of ''lemon law'' that requires manufacturers to repurchase new cars that fail to conform to express

[79] *See, e.g.,* SBP, 49 FR at 45716 (rejecting a known defects disclosure requirement in part because ''[i]t gives the wrong signal to consumers by encouraging them to focus their attention on dealer-controlled information about a car's mechanical condition'').

[80] NAAG1 at 2–5, 7–9; CARS at 18–21; WI DOT at 2–3; Allan-Geisel.

[81] NAAG commented that the Buyers Guide should disclose ''[P]ast title history indicating prior salvage, damage or manufacturer buyback.'' NAAG1 at 7–8.

[82] The proposed warning label would apply to vehicles listed as ''salvage, junk, or otherwise totaled by an insurer or sold at auction'' in NMVTIS. CARS at 20–21, 30.

The Rule does not apply to vehicles ''sold only for scrap or parts (title documents surrendered to the State and a salvage certificate issued).'' 16 CFR 455.1(d)(2).

[83] NAAG1 at 7–8; CARS at 19–21.

[84] NIADA2 at 1–3.

[85] *Id.* at 2–3.

[86] SBP, 49 FR at 45720–21.

[87] *Id.*

[88] CARS at 20; NAAG1 at 16–17; WI DOT at 2.

[89] SBP, 49 FR at 45720.

warranties, typically after a number of unsuccessful repair attempts. Many states also require that dealers disclose manufacturer repurchase status to the first retail purchaser of a repurchased vehicle. However, it is not clear that used car dealers would necessarily know whether a vehicle is a manufacturer repurchase in subsequent sales. In more than half the states, the fact that a vehicle has been repurchased by the manufacturer pursuant to a lemon law is not a ''brand'' that is carried on the vehicle's title.[90] Accordingly, the Commission believes that a manufacturer repurchase in a vehicle's history should be treated in the same way as other aspects of vehicle history discussed above. The proposed revised Buyers Guide would recommend that consumers obtain a vehicle history report that may include information on whether an individual vehicle is a manufacturer repurchase. However, the proposed Rule would not affirmatively require that dealers obtain this information and disclose it on the Buyers Guide.[91]

State lemon laws typically require manufacturers to repurchase and, if necessary, to repair new vehicles that fail to meet warranty standards because of alleged defects. Once repurchased and repaired, the vehicles are then often offered for sale as used cars.[92] Laws in some states require that the manufacturer warrant the repair of the vehicle's nonconformity for a designated period of time or a designated number of miles. According to the IALLA, fifteen states require manufacturers to issue warranties to the first retail buyer of a vehicle after the vehicle's repurchase pursuant to a state lemon law.[93] IALLA further reports that several manufacturers offer limited warranties on repurchased lemon law vehicles, even if not required to do so by state law.[94] Several commenters recommended that the Commission require dealers to disclose on the Buyers Guide that a vehicle had been repurchased by a manufacturer and to provide information about warranty coverage associated with the repurchase.[95]

Commenters advocating the disclosure of manufacturer repurchase status typically do so in the context of a broader recommendation that the Commission model a revised Buyers Guide on Wisconsin's Buyers Guide, which requires dealers to check boxes to disclose various types of vehicle history and ''title brands,'' including boxes for prior use and brands like ''rebuilt salvage'' or ''manufacturer buyback.'' [96] As discussed above, the Commission declines to propose the type of check box disclosures for vehicle history and title brands that are used on the Wisconsin Buyers Guide, and instead proposes that a statement be added to the Buyers Guide recommending that consumers obtain vehicle history reports. None of the commenters has provided persuasive reasons for treating manufacturer repurchase status differently from other aspects of a vehicle's history.

Moreover, given the extensive state laws and regulations on this topic, a Buyers Guide disclosure that a vehicle is a manufacturer repurchase appears to be unnecessary and duplicative. State laws already require dealers to disclose to the first retail purchaser after the repurchase that a vehicle has been repurchased by a manufacturer under state law. According to the IALLA, all fifty states have some form of lemon law, and forty-one states require a disclosure that a vehicle is a manufacturer repurchase to the first retail purchaser.[97] Even in those states in which statutes or associated regulations do not expressly require a manufacturer repurchase disclosure, the failure to disclose the vehicle's repurchase status could violate the state's unfair and deceptive practices statute. In most states, then, dealers are already required to disclose that an individual vehicle is a manufacturer repurchase at least to the first retail purchaser. Therefore, with respect to the first retail purchaser at least, an additional disclosure on the Buyers Guide would merely duplicate existing requirements. The Commission is unaware of any evidence suggesting that these existing state disclosure requirements have been inadequate or that an apparently duplicative federal disclosure is necessary.

Disclosures of manufacturer repurchase status may be more problematic with respect to vehicles resold after the first retail sale. It is not clear that dealers who sell these vehicles necessarily would know or be able to determine readily whether any such vehicle is a manufacturer repurchase. Although IALLA reports that all fifty states have some form of lemon law, titles in fewer than half of those states carry brands such as ''buyback'' or ''lemon.'' [98] As a result, depending on the applicable state's law, dealers may not always be able to determine from a vehicle's title or NMVTIS report whether a vehicle is a manufacturer repurchase, and the availability of that information from other sources is unclear. Dealers who know that a vehicle is a manufacturer repurchase, however, are likely to disclose that information because the failure to do so could expose the dealer to liability for violating state unfair and deceptive practices statutes. Under these circumstances, the Commission sees no reason to treat manufacturer repurchase differently from other aspects of vehicle history such as, for example, salvage, flood, or prior use. Rather than requiring dealers to attempt to obtain, to report, and essentially to be responsible for the accuracy of a disclosure on the Buyers Guide that a vehicle is a manufacturer repurchase, the Commission proposes a statement on the Buyers Guide recommending that consumers obtain vehicle history information, which may reveal whether

[90] *See* NADA2, Exhibit A (chart: ''Brand/Vehicle Status-Reference'').

[91] Notably, in 1996, the Commission held a public forum on issues related to lemon law buybacks. Participants in that forum included manufacturers, dealer associations, state and local consumer protection agencies, and consumer groups. No lemon law disclosure proposal resulted from that forum. Information about the proceedings, including a transcript, is available at *http://www.ftc.gov/bcp/lemon/*.

[92] The number of cars repurchased pursuant to state lemon laws and resold by manufacturers is unknown. Accurate estimates are difficult to make for many reasons including the fact that manufacturers also repurchase cars for reasons that may be unrelated to defects, such as ''goodwill'' programs designed to enhance customer relations.

In 1995, CARS, citing NAAG figures, stated that 50,000 vehicles were repurchased annually under lemon laws. *See* Request for Comments Concerning Disclosures in the Resale of Vehicles Repurchased Due to Warranty Defects, 84 FR 19067, *Petition for Investigation of ''Lemon Law'' Motor Vehicle Resale Practices* (Nov. 8, 1995), 84 FR 19069, at 19070 (Apr. 30, 1996). That figure would amount to about 0.56% of the more than 8.6 million new cars sold that year. Research and Innovative Technology Administration [''RITA''] Bureau of Transportation Statistics, U.S. Dept. of Transportation, *http://www.bts.gov/publications/national_transportation_statistics/html/table_01_16.html.*

Industry sources contacted by staff in preparing this NPR estimated that only 0.2% of used vehicles sold by used car dealers are manufacturer repurchases.

[93] Arkansas, California, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Minnesota, North Dakota, Ohio, Pennsylvania, South Carolina, Texas, and Washington require the manufacturer to warrant the repair of the nonconformity to the first subsequent retail buyer for a period of at least one year or 12,000 miles, whichever occurs first. NAAG1, Att. A (IALLA comment).

[94] For example, several manufacturers issue separate one year/12,000 mile limited warranties on their reacquired vehicles regardless of where the vehicle is resold. *Id.*

[95] CARS at 20; IALLA (NAAG1, Att. A); NAAG1 at 3, 8–9.

[96] NAAG1, Att. B.

[97] NAAG1, Att. A (IALLA comment).

[98] IALLA; *See* NADA2, Exhibit A (chart: ''Brand/Vehicle Status-Reference'' listing states that carry lemon law brands).

an individual vehicle is a manufacturer repurchase under state law.

In terms of specific warranty coverage that applies because of state lemon law, dealers who have knowledge of this warranty coverage may disclose information about it on the current Buyers Guide by using a statement similar to the one permitted for disclosing an unexpired manufacturer's warranty.[99] The proposed revised Buyers Guide in this NPR would make that disclosure easier because it includes boxes where dealers would be able to indicate whether a manufacturer's original or used car warranty applies. Dealers could check the ''Manufacturer's Used Vehicle Warranty Applies'' box when a vehicle is covered by a manufacturer's lemon law warranty. When that or any of the other non-dealer warranty boxes is checked, the proposed revised Buyers Guide advises: ''Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.'' Consumers who follow this advice are then likely to learn the terms of the coverage and that it results from the vehicle's status as a manufacturer buyback or repurchased lemon.

6. Disclosure of Known Defects

Some comments urge that the Commission require that dealers disclose on the Buyers Guide whether the vehicle has defects. The Commission declines to alter its previous decisions on a ''known defects'' disclosure requirement. The Commission carefully considered such a requirement in the original rulemaking and ultimately rejected it in 1984.[100] The issue was raised and rejected again in the 1995 Rule review.[101] Although consumer groups like CARS again have advocated for a known defects disclosure requirement, NAAG did not, acknowledging in its comment the controversy that this proposal engendered in the original rulemaking and declining to ''reincarnat[e] that long ago debate.'' [102] As explained below, the commenters seeking a known defects disclosure rule have not provided any new information about its benefits that would cause the Commission to change its long-held view. The Commission believes that the recommendations on the Buyers Guide that consumers obtain a vehicle history report and inspection from independent sources are likely to provide consumers with more reliable information about the mechanical condition of a used car than a requirement that dealers disclose known defects.

When a known defects disclosure requirement was raised in connection with the 1995 Rule review, the Commission explained that it had carefully considered such a requirement in the original rulemaking but had then decided that the requirement would ''not provide used car buyers with a reliable source of information concerning a car's mechanical condition and that the provision would be exceedingly difficult to enforce.'' [103] The Commission instead decided in 1984, and reaffirmed in 1995, that the Buyers Guide's ''warranty and 'As-Is' disclosures—along with the warnings about spoken promises and the pre-purchase inspection notice—are effective remedies for the deceptive practices occurring in the used car industry.'' [104] The new proposed notice that consumers obtain vehicle history information would serve to supplement the Rule's existing disclosures, providing consumers with another independent source for particularized information about the mechanical condition of a used vehicle.

As in 1995, those advocating a known defects disclosure requirement have not pointed to any new studies showing that such a requirement would ''provide substantial information benefits in practice.'' [105] In the original rulemaking, the Commission discussed two studies, neither of which established that a known defects disclosure requirement had achieved beneficial results in practice.

The first such study, known as the ''Wisconsin Study,'' produced inconclusive results after comparing the experiences of consumers in three states with different inspection and defect disclosure rules: Wisconsin (which required, and continues to require, mandatory inspections and disclosure of known defects), Iowa (which at the time required mandatory safety inspections, but not disclosure of known defects), and Minnesota (which had neither).[106] Although the Wisconsin Study suggested that the Wisconsin disclosure law had resulted in a slight increase in consumer knowledge of defects at the time of sale, other data were inconclusive about the law's benefits. For example, the study showed that more consumers in Minnesota, which had no defect disclosure requirement, reported an awareness of defects than did consumers in Wisconsin. Moreover, the study failed to show that Wisconsin's disclosure requirement made it more likely that consumers would receive the information they felt they needed about the mechanical condition of a used vehicle.[107] Indeed, the study ''revealed that 51% of Wisconsin consumers still ultimately experienced repair problems not identified at the time of purchase.'' [108] From this somewhat contradictory data, the Commission concluded that the results of the Wisconsin Study tended ''to indicate that the Wisconsin defect disclosure requirement did not have a strong effect on consumers' knowledge of defects.'' [109]

A second study discussed in the original rulemaking, which compared results from Wisconsin with the rest of the country (the ''Baseline Survey''), also did not demonstrate that Wisconsin's experience with a known defects disclosure requirement had produced beneficial results. The Baseline Survey suggested that Wisconsin's defect disclosure requirement had not increased the amount of information that consumers receive about the mechanical condition of a used car, had not improved consumers' ability to predict future repair costs, and had not reduced the need for post-sale repairs.[110] The Commission concluded that, taken as a whole, the Baseline Survey data ''suggest that the expected beneficial effects of a defect disclosure requirement were not achieved in Wisconsin.'' [111]

The inconclusive nature of these earlier studies and the absence of any new empirical data establishing the benefits of a known defects disclosure

[99] As noted elsewhere, *see* note 41 and accompanying text, the Rule currently provides that unexpired manufacturers' warranties may be identified by adding the following statement to the Buyers Guide: ''MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.'' Dealers could use similar language and state that a ''MANUFACTURER'S LEMON LAW WARRANTY APPLIES.''

[100] *See* SBP, 49 FR at 45694–95, 45711–18.

[101] 60 FR at 62197.

[102] CARS at 18–19; NAAG1 at 7.

[103] 60 FR at 62196–97 (quoting SBP, 49 FR at 45712).

[104] *Id.* at 62197.

[105] *Id.*

[106] SBP, 49 FR at 45713–15.

[107] The study showed only a minor decrease in the percentage of Wisconsin consumers who reported that dealers failed to provide important information about a vehicle's mechanical condition and virtually no change in the percentage of Wisconsin consumers reporting that dealers provided inaccurate mechanical defect information after the Wisconsin disclosure law became effective. SBP, 49 FR at 45714.

[108] 60 FR at 62197; SBP, 49 FR at 45712.

[109] SBP, 49 FR at 45714.

[110] *Id.* at 45715.

[111] *Id.* at 45714.

requirement counsels against reversing the Commission's decades-old decision that the Buyers Guide not require the disclosure of known defects.

In addition to the lack of empirical data supporting a known defects disclosure requirement, the Commission also is concerned that such a requirement would be inconsistent with the overall goal of decreasing consumers' reliance on dealer-controlled information when making a used car purchase decision. The Commission concluded in the original rulemaking, for instance, that the requirement would send ''the wrong signal to consumers by encouraging them to focus their attention on dealer-controlled information about a car's mechanical condition.'' [112] By contrast, the Commission explained, ''the warranty disclosure requirements, the warning about spoken promises and the pre-purchase inspection notice encourage consumers to avoid reliance on dealer-controlled information about a car's mechanical condition.'' [113] If dealers were required by the Rule to disclose known defects, there likely would be a tendency for consumers to rely completely on the dealer for information about the mechanical condition of a used car and to ignore the Buyers Guide's important advice that they seek an inspection and vehicle history information from independent sources.[114] The Commission believes that consumers are likely to obtain more reliable information about the mechanical condition of particular vehicles from an independent inspection and vehicle history report than from the dealer's required disclosure of known defects.

In addition, as discussed in the original rulemaking, consumers might assume incorrectly that a dealer's failure to disclose any defects pursuant to a mandatory disclosure requirement means that no defects actually exist.[115] Of course, no disclosure requirement could ever insure that all defects would be discovered and disclosed to potential purchasers. Particular defects might go undisclosed for a variety of reasons, including an intentional decision by the dealer not to inspect for defects in the first place, a good faith failure to discover a particular defect during an inspection, or an intentional concealment of defects that in fact were discovered. As explained in the original rulemaking, a disclosure on the Buyers Guide ''that the dealer is not aware of any defects in a car provides no information about the actual existence of an undiscovered or latent defect'' but may cause consumers to conclude mistakenly ''that the dealer's lack of knowledge about defects means that no defects exist.'' [116] The consumer's confusion could even be used by dealers to blunt the impact of an ''as-is'' warranty disclosure—that is, dealers could tell consumers that the ''as-is'' disclosure is irrelevant because the vehicle has no known defects.[117]

Finally, as the Commission noted in the original rulemaking, a known defects disclosure requirement may actually serve to lessen the likelihood that dealers would carefully inspect their used vehicles:

> Disclosing ''known defects'' calls attention to the car's problems but does not reward the dealer's integrity for revealing those problems. Thus, a dealer who regularly inspects and honestly discloses all ''known defects'' may be put at a competitive disadvantage relative to dealers who do not inspect. This factor may then have the unintended and perverse effect of discouraging, rather than encouraging, inspections and disclosure of defects.[118]

For all of these reasons, the Commission again declines to impose a requirement as part of the Buyers Guide that dealers disclose known defects.

7. Dealer Inspections

Similarly, the Commission also declines to propose a dealer inspection requirement, as urged by several commenters.[119] The comments advocating an inspection requirement do not offer any new evidence that the Commission did not previously consider in rejecting mandatory inspections.

In originally promulgating the Rule, the Commission declined to impose an inspection requirement and noted that some of the reasons for rejecting the known defects disclosure provision applied ''with equal force'' to mandatory inspections.[120] The Commission explained that mandatory inspections would tend to encourage reliance by consumers on the dealer's inspection and thus discourage consumers from seeking independent inspections and warranty protections.[121] The Commission also noted that the Baseline Survey discussed above had shown that Wisconsin's mandatory inspection rule ''ha[d] not achieved significant beneficial effects.'' [122] The Commission was concerned, in short, that ''a mandatory inspection rule has the potential to do more harm than good because it encourages reliance on dealer inspections and, as a consequence, discourages consumers from seeking more reliable information.'' [123]

The reasons behind the Commission's 1984 decision to reject an inspection requirement are still applicable today. The Commission would add only that reliance on a mandatory inspection also could cause consumers to forego seeking vehicle history information. As previously noted, the Commission believes that obtaining these vehicle history reports and an independent inspection provide consumers with the most reliable information on the mechanical condition of a used vehicle.

C. List of Systems and Defects

1. Summary of Comments

The Regulatory Review Notice requested comments on whether the List of Systems should be retained or modified. The List of Systems has not been updated since 1984 despite changes in automotive technology. The Commission received several comments recommending retention and several recommending deletion.

Two commenters, NAAG and the Oregon Vehicle Dealer Ass'n, stated that the List of Systems should be deleted.[124] NAAG noted that the List of Systems is of little value when compared with important information, such as past history of the vehicle, that it argued should be disclosed.[125] The Oregon Vehicle Dealer Ass'n observed that ''[n]obody looks at'' the List of Systems.[126]

On the other hand, NIADA recommended retaining the List and opined that ''the list provides useful information to a customer who might, otherwise, have no or limited knowledge of the mechanical systems in a motor vehicle.'' [127] According to NIADA, if the customer takes the vehicle to a mechanic for inspection, the information in the List of Systems may make possible a more understandable exchange between the mechanic and the customer prior to the customer electing to purchase a vehicle.[128] NIADA added that ''Retaining the list is useful but not critical. For example, if space is needed to achieve other goals for revising the

[112] *Id.* at 45716.
[113] *Id.*
[114] *Id.*
[115] *Id.* at 45715–16.
[116] *Id.* at 45716.
[117] *Id.*
[118] *Id.* at 45713.
[119] CARS at 17–18; Sachau; Hillig.
[120] SBP, 49 FR at 45718.
[121] *Id.* at 45719.
[122] *Id.*
[123] *Id.*
[124] NAAG1 at 10; Ore. Vehicle Dealer Ass'n.
[125] NAAG1 at 10.
[126] Ore. Vehicle Dealer Ass'n.
[127] NIADA1 at 6.
[128] *Id.*

Guide, then deletion of part or all of the list should be considered.''[129]

Wholesale Forms also supported retaining the List of Systems for similar reasons. Wholesale Forms commented that the List of Systems conveys information to uneducated buyers who may not know much about cars.[130]

Broward County commented that boxes should be added next to each item on the List of Systems where dealers could indicate which are covered by any warranty, along with a duration column where dealers would be instructed to indicate the duration of warranty coverage for each system. Broward County further proposed that the front of the Buyers Guide direct the consumer to the reverse side of the Buyers Guide to obtain details about warranty coverage over individual systems.[131]

2. Retention of List of Systems

The Commission proposes retaining the List of Systems and revising it by adding catalytic converters, as a component of the exhaust system, and airbags. The proposed revised Buyers Guide in this NPR decreases the type size of the List of Systems to free space for boxes where dealers can indicate the applicability of manufacturers' and other third-party warranties, as described in Part IIIC. In making this proposal, the Commission recognizes the limitations of the value of the List of Systems described by some commenters as well as the benefits of the List of Systems that would be lost by deleting it altogether.

Adding boxes to the items on the list where dealers could disclose details of their own warranty coverage, as Broward County suggested, is not necessary because that information already can be provided by using the Systems Covered/Duration section of the Buyers Guide.

The Commission does not believe that deleting the List of Systems entirely, as some commenters recommend, would benefit consumers. The List of Systems arose out of the Commission's consideration of prior proposed versions of the Rule, including a version in 1980 that would have required dealers to disclose known defects in what were identified as the fourteen major systems of a vehicle.[132] The Commission rejected the known defects requirement but retained the List of Systems when the Rule was adopted. The Commission concluded, for example, that the List of Systems would help address misrepresentations about the mechanical condition of vehicles that dealers may make on a system-by-system basis by providing consumers with a framework to evaluate the extent of the warranty coverage that must be indicated in the warranties section of the Buyers Guide.[133] The Commission also concluded that the List of Systems would help consumers compare warranties on different cars or from different dealers and identify mechanical and safety systems that consumers may wish to have inspected by third parties.[134] The Commission believes that retaining the List of Systems is appropriate for the reasons articulated during the original rulemaking.

3. Adding Catalytic Converters and Airbags to the List of Systems

The Commission is proposing to add catalytic converters and airbags to the List of Systems. Both are required on vehicles operated in the United States, and the Commission believes that consumers would likely want to evaluate the warranty coverage and to consider an inspection of these components.

a. Catalytic Converters

Catalytic converters can be expensive and are targets for theft. Catalytic converters have been mandated for all U.S. vehicles since 1975. Catalytic converters remove hydrocarbons from a vehicle's exhaust by converting the hydrocarbons into water and carbon dioxide. Precious metals such as platinum, palladium, rhodium, or gold are used as the catalyst for the chemical reaction that results in the conversion. The use of these metals makes catalytic converters relatively expensive to replace and a target for thieves.[135] Catalytic converters may fail for a variety of reasons, including road damage or premature wear caused by, for example, faulty welds or uncombusted fuel reaching the converter. The failure of a catalytic converter could cause a vehicle to fail a state emissions test required for licensing.

In light of the universal use of catalytic converters in U.S. vehicle exhaust systems and the expense associated with replacing them, the Commission proposes amending the Rule to add catalytic converters to the List of Systems in the Buyers Guide as a component of the exhaust system.

b. Airbags

The Commission proposes adding airbags to the List of Systems. Airbags became a standard component of motor vehicles after the Rule's 1984 issuance. In 1984, the federal government mandated passive restraint systems for all vehicles manufactured after 1989. Manufacturers could comply with the mandate by installing systems such as airbags or automatic seat belts. Dual driver and front passenger airbags were not mandated until 1997.[136]

Although the Commission did not receive comments recommending that airbags be added to the List of Systems, it did receive comments about the failure of airbags in used cars and the need to require disclosures about their functionality.[137] Therefore, the Commission proposes to amend the Rule by adding airbags to the List of Systems because of their widespread use and obvious importance to vehicle safety. The Commission invites comments on this proposal.

D. Spanish Buyers Guides

The Rule requires that dealers display Spanish language Buyers Guides when they conduct sales in Spanish. The current Staff Compliance Guidelines recommend that dealers who conduct sales in both English and Spanish display each version of the Buyers Guide.[138] The Regulatory Review Notice specifically asked whether a single bilingual Buyers Guide was desirable and feasible, and sought design proposals for a bilingual Buyers Guide (Question III.B(1)). The Notice did not include a draft bilingual Buyers Guide.

After reviewing the comments, the Commission proposes to retain separate English and Spanish versions of the

[129] *Id.*

[130] Wholesale Forms at 4–5.

[131] Broward County at 3–4, 16.

[132] *See* SBP, 49 FR at 45711–12. The 1980 proposed rule would have required dealers to check off each system as ''OK,'' ''Not OK,'' or ''We Don't Know.'' Sale of Used Motor Vehicles; Disclosure and Other Regulations, 45 FR 52750 (Aug. 7, 1980) (Summary).

[133] *See* 49 FR at 45706.

[134] *See id.*

[135] Replacement converters can cost over $1,000. Thieves can sell the converters to metal recyclers for $20 to $200 and the metal recyclers in turn can extract the precious metal for as much as $6,000 per ounce. Not surprisingly, the incidence of catalytic converter theft increases as metal prices rise. *See* Edmunds.com, Inc., *In Under Two Minutes: Catalytic Converter Theft,* Edmunds.com, Inc., *http://www.edmunds.com/auto-insurance/in-under-two-minutes-catalytic-converter-theft.html.*

[136] Airbags are a passive restraint system that supplement seatbelt restraints. Manufacturers originally conceived of the airbag as a replacement for the seat belt, but eventually it became a supplement to the seat belt. Passive restraint systems (automatic seat belts, airbags, or some combination) are mandated for vehicles built after September 1989. 49 CFR 571.208, S4.1.4.1. Dual front driver and passenger airbags are mandated for all passenger vehicles manufactured after September 1, 1997. 49 CFR 571.208, S4.1.5.3.

[137] For example, CARS cited to missing, previously deployed, and nonfunctioning airbags. CARS at 7–8.

[138] Staff Compliance Guidelines, 53 FR at 17664.

Buyers Guide. To ensure that the Spanish guide reaches its intended audience, however, the Commission also proposes adding a sentence in Spanish on the face of the English language Buyers Guide, alerting Spanish-speaking consumers who cannot read the Buyers Guide in English to ask for a copy in Spanish.

The Commission received only one proposed bilingual Buyers Guide.[139] This proposed Buyers Guide compresses the contents of the Buyers Guide to fit both an English and a Spanish version on a single page (front and back). The proposal does not appear to follow the Rule's specific type styles, sizes, and format requirements. Displaying both a Spanish and English Buyers Guide side by side on a single sheet of paper arguably may be permitted by the Rule, but such a bilingual guide would require extremely large, oversized paper to comply with the Rule's type style, size, and format requirements,[140] which are intended to ensure the clarity and readability of the Buyers Guide.

Three commenting dealers, two trade associations, and a supplier of forms generally supported an optional bilingual Buyers Guide to generate potential cost savings for dealers.[141] NIADA qualified its support for a bilingual Buyers Guide by noting that any change to paper size or major format changes to fit in the additional text would entail heavy compliance costs for dealers that have automated systems programmed to produce the current Buyers Guide, which would discourage use of the optional bilingual version. Two commenters stated that a bilingual Buyers Guide would make test driving safer because the view from the vehicle would be less obstructed with one window sticker instead of two.[142] A national used car seller added that the informational impact of the Buyers Guide may be diluted by the ''clutter'' of posting two separate versions and noted that permitting a single bilingual document potentially could reduce displaying errors or omissions.[143] An automobile auction firm noted that a bilingual Buyers Guide would be more environmentally friendly because it would use less paper.[144]

A supplier of forms to car dealers commented that a bilingual Buyers Guide would contain too much text, would likely require reduced font sizes that would be illegibly small for some consumers, and would leave little space for important information.[145] The supplier suggested retaining separate English and Spanish versions and adding the following statement to the English Buyers Guide in Spanish: ''If you are unable to read this document [in English], ask your salesperson for a copy in Spanish.'' [146]

After reviewing the comments and considering the difficulties in devising a clear and understandable bilingual Buyers Guide,[147] the Commission has decided to retain separate English and Spanish Buyers Guides. The comments do not show that a clear and understandable bilingual Buyers Guide can be drafted. Instead, the Commission proposes to add a statement in Spanish to the English Buyers Guide that directs consumers to request a copy of the Buyers Guide in Spanish if they cannot read the English Buyers Guide. Accordingly, the proposed revised English Buyers Guide in this NPR includes, in Spanish, the following statement: ''If you are unable to read this document in English, ask your salesperson for a copy in Spanish'' (''Si usted no puede leer este documento en inglés, pidale al concesionario una copia en español'').

E. Miscellaneous Issues

1. Box to Indicate State-Mandated Warranty

The Commission declines to propose adding boxes to the Buyers Guide where dealers can indicate the applicability of warranty coverage required by state law. Nine states currently have mandatory warranty, as well as lemon law, coverage for some used vehicles.[148] Accordingly, comments from both NAAG and IALLA favor including a box on the Buyers Guide where dealers could indicate warranty coverage because of a state-mandated warranty.[149]

The Commission declines to propose such changes to the Buyers Guide because both the current and proposed revised Buyers Guide provide an adequate mechanism to disclose warranties required by state law. As noted in the current Compliance Guidelines, dealers can already disclose details of state-mandated warranties in the ''Systems Covered/Duration'' section of the Buyers Guide in the same way that they disclose details of warranties that are not prescribed by law.[150] The Rule would also permit pre-printing the applicable state-mandated warranties on the Buyers Guide. The additional space that will be created by moving the Non-Dealer Warranty and Service Contract boxes to the back of the Buyers Guide should help accommodate disclosures of state-mandated dealer warranties and address MADA's concern that the appendices in the Regulatory Review Notice did not provide sufficient space for these disclosures.[151]

2. Application of Rule to Private/Individual Sales

The Commission declines to propose expanding the Rule to cover private sales. The Rule applies to ''dealers,'' which is defined as ''any person or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve months.'' [152] The Commission rejected coverage of private sales during the original rulemaking and again in 1995. In the present rule review, the Commission received one comment recommending that the Rule apply to sales by private individuals so that the Rule would treat all used car sales transactions in the same way.[153]

During the original rulemaking, the Commission concluded that the Rule should not extend to private or casual sellers of used cars because the record failed to support a finding that

[139] Carlabels.

[140] The Rule provides that ''[t]he capitalization, punctuation, and wording of all items, headings, and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a white stock no smaller than 11 inches high by 7¼ inches wide in the type styles, sizes and format indicated.'' 16 CFR 455.2(a)(2).

[141] CarMax; Copart at 1; Anderson; NADA1 at 4; NIADA1 at 5; Carlabels.

[142] CarMax at 2; Carlabels.

[143] CarMax at 1.

[144] Copart at 1.

[145] Wholesale Forms at 4.

[146] *Id.*

[147] Staff attempted to devise a bilingual Buyers Guide in which an English statement was followed immediately by the Spanish translation, but the resulting guide was cluttered and confusing.

[148] Arizona, Connecticut, Hawaii, Massachusetts, Minnesota, New Jersey, New Mexico, New York, and Rhode Island have enacted warranty laws specific to used cars. These laws mandate warranty/lemon law coverage for periods that range from 15 days/500 miles to 90 days/4,000 miles for either all vehicles or those sold above a certain price or within certain age and mileage limitations. NAAG1, Att. A (IALLA comment).

[149] *Id.*

[150] Staff Compliance Guides, 53 FR at 17663.

[151] MADA. A non-binding Commission staff opinion letter previously approved a Buyers Guide containing Minnesota's required warranty terms listed in the Systems Covered/Duration section. Letter from Joyce E. Plyler, Used Car Coordinator, Division of Enforcement, Federal Trade Commission, to James Schutjer, Assistant Counsel, MADA (May 25, 1988).

The Staff Compliance Guidelines permit dealers to enlarge the Systems Covered/Duration section if necessary to comply with state or local disclosure requirements. 53 FR at 7663.

[152] 16 CFR 455.1(d)(3). The Rule excludes from the definition banks or financial institutions, businesses selling a used vehicle to their employees, or a lessor selling a leased vehicle to the lessee. *Id.*

[153] Hillig.

deceptive sales practices were prevalent in private sales.[154] The Commission noted that in private sales, prospective customers often receive more reliable information about mechanical condition than they do from dealers and that private sellers typically do not offer warranty protection.[155] In 1995, the Commission rejected a suggestion from NIADA that Buyers Guides be displayed in all advertised used car sales, noting that warranties typically are not offered in private sales and that enforcing the requirement in private sales would not be cost effective.[156] The one comment recommending that the Rule be extended to private sales does not provide any compelling reasons for the Commission to revisit its prior decision. The Commission therefore declines to propose extending coverage of the Rule to private sales.

3. Internet Sales

Used car sales that to some degree involve the Internet are a potentially large and growing segment of the used car market.[157] The Commission received three comments about Internet sales from industry groups, all generally addressing the availability of the Buyers Guide to consumers in such sales. A supplier of forms to car dealers, including Buyers Guides, suggested that the Buyers Guides be available electronically and viewable in dealership Internet listings.[158] NIADA suggested that dealers could post examples of Buyers Guides online to identify each category of warranty, including whether vehicles are sold ''As Is,'' rather than posting individual Buyers Guides applicable to each vehicle.[159] A multi-state Internet dealer proposed giving dealers the option of providing online customers with electronic Buyers Guides applicable to individual vehicles, either by posting them on dealer Web sites or emailing them to consumers who request copies.[160]

The Rule requires that dealers complete and display the Buyers Guide on vehicles offered for sale.[161] Some information in the Buyers Guide, such as the warning that oral promises are difficult to enforce and the recommendation that consumers ask about an independent pre-purchase inspection, is most valuable if consumers see the Buyers Guide as early as possible in the potential transaction. The terms of the Buyers Guide are incorporated into the contract of sale and override any contrary provisions in the contract.[162] Consumers who physically view a car on a dealer's lot can see information contained in a Buyers Guide before purchase whereas consumers who purchase entirely online may not see that information until after the sale is completed.

The Rule currently has no provisions specifically addressing Internet used car sales. Like classified, other forms of print, or electronic media advertising, Internet advertising is often used to draw a consumer's attention to the advertised goods or services, and the sale is ultimately consummated at a dealership. Consumers who respond to this form of Internet advertising are in a position similar to those who visit a dealer because of other forms of advertising. The Rule has no provisions concerning the general advertising of used cars, and the comments do not suggest reasons to treat this form of Internet advertising differently from classified, other print, and other electronic media advertising.

Internet sales may also be consummated entirely online with consumers never physically seeing a vehicle or the Buyers Guide that is displayed on it. Although the Rule requires that dealers display a Buyers Guide prior to sale, it does not preclude them from disclosing that information in other ways, such as by making Buyers Guides available online. Staff routinely tells dealers that they should attempt to provide the Buyers Guide to purchasers before an Internet sale is concluded because some of the information in the Buyers Guide is most valuable to consumers prior to sale. Staff also advises dealers to include the final version of the Buyers Guide with the final sales contract because the Buyers Guide is incorporated into that contract.

The Commission is unaware of evidence of prevalent deceptive practices by dealers in the Internet sale of used cars. The three comments that address Internet sales do not cite to evidence of prevalent deceptive practices by dealers in Internet sales, and, in particular, to those Internet sales in which the consumer does not physically see the offered vehicle or Buyers Guide prior to consummation of the transaction. In fact, Internet used vehicle purchasers may in some circumstances have greater protections from fraud than traditional purchasers. eBay Motors, for example, lists consumer buying tips on its Web site and provides certain protections to consumers buying used cars through its service.[163] Finally, the comments do not suggest that deceptive practices are unique to or any more prevalent in private Internet sales of used vehicles than in traditional sales. The Rule does not apply to private used car sales generally, and the comments do not suggest reasons to treat private Internet used car sales differently.

Therefore, in this NPR, the Commission does not propose amending the Rule to address Internet used vehicle sales, but seeks comment on whether deceptive practices by dealers are prevalent in the Internet sale of used cars.

4. Use of the Term ''Certified''

The Commission is making no proposals to change the Rule, as urged by CARS, to restrict the use of the term ''certified'' or similar terms in used car sales.[164] CARS commented that the Rule should prohibit dealers from labeling certain less valuable and problem vehicles as ''certified.'' [165]

As explained elsewhere in this NPR, the term ''certified'' in used vehicle sales typically refers to used vehicles that have been ''certified'' to meet certain prescribed mechanical, age, and mileage conditions after a mechanical inspection that are then offered for sale with a manufacturer's ''certified'' used car warranty.[166] The term ''certified'' has no standard definition and could be

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[154] SBP, 49 FR at 45708.

[155] *Id.*

[156] 60 FR at 62197.

[157] According to NIADA, in 2008, 48,700,000 used cars were offered over the Internet, but only 7,700,000 were sold through the Internet. In 2007, 39,100,000 used cars were offered over the Internet, and 7,900,000 were sold through the Internet. NIADA *Used Car Industry Report 2009* at 19.

In its comment, a multi-state Internet dealer cites to projections that ''Internet-generated'' sales (sales that are generated by the Internet but consummated either on or off-line) will grow to 5.6 million in 2012 (11.3 percent of used car sales) from 4.1 million in 2007 and ''direct online'' sales (Internet-generated sales in which consumers make their first financial commitments to purchase online) will rise from 1.4 million vehicles in 2007 (3% of total used car sales) to 2.1 million in 2012 (4% of total used car sales). Downey Brand at 2 and 3. Although these statistics suggest that use of the Internet is increasing in the used car market, they do not shed any light on the prevalence of sales consummated entirely online or the prevalence of deception in connection with Internet used vehicle sales generally.

[158] Dealer Specialties.

[159] NIADA1 at 5.

[160] Downey Brand at 4–5. The comment is not clear whether it proposes that dealers should be permitted to make Buyers Guides electronically available online in addition to or as an alternative to requiring that they be displayed on a used vehicle offered for sales.

[161] 16 CFR 455.2.

[162] 16 CFR 455.3(b).

[163] *See* eBay Motors Vehicle Purchase Protection, *http://pages.motors.ebay.com/buy/purchase-protection/index.html.*

[164] CARS at 25–28.

[165] CARS at 25.

[166] *See* note 47, Edmunds.com, Inc., *Certified Used Cars—The Wave of the Future, http://www.edmunds.com/car-buying/certified-used-cars-the-wave-of-the-future.html.*

used to describe manufacturer supported warranty programs, dealer warranty programs, or simply used vehicles that a dealer represents to be in good mechanical condition, regardless of whether the vehicle is offered for sale with a warranty. Even when the term ''certified'' refers to manufacturers' certified used vehicle warranty programs, those programs can vary widely in their precise terms, such as warranty duration and vehicle components covered. Manufacturers, and dealers for that matter, are free to adopt their own competing certification programs and to define the meaning of the term ''certified,'' or any other term that they choose to use, in describing those programs.

CARS recommends possible federal standards for when a vehicle can be sold as ''certified.'' The CARS comment refers to a California law that prohibits use of the term ''certified'' or similar terms whenever any of seven enumerated conditions apply.[167] Similarly, the comment proposes that the Commission prohibit describing a used car as ''certified'' if any of several conditions is present.[168]

CARS did not offer evidence that application of ''certified'' labels to substandard vehicles is a prevalent practice other than several news reports showing anecdotal instances of the practice. Misrepresenting the mechanical condition of used cars with terms such as ''certified'' is already prohibited by § 5 of the FTC Act,[169] the Rule itself,[170] and state consumer protection laws. The deceptive practices that CARS seeks to remedy can be addressed on a case-by-case basis.

At this time, the Commission is unconvinced that the Rule should be changed to address deception that potentially may be associated with use of the term ''certified'' or with vehicle certification programs generally. The Commission is unclear how the adoption of a federal standard for use of a term like ''certified'' or for vehicle certification programs would uniformly address the potential for deception suggested by the comment. Therefore, the Commission does not propose any Rule changes to address use of the term ''certified'' or vehicle certification programs generally.

5. ''50/50'' and Other ''Split Cost'' Warranties

One commenter suggested that the Commission should amend the Rule to prohibit 50/50 or other split cost used car warranties. In a split cost warranty, the consumer pays a percentage of the cost of warranty work. A 50/50 warranty refers to a split cost warranty in which a consumer pays half of the cost of the warranty service (*i.e.,* 50% of the parts and 50% of the labor). The Commission has already determined that split cost warranties are permissible, as described below. Indeed, the Buyers Guide contemplates split cost warranties by requiring dealers to identify the percentage of labor and parts that the dealer will pay for warranty service.

CARS commented that 50/50 warranties are inherently deceptive under the Magnuson-Moss Act's prohibition of deceptive warranties [171] because the warrantor could raise the price of the warranty work high enough to make consumers pay the entire warranty repair cost, both parts and labor.[172] The comment argues that 50/50 warranties also violate the Magnuson-Moss Act's prohibition against ''tying'' a warranty to a consumer's use of any product, article, or service identified by brand or corporate name, unless the product, article, or service is provided without charge.[173]

In 2002, the Commission formally declared that 50/50 warranties are not prohibited by the Magnuson-Moss Act's anti-tie in provisions.[174] Moreover, the Commission noted that other practices, such as inadequate disclosures, could constitute unfair or deceptive acts or practices and that such determinations would be made on a case-by-case basis.

The Magnuson-Moss Act allows the Department of Justice or the Commission to seek injunctions to stop deceptive warranty practices.[175] Such practices would also violate § 5 of the FTC Act,[176] and could be attacked under § 13(b) of that act. CARS offered no evidence suggesting that pricing used in connection with 50/50 warranties is likely to mislead consumers or that evidence could be developed to show that such warranty pricing practices are prevalent. The Commission can address any such practices on a case-by-case basis. Therefore, the Commission sets forth no proposal to address this issue in this NPR.

6. Buyers Guide Statement That Purchase of Service Contract May Give Consumers Additional Rights Under State Law Implied Warranties

The Commission proposes no change to the statement on the Buyers Guide that describes the relationship between the purchase of a service contract and a dealer's capacity to disclaim implied warranties. The Magnuson-Moss Act prohibits suppliers from disclaiming or modifying state law implied warranties if the supplier enters into a service contract with the consumer within 90 days of the time of sale.[177] The Buyers Guide explains this relationship by stating, ''[i]f you buy a service contract within 90 days of the time of sale, state law 'implied warranties' may give you additional rights.''

The Commission received one comment asserting that the statement on the Buyers Guide is confusing to consumers. According to MADA, the statement is confusing because it leads consumers to believe that dealers *must* offer a service contract for up to 90 days after a sale.[178] MADA noted that most

[167] Specifically, California prohibits applying the term ''certified'' to used cars when any of the following conditions are met: (1) The dealer knew or should have known that the odometer had been rolled back; (2) the dealer knew or should have known that the vehicle had been reacquired by the manufacturer or a dealer under state or federal warranty law; (3) the vehicle had been titled as a ''Lemon Law Buyback,'' ''manufacturer repurchase,'' ''salvage,'' ''junk,'' ''nonrepairable,'' ''flood,'' or similar title designation required by California or another state; (4) the vehicle had sustained damage in an impact, fire, or flood that substantially impairs the use or safety of the vehicle; (5) the dealer knew or should have known that the vehicle had sustained frame damage; (6) the dealer fails to provide a completed inspection report prior to sale; or (7) the dealer disclaims the warranty of merchantability. *Id.* at 26–27 (citing Cal. Veh. Code 11713.18).

[168] According to CARS, vehicles that should not be advertised or sold as ''certified'' include those that: (1) Have substantial nonconformities that substantially impair the use, value or safety of the vehicles, such as vehicles repurchased under lemon laws; (2) have manufacturers' warranties or extended service contracts that exclude coverage for prior damage; (3) were previously used as daily rentals, program cars, taxicabs, police vehicles, or were reported as stolen; and (4) are grey market vehicles (imported vehicles that were not manufactured in compliance with United States emissions and safety standards and that require additional regulatory approvals to be licensed as road ready). *Id.* at 27–28.

[169] 15 U.S.C. 45.

[170] 16 CFR 455.1(a)(1) (deceptive act or practice for a dealer to ''misrepresent the mechanical condition of a used vehicle'').

[171] 15 U.S.C. 2310(c)(2).

[172] CARS at 23–24.

[173] *Id.* (citing 15 U.S.C. 2302(c)).

[174] Letter to Keith E. Whann, Whann & Assocs., representing NIADA (December 31, 2002), *http://www.ftc.gov/os/2003/01/niadaresponseletter.htm.* (''2002 Magnuson-Moss Opinion Letter'' interpreting § 102(c) of the Magnuson-Moss Act (codified at 15 U.S.C. 2302(c))).

The CARS comment urges the Commission to adopt a position that, according to CARS, was suggested by the Commission's comments in 1999 that split cost warranties that require repair work to be performed by the dealer or at a place of the dealer's choosing ''likely violate'' the anti-tie in provisions. CARS at 24 (citing 64 FR 19700, 19703 (Apr. 22, 1999)). The 2002 Opinion Letter clarified the Commission's interpretation that the Magnuson-Moss Act's anti-tie in provisions do not prohibit split cost warranties, notwithstanding the prior **Federal Register** document.

[175] 15 U.S.C. 2310(c)(1)(A).

[176] 15 U.S.C. 45, 2310(b).

[177] 15 U.S.C. 2308(a)(2).

[178] MADA.

dealers will offer a service contract only at the time of sale and not afterwards. MADA did not propose an alternative statement or offer any survey or other evidence suggesting the statement often causes consumer confusion.

The statement on the Buyers Guide clearly explains the relationship between the purchase of a service contract and a dealer's capacity to disclaim implied warranties. Neither the statement on the Buyers Guide nor the Magnuson-Moss Act sets the length of time during which a service contract must be made available for purchase or whether a dealer must make a service contract available. At most, MADA's comment suggests that consumers may complain when they learn that the dealership will not offer a service contract after the time of sale or that dealers may have difficulty selling service contracts because consumers mistakenly believe that they can always purchase them later. Dealers who offer service contracts only at the time of sale can address consumer confusion about the Buyers Guide statement simply by explaining the meaning of the statement as well as the dealership's policies concerning service contract sales.

The Buyers Guide ultimately adopted in 1984 was designed and reviewed to ensure that the disclosures in it were conveyed in a clear and succinct manner.[179] Various versions of the Buyers Guide were subjected to several rounds of consumer testing to measure comprehensibility.[180] The Commission considered that consumer testing when it adopted the 1984 Buyers Guide, which included the current statement describing the relationship between the purchase of a service contract and implied warranties.

The comment does not offer any evidence of widespread consumer confusion caused by the Buyers Guide statement describing the relationship between the purchase of a service contract and implied warranties. Therefore, the Commission does not propose changing this statement.

7. Consumer Acknowledgment Signature Line

The 1995 amendments to the Rule gave dealers the option of adding a signature line to the Buyers Guide where dealers could obtain consumers' acknowledgment that they had received the Buyers Guide.[181] One commenter suggested that dealers should be *required* to obtain a signature and to retain a second signed copy.

Broward County commented that the Rule should be revised to make a signature mandatory on two copies, one of which would be given to the consumer and the other kept in the dealer's file, to facilitate subsequent investigations into consumer complaints.[182]

As the Commission noted in 1995 when it added the optional signature line, mandating that dealers obtain purchaser signatures might help establish whether consumers received the Buyers Guide but would not prove that the dealer had displayed a a Buyers Guide on the vehicle.[183] Only requiring dealers to keep copies of the signed Buyers Guides (with omissions suggesting non-compliance) could serve that purpose.[184] The Commission noted, however, that dealers already had a ''considerable incentive'' to obtain signatures and concluded that the compliance costs of mandatory signatures, with the necessary recordkeeping requirements, would be ''unnecessarily burdensome.'' [185]

Thus, during the original rulemaking, and again in 1995, the Commission declined to impose mandatory signature and recordkeeping provisions, reasoning that the possible benefits of the requirements did not justify their cost.[186] The comment does not demonstrate a need to revisit the prior decision, and the Commission intends to retain the optional signature line as it now stands.

8. Enhanced Enforcement

The Commission received several comments concerning enforcement of the Rule that do not directly pertain to the Regulatory Review Notice, which is concerned with whether, and in what form, the Rule should be retained. A consumer protection attorney commented that he hoped that the Commission ''will more clearly establish rules for and aggressive enforcement of non-complying dealers.'' [187] CARS and an individual consumer commented that the FTC should increase relevant financial penalties.[188] Two suppliers of forms commented that stepping up monitoring and enforcement actions would be adequate to improve compliance without the need for enhanced penalties.[189]

As to civil penalties, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the Commission to adjust the civil penalty amount that applies to violations of Commission trade regulation rules every four years.[190] The Commission, however, has no independent authority beyond that Act to adjust the statutory civil penalty amount that applies to violations of Commission trade regulation rules. Over the years the Commission has undertaken a number of ''sweeps'' of dealers to investigate compliance with the Rule, often working with State and local partners. The Commission remains committed to enforcing the Rule.

V. Regulatory Review

There is a continuing need for the Rule, and the Commission has determined to retain it, to propose the additional amendments described above, and to adopt the Spanish translation of the Buyers Guide discussed in the Regulatory Review Notice.[191] Industry groups supported retaining the Rule, in part, because it provides valuable information to consumers.[192] Consumer groups supported retaining the Rule, and recommended various modifications discussed above.[193] The comments provide evidence that the Rule serves a useful purpose, while imposing minimal costs on industry.

VI. Communications to Commissioners and Commissioner Advisors by Outside Parties

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record.

VII. Paperwork Reduction Act

As discussed above, the Commission is proposing amendments to the Rule designed to provide dealers with a method to disclose optional additional information. The proposed amendments do not require dealers to disclose this

[179] SBP, 49 FR at 45724.

[180] *Id.* at 45725.

[181] 60 FR at 62205.

[182] Broward County at 2.

[183] 60 FR at 62197.

[184] *Id.*

[185] *Id.*

[186] *Id.* at 62197 n.36.

[187] Swann at 1.

[188] CARS at 2; Sachau.

[189] Wholesale Forms; Carlabels.

[190] 28 U.S.C. 2641 note. The civil penalty amount for § 5 violations was last increased on January 9, 2009, effective February 9, 2009, and is currently $16,000 per violation. 74 FR 857–888; 16 CFR 1.98.

[191] The translation revisions are made in a final rule published in a separate **Federal Register** document.

[192] *E.g.,* NADA1 at 2; NIADA1 at 2; Wholesale Forms at 1.

[193] *E.g.,* NAAG1 at 2; CARS at 2.

additional information nor do they alter the Rule's existing disclosure requirements or impose recordkeeping requirements. The FTC previously submitted ''collection of information'' requirements and related Paperwork Reduction Act (''PRA'') burden analyses for public comment [194] that have been cleared by the Office of Management and Budget (''OMB'').[195]

The FTC anticipates making amended Buyers Guides, if adopted, available on its Web site for downloading by dealers. The FTC expects that current suppliers of Buyers Guides, such as commercial vendors and dealer trade associations, will supply dealers with amended Buyers Guides. Accordingly, dealers' cost to obtain amended Buyers Guides should increase only marginally, if at all.

For simplicity, FTC staff assumes that dealers will make the optional disclosures on 25% of used cars offered for sale. Dealers who choose to make the optional disclosures should obtain amended Buyers Guides and complete them by checking additional boxes not appearing on the current Buyers Guide. Staff previously estimated that completing Buyers Guides would require approximately 2 minutes per vehicle for cars sold without a warranty and 3 minutes per vehicle for vehicles sold with a warranty. Checking the additional boxes should require dealers no more than an additional 30 seconds per car. Thus, making the optional disclosures presented by the proposed amendments would increase estimated burden by 57,539 hours (25% × 27,618,480 cars sold [196] × 1/120 hour per car).

Assuming that dealers use lower level clerical staff at a mean hourly wage of $13.90 per hour [197] to complete the Buyers Guides, incremental labor costs associated with making the optional disclosures will total $799,792 per year [57,539 hours × $13.90 per hour].

Assuming, as stated above, that dealers will make the optional disclosures on 25% of the 27,618,480 used cars offered for sale, and assuming further a cost of twenty cents per pre-printed Buyers Guide, incremental purchase costs per year will total $1,380,924. Any other capital costs associated with the proposed amendments are likely to be minimal.

VIII. Regulatory Analysis

Section 22 of the FTC Act, 15 U.S.C. 57b, requires the Commission to issue a preliminary regulatory analysis when publishing a Notice of Proposed Rulemaking, but requires the Commission to prepare such an analysis for a rule amendment proceeding only if it: (1) Estimates that the amendment will have an annual effect on the national economy of $100,000,000 or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has set forth in Section IX below, in connection with its Initial Regulatory Flexibility Analysis (''IRFA'') under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, and has discussed elsewhere in this Document: The need for and objectives of the Proposed Rule (IX.B below); a description of reasonable alternatives that would accomplish the Rule's stated objectives consistent with applicable law (IX.F below); and a preliminary analysis of the benefits and adverse effects of those alternatives (*id.*).

The Commission estimates that the proposed amendments to the Used Car Rule will not have such an annual effect on the national economy, on the cost or prices of goods or services sold by used car dealers, or on covered businesses or consumers. The Commission has not otherwise determined that the proposed amendments will have a significant impact upon regulated persons. As noted in the PRA discussion above, the Commission staff estimates each business affected by the Rule will likely incur only minimal initial added compliance costs as dealers obtain revised Buyers Guides and become familiar with them. To ensure that the Commission has considered all relevant facts, however, it requests additional comment on these issues.

IX. Initial Regulatory Flexibility Analysis

The RFA requires an agency to provide an IRFA with a proposed rule and a Final Regulatory Flexibility Analysis (''FRFA'') with the final rule, if any, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603–605. The FTC does not expect that the Proposed Rule will have a significant economic impact on a substantial number of small entities.

The Proposed Rule, like the current Used Car Rule, does not contain reporting or recordkeeping requirements, but does require that dealers disclose certain information. The disclosure requirements of the Proposed Used Car Rule are the minimum necessary to give consumers the information that they need to protect themselves and to permit effective enforcement of the rule. The Proposed Rule requires only that dealers use a revised Buyers Guide. It does not impose additional recordkeeping requirements or change the information that dealers themselves must disclose on the Buyers Guide. Additional disclosures consist of pre-printed verbatim statements and check boxes that dealers will have the option, but are not required, to complete. As such, the economic impact of the proposed Used Car Rule will be minimal. In any event, the burdens imposed on small businesses are likely to be relatively small, and in the Commission's enforcement experience, insignificant in comparison to their gross sales and profits.

This document serves as notice to the Small Business Administration (''SBA'') of the agency's certification of no effect. Nonetheless, the Commission has determined that it is appropriate to publish an IRFA in order to inquire into the impact of the Proposed Rule on small entities. Therefore, the Commission has prepared the following analysis.

A. Description of the Reasons That Action by the Agency Is Being Considered

The comments received during the Regulatory Review Notice indicate a continuing need for the Rule. The comments indicate that consumers would benefit from a revised Rule that enhances consumer access to information about manufacturers' and other third-party warranties. The comments also indicate that consumers would benefit with improved

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[194] 76 FR 144 (Jan. 3, 2011); 75 FR 62538 (Oct. 12, 2010).

[195] OMB Control No. 3084–0108 (exp. Feb. 28, 2014). Should final rule amendments change existing disclosure requirements for the Used Car Rule, the FTC will pursue OMB clearance and appropriate adjustment for its prior PRA burden estimates.

[196] *See NIADA Used Car Industry Report* (2012) (''*Used Car Industry Report 2012*''), available at *www.niada.com/publications.php,* at 16,18 (*citing* CNW Marketing Research data for 2011). Dealers sold 71.2% (*i.e.,* 27,618,480 vehicles) of the approximately 38,790,000 used cars sold in 2011. The remaining used cars were sold in casual/private party sales. *Id.* at 16.

[197] The hourly rate derives from Bureau of Labor Statistics data for the mean hourly wage of ''Office clerks, general.'' *See Occupational Employment and Wages—May 2011* (released March 27, 2012), available at *http://www.bls.gov/news.release/archives/ocwage_03272012.pdf.*

knowledge about the availability of vehicle history information.

B. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed Used Car Rule is to provide material information about used car warranties and used vehicle histories. This information will help protect consumers from dealer misrepresentations and aid consumers in making informed choices when considering the purchase of a used car, while minimizing the compliance burdens on dealers. The legal basis for this proposed rule is the FTC Act and ' 1029 of the Dodd-Frank Act, 12 U.S.C. 5519. Section 18(a)(1)(B) of the FTC Act, 15 U.S.C. 57a, authorizes the Commission to issue rules that define with specificity acts or practices in or affecting commerce that are unfair or deceptive within the meaning of ' 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1), and may include requirements for the purpose of preventing such acts or practices. Section 1029 of the Dodd-Frank Act authorizes the Commission, when issuing such rules with respect to motor vehicle dealers, to use standard APA procedures in accordance with 5 U.S.C. 553.

C. Description of and, Where Feasible, Estimate of the Number of Small Entities To Which the Proposed Rule Will Apply

The Used Car Rule primarily applies to ''dealers,'' defined as individuals or businesses which sell or offer for sale a used vehicle after selling or offering for sale five or more used vehicles in the previous year.[198] The Commission believes that many of these dealers would be considered small businesses according to the applicable SBA size standards. Under those standards, independent used car dealers having annual receipts of less than $23 million and franchised new car dealers, which also typically sell used cars, having fewer than 200 employees each are classified as small businesses.[199]

In 2011, the nation's 37,594 independent used car dealers had average total revenue of $3,974,916.[200] Used car dealers' average annual revenue is well below the maximum $23 million in annual sales established by the SBA for classification as a small business.

Many franchised new car dealers would also be classified by the SBA as small businesses. In 2011, the nation's 17,540 franchised new car dealers had an average of fifty employees.[201] The average number of employees at each dealership was 53, well below the 200 employee maximum established by the SBA for classification as a small business.[202]

D. Projected Reporting, Recordkeeping and Other Compliance Requirements, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The Used Car Rule imposes disclosure obligations on used car dealers, but does not impose any reporting or recordkeeping requirements. Specifically, dealers are required to complete and display a Buyers Guide on each used car offered for sale. Dealers are required to complete and display Spanish versions of the Buyers Guide when sales are conducted in Spanish. Staff has determined that clerical or low-level administrative personnel can perform the tasks necessary to meet dealers' disclosure obligations. Neither the current Rule nor the Proposed Rule requires dealers to retain any records other than may be necessary to meet their obligations to complete and display the Buyers Guides. The Proposed Rule does not change the tasks that dealers must perform to meet their obligations under the Rule. Dealers may experience a slight initial increase in costs as they familiarize themselves with using revised Buyers Guides. The Commission invites comments on the Proposed Rule's compliance requirements and on the types of professional skills necessary to meet dealers' compliance obligations.

E. Other Duplicative, Overlapping, or Conflicting Federal Rules

No other federal statutes, rules, or policies conflict with the Used Car Rule or with the Proposed Rule. No other federal law or regulation requires that the Buyers Guide disclosures be made when a used vehicle is placed on the dealer's lot or when it is offered for sale.[203] Two states that are exempt from the Rule, Maine and Wisconsin, require disclosure of related but different information regarding used car sales.[204]

The Commission invites comments on federal rules that may duplicate, overlap, or conflict with the Proposed Rule.

F. Description of Any Significant Alternatives to the Proposed Rule That Would Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities, Including Alternatives Considered, Such as: (1) Establishment of Differing Compliance or Reporting Requirements or Timetables That Take Into Account the Resources Available to Small Entities; (2) Clarification, Consolidation, or Simplification of Compliance and Reporting Requirements Under the Rule for Such Small Entities; and (3) Any Exemption From Coverage of the Rule, or Any Part Thereof, for Such Small Entities

The Proposed Rule's disclosure requirements are designed to impose the minimum burden on all affected dealers, regardless of size. The Proposed Rule is intended to avoid increasing the burden on dealers. The Proposed Rule does not impose any new recordkeeping requirements and does not require dealers to disclose more information on the Buyers Guide than the current Rule does.

The proposed revised Buyers Guide contains additional pre-printed disclosures not found in the current Buyers Guide. These include a verbatim statement advising consumers to obtain vehicle history information prior to purchasing a used vehicle and a statement in Spanish on the English Buyers Guide advising consumers to ask for a Spanish Buyers Guide if they are unable to understand the English Buyers Guide. The revised Buyers Guide also lists airbags and catalytic converters as components of vehicles in which defects may arise.

The information that the Proposed Rule would require dealers to provide on a revised Buyers Guide is unchanged from the current Rule. The revised Buyers Guide contains additional sections pertaining to manufacturers' and third-party warranties that dealers

[198] 16 CFR 455.1(d)(3).

[199] *U.S. Small Business Admin. Table of Small Bus. Size Standards Matched to North American Indus. Classification System [''NAICS''] Codes* (effective Mar. 26, 2012), *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Used car dealers are classified as NAICS 441120 and franchised new car dealers as NAICS 441110.

[200] *Used Car Market Report 2012,* at 16, 20. Used vehicle sales accounted for 36.2% ($1,463,564) of that revenue. *Id.*

[201] Calculated from the monthly number of new dealers listed in *2011 Data Source Book* at 10.

[202] *NADA Data 2012,* available at *http://www.nada.org/Publications/NADADATA/2012/,* at 5, 14 (data as of January 1, 2011).

[203] Some states also have adopted the Rule as state law. In addition, the Magnuson-Moss Warranty Act, 15 U.S.C. 2301–2312, requires that written warranties on consumer products be *available* before sale, as specified by 16 CFR Part 702, but displaying warranty information is not required.

[204] Both states were granted exemptions from the Rule pursuant to 16 CFR 455.6.

have the option, but are not required, to complete by simply checking boxes on the revised Buyers Guide.

The Commission does not believe that the Proposed Rule will impose a significant economic impact on a substantial number of small businesses. Nonetheless, the Commission specifically requests comment on the question of whether the Proposed Rule would impose a significant impact upon a substantial number of small entities, and what modifications to the Proposed Rule the Commission could make to minimize the burden on small entities. Moreover, the Commission requests comment on the general question of whether new technology or changes in technology can be used to reduce the burdens imposed by the Proposed Rule.

In some situations, the Commission has considered adopting a delayed effective date for small entities subject to a new regulation in order to provide them with additional time to come into compliance. In this case, however, the Commission believes that small entities should feasibly be able to come into compliance with the Proposed Rule by the proposed effective date, six months following publication of the final Rule. Nonetheless, the Commission invites comment on whether small businesses might need additional time to come into compliance and, if so, why.

In addition, the Commission has the authority to exempt any persons or classes of persons from the Proposed Rule's application pursuant to § 18(g) of the FTC Act. By definition, sellers of used cars that have not sold or offered for sale five or more used cars in the previous year are exempt from the Rule.[205] The Proposed Rule does not change this threshold. The Commission requests comment on whether it should consider exempting any persons or classes of persons covered by the Rule from application of the proposed amendments. The Commission notes, however, that the Proposed Rule's purpose of protecting consumers from unfair or deceptive acts or practices in used car sales could be undermined by the granting of a broad exemption to small entities.

G. Questions for Comment To Assist Regulatory Flexibility Analysis

1. Please provide information or comment on the number and type of small entities affected by the Proposed Rule. Include in your comment the number of small entities that will be required to comply with the Proposed Rule's disclosure requirements.

2. Please provide comment on any or all of the provisions in the Proposed Rule with regard to: (a) the impact of the provision(s) (including benefits and costs to implement and comply with the Proposed Rule or any of its provisions), if any; and (b) what alternatives, if any, the Commission should consider, as well as the costs and benefits of those alternatives, paying specific attention to the effect of the Proposed Rule on small entities in light of the above analysis. In particular, please describe any ways in which the Proposed Rule could be modified to reduce any costs or burdens for small entities consistent with the Proposed Rule's purpose, and costs to implement and to comply with provisions of the Proposed Rule, including expenditures of time and money for: any employee training; attorney, computer programmer, or other professional time; preparing relevant materials (*e.g.,* completing Buyers Guides); and recordkeeping.

3. Please describe ways in which the Proposed Rule could be modified to reduce any costs or burdens on small entities, including whether and how technological developments could further reduce the costs of implementing and complying with the Proposed Rule for small entities.

4. Please provide any information quantifying the economic costs and benefits of the Proposed Rule on the entities covered, including small entities.

5. Please identify any relevant federal, state, or local rules that may duplicate, overlap, or conflict with the Proposed Rule.

X. Invitation to Comment

The Commission invites interested members of the public to submit written data, views, facts, and arguments addressing the issues raised by this NPR, including the proposed revisions to the Buyers Guide. Such comments must be received by February 11, 2013, and must be filed in accordance with the **ADDRESSES** section of this document.

The Commission asks that comments be confined to the following specific issues pertaining to the proposals discussed in **SUPPLEMENTARY INFORMATION** PARTS IVA–IVD and IVE3. In particular, the Commission requests written responses to any or all of the following questions. The Commission requests that responses be as specific as possible, including a reference to the question being answered, and a reference to empirical data or other evidence wherever available and appropriate.

1. Should the Buyers Guide be revised, as discussed in **SUPPLEMENTARY INFORMATION** PART IVA, to include check boxes for disclosing manufacturers' and other third-party warranties? Why or why not? What alternative revisions to the Buyers Guide, if any, should be adopted to improve disclosure of manufacturers' and third-party warranties?

2. Should the proposed vehicle history statement on the front of the proposed Buyers Guide be adopted? Why or why not?

3. Should the proposed vehicle history statement be modified? If so, how?

4. Should the proposed vehicle history statement list both *ftc.gov/usedcars* (the FTC Web site) and *vehiclehistory.gov* (the NMVTIS Web site)? Should it list only *ftc.gov/usedcars*? Should it list only *vehiclehistory.gov*? Why or why not?

5. Should the List of Systems include catalytic converters? Why or why not?

6. Should the List of Systems include airbags? Why or why not?

7. Should the proposed statement, ''Si usted no puede leer este documento en inglés, pidale al concesionario una copia en español,'' directing Spanish-speaking consumers to ask for a copy of the Buyers Guide in Spanish be adopted? Why or why not? What alternative statement, if any, should be considered? What alternative proposals to alert Spanish-speaking customers to the Spanish Buyers Guide should be considered?

8. Identify and describe deceptive practices, if any, that are prevalent in Internet used vehicle sales. Provide studies, analyses, and data demonstrating the extent of those practices. If deceptive practices are prevalent in Internet used vehicle sales, what regulatory steps, if any, should the FTC consider taking to prevent those practices?

9. What is the extent of consumer injury, if any, that results from consumers' inability to see information on the Buyers Guide prior to purchase in Internet used vehicle sales in which consumers cannot visually inspect a car and see the Buyers Guide prior to purchase? Provide examples, studies, analyses and data indicating the nature and extent of such consumer injury.

10. To what extent do consumers who consummate Internet used vehicle sales online receive copies of the Buyers Guide with their final sales contracts? Provide examples, studies, analyses, and data to support your answer.

11. The FTC also invites comments on the nature and extent of information that it should make available on the Web site, *ftc.gov/usedcars* that it

[205] 16 CFR 455.1(d)(3).

proposes to create in connection with the proposed Buyers Guide.

12. If the FTC creates the proposed Web site, *ftc.gov/usedcars,* should the FTC include active links to other Web sites, such as the Web sites of providers of vehicle history reports, and, if so, which Web sites? If the FTC includes active links to other Web sites, what mechanisms and standards should the FTC apply to ensure that it directs consumers only to Web sites and firms that are trustworthy and that accommodate consumer privacy and data security expectations?

List of Subjects in 16 CFR Part 455

Motor vehicles, Trade practices.

For the reasons set forth in this document, the Federal Trade Commission is proposing to amend part 455 of title 16, Code of Federal Regulations, as follows:

PART 455—USED MOTOR VEHICLE TRADE REGULATION RULE

1. Revise the authority citation to read as follows:

Authority: 15 U.S.C. 2309; 15 U.S.C. 41–58.

2. Amend § 455.2 by revising the introductory text of paragraph (a), and paragraphs (a)(2), (b)(1), (b)(2)(v), (b)(3), and (e) to read as follows:

§ 455.2 Consumer sales—window form.

(a) *General duty.* Before you offer a used vehicle for sale to a consumer, you must prepare, fill in as applicable and display on that vehicle the applicable ''Buyers Guide'' illustrated by Figures 1–6 at the end of this part.

(1) * * *

(2) The capitalization, punctuation and wording of all items, headings, and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a white stock no smaller than 11 inches high by 7¼ inches wide in the type styles, sizes and format indicated. When filling out the form, follow the directions in paragraphs (b) through (e) of this section and § 455.4 of this part.

(b) *Warranties*—(1) *No Implied Warranty—''As Is''/No Dealer Warranty.* (i) If you offer the vehicle without any implied warranty, i.e., ''as is,'' mark the box appearing in Figure 1. If you offer the vehicle with implied warranties only, substitute the IMPLIED WARRANTIES ONLY disclosure specified in § 455.2(b)(1)(ii) below, and mark the IMPLIED WARRANTIES ONLY box illustrated by Figure 2. If you first offer the vehicle ''as is'' or with implied warranties only but then sell it with a warranty, cross out the ''As Is—No Dealer Warranty'' or ''Implied Warranties Only'' disclosure, and fill in the warranty terms in accordance with paragraph (b)(2) of this section.

(ii) If your State law limits or prohibits ''as is'' sales of vehicles, that State law overrides this part and this rule does not give you the right to sell ''as is.'' In such States, the heading ''As Is—No Dealer Warranty'' and the paragraph immediately accompanying that phrase must be deleted from the form, and the following heading and paragraph must be substituted. If you sell vehicles in States that permit ''as is'' sales, but you choose to offer implied warranties only, you must also use the following disclosure instead of ''As Is—No Dealer Warranty'' [206] as illustrated by the Buyers Guide in Figure 2.

IMPLIED WARRANTIES ONLY

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

(2) * * *

(v) You may, but are not required to, disclose that a warranty from a source other than the dealer applies to the vehicle. If you choose to disclose the applicability of a non-dealer warranty, mark the box labeled ''Non-Dealer Warranties'' on the back of the Buyers Guide, as illustrated by Figure 3, and also the applicable box or boxes to indicate: ''MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle,'' ''MANUFACTURER'S USED VEHICLE WARRANTY APPLIES,'' and/or ''OTHER USED VEHICLE WARRANTY APPLIES.''

If, following negotiations, you and the buyer agree to changes in the warranty coverage, mark the changes on the form, as appropriate. If you first offer the vehicle with a warranty, but then sell it without one, cross out the offered warranty and mark either the ''As Is—No Dealer Warranty'' box or the ''Implied Warranties Only'' box, as appropriate.

(3) *Service contracts.* If you make a service contract (other than a contract that is regulated in your State as the business of insurance) available on the vehicle, you must add the following heading and paragraph below the Non-Dealer Warranties Section on the back of the Buyers Guide, as illustrated by Figure 3, and mark the box labeled ''Service Contract:'' [3]

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warrant*ies under your state's laws may give you additional rights.

* * * * *

(e) *Complaints.* In the space provided, put the name, telephone number, and email address of the person who should be contacted if any complaints arise after sale.

* * * * *

3. Revise § 455.5 to read as follows:

§ 455.5 Spanish language sales.

If you conduct a sale in Spanish, the window form required by § 455.2 and the contract disclosures required by § 455.3 must be in that language. You may display on a vehicle both an English language window form and a Spanish language translation of that form. Use the translation and layout for Spanish language sales in Figures 4, 5, and 6.[4]

BILLING CODE 6750–01–P

[206] See § 455.5 n. 4 for the Spanish version of this disclosure.

[3] See § 455.5 n. 4 for the Spanish version of this disclosure.

[4] Use the following language for the ''Implied Warranties Only'' disclosure when required by § 455.2(b)(1):

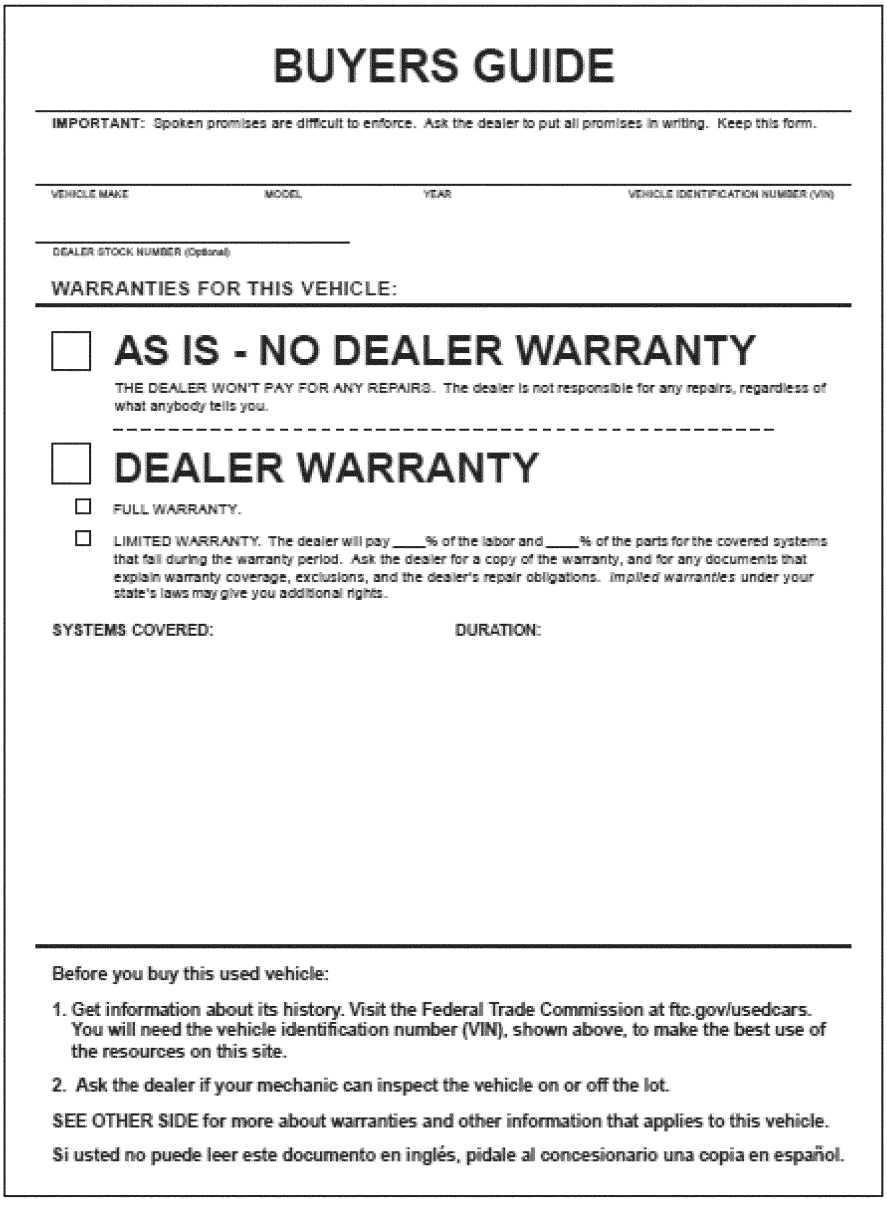
GARANTÍAS IMPLÍCITAS SOLAMENTE

El concesionario no hace ninguna promesa de arreglar aquello que necesite reparación cuando usted compra el vehículo o a partir de ese momento. Pero, las *garantías implícitas* establecidas por la ley de su estado pueden otorgarle algunos derechos para que el concesionario se haga cargo de resolver problemas graves que no eran evidentes al momento de comprar el vehículo.

Use the following language for the ''Service Contract'' disclosure required by § 455.2(b)(3):

CONTRATO DE SERVICIO. Por un cargo extra, usted puede disponer de un contrato de servicio para este vehículo. Consulte los detalles sobre la cobertura, deducibles, precio y exclusiones. Si usted compra un contrato de servicio dentro de los 90 días posteriores a la compra de este vehículo, las *garantías implícitas* establecidas por la ley de su estado pueden otorgarle derechos adicionales.

FIGURE 1 – "AS IS"- NO DEALER WARRANTY Buyers Guide (English)



BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

DEALER STOCK NUMBER (Optional)

WARRANTIES FOR THIS VEHICLE:

☐ AS IS - NO DEALER WARRANTY

THE DEALER WON'T PAY FOR ANY REPAIRS. The dealer is not responsible for any repairs, regardless of what anybody tells you.

☐ DEALER WARRANTY

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: DURATION:

Before you buy this used vehicle:

1. Get information about its history. Visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.
2. Ask the dealer if your mechanic can inspect the vehicle on or off the lot.

SEE OTHER SIDE for more about warranties and other information that applies to this vehicle.

Si usted no puede leer este documento en inglés, pidale al concesionario una copia en español.

26 pt bold caps centered

1 pt rule
8.5 pt bold & regular, caps & lc

0.5 pt rule
6 pt regular caps

12 pt bold caps
2 pt rule

22 pt box, 1 pt stroke
24 pt bold caps

8.5/15 pt regular, caps & lc

1 pt dashed rule

22 pt box, 1 pt stroke
24 pt bold caps

8 pt boxes, 1 pt stroke
8.5/9 pt regular, caps & lc

9 pt bold caps, 2 columns

2 pt rule

10 pt bold, -2 pt after para

10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

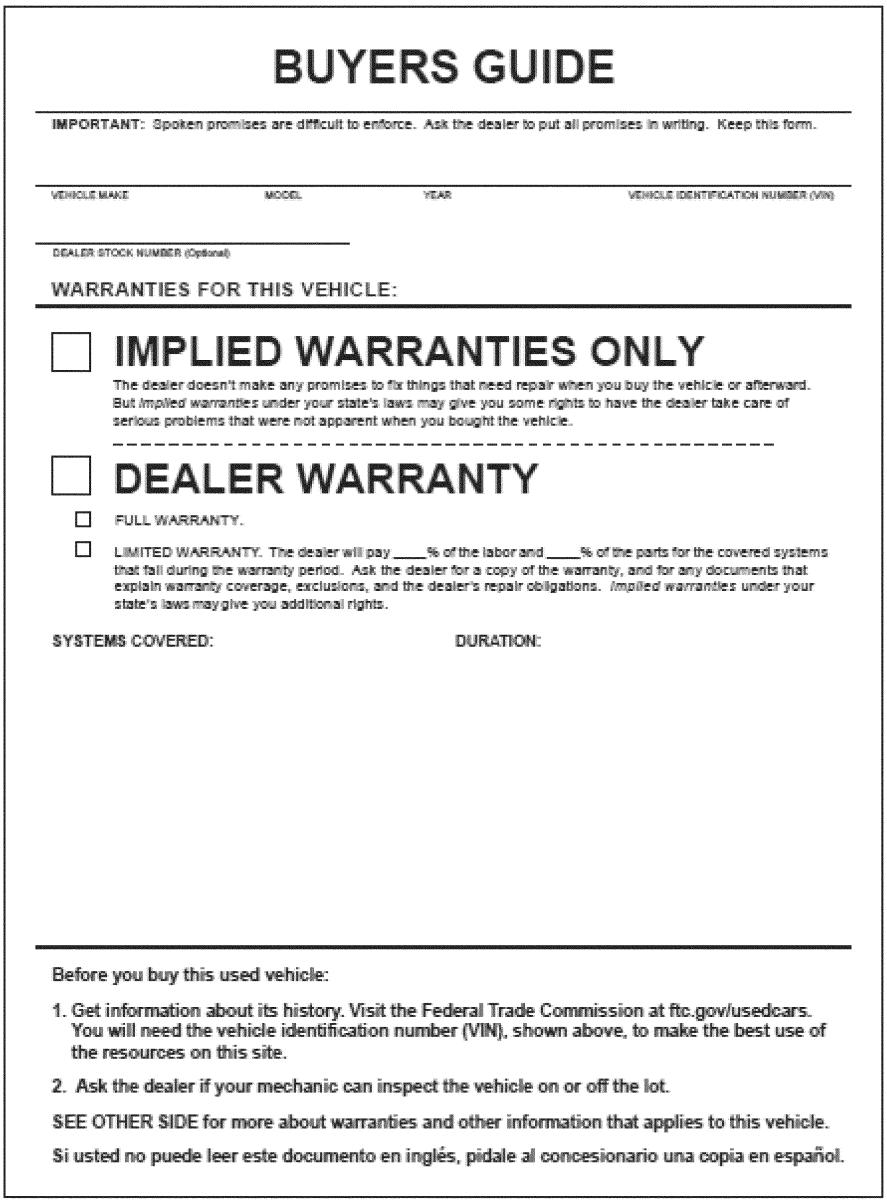
10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

10/12 pt bold, caps & lc, -2 pt after para

10/12 pt bold, lc

* Typeface is Arial, text is flush left unless otherwise noted.

FIGURE 2 – IMPLIED WARRANTIES ONLY Buyers Guide (English)



BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

DEALER STOCK NUMBER (Optional)

WARRANTIES FOR THIS VEHICLE:

☐ **IMPLIED WARRANTIES ONLY**

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

Before you buy this used vehicle:

1. Get information about its history. Visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.
2. Ask the dealer if your mechanic can inspect the vehicle on or off the lot.

SEE OTHER SIDE for more about warranties and other information that applies to this vehicle.

Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.

26 pt bold caps centered

1 pt rule
8.5 pt bold & regular, caps & lc

0.5 pt rule
6 pt regular caps

12 pt bold caps
2 pt rule

22 pt box, 1 pt stroke
24 pt bold caps

8.5/15 pt regular, caps & lc

1 pt dashed rule

22 pt box, 1 pt stroke
24 pt bold caps

8 pt boxes, 1 pt stroke
8.5/9 pt regular, caps & lc

9 pt bold caps, 2 columns

2 pt rule

10 pt bold, -2 pt after para

10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

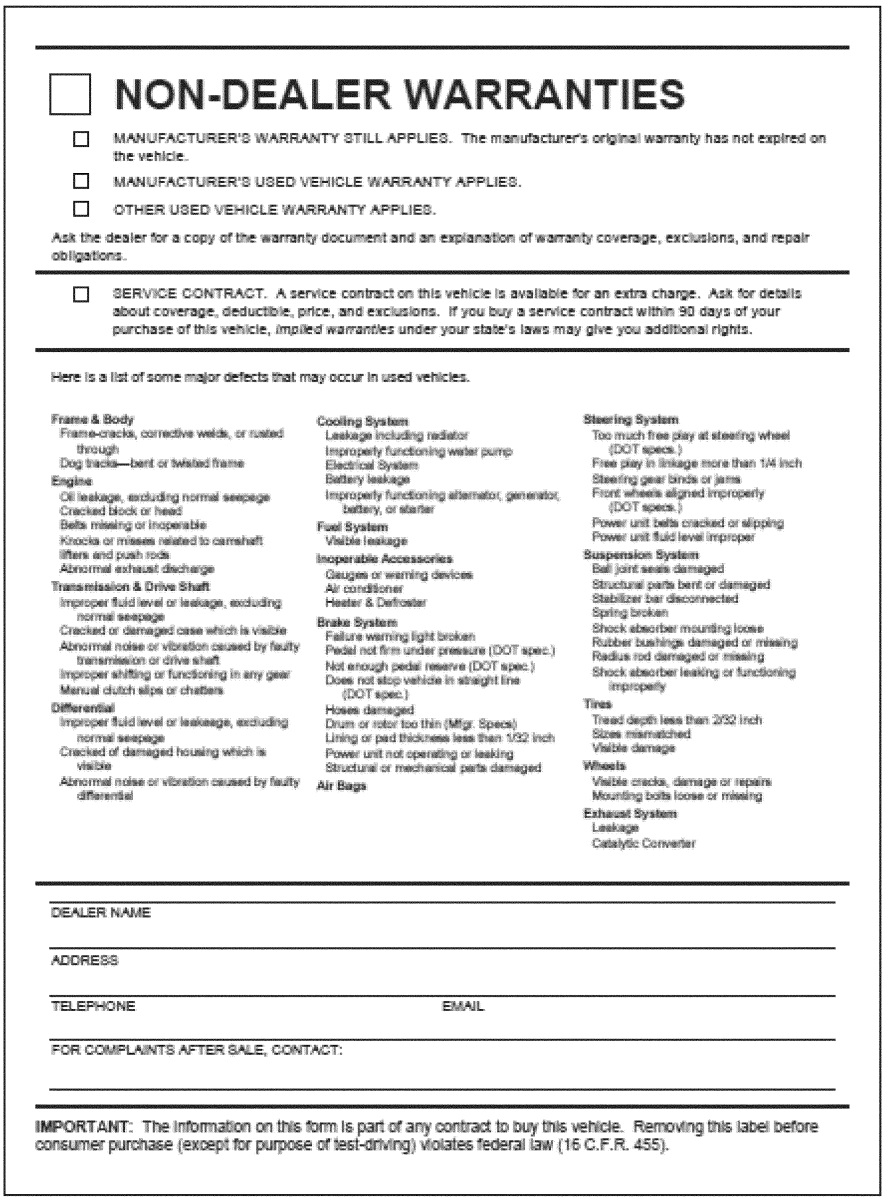
10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

10/12 pt bold, caps & lc, -2 pt after para

10/12 pt bold, lc

* Typeface is Arial, text is flush left unless otherwise noted.

FIGURE 3 – Back of Buyers Guide (English)



☐ **NON-DEALER WARRANTIES**

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, implied warranties under your state's laws may give you additional rights.

Here is a list of some major defects that may occur in used vehicles.

Frame & Body
Frame-cracks, corrective welds, or rusted through
Dog tracks—bent or twisted frame

Engine
Oil leakage, excluding normal seepage
Cracked block or head
Belts missing or inoperable
Knocks or misses related to camshaft
lifters and push rods
Abnormal exhaust discharge

Transmission & Drive Shaft
Improper fluid level or leakage, excluding normal seepage
Cracked or damaged case which is visible
Abnormal noise or vibration caused by faulty transmission or drive shaft
Improper shifting or functioning in any gear
Manual clutch slips or chatters

Differential
Improper fluid level or leakage, excluding normal seepage
Cracked of damaged housing which is visible
Abnormal noise or vibration caused by faulty differential

Cooling System
Leakage including radiator
Improperly functioning water pump

Electrical System
Battery leakage
Improperly functioning alternator, generator, battery, or starter

Fuel System
Visible leakage

Inoperable Accessories
Gauges or warning devices
Air conditioner
Heater & Defroster

Brake System
Failure warning light broken
Pedal not firm under pressure (DOT spec.)
Not enough pedal reserve (DOT spec.)
Does not stop vehicle in straight line (DOT spec.)

Hoses damaged
Drum or rotor too thin (Mfgr. Specs)
Lining or pad thickness less than 1/32 inch
Power unit not operating or leaking
Structural or mechanical parts damaged

Air Bags

Steering System
Too much free play at steering wheel (DOT specs.)
Free play in linkage more than 1/4 inch
Steering gear binds or jams
Front wheels aligned improperly (DOT specs.)
Power unit belts cracked or slipping
Power unit fluid level improper

Suspension System
Ball joint seals damaged
Structural parts bent or damaged
Stabilizer bar disconnected
Spring broken
Shock absorber mounting loose
Rubber bushings damaged or missing
Radius rod damaged or missing
Shock absorber leaking or functioning improperly

Tires
Tread depth less than 2/32 inch
Sizes mismatched
Visible damage

Wheels
Visible cracks, damage or repairs
Mounting bolts loose or missing

Exhaust System
Leakage
Catalytic Converter

DEALER NAME

ADDRESS

TELEPHONE EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removing this label before consumer purchase (except for purpose of test-driving) violates federal law (16 C.F.R. 455).

2 pt rule

22 pt box, 1 pt stroke
24 pt bold, caps

8 pt box, 1 pt stroke
8.5/10.2 pt regular, caps & lc

8.5/10.2 pt regular

2 pt rule
8 pt box, 1 pt stroke
8.5/10.2 pt regular, caps & lc

2 pt rule

8.5/10.2 pt regular, caps & lc

2" columns, left, centered, right
7 pt bold, 2 pt before para,
7/8.4 pt regular, 15 pt lft ind,
-10 pt first line ind

2 pt rule

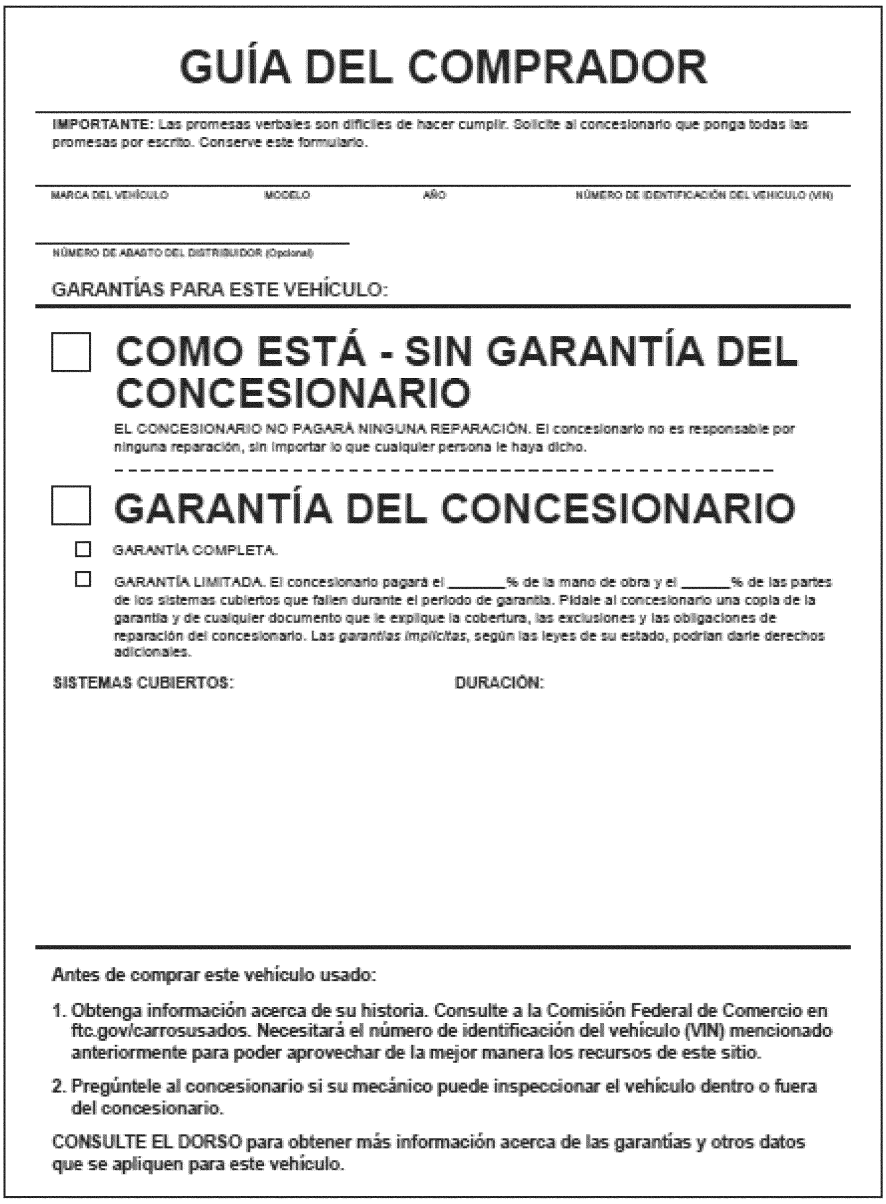
0.5 pt rule
8 pt regular, caps

2 pt rule

9/10.8 pt bold & regular, caps & lc

* Typeface is Arial, text is flush left unless otherwise noted.

FIGURE 4 – "AS IS"- NO DEALER WARRANTY Buyers Guide (Spanish)



GUÍA DEL COMPRADOR

26 pt bold caps centered

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

1 pt rule
8.5 pt bold & regular, caps & lc

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHICULO (VIN)

0.5 pt rule
6 pt regular caps

NÚMERO DE ABASTO DEL DISTRIBUIDOR (Opcional)

GARANTÍAS PARA ESTE VEHÍCULO:

12 pt bold caps
2 pt rule

☐ **COMO ESTÁ - SIN GARANTÍA DEL CONCESIONARIO**

22 pt box, 1 pt stroke
24/24 pt bold caps

EL CONCESIONARIO NO PAGARÁ NINGUNA REPARACIÓN. El concesionario no es responsable por ninguna reparación, sin importar lo que cualquier persona le haya dicho.

8.5/15 pt regular, caps & lc

1 pt dashed rule

☐ **GARANTÍA DEL CONCESIONARIO**

22 pt box, 1 pt stroke
24 pt bold caps

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el periodo de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

8 pt boxes, 1 pt stroke
8.5/9 pt regular, caps & lc

SISTEMAS CUBIERTOS: **DURACIÓN:**

9 pt bold caps, 2 columns

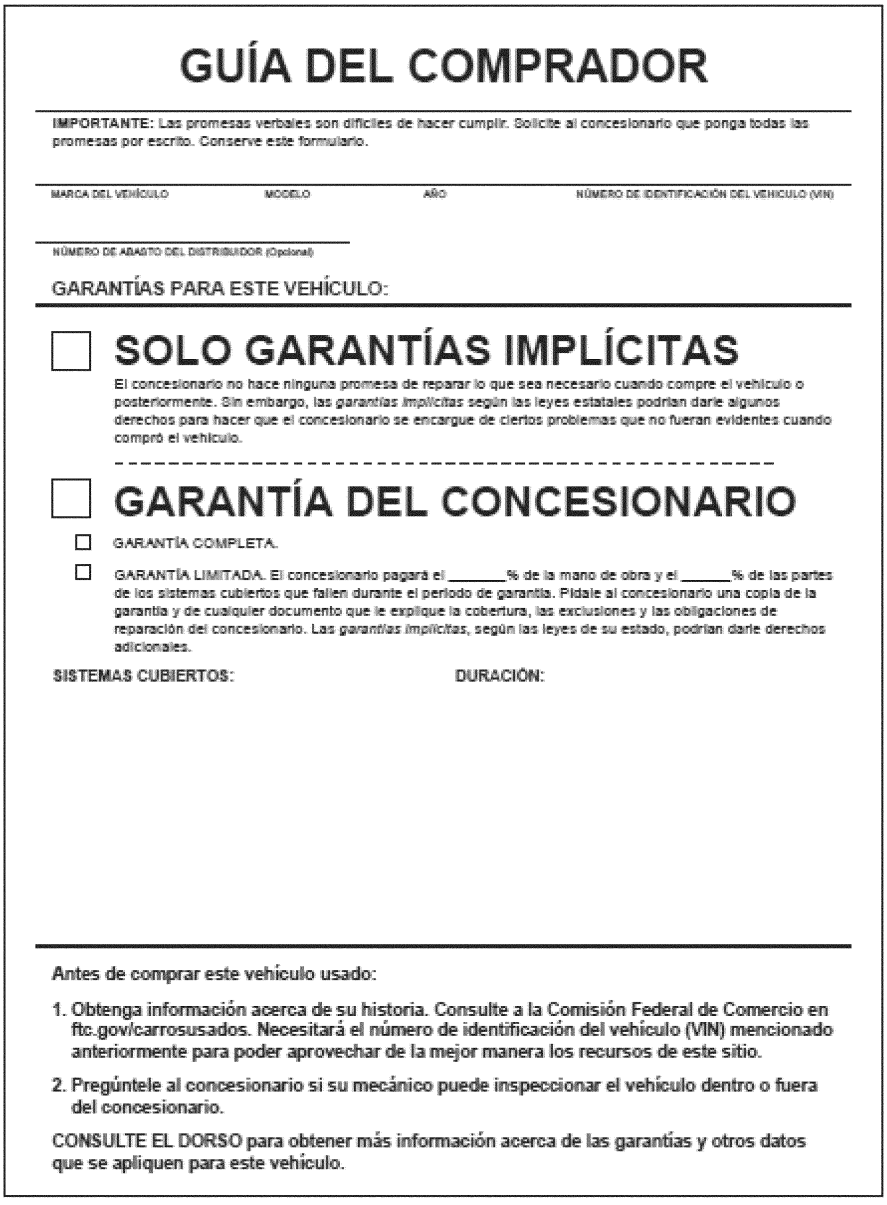
Antes de comprar este vehículo usado:

1. **Obtenga información acerca de su historia. Consulte a la Comisión Federal de Comercio en ftc.gov/carrosusados. Necesitará el número de identificación del vehículo (VIN) mencionado anteriormente para poder aprovechar de la mejor manera los recursos de este sitio.**
2. **Pregúntele al concesionario si su mecánico puede inspeccionar el vehículo dentro o fuera del concesionario.**

CONSULTE EL DORSO para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.

* Typeface is Arial, text is flush left unless otherwise noted.

FIGURE 5 – IMPLIED WARRANTIES ONLY Buyers Guide (Spanish)



GUÍA DEL COMPRADOR

26 pt bold caps centered

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

1 pt rule
8.5 pt bold & regular, caps & lc

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHICULO (VIN)

0.5 pt rule
6 pt regular caps

NÚMERO DE ABASTO DEL DISTRIBUIDOR (Opcional)

GARANTÍAS PARA ESTE VEHÍCULO:

12 pt bold caps
2 pt rule

☐ **SOLO GARANTÍAS IMPLÍCITAS**

22 pt box, 1 pt stroke
24 pt bold caps

El concesionario no hace ninguna promesa de reparar lo que sea necesario cuando compre el vehículo o posteriormente. Sin embargo, las *garantías implícitas* según las leyes estatales podrían darle algunos derechos para hacer que el concesionario se encargue de ciertos problemas que no fueran evidentes cuando compró el vehículo.

8.5/15 pt regular, caps & lc

1 pt dashed rule

☐ **GARANTÍA DEL CONCESIONARIO**

22 pt box, 1 pt stroke
24 pt bold caps

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el período de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

8 pt boxes, 1 pt stroke
8.5/9 pt regular, caps & lc

SISTEMAS CUBIERTOS: **DURACIÓN:**

9 pt bold caps, 2 columns

2 pt rule

Antes de comprar este vehículo usado:

10 pt bold, -2 pt after para

1. **Obtenga información acerca de su historia. Consulte a la Comisión Federal de Comercio en ftc.gov/carrosusados. Necesitará el número de identificación del vehículo (VIN) mencionado anteriormente para poder aprovechar de la mejor manera los recursos de este sitio.**

10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

2. **Pregúntele al concesionario si su mecánico puede inspeccionar el vehículo dentro o fuera del concesionario.**

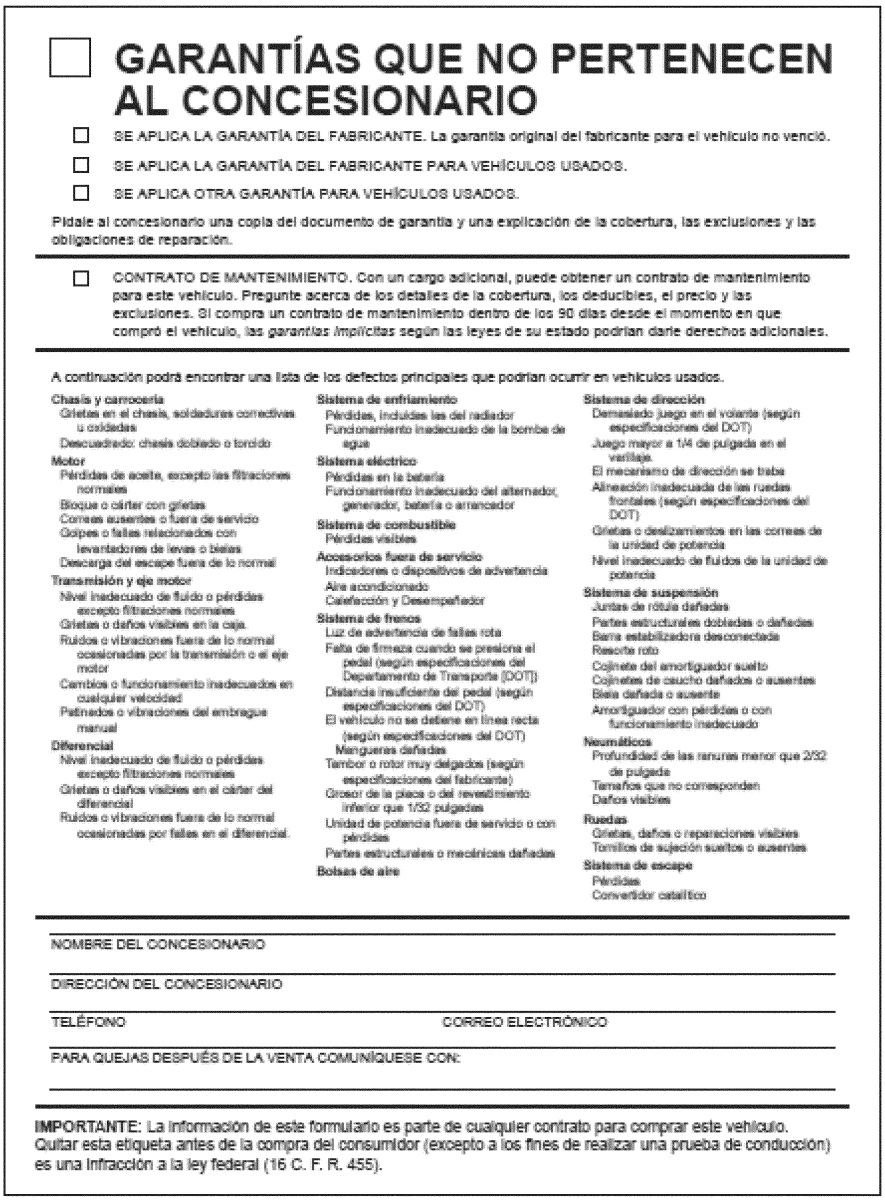
10/12 pt bold, 20 pt lft ind, -11 pt first line ind, -2 pt after para

CONSULTE EL DORSO para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.

10/12 pt bold, caps & lc

* Typeface is Arial, text is flush left unless otherwise noted.

FIGURE 6 – Back of Buyers Guide (Spanish)



☐ **GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO**

☐ SE APLICA LA GARANTÍA DEL FABRICANTE. La garantía original del fabricante para el vehículo no venció.

☐ SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.

☐ SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.

Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.

☐ CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

A continuación podrá encontrar una lista de los defectos principales que podrían ocurrir en vehículos usados.

Chasis y carrocería
- Grietas en el chasis, soldaduras correctivas u oxidadas
- Descuadrado: chasis doblado o torcido

Motor
- Pérdidas de aceite, excepto las filtraciones normales
- Bloque o cárter con grietas
- Correas ausentes o fuera de servicio
- Golpes o fallas relacionados con levantadores de levas o bielas
- Descarga del escape fuera de lo normal

Transmisión y eje motor
- Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
- Grietas o daños visibles en la caja
- Ruidos o vibraciones fuera de lo normal ocasionadas por la transmisión o el eje motor
- Cambios o funcionamiento inadecuados en cualquier velocidad
- Patinados o vibraciones del embrague manual

Diferencial
- Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
- Grietas o daños visibles en el cárter del diferencial
- Ruidos o vibraciones fuera de lo normal ocasionadas por fallas en el diferencial.

Sistema de enfriamiento
- Pérdidas, incluidas las del radiador
- Funcionamiento inadecuado de la bomba de agua

Sistema eléctrico
- Pérdidas en la batería
- Funcionamiento inadecuado del alternador, generador, batería o arrancador

Sistema de combustible
- Pérdidas visibles

Accesorios fuera de servicio
- Indicadores o dispositivos de advertencia
- Aire acondicionado
- Calefacción y Desempañador

Sistema de frenos
- Luz de advertencia de falla rota
- Falta de firmeza cuando se presiona el pedal (según especificaciones del Departamento de Transporte [DOT])
- Distancia insuficiente del pedal (según especificaciones del DOT)
- El vehículo no se detiene en línea recta (según especificaciones del DOT)
- Mangueras dañadas
- Tambor o rotor muy delgados (según especificaciones del fabricante)
- Grosor de la placa o del revestimiento inferior que 1/32 pulgadas
- Unidad de potencia fuera de servicio o con pérdidas
- Partes estructurales o mecánicas dañadas

Bolsas de aire

Sistema de dirección
- Demasiado juego en el volante (según especificaciones del DOT)
- Juego mayor a 1/4 de pulgada en el varillaje
- El mecanismo de dirección se traba
- Alineación inadecuada de las ruedas frontales (según especificaciones del DOT)
- Grietas o deslizamientos en las correas de la unidad de potencia
- Nivel inadecuado de fluidos de la unidad de potencia

Sistema de suspensión
- Juntas de rótula dañadas
- Partes estructurales dobladas o dañadas
- Barra estabilizadora desconectada
- Resorte roto
- Cojinete del amortiguador suelto
- Cojinetes de caucho dañados o ausentes
- Biela dañada o ausente
- Amortiguador con pérdidas o con funcionamiento inadecuado

Neumáticos
- Profundidad de las ranuras menor que 2/32 de pulgada
- Tamaños que no corresponden
- Daños visibles

Ruedas
- Grietas, daños o reparaciones visibles
- Tornillos de sujeción sueltos o ausentes

Sistema de escape
- Pérdidas
- Convertidor catalítico

NOMBRE DEL CONCESIONARIO

DIRECCIÓN DEL CONCESIONARIO

TELÉFONO CORREO ELECTRÓNICO

PARA QUEJAS DESPUÉS DE LA VENTA COMUNÍQUESE CON:

IMPORTANTE: La información de este formulario es parte de cualquier contrato para comprar este vehículo. Quitar esta etiqueta antes de la compra del consumidor (excepto a los fines de realizar una prueba de conducción) es una infracción a la ley federal (16 C. F. R. 455).

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7/8.4 pt regular, 15 pt lft ind,
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* Typeface is Arial, text is flush left unless otherwise noted.

By direction of the Commission.

Donald S. Clark,

Secretary.

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