

part number, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787-81205-SB270021-00, Issue 001, dated March 20, 2014.

#### (h) Parts Installation Prohibitions

(1) As of the effective date of this AD, no person may install a slat skew DMA, part number P683A0001-03, on any airplane.

(2) As of the effective date of this AD, no person may install, on any airplane, a slat skew DMA in slat number 5, having part number 145Z0201-11-8, 145Z0201-21-4, 145Z0201-21-3, 145Z0201-21-5, 145Z0201-21-8, 145Z0201-21-9, 145Z0201-31-1, or 145Z0201-33-1.

(3) As of the effective date of this AD, no person may install, on any airplane, a slat skew DMA in slat number 8, having part number 145Z0201-12-8, 145Z0201-22-4, 145Z0201-22-3, 145Z0201-22-5, 145Z0201-22-8, 145Z0201-22-9, 145Z0201-32-1, or 145Z0201-34-1.

#### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (j) Related Information

(1) For more information about this AD, contact Douglas Tsuji, Senior Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone: 425-917-6546; fax: 425-917-6590; email: [douglas.tsuji@faa.gov](mailto:douglas.tsuji@faa.gov).

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, WA 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on November 13, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 455

#### Used Motor Vehicle Trade Regulation Rule

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Supplemental notice of proposed rulemaking ("SNPRM"); request for comment.

**SUMMARY:** The FTC is proposing further amendments to the Used Motor Vehicle Trade Regulation Rule ("Rule" or "Used Car Rule") that would require dealers to indicate on the Buyers Guide whether they obtained a vehicle history report, and, if so, to provide a copy of the report to consumers who request it; revise the Buyers Guide statement describing the meaning of an "As Is" sale in which a dealer offers a vehicle for sale without a warranty; and move boxes to the front of the Buyers Guide for dealers to indicate whether non-dealer warranties apply to a vehicle. Based on the FTC's review of the public comments, the Commission proposes these amendments to promote consumer access to vehicle history information, to clarify the meaning of "As Is" in the sale of used vehicles without warranties, and to make disclosures concerning non-dealer warranties more prominent. The FTC is not adopting any final amendments to the Used Car Rule at this time. It continues to consider comments submitted in response to its Notice of Proposed Rulemaking ("NPRM") published in December 2012 and seeks additional comments in this SNPRM.

**DATES:** Comments must be received on or before January 30, 2015.

**ADDRESSES:** Interested parties may file a comment at <https://ftcpublish.commentworks.com/ftc/usedcarrulesnprm> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604," on your comment, and file your comment online at <https://ftcpublish.commentworks.com/ftc/usedcarrulesnprm> by following the instructions on the web-based form. If you prefer to file your comment on paper, write "Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604," on your comment, and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex A), Washington, DC

20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. This document, and public records related to the FTC's regulatory review, are also available at that address and at [www.ftc.gov](http://www.ftc.gov).

**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:**

##### **I. Background**

In December 2012, the FTC issued an NPRM setting forth proposed changes to the FTC's Used Car Rule.<sup>1</sup> The Used Car Rule requires dealers to display on used cars offered for sale a window sticker called a "Buyers Guide" containing warranty and other information. Among other things, in the NPRM, the Commission proposed adding a statement to the Buyers Guide advising consumers about the availability of vehicle history reports and directing consumers to an FTC Web site for more information about those reports. The Commission also proposed changing the statement on the Buyers Guide that describes the meaning of "As Is" when a dealer offers to sell a used vehicle without a warranty. In response to the NPRM, the Commission received nearly 150 comments from members of the public including automobile dealers, consumer attorneys, consumer advocacy organizations, automobile dealer associations, providers of vehicle history reports, legal aid agencies, consumer protection agencies, and state attorneys general.<sup>2</sup> After reviewing the comments, the Commission now proposes additional modifications to the proposal made in the NPRM to address concerns raised by commenters. The Commission also seeks comments on alternative proposals and issues that commenters have submitted or identified.

The Commission now proposes to amend the Used Car Rule to require that dealers who have obtained a vehicle history report on an individual vehicle indicate on the Buyers Guide that they have obtained such a report, and will provide a copy of the report to

<sup>1</sup> 77 FR 74746 (Dec. 17, 2012).

<sup>2</sup> The comments are available at: <http://www.ftc.gov/os/comments/usedcarrulesnprm/index.shtml>. The comments are numbered, and the Commission has assigned each a number that follows the name of the commenter. Comments cited in this notice are identified by the name of the commenter (organization or individual) followed by the comment number (e.g., Brown (1)).

consumers who request one. The proposal would retain with modifications the statement proposed in the NPRM to encourage consumers to obtain vehicle history reports, check for safety recalls, and to visit a proposed FTC Web site for more information. The Commission proposes to modify the Buyers Guide by adding a new box that dealers will be required to mark to indicate that they have obtained a vehicle history report. The proposed amendment would require those dealers who have obtained a vehicle history report, and who are required to check the box indicating that they have a vehicle history report, to provide a copy to consumers upon request. The proposed amended Rule would not require dealers to obtain vehicle history reports and would not mandate a specific type of vehicle history report or designate a specific provider of the reports.

The Commission also proposes modifying the Buyers Guide statement that describes the meaning of an “As Is” sale. In the NPRM, the Commission proposed changing the Buyers Guide statement describing “As Is” sales to make the statement easier to read and to understand. In light of the many comments critical of the proposed “As Is” statement in the NPRM, the Commission now proposes additional changes to the Buyers Guide statement describing “As Is” sales. The proposed statement in this SNPRM is intended to clarify that “As Is” means that a dealer is offering the vehicle for sale without a warranty, *i.e.*, without any undertaking or promise by the dealer to be responsible for post-sale repairs to the vehicle.

The NPRM also proposed minor changes to the wording of the “Implied Warranties Only” disclosure for use in jurisdictions that prohibit “As Is” used vehicle sales.<sup>3</sup> No comments were received on the wording change. The NPRM wording has been retained in the Buyers Guide in this SNPRM (Figure 2). The Commission does not seek comments on the proposed change here.

The Buyers Guide in this SNPRM incorporates several other changes that were proposed in the NPRM and subject to public comment. The revised Buyers Guide includes a statement, in Spanish, on the face of the English language Buyers Guide advising Spanish-speaking consumers to ask for the Buyers Guide in Spanish if they cannot read it in English. It also provides a new method for dealers to disclose both “dealer” and “non-dealer” warranties

by providing boxes on the front of the Buyers Guide where dealers have the option to indicate manufacturers’ or other third-party warranties. In response to the many comments suggesting that these disclosure boxes would be more noticeable to consumers on the front of the Guide, the Commission now proposes moving them to the front of the Guide.<sup>4</sup>

## II. Proposed Amendments and Revised Buyers Guide

### A. Vehicle History Information

#### i. Background

In the NPRM, the Commission proposed a Buyers Guide containing a statement that advised consumers to obtain vehicle history reports and directed consumers to an FTC Web site for more information.<sup>5</sup> Vehicle history information is available from a variety of public and private sources. These sources include state titling agencies (*e.g.*, departments of motor vehicles (“DMVs”)), the National Motor Vehicle Title Identification System (“NMVTIS”), and commercial vehicle history providers, such as CARFAX and Experian’s AutoCheck. Commenters proposed several different approaches for making vehicle history information more accessible to consumers.

One source of vehicle history information is NMVTIS—a nationwide database of vehicle history information created pursuant to federal law.<sup>6</sup> NMVTIS is designed to enable nationwide access to title information submitted by state titling agencies, and information concerning junk or salvage vehicles that insurers, recyclers, and salvage yards are required by law to submit.<sup>7</sup> NMVTIS includes the most recent odometer reading in a state’s titling data.<sup>8</sup> It is intended to serve as a reliable source of title and brand.<sup>9</sup>

<sup>4</sup> The proposed non-dealer warranty boxes on the back of the Buyers Guide are shown in Figure 3 of the NPRM. *Id.* at 74773.

<sup>5</sup> *Id.* at 74754–74756.

<sup>6</sup> NMVTIS was created pursuant to the Anti-Car Theft Act of 1992, 49 U.S.C. 30501–30505. The United States Department of Justice published the final rule implementing NMVTIS in 2009. 28 CFR 25, 74 FR 5740 (Jan. 30, 2009).

<sup>7</sup> See Understanding an NMVTIS Vehicle History Report, available at: [http://www.vehiclehistory.gov/nmvtis\\_understandingvhr.html](http://www.vehiclehistory.gov/nmvtis_understandingvhr.html).

<sup>8</sup> See Consumer Access Product Disclaimer available through <http://www.vehiclehistory.gov/index.html>.

<sup>9</sup> Brands are descriptive labels that many state DMVs place on car titles regarding the status of a motor vehicle, such as “junk,” “salvage,” and “flood.” The meaning of an individual brand differs from state to state, and the brands that states assign also differ by state.

NMVTIS keeps a history of all brands, if any, that have been assigned to the vehicle by any state. See

history, but it does not contain detailed information regarding a vehicle’s repair history.<sup>10</sup> Information on previous significant damage may not be included in NMVTIS if a vehicle was never determined to be a “total loss” by an insurer (or other appropriate entity) or branded by a DMV.<sup>11</sup> On the other hand, an insurer may be required to report a vehicle as a “total loss” even if the state’s titling agency does not brand it as “junk” or “salvage.”<sup>12</sup>

The NMVTIS Web site, [www.vehiclehistory.gov](http://www.vehiclehistory.gov), contains live links to the Web sites of approved non-governmental entities that sell NMVTIS reports to the public. Consumers can purchase NMVTIS reports from these vendors for as little as two dollars. Approved providers to both consumers and dealers are subject to quality control standards designed to ensure consistency with the intent and purpose of the Anti-Car Theft Act and its implementing regulations.

Title and other vehicle history information are also available from commercial vendors such as CARFAX and Experian’s AutoCheck. CARFAX and AutoCheck enable consumers to purchase vehicle history reports, and some dealers distribute them to consumers free of charge. CARFAX and AutoCheck obtain data from state titling agencies, insurers, repair facilities, automobile auctions, salvage facilities, and fleet rental firms. These reports include information on prior ownership, usage, damage, repair history, etc. They may even disclose whether the car has had regular oil changes. In addition, both CARFAX and AutoCheck offer consumers an option to pay a flat fee to receive reports on as many individual vehicles as the consumers wish.

Commercial vehicle history reports may include vehicle condition data from sources other than NMVTIS.<sup>13</sup> According to CARFAX, NMVTIS reports carry limited title, odometer, brand, and salvage/total loss information, whereas commercial reports may contain “a wealth of information about brands, total losses, prior wrecks, airbag deployments, open recalls, odometer readings, and even maintenance history.”<sup>14</sup> Experian noted that its AutoCheck vehicle history reports can include information about fire and flood

[http://www.vehiclehistory.gov/nmvtis\\_understandingvhr.html](http://www.vehiclehistory.gov/nmvtis_understandingvhr.html).

<sup>10</sup> See Consumer Access Product Disclaimer available through: <http://www.vehiclehistory.gov/index.html>.

<sup>11</sup> See *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Consumer Access Product Disclaimer available through: <http://www.vehiclehistory.gov/index.html>.

<sup>14</sup> CARFAX (6) at 1.

<sup>3</sup> See 77 FR at 74768 (16 CFR 455.2(b) (ii)), 74770 (Figure 2).

damage; accident damage, including the number and severity of any accidents; number of prior owners; auction inspection announcements; salvage, theft, or lemon; fleet or rental use; frame damage; service and maintenance records; and manufacturer recalls.<sup>15</sup>

## ii. Comments and Proposals on Vehicle History Reports

The Commission received various comments and proposals about the potential costs and benefits of including references or requirements relating to vehicle history reports in the Buyers Guide. Some commenters supported the Commission's NPRM proposal to add a statement to the Buyers Guide advising consumers to obtain a vehicle history report and directing consumers to an FTC Web site (the "NPRM Vehicle History Approach").<sup>16</sup> Two vehicle history vendors recommended listing only an FTC Web site on the Buyers Guide, explaining that the FTC should avoid promoting a particular vendor or type of technology to deliver vehicle history reports.<sup>17</sup> In addition, the auto dealer associations recommended that the Rule not favor a particular source of vehicle history information or require dealers to obtain reports.<sup>18</sup>

Several consumer groups and other commenters recommended that the FTC follow the approach of California Assembly Bill 1215 (codified as Cal. Vehicle Code 11713.26) ("AB 1215") by requiring dealers to obtain NMVTIS reports, to post a warning if a title brand or salvage history appears in a NMVTIS report, and to provide a copy of the NMVTIS report to consumers upon request (the "AB 1215 Vehicle History Approach").<sup>19</sup> A vehicle history vendor

also proposed that the FTC require dealers to obtain NMVTIS reports.<sup>20</sup>

Another commercial vendor of NMVTIS reports, Auto Data Direct ("ADD"), recommended that the Buyers Guide should refer exclusively to the NMVTIS Web site and should advise consumers to "[g]et information about the vehicle's history from one of the National Motor Vehicle Title Information System vehicle history providers found at <http://www.vehiclehistory.gov>." <sup>21</sup> (The "ADD Vehicle History Approach.") ADD also proposed adding a quick response (QR) code to the Buyers Guide that would link a smart phone to [www.vehiclehistory.gov](http://www.vehiclehistory.gov) or permit dealers to use a QR code that would link to a vehicle history report previously obtained by the dealer.<sup>22</sup>

Consumers for Auto Reliability and Safety ("CARS") proposed adding a statement to the Buyers Guide where dealers would be required to indicate the date on which the dealer obtained the required NMVTIS report.<sup>23</sup> The Commission, however, observes that requiring dealers to disclose on the Buyers Guide the date that the dealer obtained a report appears to be unnecessary because that date typically appears on the reports. CARS noted that eliminating the statement recommending that consumers visit an FTC Web site would create more space for the NMVTIS statement on the Buyers Guide.<sup>24</sup>

Two commenters also suggested that vehicle history information could help protect consumers from vehicles damaged by Hurricane Sandy and other natural disasters. The NSVRP recommended that the Commission require that dealers obtain NMVTIS reports and affix warning labels,<sup>25</sup> and the North Carolina Attorney General's office ("NC AG") recommended that the Commission require dealers to disclose vehicle history report information on the Buyers Guide (the "NC AG Vehicle History Approach").<sup>26</sup> According to these commenters, Hurricane Sandy damaged an estimated 250,000 cars.<sup>27</sup> Although some damaged vehicles were crushed and salvaged and others sold for export, NSVRP noted that many were sold through less "formally regulated channels including Craigslist, eBay Motors, curb stoning [sellers

posing as private individuals to evade dealer regulatory requirements] or other means . . . to bypass proper titling, branding and reporting" and thereby hide total loss histories of Hurricane Sandy damaged vehicles.<sup>28</sup> The comment explained that various vehicle history report services have not been able to capture many of the Hurricane Sandy flood transactions because of these violations.<sup>29</sup> NSVRP suggested that by requiring sellers to check each vehicle's history and to affix a warning disclosure modeled on AB 1215, the "FTC may provide a cause of action for a defrauded party to be able to seek recourse from the parties in the supply chain who violated the law when they did not report into NMVTIS." <sup>30</sup> If NSVRP is correct, however, that certain marketers of Hurricane Sandy damaged vehicles fail to comply adequately with their titling, branding, and reporting obligations, NMVTIS reports may not provide accurate information with respect to some vehicles.

The Iowa Attorney General ("IA AG"), representing the views of twenty-two state attorneys general, proposed that the Buyers Guide include a box and require dealers to check that box if they know that the vehicle's title contains negative brand information (the "IA AG Vehicle History Approach").<sup>31</sup> A checked box would indicate that the vehicle's title "will carry one or more of the following brands: Salvage, Prior Salvage, Rebuilt, Remanufactured, Flood, Lemon Law, or similar brand." <sup>32</sup> The IA AG's proposal does not require dealers to obtain NMVTIS reports or any other type of report from a designated vendor or source, and does not address whether the proposal might prompt dealers to procure vehicle history reports.<sup>33</sup> According to the IA AG, every state unfair or deceptive trade practices law already requires dealers who are aware of negative title information to disclose that information.<sup>34</sup> Therefore, the comment states, "requiring dealers to check a box merely expressly requires dealers to engage in an act they are already required to perform." <sup>35</sup>

The Center for Auto Safety ("CAS") recommended requiring that dealers check a box disclosing whether the dealer has a vehicle history report.<sup>36</sup> Dealers who check the box would be required to provide a copy of any

<sup>15</sup> Experian (15) at 3.

<sup>16</sup> American Automobile Ass'n ("AAA") (47) at 2; CARFAX (6) at 1; Experian (15) at 5; Nat'l Independent Automobile Dealers Ass'n ("NIADA") (13) at 3 (proposal for a statement "directing consumers to the Web site" about vehicle history information "is an acceptable compromise").

The following statement appears at the bottom of the front side of the Buyers Guide proposed in the NPRM:

Before you buy this used vehicle:

1. Get information about its history. Visit the Federal Trade Commission at: [ftc.gov/usedcars](http://ftc.gov/usedcars). You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.

<sup>17</sup> CARFAX (6) at 2-3; Experian (15) at 1. Nat'l Automobile Dealers Ass'n ("NADA") commented that the Web site, if created at all, "should be limited to educational materials and should not endorse, link to, or otherwise imply the legitimacy of any particular vehicle history company, report, or service." NADA (7) at 3.

<sup>18</sup> E.g., NIADA (13) at 3.

<sup>19</sup> E.g., CARS (22); Legal Aid Justice Center ("LAJC") (18); Nat'l Salvage Vehicle Reporting Program ("NSVRP") (54); Nat'l Vehicle Service ("NVS") (51).

<sup>20</sup> CARCO (44). ADD (17) at 3-4.

<sup>21</sup> ADD (17) at 3-4.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> CARS (22) at 7.

<sup>24</sup> *Id.*

<sup>25</sup> E.g., NSVRP (54).

<sup>26</sup> NC AG (11).

<sup>27</sup> NSVRP (54); NC AG (11).

<sup>28</sup> NSVRP (54) at 13.

<sup>29</sup> NSVRP (54) at 13.

<sup>30</sup> NSVRP (54) at 17.

<sup>31</sup> IA AG (12) at 5.

<sup>32</sup> *Id.* (Attachment).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 5.

<sup>35</sup> *Id.* at 6.

<sup>36</sup> CAS (3) at 4.

reports in their files to requesting consumers.<sup>37</sup> The Commission incorporates this recommendation into its revised proposal, described below as the SNPRM Vehicle History Approach.

Finally, some commenters stated that the Rule should not address the issue of vehicle history at all.<sup>38</sup> NADA commented that it believed that the Buyers Guide is fundamentally a warranty disclosure document and questioned whether vehicle history information is an appropriate subject for the Buyers Guide.<sup>39</sup> NADA recommended that the FTC include a disclaimer about the reliability of vehicle history reports and cautioned the FTC against endorsing any particular vehicle history company, report, or service.<sup>40</sup> NIADA raised concerns about potential liability for dealers, if the FTC requires dealers to obtain vehicle history reports.<sup>41</sup> Thus, NIADA recommended a “safe harbor” from liability for dealers who are required to report vehicle history information. NIADA asserts that vehicle history reports are not static and are regularly updated as new information is collected in the databases on which the reports are based. Accordingly, its comment notes that “any history database . . . is only as good as the data in it.”<sup>42</sup> The comment states that dealers necessarily would have to run daily vehicle history or NMVTIS reports on each vehicle in inventory “hoping that each daily report contains completely up to date information about each vehicle and that such information is accurate.”<sup>43</sup> The comment concludes that these reports would be material information that state unfair or deceptive trade practices laws would require dealers to disclose and the dealers “would be automatically liable for providing false or incomplete information” if the reports are inaccurate or outdated.<sup>44</sup> NIADA commented that the NPRM’s proposed approach of directing consumers to a Web site and advising an independent inspection is “an acceptable compromise.”<sup>45</sup>

Two commenters addressed safety recall information, which typically does

not appear in NMVTIS reports or vehicle titles. The United States Department of Transportation (“DOT”) provides information on safety recalls through the National Highway Traffic Safety Administration Web site, [www.safercar.gov](http://www.safercar.gov).<sup>46</sup> To encourage consumers to utilize information available from the site, DOT recommended that the Buyers Guide caution consumers to check for outstanding safety recalls and to review a vehicle’s mileage history to determine whether a vehicle’s odometer is an accurate indication of its mileage history.<sup>47</sup> CAS also urged the FTC to include safety recall information on the Buyers Guide.<sup>48</sup>

#### iii. Proposed Modifications To Address Vehicle History Reports (the “SNPRM Vehicle History Approach”)

To prevent deception in the market for used vehicles, and in response to the concerns raised by the comments discussed above, the Commission now proposes adopting an approach to vehicle history information similar to the one recommended by CAS and revising the NPRM’s proposed Buyers Guide statement concerning vehicle history reports. The Commission seeks comments on this revised proposal. Based on CAS’s and other comments, the Commission concludes that this approach will help prevent deception in the market for used vehicles. Accordingly, the Commission proposes amending the Rule to require that dealers indicate on the Buyers Guide whether they have obtained a vehicle history report and, if so, to provide a copy of the report upon request by a consumer.

The Commission believes that this proposed approach would impose minimal burdens upon used car dealers, while providing consumers with important information about used vehicles and ensuring that dealers do not fail to disclose material information if they have obtained negative information in a vehicle history report. This disclosure requirement is also consistent with dealers’ existing legal obligations. As the IA AG noted in its comments, “Under state and federal law, motor vehicle dealers that know of negative title information have a legal obligation to disclose it to consumers” and “[f]ailing to do so violates every state UDAP statute.”<sup>49</sup> The proposed disclosure requirement ensures that dealers who have obtained vehicle

history reports—which may contain negative vehicle history information—make such reports available to consumers.

Several commenters urged the Commission to avoid requiring dealers to obtain vehicle history reports or requiring the use of a particular type of report or vendor.<sup>50</sup> To address dealer concerns about potential liability for inaccurate information in vehicle history reports and to promote consumer choice among types of vehicle history reports and sources of vehicle history information, the proposed Rule would not require dealers to obtain particular types of vehicle history reports, and would not require dealers to obtain those reports from specified vendors. Dealers who have obtained vehicle history reports would be required to check a box indicating that they have such a report and will provide the consumer with a copy upon request. The box would be accompanied by statements describing vehicle history reports and encouraging consumers to obtain a vehicle history report regardless of whether the box is checked.

The statements would also direct consumers to a planned FTC Web site for information about obtaining vehicle history reports, searching for safety recalls, and other topics. The Commission proposes adding safety recalls to the list of information available at the planned FTC Web site. Accordingly, the proposed Buyers Guide in this SNPRM recommends that consumers obtain a vehicle history report and visit a planned FTC Web site for information on how to search for safety recalls and how to obtain other vehicle history information. Although the proposed Buyers Guide does not include a recommendation that consumers check odometer readings, odometer information is typically included in the reports and the advice to review odometer history is part of the advice that Commission staff anticipates making available from the Web site.

Accordingly, the Commission proposes adding the following box and accompanying statements to the front of the Buyers Guide:

☐ IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage,

<sup>37</sup> *Id.*

<sup>38</sup> For a various reasons, some commenters stated that the Rule should not be changed. *E.g.*, Christensen (106); Emory, Lorrae (105); Grandjean, Dalma (45); Wright, Cheryl (100); Young (102).

<sup>39</sup> NADA (7) at 3.

<sup>40</sup> *Id.*

<sup>41</sup> Supplementary NIADA comment on Regulatory Review, Supplementary Comment 2, at 2–3 (Mar. 16, 2009).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> NIADA (7) at 3.

<sup>46</sup> *Id.* at 1.

<sup>47</sup> DOT at 2; *see also* CAS (3) at 4.

<sup>48</sup> CAS (3) at 4.

<sup>49</sup> IA AG at 5.

<sup>50</sup> *See, e.g.*, NADA (7) at 3; Supplementary NIADA Comment at 2–3; CARFAX (6) at 2, 3; Experian (15) at 5, 6.

repair, accident, and prior ownership history.<sup>51</sup>

Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at [ftc.gov/used](http://ftc.gov/used) cars. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

The Commission proposes using a single box for dealers to indicate whether they have obtained a vehicle history report. By leaving the box unchecked, dealers would indicate that they have not obtained a vehicle history report. This is also consistent with the Rule's approach to service agreements, where dealers only check a box if they are offering that to consumers.

Dealers who do not now obtain vehicle history reports would not be required to obtain them or to make any additional disclosures on the Buyers Guide. The additional burden imposed on dealers who already obtain vehicle history reports would be minimal. Dealers who already have the reports are unlikely to need to make additional disclaimers, because the reports are typically dated and contain disclaimers about the limits of the data in them. The only additional burden placed on these dealers is a requirement that they check a box on the Buyers Guide and provide requesting consumers a copy of a report that the dealer already has obtained. The second paragraph following the vehicle history box encourages consumers to obtain their own vehicle history reports to reduce consumer reliance on dealers for information. The paragraph also advises consumers to search for safety recalls, and encourages consumers to visit an FTC Web site for more information. By doing so, the Commission combines the benefit of immediate access to a dealer's vehicle history report with the benefits of the

planned FTC Web site that would provide consumers with additional information on how to obtain vehicle history reports and related information.

In the NPRM, the Commission proposed advising consumers to obtain a vehicle history report and directing consumers to an FTC Web site that would provide information about various forms of vehicle history information and potential sources for that information.<sup>52</sup> The alternative approach in this SNPRM would help prevent deception in the market for used vehicles, and further promote consumer access to vehicle history information, by allowing consumers to obtain such information directly from dealers. This revised approach increases the likelihood that consumer would be aware of pertinent information in the dealer's possession. In addition, consumers could supplement a vehicle history report provided by a dealer with other reports and information available on the proposed FTC Web site.

The proposed single check box disclosure format is adapted from CAS proposal that, if dealers have a vehicle history report, "they must give a copy to a prospective purchaser" and mark "a box on the Buyers Guide disclosing whether they have a copy and that a copy is available upon request."<sup>53</sup>

The proposal is also similar to IA AG's proposal that dealers mark a box indicating that the vehicle's title carries a brand.<sup>54</sup> The IA AG proposes a check box that states: "If the dealer checked this box, it means that the title for this vehicle will carry one or more of the following brands: Salvage, Prior Salvage, Rebuilt, Remanufactured, Flood, Lemon Law, or a similar brand."<sup>55</sup> In the IA AG's proposal, an unmarked box would indicate that the dealer is unaware whether the title carries a brand. Unlike the IA AG's proposal, this SNPRM does not require dealers who have obtained vehicle history reports to disclose on the Buyers Guide that a vehicle's title carries a brand, but only that the dealer has obtained a report and will provide a copy to requesting consumers. Although the proposed Buyers Guide requires only disclosures concerning vehicle history reports, other laws, such as those prohibiting unfair or deceptive practices, may obligate dealers who are aware of title brands or other material information in vehicle history reports to

provide appropriate disclosures to consumers.

The Commission is not inclined to require that dealers obtain vehicle history reports and disclose information in them in ways similar to AB 1215. Under the AB 1215 approach, consumers must rely upon the dealer for information. AB 1215 requires dealers to post a warning label if NMVTIS shows a title brand or salvage or insurance information. Consumers cannot tell from the warning label what title brands, insurance information, or salvage history may apply to a vehicle without asking the dealer for information and/or a copy of the NMVTIS report. A vehicle without a warning label will not alert consumers to review a vehicle history report or to investigate other sources of information. An AB 1215 approach to vehicle history information mandates the use of NMVTIS reports and the IA AG's proposal focuses on title brands to the exclusion of the variety of other vehicle history information that is available. The lack of an AB 1215 warning label or a check in the title brand box in the IA AG's proposal indicates at most that the dealer did not find insurance or salvage information in NMVTIS or a title brand, not that a vehicle was free from damage or mechanical flaws. The lack of disclosures could give consumers a false sense of security about the condition of a vehicle and would not alert consumers to sources of information such as commercial vehicle history reports that could reveal hidden damage or mechanical defects that NMVTIS is not designed to detect.

For these reasons, the Commission does not propose adopting either the AB 1215 or the IA AG's approach to vehicle history reports. The Commission, however, proposes to modify the approach to vehicle history reports it proposed in the NPRM. In this SNPRM, the Commission proposes a Rule that would require dealers who already have obtained vehicle history reports to check a box on the Buyers Guide indicating that they have a vehicle history report and will provide it upon request. Dealers who have not obtained a vehicle history report would not be required to obtain them or to make any additional disclosures on the Buyers Guide.

The Commission invites comments on its recommended Rule and modification of the Buyers Guide (the SNPRM Vehicle History Approach). The Commission also invites comments on the alternative proposed approaches discussed above. When commenting on the various proposed approaches, please quote and identify the proposed

<sup>51</sup> NMVTIS reports provide current state of title, latest title information, title brand information, odometer reading, total loss history (reported by insurers), and salvage history (reported by junk/salvage yards). Commercial reports, such as CARFAX and AutoCheck, could include additional or different information and rely on different sources.

CARFAX submitted a proposed Buyers Guide that contains a box that dealers would check to indicate that they have a vehicle history report and will provide it to the consumer. If the dealer does not have a vehicle history report, the dealer would check a different box that would instruct consumers to obtain a vehicle history report independently. The box further advises consumers that the vehicle history report should include information that, presumably, would appear in a CARFAX report: "title brands, total losses, accidents, mileage, owners, service and maintenance, and airbag deployments." CARFAX (6).

<sup>52</sup> See 77 FR at 74755–74756.

<sup>53</sup> CAS (3) at 4.

<sup>54</sup> IA AG (12) 5–6, attachment.

<sup>55</sup> *Id.*

approach by its assigned name<sup>56</sup> and provide any data, consumer surveys, or other evidence that supports your comments.

#### B. “As Is” Statement

The existing Buyers Guide contains a box that dealers who offer to sell a used car without a warranty are required to mark to indicate that the vehicle is offered “As Is,” *i.e.*, without a warranty from the dealer. Adjacent to that box is a statement describing the meaning of the term “As Is.” In the NPRM, the Commission proposed modifying that statement to make it easier to read and to understand, but not to change the statement’s meaning. After reviewing the comments that addressed the “As Is” statement, the Commission now proposes to adopt a modified “As Is” Statement.

##### i. Existing “As Is” Statement

The existing “As Is” statement on the Buyers Guide has been part of the Buyers Guide since the Rule’s promulgation in 1984. This “As Is” statement was formulated to correct consumer misunderstanding of the term “As Is.”<sup>57</sup> The existing Buyers Guide states:

☐ 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. (“Existing ‘As Is’ Statement”).

##### ii. NPRM “As Is” Statement

In the NPRM, the Commission proposed revising the Buyers Guide “As Is” statement to improve readability and to clarify the meaning of the term “As Is.” The Buyers Guide in the NPRM stated:

☐ 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. (“NPRM ‘As Is’ Statement”).<sup>58</sup>

##### iii. SNPRM “As Is” Statement

After reviewing the comments submitted in response to the NPRM, the Commission now proposes modifying the Buyers Guide by replacing the existing explanatory “As Is” statement with the following:

☐ AS IS—NO DEALER WARRANTY  
THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept

responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct. (“SNPRM ‘As Is’ Statement”).

The proposed revised “As Is” Statement in this SNPRM is intended to make the statement easier to read and to improve consumer understanding, but is not intended to change the statement’s meaning. Both the existing “As Is” statement and the SNPRM’s “As Is” statement are intended to indicate that a dealer disclaims responsibility for implied warranties that might otherwise arise by operation of state law.<sup>59</sup>

##### iv. Discussion

Commenters uniformly recommended that the Commission not adopt the NPRM’s proposed changes to the explanatory “As Is” statement. Commenters stated that the proposed revision could obscure the meaning of “As Is,” potentially change its meaning, or simply misstate the law. More than forty attorney-practitioners stated that the proposed revision misstates the law and consumers’ rights.<sup>60</sup> Several commenters noted that the proposed NPRM revisions to the “As Is” statement could deter consumers from pursuing potential remedies.<sup>61</sup> Several commenters also criticized the “As Is” statement that currently appears on the

Buyers Guide.<sup>62</sup> Commenters proposed several different possible formulations of the “As Is” statement.

CARS’s (22) comment is representative of the comments criticizing the NPRM’s proposed revision to the “As Is” language. CARS stated that the proposed language “wrongly conflates the lack of a warranty with no responsibility for repairs,” and then listed various scenarios in which a dealer could become responsible for oral statements and repairs.<sup>63</sup> These include situations in which: dealers’ oral statements create express warranties under state law; deceptive statements or concealment of known facts violate state unfair or deceptive practices statutes; a service contract nullifies any attempt to disclaim implied warranties pursuant to federal warranty law under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (“Magnuson-Moss Act”) and FTC Rule;<sup>64</sup> dealers inadequately disclaim implied warranties under state law; or dealers improperly claim that a sale is “As Is” in one of the seventeen states that prescribe minimum mandatory warranties.<sup>65</sup>

<sup>56</sup> *E.g.*, CARS (22) at 1; Elias, Fla. Dep’t of Regulatory and Econ. Res.-Consumer Protection (57); IA AG (12) at 5; Kaufman (74); Katherine Graham and George Alexander Community Law Center (“KGACLC”) (25) at 5; Klarquist (29); Military Justice Project, Nat’l Ass’n of Consumer Advocates (“NACA”) (14) at 2; Valdez (115).

<sup>57</sup> CARS (22) at 4.

<sup>58</sup> 15 U.S.C. 2308; 16 CFR 455.2(b)(3).

<sup>59</sup> *Id.* Dealers should not check the “As Is” box on the Buyers Guide when the vehicle is covered by a warranty, whether because the state mandates a minimum warranty or because the dealer has chosen to offer a warranty. Instead, the dealer should check the Warranty box. Moreover, dealers should use the Implied Warranties Only Buyers Guide if the vehicle is offered for sale in a jurisdiction that prohibits “As Is” sales. 16 CFR 455.2(b)(1)(ii).

The Int’l Ass’n of Lemon Law Administrators (“IALLA”) commented that the Buyers Guide should have a box for dealers to check to indicate if the vehicle is covered by a state-mandated minimum warranty. IALLA (70) at 1. Although the IALLA commented that the December 2012 NPRM would make the disclosure of a state-mandated warranty optional, neither the proposed nor the current rule does so. *See* 77 FR at 74761; Staff Compliance Guidelines 53 FR at 17663 (although the Rule does not require dealers to disclose warranties that are the responsibilities of third parties, such as manufacturers, it does require that dealers disclose all warranties for which they are responsible. “Therefore, if federal, state, or local laws require you [the dealer] to give a specific warranty . . . you must briefly disclose this warranty on the Buyers Guide” in the Systems Covered/Duration section). The dealer’s obligation is the same whether a warranty is required by state law or the dealer chooses to offer a vehicle with a warranty. If state law requires a minimum warranty, or a dealer chooses to offer a warranty when one is not required, the dealer should check the Warranty Box and disclose details of the terms of

<sup>59</sup> Uniform Commercial Code (“UCC”) 2–316(3) (a) (“unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like ‘as is,’ ‘with all faults’ or other language which in common understanding calls the buyer’s attention to the exclusion of warranties and makes plain that there is no implied warranty.”).

<sup>60</sup> Anderson, Patty (71); Bensley, William (53); Bolliger, Bernard (69); Brown, Bernard (1); Burdge, Ronald (74); Cheney, Shawna (38); Choi, Hyung (63); Clanton, William (62); Coleman, Donald (23); Connolly, Gwendolyn (36); Cooper, Patrick (144); Crabtree, Jeffrey (108, 112); Deneen, Daniel (73); Desmond, Dawn (33); Domonoske, Thomas (43); Duff, Robert (66); Feferman, Richard (149); Flinn, Michael T. (34, 129); Goldberg, Joseph (61); Heaney, Mark (77); Hughes, Rob, Torres Law Firm (8); Irwin, Dale (68); Kaufman, Scott (52); Maier, Peter (26); Malone, Dean T. (72); Norris, Matthew J. (35); Quirk, Michael (113); Rawls, Kathi (59); Reichenbach, Gregory (64); Richards, Rhys, Casper & Casper (20); Roher, Deborah (56); Rudnitsky, Taras (42); Seth, Donald (116); Steinbach, Mark (65); Taterka, Steven (21); Thomson, Steven (58); Tomlinson, Richard (2); Valdez, David (115); Wells, Amy (30); Willis, Todd (39); Witte, Erin, Surovell Isaacs Petersen & Levy PLC (5).

<sup>61</sup> *E.g.*, Ohio Ass’n for Justice (31) (“proposed language is contrary to existing case law, which provides that even when a vehicle is sold ‘As Is,’ this is not a shield to fraud . . . [The proposed language] may have the detrimental effect of discouraging consumers with valid fraud claims from seeking advice from consumer advocates, state attorneys general, or other advocacy groups.”); Irwin (68) (GA attorney) (proposed language “will mislead consumers about their rights and make them think that a dealer can’t be held responsible for oral statements.”).

<sup>56</sup> *I.e.*, NPRM Vehicle History Approach, SNPRM Vehicle History Approach, AB 1215 Vehicle History Approach, IA AG Vehicle History Approach, ADD Vehicle History Approach, and NC AG Vehicle History Approach.

<sup>57</sup> 42 FR at 45722–45723.

<sup>58</sup> 77 FR at 74769 (Figure 1).

#### v. Alternative “As Is” Statements

Several commenters suggested other formulations of the “As Is” statement, both as alternatives to the statement proposed in the NPRM and the “As Is” statement on the existing Buyers Guide. For example, CARS recommended that the Buyers Guide state:

AS IS—NO DEALER WARRANTY.  
DEALER DENIES ANY RESPONSIBILITY  
FOR ANY REPAIRS AFTER SALE  
 (“CARS ‘As Is’ Statement”)

The IA AG suggested:

THE DEALER IS NOT PROVIDING A  
WARRANTY. The dealer does not agree to fix  
problems with the vehicle after you buy it.  
However, you may have legal rights if the  
dealer concealed problems with the vehicle  
or its history.<sup>66</sup>  
 (“IA AG ‘As Is’ Statement”)

The NC AG proposed:

THE DEALER WON’T PAY FOR REPAIRS.  
The dealer does not agree to pay for the  
vehicle’s repairs. But you may have legal  
rights and remedies if the dealer  
misrepresents the vehicle’s condition or  
engages in other misconduct.<sup>67</sup>  
 (“NC AG ‘As Is’ Statement”)

The East Bay Community Law Center  
 (“East Bay”) suggested:

AS IS—NO WARRANTY. YOU WILL PAY  
ALL COSTS FOR ANY REPAIRS. Ask for all  
representations about the vehicle in  
writing.<sup>68</sup>  
 (“East Bay ‘As Is’ Statement”)

#### vi. Request for Comments

The Commission agrees with the comments recommending that it should not adopt the December 2012 NPRM proposed revision to the “As Is” statement on the Buyers Guide. The Commission has considered and incorporated the suggested revisions to the current “As Is” statement into the formulation of the “As Is” statement proposed in this SNPRM. The Commission invites comments on the proposed “As Is” statement in this SNPRM (SNPRM “As Is” Statement) and on the alternative proposed “As Is” statements that are noted above. When commenting on the various proposed “As Is” Statements, please quote and identify the statement by its assigned name<sup>69</sup> and provide any data, consumer surveys, or other evidence that supports your comments.

the warranty in the Systems Covered/Duration section on the front of the Buyers Guide.

<sup>66</sup> IA AG (12).

<sup>67</sup> NC AG (11).

<sup>68</sup> See East Bay (4) at 8.

<sup>69</sup> *I.e.*, Existing “As Is” Statement, SNPRM “As Is” Statement, CARS “As Is” Statement, IA AG “As Is” Statement, NC AG “As Is” Statement, and East Bay “As Is” Statement.

#### C. Non-Dealer Warranty Boxes Proposed in NPRM

The front of the proposed Buyers Guide in the SNPRM contains boxes (“non-dealer warranty boxes”) that dealers could check to indicate whether an unexpired manufacturer warranty, a manufacturer used car warranty, or some other warranty applies, and whether a service contract is available. The version of the Buyers Guide proposed in the NPRM included these same boxes on the back of the Buyers Guide.<sup>70</sup> The Commission now proposes to move these boxes to the front of the Buyers Guide as shown in Figures 1 and 2. Those commenters who addressed the non-dealer warranty boxes uniformly recommended moving the disclosures to the front of the Buyers Guide where they will be more accessible to consumers.<sup>71</sup>

The proposed Buyers Guide in this SNPRM retains the existing Rule’s statement used to disclose the applicability of an unexpired manufacturer’s warranty: “The manufacturer’s original warranty has not expired on the vehicle.”<sup>72</sup> CAS suggested that the unexpired manufacturer’s warranty box should state that “[t]he manufacturer’s original warranty has not expired on some components of the vehicle” because, according to CAS, that language is “more consistent with the different coverages that are in current warranties.”<sup>73</sup> Although the Commission believes that the existing disclosure is adequate, the Commission invites comments on the effectiveness of the disclosure.

The Commission believes that the disclosure of non-dealer warranties will help ensure that consumers are not deceived if the dealer chooses to use the existence of a non-dealer warranty as a selling point. For example, to ensure that consumers understand the scope of any non-dealer warranty available, the disclosure advises consumers to “ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.” The Commission invites comments on the effectiveness of the disclosure in preventing deception.

<sup>70</sup> 77 FR at 74771 (Figure 3).

<sup>71</sup> *E.g.*, American Ass’n for Justice (89) at 2; Bolliger (69) (Florida attorney); CAS (3) at 2; CARS (22) at 8; Crabtree (108, 112); Domonoske (43); Elias (57) (Florida Dep’t of Regulatory and Economic Resources—Consumer Protection); Kaufman (52); Klarquist (29); Kraft, Karen, Credit Counseling (78); Richards, Casper & Casper (20); Speer, James, Virginia Poverty Law Center (109); Thomson (58); Wells (30); NACA (14) at 2; OAJ (31) at 2; Wholesale Forms (10) at 1, 2.

<sup>72</sup> See 16 CFR 455.2(b)(v).

<sup>73</sup> CAS (3) at 3.

#### D. Miscellaneous NPRM Buyers Guide Modifications Incorporated in the SNPRM

The Buyers Guide and rule text proposed in this SNPRM incorporates other modifications to the Buyers Guide that the Commission proposed in the NPRM. The English version of the Buyers Guide in this SNPRM includes a proposed statement, in Spanish, that advises Spanish-speaking consumers that they can request a Spanish-language version of the Buyers Guide.<sup>74</sup> In addition, the Buyers Guide’s statement advising consumers to ask the dealer about a mechanical inspection has been relocated above the proposed vehicle history information box to enhance its prominence.<sup>75</sup> The SNPRM also retains the use of the terms “dealer warranty” and “non-dealer warranty” proposed in the NPRM. Finally, the SNPRM Buyers Guide incorporates the NPRM’s proposed modifications to the description of “Implied Warranties Only” on the version of the Buyers Guide for use in jurisdictions that prohibit dealers from waiving implied warranties<sup>76</sup> and the description of a service contract on the front of the Buyers Guide.<sup>77</sup> The Commission published these proposed modifications in the NPRM and does not seek additional comments here.

#### E. Modification of Service-Contract Provisions

When promulgating the Rule in 1984, the Commission noted that its intent was not to regulate those service contracts that are “excluded from the Commission’s jurisdiction by the McCarran-Ferguson Act.”<sup>78</sup> Consistent with that intent, the Commission proposes revising the provision in § 455.1(d)(7) and the exception in § 455.2(d)(3) so that they correspond more closely with the statutory language of the McCarran-Ferguson Act.<sup>79</sup>

#### III. Request for Comment

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the proposals under

<sup>74</sup> The Buyers Guide in this SNPRM includes the statement: “Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.” See Figures 1 and 2.

<sup>75</sup> This statement has been on the Buyers Guide since the Rule’s promulgation in 1984: ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT. See Figures 1 and 2.

<sup>76</sup> See 16 CFR 455.2(b)(1)(ii); Figure 2.

<sup>77</sup> *Id.*

<sup>78</sup> Trade Regulation Rule Concerning Sale of Used Motor Vehicles, 49 FR 45692, 45709 (Nov. 19, 1984).

<sup>79</sup> 15 U.S.C. 1012(b).



consideration. Please include explanations for any answers provided, as well as supporting evidence where appropriate. After evaluating the comments, the Commission will determine whether to issue specific amendments.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 30, 2015. Write "Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone'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. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>80</sup> Your comment will be kept confidential only if the FTC General Counsel grants your request in

accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublish.commentworks.com/ftc/usedcarrulesnprm> by following the instructions on the web-based form. If this document appears at <http://www.regulations.gov#!/home>, you also may file a comment through that Web site.

If you prefer to file your comment on paper, write "Used Car Regulatory Review, 16 CFR part 455, Project No. P087604" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this document and the news release describing it. 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 on or before January 30, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Comments on any proposed recordkeeping, disclosure, or reporting requirements subject to review under the Paperwork Reduction Act ("PRA") should additionally be submitted to 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. postal mail, however, are subject to delays due to heightened security precautions. Therefore, comments instead should be sent by facsimile to (202) 395-5167.

#### IV. 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 V 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 (V.B below); a description of reasonable alternatives that would accomplish the Rule's stated objectives consistent with applicable law (V.F below); and a preliminary analysis of the benefits and adverse effects of those alternatives (*id.*).

The Commission believes 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 below, the Commission staff estimates each business affected by the Rule will likely incur only minimal initial added compliance costs to disclose on the Buyers Guide that they have obtained a vehicle history report and to provide copies of such reports to consumers upon request. To ensure that the Commission has considered all relevant facts, however, it requests additional comment on these issues.

#### V. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 ("RFA"), 5 U.S.C. 601-612, requires a description and analysis of proposed and final rules that will have significant economic impact on a substantial number of small entities. The RFA requires an agency to provide an Initial Regulatory Flexibility Analysis ("IRFA") with the proposed Rule, and a Final Regulatory Flexibility Analysis

<sup>80</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).



(“FRFA”), if any, with the final Rule.<sup>81</sup> The Commission is not required to make such analyses if a Rule would not have such an economic effect.<sup>82</sup>

As described below, the Commission anticipates that the proposed changes to the Rule addressed in this SNPRM will require some dealers to make additional disclosures on the Buyers Guide and to provide consumers with copies of vehicle history reports. Many of these dealers are small entities as defined by the RFA. The Commission anticipates that these proposed changes will not impose undue burdens on these small entities. Nevertheless, to obtain more information about the impact of this SNPRM on small entities, the Commission has decided to publish the following IRFA pursuant to the RFA and to request public comment on the impact on small businesses of this SNPRM.

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

As described in Part I above, in December 2012, the Commission issued an NPRM setting forth proposed changes to the Commission’s Used Car Rule. Among other things, the Commission proposed adding a statement to the Buyers Guide advising consumers about the availability of vehicle history reports and directing consumers to an FTC Web site for more information about those reports. The Commission also proposed changing the statement on the Buyers Guide that describes the meaning of “As Is” when used by a dealer to offer to sell a used vehicle without a warranty. Third, the Commission proposed adding boxes to the back of the Buyers Guide where dealers could indicate whether non-dealer warranties applied to a vehicle. The Commission received nearly 150 comments, including many concerning these three proposals. After reviewing the comments, the Commission now proposes amending the Rule by modifying the Buyers Guide to add a box where dealers will indicate if they have a vehicle history report and by requiring dealers who have the reports to make them available to consumers upon request. To provide consumers with a better description of their warranty rights in an “As Is” sale, the Commission proposes revising the existing Buyers Guide description of an “As Is” sale. The Commission also proposes moving the third-party warranty boxes to the front of the Buyers Guide.

#### *B. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Amendments to the Rule*

The objectives of the proposed changes in the Rule are to promote the availability of vehicle history information to consumers and to inform consumers about their rights in “As Is” sales in which dealers disclaim warranties. The legal basis for the proposed amendments is Section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5519, and the Federal Trade Commission Act, 15 U.S.C. 41–58.

#### *C. Description and Estimate of the Number of Small Entities to Which the Rule’s Amendments Will Apply*

The Used Car Rule primarily applies to “dealers” defined as “any individual 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.”<sup>83</sup> The Commission believes that many of these dealers are small businesses according to the applicable Small Business Administration (“SBA”) size standards. Under those standards, the SBA would classify as small businesses 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.<sup>84</sup>

Most independent used vehicle dealers would be classified as small businesses. In 2012, the United States’ 37,892 independent used vehicle dealers<sup>85</sup> had average total sales of \$4,228,137.<sup>86</sup> These used vehicle dealers’ average annual revenue is well below the maximum \$23 million in annual sales established by the SBA for classification as a small business. Therefore, these used vehicle dealers would be classified as small businesses.

The SBA would also classify many franchised new car dealers as small businesses. In 2012, the nation’s 17,635 franchised new car dealers<sup>87</sup> had an average of fifty-five employees,<sup>88</sup> well

below the 200-employee maximum established by the SBA for classification as a small business.<sup>89</sup>

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

The Used Car Rule imposes disclosure obligations on used vehicle car dealers, as set forth in Part [VI] of the Notice, 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. Neither the existing Rule nor the proposed amendments to the Rule require dealers to retain more records than may be necessary to complete and display the Buyers Guides. The proposed amendments do not require dealers to obtain vehicle history reports although it requires dealers who have obtained such reports to retain vehicle history reports if they have obtained them and to provide copies of the reports to requesting consumers. Neither the existing Rule nor the proposed amendments requires dealers to disclose non-dealer warranties. For those dealers who have obtained vehicle history reports or choose to disclose non-dealer warranties, the proposed amendments change the disclosure obligations required by the Rule. 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. Identification of Other Duplicative, Overlapping, or Conflicting Federal Rules*

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amended 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.<sup>90</sup> Dealers in two states are exempt from the Rule. Maine and Wisconsin require dealers to disclose related but different

<sup>83</sup> 16 CFR 455.1(d)(3).

<sup>84</sup> U.S. Small Bus. Admin. *Table of Small Bus. Size Standards Matched to North American Indus. Classification System* [“NAICS”] Codes at 23 (effective Jan. 22, 2014) (available at: <http://www.sba.gov/content/small-business-size-standards>) (last visited May 30, 2014). Used car dealers are classified as NAICS 441120 and franchised new car dealers as NAICS 441110.

<sup>85</sup> *NIADA Used Car Industry Report 2013*, at 16.

<sup>86</sup> *Id.* at 20. Used vehicle sales accounted for 38.29% (\$1,618,954) of those sales.

<sup>87</sup> *NADA Data State of the Industry Report 2013* at 5 (number of franchised dealers as of Jan. 1, 2013). (available at: <http://www.nada.org/Publications/NADADATA/2013/>).

<sup>88</sup> *Id.* at 14.

<sup>89</sup> *Table of Small Bus. Size Standards* at 23.

<sup>90</sup> Some states also have adopted the Rule as state law. In addition, the Magnuson-Moss Act, 15 U.S.C. 2302(b), 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.

<sup>81</sup> See 5 U.S.C. 603–604.

<sup>82</sup> See 5 U.S.C. 605.

information regarding used car sales.<sup>91</sup> The proposed amendments to the Rule would require dealers who have obtained vehicle history reports to disclose that fact on the Buyers Guide and to provide copies of the reports upon request. No other federal law or regulation creates a similar obligation.<sup>92</sup>

The Commission invites comment and information on this issue.

#### *F. Description of Any Significant Alternatives to the Proposed Amended Rule*

In proposing amendments to the Rule, the Commission is attempting to avoid unduly burdensome requirements for entities. The Commission believes that the proposed amendments will advance the goals of promoting consumer access to vehicle history information, consumer understanding of the meaning of “As Is” in used vehicle sales transactions in which a dealer disclaims warranties, and consumer awareness of warranties that may apply to a used vehicle. In proposing the amendments, the Commission has taken into account the concerns evidenced by the record to date.

The Commission is considering, but, at this point, has decided not to propose adopting, several different approaches to vehicle history information discussed in the comments. In this SNPRM, the Commission proposes to require dealers who have vehicle history reports to disclose that fact on the Buyers Guide and to provide copies of the reports to requesting consumers. The Commission proposed in the NPRM placing a statement on the Buyers Guide that would advise consumers about the availability of vehicle history information and direct consumers to an FTC Web site for more information. The

Commission also considered requiring dealers to obtain vehicle history reports, such as NMVTIS reports, and requiring dealers to make disclosures similar to those required by California’s AB 1215. Given the availability of various sources for and types of vehicle history reports, the Commission chose not to propose that dealers be required to obtain reports or to designate specific types of reports or specific vendors. In doing so, the Commission seeks to balance the burden placed on dealers with the goals of promoting consumer choice and access to vehicle history information.

The Commission considered comments on the Buyers Guide “As Is” statement and the various formulations of the statement proposed by the comments. The Commission chose to propose the “As Is” statement in this SNPRM because the Commission believes that the proposed statement clearly and accurately describes the meaning of “As Is.” Nevertheless, the Commission invites further comment on how best to phrase the Buyers Guide “As Is” statement to help consumer understanding of the term.

The Commission considered comments on the non-dealer warranty boxes proposed in the December 2012 NPRM. In response to those comments, the Commission has moved those boxes to the front of the Buyers Guide.

The Commission seeks comments on ways in which to modify the Rule to reduce any costs to or burdens on small entities.

#### **VI. Paperwork Reduction Act**

The existing Rule contains no recordkeeping or reporting requirements, but it does contain disclosure requirements that constitute “information collection requirements” as defined by 5 CFR 1320.3(c) under the OMB regulations that implement the PRA. OMB has approved the Rule’s existing information collection requirements through Jan. 31, 2017 (OMB Control No. 3084–0108).

The proposed amendments would increase the burden on those dealers who have obtained vehicle history reports because the amendments would require those dealers to disclose on the Buyers Guide that they have the reports and to provide copies of them to consumers upon request. This requirement would place no additional burden on dealers who do not have vehicle history reports. The proposed change to the Buyers Guide’s description of “As Is” sales would not impose any additional burden on dealers other than the initial burden of purchasing replacement Buyers Guides. As discussed in the NPRM, the

proposed amendments would increase the burden on those dealers who choose to disclose non-dealer warranties, but not on those dealers who do not make the optional disclosures.<sup>93</sup> The proposed amendments would change the burden estimates because the burden imposed on some dealers will increase. Therefore, the Commission is providing PRA estimates for the proposed modification set forth below.

The Commission invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the FTC’s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collecting information.

#### *Estimated Additional Annual Hours Burden*

##### **A. Number of Respondents**

The proposed amendments to the Rule would affect all 55,432 used vehicle dealers<sup>94</sup> in the United States. Dealers who have vehicle history reports would be required to check a box on the Buyers Guide and to provide copies of the reports to requesting consumers. Although the proposed amendments to the Rule would not require dealers who do not have vehicle history reports to make additional Buyers Guide disclosures, the proposed amendments would continue to require all dealers to obtain and to use replacement Buyers Guides.

##### **B. Recordkeeping Hours**

The proposed amendments to the Rule will not impose incremental recordkeeping requirements on dealers.

##### **C. Disclosure Hours**

Under the existing OMB clearance for the Rule, FTC staff estimated the total annual hours burden to be 2,296,227 hours, based on the number of used car dealers (55,432), the number of used cars sold by dealers annually (28,958,000), and the time needed to fulfill the information collection tasks required by the Rule.<sup>95</sup>

<sup>93</sup> 77 FR at 74764–74765.

<sup>94</sup> 37,892 independent dealers in 2012. *NIADA Used Car Industry Report* (2013), at 16. 17,540 franchised new car dealers in 2012. *NADA Data State-of-the Industry Report 2013*, at 5.

<sup>95</sup> Federal Trade Comm’n Agency Information Collection Activities; Proposed Collection; Comment Request; Extension, 78 FR 59032 (Sept. 25, 2013), note 2, citing *NIADA Used Car Industry*  
Continued

<sup>91</sup> The Commission granted Maine and Wisconsin exemptions from the Rule pursuant to 16 CFR 455.6. Although neither state requires that dealers disclose vehicle history reports to consumers, each state requires that dealers disclose vehicle information on that state’s Buyers Guide that the dealer knows about, such as prior use, title brands, mechanical defects, and substantial damage. See Wis. Admin. Code 139.04, Me. Rev. Stat. tit. 10, 1475. The Commission does not propose any change in the exemption status of these states in this SNPRM.

<sup>92</sup> Although no other federal law creates a similar obligation, California requires used vehicle dealers to obtain NMVTIS reports, and, if those reports contain junk, salvage, or insurance information or show that the title carries a brand, to post a warning label and to provide a copy of the NMVTIS report upon request. Cal. Veh. Code 11713.26. In effect, the proposed amended Rule would require California dealers to disclose, for every used vehicle offered for sale, that a vehicle history report (*i.e.*, a NMVTIS report) is available whereas the California statute requires only that dealers disclose that a NMVTIS report is available when the report contains certain information that triggers the required disclosure.

Industry sources, and anecdotal evidence,<sup>96</sup> indicate that most dealers use vehicle history reports and that dealer use of vehicle history reports is becoming increasingly commonplace. Staff is unaware of any reliable data concerning how often dealers obtain vehicle history reports, but, for simplicity, projects that 50% or more of dealers, nationwide, obtain the reports. In turn, staff projects that the proposed Rule would require dealers to check an additional box on the Buyers Guide and to make the reports available in at least 50% of used car sales nationwide.

The proposed Rule, however, would affect California, the state with the largest number of used car sales in the United States, differently. California requires dealers to obtain NMVTIS reports and to make those reports available to consumers when the reports contain a branded title or junk, salvage, or insurance information. Therefore, the proposed amendments to the Rule effectively would require all California used vehicle dealers to check the additional Buyers Guide box and make a vehicle history report available even when a NMVTIS report would not trigger the disclosures required by California. Although staff is unaware of reliable data concerning California's share of nationwide used car sales, California accounts for approximately 11% of vehicle registrations in the United States.<sup>97</sup> Using vehicle registrations as a proxy for sales, staff projects that California accounts for approximately 11% of nationwide used cars sales. Assuming that California used car dealers fully comply with their state law and the amendments proposed by the SNPRM, they will make the additional vehicle history disclosures in the projected 11% of nationwide sales, *i.e.*, 3,185,380 (11% × 28,958,000) used car sales.

Based on vehicle registrations as a proxy for used car sales, 89% of all used car sales occur outside of California, *i.e.*, 25,772,620 used car sales (89% of 28,958,000 nationwide used car sales). Assuming that dealers obtain vehicle history reports and, in turn, make the requisite vehicle history disclosures under the proposed Rule (*i.e.*, check the added box on the Buyers Guide, issue the vehicle history report to the

consumer), dealers outside of California will make the required disclosures for 12,886,310 used car sales (50% of 25,772,620 used cars).

Thus, staff estimates that dealers will make the required vehicle history disclosures for 16,071,690 used car sales. At an estimated thirty seconds to retrieve a report, this amounts to 133,931 additional disclosure hours, cumulatively<sup>98</sup> (16,071,690 used cars × 1/120 hour).

Like the NPRM, the SNPRM provides for optional disclosures concerning non-dealer warranties. In the NPRM, staff estimated that dealers would make these optional disclosures in 25% of used car sales.<sup>99</sup> Staff also estimated that dealers would need no more than an additional thirty seconds to make these optional disclosures.<sup>100</sup> Therefore, the additional aggregate burden on dealers who choose to make the optional non-dealer warranty disclosures is 60,329 hours (25% × 28,958,000 used car sales × 1/120 hour).

In sum, the proposed amendments in the SNPRM, including those retained from the NPRM, would increase the estimated annual burden by 194,260 hours: [(100% of 3,185,380 California used car sales × 1/120 hour per vehicle to make vehicle history disclosures) + (50% of 25,772,620 remaining used car sales × 1/120 hour per vehicle to make vehicle history disclosures) + (25% × 28,958,000 used car sales × 1/120 hour per vehicle to make optional non-dealer warranty disclosures)].

#### D. Reporting Hours

The proposed amendments to the Rule will not impose incremental reporting requirements.

#### E. Labor Costs

##### (1) Recordkeeping

None.

##### (2) Disclosure

The estimated annual incremental cost of the proposed amendments to the Rule is \$2,801,229. That figure is the product of estimated burden hours (194,260) multiplied by an hourly labor rate of \$14.42<sup>101</sup> for clerical or administrative staff.

#### (3) Reporting

None.

#### F. Non-Labor/Capital Costs

The FTC anticipates making amended Buyers Guides 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.

The proposed Rule would require dealers who already have vehicle history reports to make copies of those reports available to consumers upon request. The proposed Rule does not require dealers to obtain the reports. The only additional cost that dealers will incur because of the proposed Rule is the cost of making copies for consumers who request them. Vehicle history reports are typically no more than a few pages in length. Staff anticipates that dealers can make copies of the reports using ordinary office equipment that they already possess and that the incremental cost of additional paper, ink, etc., for copies will be minimal. In addition, this SNPRM asks for public comment on whether these costs, however minimal, could be reduced further by permitting dealers to provide consumers with electronic access to the reports.

#### VII. Communications by Outside Parties to the Commissioners or Their Advisors

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. *See* 16 CFR 1.26(b)(5).

#### VIII. Questions Concerning the Proposed Modifications of the Rule

The Commission is seeking comment on various aspects of the proposed Rule and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted in response to this notice. Responses to these questions should cite the numbers and subsection of the questions being answered. For all comments submitted, please submit any relevant data, statistics, or any other evidence upon which those comments are based.

<sup>96</sup> Report (2013), 16–17. The number of used cars sold by dealers in 2012 is calculated by multiplying the percentage of total used car sales conducted by dealers (71.5%) by the total number of used cars sold in 2012 (40.5 million).

<sup>97</sup> Staff notes that vendors of vehicle history reports advertise extensively in dealer trade publications.

<sup>98</sup> *See* <http://hedgescompany.com/automotive-market-research-statistics/auto-mailing-lists-and-marketing>.

<sup>99</sup> Staff projects that the incremental time to check the vehicle history box would be *de minimis*.

<sup>100</sup> 77 FR at 74764–74765.

<sup>101</sup> *Id.* at 74765.

<sup>102</sup> <http://www.bls.gov/news.release/ocwage.nr0.htm>. Bureau of Labor Statistics, Economic News Release, April 1, 2014, Table 1, "National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2013." The hourly rate drawn from this source is for "[o]ffice clerks, general."

*Vehicle History Report Disclosures*

1. The Commission proposes to amend the Rule by requiring dealers who have obtained a vehicle history report to check a box on a revised Buyers Guide indicating that they have a vehicle history report and will provide a copy of the report upon request.

a. Should the Commission require dealers who have obtained a vehicle history report to check a box indicating that the dealer has a vehicle history report and will provide a copy upon request? Why or why not?

b. Do used vehicle dealers typically obtain vehicle history reports for vehicles that they offer for sale? How prevalent is this practice? How prevalent is the practice among franchise dealers? How prevalent is the practice among independent dealers? Provide any studies, surveys, or other data that support your answers.

c. Do used vehicle dealers who obtain vehicle history reports typically make information from the reports available to consumers? If so, how? Do dealers make the reports available online? How prevalent is the practice among franchised used vehicle dealers of making vehicle history report information available to consumers? How prevalent is the practice among independent dealers? Provide any studies, surveys, or other data that support your answers.

d. Would a proposed Rule requiring dealers to provide consumers with a copy of a vehicle history report that a dealer has obtained on a vehicle be more or less likely to prompt dealers to obtain vehicle history reports? Would dealers who currently obtain vehicle history reports be more or less likely to obtain the reports if the Commission requires dealers to provide copies to consumers of any reports that the dealers obtain? Why or why not?

e. How prevalent is the practice among used vehicle dealers of obtaining vehicle history reports and failing to disclose title brands or other significant problems documented in those reports? How prevalent is the practice among franchised dealers? How prevalent is the practice among independent dealers? Would the proposed Rule requiring dealers to provide a copy of vehicle history reports that they have obtained reduce the prevalence of dealer failures to disclose information contained in vehicle history reports? Provide any studies, surveys, or other data that support your answers.

f. Does the Buyers Guide box and accompanying text concerning vehicle history reports in Figures 1 and 2 clearly indicate to consumers that the dealer

has obtained a vehicle history report and will provide a copy upon request? If not, identify alternative means to make the disclosure.

g. Would the lack of a mark in the box concerning vehicle history reports clearly convey that the dealer has not obtained a vehicle history report and therefore is not required to provide a copy? If not, provide alternative ways in which a dealer could signify on the Buyers Guide that the dealer has not obtained a vehicle history report that it can provide upon request.

h. Would the following statement on the proposed Buyer Guides in Figures 1 and 2 benefit consumers?

Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at [ftc.gov/usedcars](http://ftc.gov/usedcars). You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

i. Will the SNPRM proposal to require that dealers who have obtained vehicle history reports indicate that they have the reports, and will provide copies upon request, make dealers more or less likely to obtain vehicle history reports, or have no impact on whether dealers obtain vehicle history reports?

j. Should the proposed Rule define the term "vehicle history report"? If so, what should such a definition contain?

k. Should the Commission require that dealers who have obtained multiple vehicle history reports provide copies of all the reports upon request? If not, why not?

l. Should the Commission require that dealers who have obtained multiple reports provide only one report to consumers? If so, should dealers be required to provide consumers with the most recent report? If not, which report should dealers be required to provide?

m. Should the Commission permit dealers to provide consumers with electronic access to vehicle history reports as an alternative to providing consumers with printed reports? What mechanisms should dealers be permitted to use?

n. Should dealers be required to disclose the date(s) when they obtained vehicle history reports?

o. Once a dealer views a vehicle history report, should the Commission require that that dealer make the report available to consumers for as long as the dealer possesses the vehicle to which it applies regardless whether the dealer discards the report before selling the vehicle?

p. What barriers, if any, prevent effective enforcement of the proposed requirement that dealers indicate on the Buyers Guide whether they have obtained vehicle history reports? What measures could FTC staff take to detect violations of a requirement that dealers provide copies of vehicle history reports upon request? What records, if any, do suppliers of vehicle reports maintain that would demonstrate whether individual used vehicle dealers had previously viewed or obtained vehicle history reports on individual vehicles?

q. Should the Commission require dealers to create and to maintain records when they obtain or view vehicle history reports? If so, what recordkeeping should the Commission require and for what length of time should dealers be required to maintain the records?

r. What are the costs, potential liabilities, and/or benefits to dealers of requiring dealers to disclose that they have obtained vehicle history reports? Once disclosed, what are the costs, potential liabilities, and/or benefits to dealers of providing copies of the reports to consumers?

s. What are the costs and/or benefits to consumers of requiring dealers to disclose that they have obtained vehicle history reports? Once disclosed, what are the costs and/or benefits to consumers of requiring dealers to provide copies of the reports to consumers?

t. What are the costs, potential liabilities, and/or benefits to dealers of requiring dealers to disclose that they have obtained vehicle history reports, and affirmatively provide such reports to consumers, only when the reports include negative information (rather than provide any obtained report upon request as proposed in the SNPRM Vehicle History Approach)? How should the Rule define negative information?

u. What are the costs, potential liabilities, and/or benefits to consumers of requiring dealers to disclose that they have obtained vehicle history reports, and affirmatively provide such reports to consumers, only when the reports include negative information? (rather than provide any obtained report upon request as proposed in the SNPRM Vehicle History Approach) How should the Rule define negative information?

v. The Commission also invites comments on the alternative approaches discussed in Section II of this SNPRM. Which, if any, of the following alternatives provides the most benefits to consumers? to dealers? Which, if any, of the following alternatives is the most costly or burdensome for dealers? Provide any data, surveys, or evidence

that supports your comments regarding each of the alternative approaches:

- i. NPRM Vehicle History Approach
- ii. SNPRM Vehicle History Approach
- iii. AB 1215 Vehicle History Approach
- iv. IA AG Vehicle History Approach
- v. ADD Vehicle History Approach
- vi. NC AG Vehicle History Approach

w. Provide any studies, surveys, or other data concerning the number or percentage of used vehicles sold or offered for sale with clean titles that should have title brands or other negative information shown in their vehicle history reports.

#### *“As Is” Statement on Buyers Guide*

2. The Commission proposes changing the statement on the Buyers Guide that explains the meaning of an “As Is” sale. The Commission proposes:

THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct.

(SNPRM “As Is” Statement)

a. Does the SNPRM “As Is” Statement clearly and accurately describe the meaning of “As Is” in a used vehicle sale in which dealers disclaim implied warranties? If not, provide alternative means to convey that information to consumers.

b. The Commission also invites comments on the following alternative descriptions of “As Is” proposed in the comments. Which, if any, of the following alternatives more clearly and accurately describes the meaning of “As Is” than the “As Is” statement proposed by the SNPRM? Provide any data, consumer surveys, or evidence that supports your comments:

i. AS IS—NO DEALER WARRANTY. DEALER DENIES ANY RESPONSIBILITY FOR ANY REPAIRS AFTER SALE

(CARS “As Is” Statement)

ii. THE DEALER IS NOT PROVIDING A WARRANTY. The dealer does not agree to fix problems with the vehicle after you buy it. However, you may have legal rights if the dealer concealed problems with the vehicle or its history.

(IA AG “As Is” Statement)

iii. THE DEALER WON'T PAY FOR REPAIRS. The dealer does not agree to pay for the vehicle's repairs. But you may have legal rights and remedies if the dealer misrepresents the vehicle's condition or engages in other misconduct.

(NC AG “As Is” Statement)

iv. AS IS—NO WARRANTY. YOU WILL PAY ALL COSTS FOR ANY REPAIRS. Ask for all representations about the vehicle in writing.

(East Bay “As Is” Statement)

#### *Non-Dealer Warranties*

3. The Commission proposes to amend the Rule by providing boxes on the front of the Buyers Guide to allow, but not require, dealers to indicate the applicability of non-dealer warranties including manufacturer and other third-party warranties. Does the proposed method of disclosure effectively convey to consumers that dealers may, but are not required, to disclose non-dealer warranties that are applicable to a vehicle?

4. Does the lack of a checkmark in any of the manufacturer or third-party warranty boxes effectively communicate that the dealer is not providing any information about whether a manufacturer or other third-party warranty applies?

5. Would check marks in multiple boxes effectively communicate that multiple third-party warranties apply?

6. Does the Buyers Guide statement that “[t]he manufacturer's original warranty has not expired on the vehicle” effectively explain to consumers that an unexpired manufacturer's warranty applies? Would the statement prompt consumers to seek additional information about the scope of coverage of the unexpired warranty?

### **IX. Proposed Amendments to the Rule**

#### **List of Subjects in 16 CFR Part 455**

Motor Vehicles, Trade Practices.

For the reasons set forth in the preamble, the Federal Trade Commission proposes to amend 16 CFR part 455 as follows:

#### **PART 455—USED MOTOR VEHICLE TRADE REGULATION RULE**

■ 1. Revise the authority citation for part 455 to read as follows:

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

■ 2. Amend § 455.1 by revising paragraph (d)(7) to read as follows:

#### **§ 455.1 General duties of a used vehicle dealer; definitions.**

\* \* \* \* \*

(d) \* \* \*

(7) *Service contract* means a contract in writing for any period of time or any specific mileage to refund, repair, replace, or maintain a used vehicle and provided at an extra charge beyond the price of the used vehicle, unless offering such contract is “the business of insurance” and such business is regulated by State law.

\* \* \* \* \*

■ 3. Amend § 455.2 by revising paragraphs (a) introductory text, (a)(2),

and (b) and adding paragraph (g) 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 1–2 at the end of this part.

\* \* \* \* \*

(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) and (g) 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 paragraph (b)(1)(ii) of this section, 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 as illustrated in the Buyers Guide in Figure 2. 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” as illustrated by the Buyers Guide in Figure 2. *See* § 455.5 for the Spanish version of this disclosure.

#### **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) *Full/Limited Warranty.* If you offer the vehicle with a warranty, briefly describe the warranty terms in the space provided. This description must include the following warranty information:

(i) Whether the warranty offered is “Full” or “Limited.” n2 Mark the box next to the appropriate designation.<sup>1</sup>

(ii) Which of the specific systems are covered (for example, “engine, transmission, differential”). You cannot use shorthand, such as “drive train” or “power train” for covered systems.

(iii) The duration (for example, “30 days or 1,000 miles, whichever occurs first”).

(iv) The percentage of the repair cost paid by you (for example, “The dealer will pay 100% of the labor and 100% of the parts.”)

(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 applicable box or boxes beneath “NON-DEALER WARRANTIES FOR THIS VEHICLE” 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 available on the vehicle, you must add the following heading and paragraph below the Non-Dealer Warranties Section and mark the box labeled “Service Contract,” unless offering such service contract is “the business of insurance” and such business is regulated by State law. See § 455.5 for the Spanish version of this disclosure.

☐ 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.

\* \* \* \* \*

(g) *Vehicle History Reports.* If you have obtained a vehicle history report regarding a used vehicle, mark the applicable box on the Buyers Guide adjacent to the statement, IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. If you have obtained a vehicle history report, you must provide a copy of the report upon request to persons who request a copy. If you have not obtained a vehicle history report, leave the box blank.

■ 3. Revise § 455.5 to read as follows:

#### § 455.5 Spanish language sales.

(a) 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.

(b) Use the following language for the “Implied Warranties Only” disclosure when required by § 455.2(b)(1) as illustrated by Figure 5:

#### SOLO GARANTÍAS IMPLÍCITAS

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.

(c) Use the following language for the “Service Contract” disclosure required by § 455.2(b)(3) as illustrated by Figures 4 and 5:

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.

■ 4. Add an appendix to part 455 to read as follows:

#### Appendix to Part 455—Illustrations

BILLING CODE 6750-01-P

<sup>1</sup> A “Full” warranty is defined by the Federal Minimum Standards for Warranty set forth in 104 of the Magnuson-Moss Act, 15 U.S.C. 2304 (1975). The Magnuson-Moss Act does not apply to vehicles manufactured before July 4, 1975. Therefore, if you choose not to designate “Full” or “Limited” for such cars, cross out both designations, leaving only “Warranty.”

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

<b>BUYERS GUIDE</b>			
<b>IMPORTANT:</b> 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)
<b>WARRANTIES FOR THIS VEHICLE:</b>			
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"><input type="checkbox"/></div> <div> <p><b>AS IS - NO DEALER WARRANTY</b></p> <p>THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct.</p> </div> </div>			
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"><input type="checkbox"/></div> <div> <p><b>DEALER WARRANTY</b></p> <div style="margin-left: 20px;"> <input type="checkbox"/> FULL WARRANTY.           <input type="checkbox"/> 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. <i>Implied warranties</i> under your state's laws may give you additional rights.         </div> </div> </div>			
<b>SYSTEMS COVERED:</b>		<b>DURATION:</b>	
<b>NON-DEALER WARRANTIES FOR THIS VEHICLE:</b> <div style="margin-top: 10px;"> <input type="checkbox"/> MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.           <input type="checkbox"/> MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.           <input type="checkbox"/> OTHER USED VEHICLE WARRANTY APPLIES.         </div> <p>Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.</p>			
<input type="checkbox"/> 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, <i>implied warranties</i> under your state's laws may give you additional rights.			
<p><b>ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.</b></p> <div style="margin-top: 5px;"> <input type="checkbox"/> IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage, repair, accident, and prior ownership history.         </div> <p>Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at <a href="http://ftc.gov/usedcars">ftc.gov/usedcars</a>. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.</p>			
<p><b>SEE OTHER SIDE</b> for important additional information, including a list of major defects that may occur in used motor vehicles.</p>			
<p>Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.</p>			



FIGURE 2 - IMPLIED WARRANTIES ONLY Buyers Guide (English)

<b>BUYERS GUIDE</b>			
<b>IMPORTANT:</b> 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)
<b>WARRANTIES FOR THIS VEHICLE:</b>			
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"><input type="checkbox"/></div> <div> <p><b>IMPLIED WARRANTIES ONLY</b></p> <p>The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But <i>implied warranties</i> 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.</p> </div> </div>			
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"><input type="checkbox"/></div> <div> <p><b>DEALER WARRANTY</b></p> <p><input type="checkbox"/> FULL WARRANTY.</p> <p><input type="checkbox"/> 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. <i>Implied warranties</i> under your state's laws may give you additional rights.</p> </div> </div>			
<b>SYSTEMS COVERED:</b>		<b>DURATION:</b>	
<b>NON-DEALER WARRANTIES FOR THIS VEHICLE:</b> <div style="margin-top: 10px;"> <input type="checkbox"/> MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.         </div> <div style="margin-top: 5px;"> <input type="checkbox"/> MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.         </div> <div style="margin-top: 5px;"> <input type="checkbox"/> OTHER USED VEHICLE WARRANTY APPLIES.         </div> <p style="font-size: small;">Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.</p>			
<div style="margin-top: 10px;"> <input type="checkbox"/> 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, <i>implied warranties</i> under your state's laws may give you additional rights.         </div>			
<p><b>ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.</b></p> <div style="margin-top: 5px;"> <input type="checkbox"/> IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage, repair, accident, and prior ownership history. Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at <a href="http://ftc.gov/usedcars">ftc.gov/usedcars</a>. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.         </div> <p style="font-size: small;"><b>SEE OTHER SIDE</b> for important additional information, including a list of major defects that may occur in used motor vehicles.</p> <p style="font-size: small;">Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.</p>			

FIGURE 3 - REVERSE SIDE Buyers Guide (English)

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

<b>Frame &amp; Body</b> Frame cracks, corrective welds, or rusted through Dog tracks—bars or twisted frame <b>Engine</b> Oil leakage, excluding normal seepage Cracked block or head Belts missing or improperly Knocks or misses related to camshaft lifters and push rods Abnormal exhaust discharge <b>Transmission &amp; Drive Shaft</b> 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 <b>Differential</b> Improper fluid level or leakage, excluding normal seepage Cracked or damaged housing which is visible Abnormal noise or vibration caused by faulty differential	<b>Cooling System</b> Leakage including radiator Improperly functioning water pump <b>Electrical System</b> Battery leakage Improperly functioning alternator, generator, battery, or starter <b>Fuel System</b> Visible leakage <b>Inoperable Accessories</b> Gauges or warning devices Air conditioner Heater & Defroster <b>Brake System</b> 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 (Mfr. Specs) Lining or pad thickness less than 1/32 inch Power unit not operating or leaking Structural or mechanical parts damaged <b>Air Bags</b>	<b>Steering System</b> Too much free play at steering wheel (DOT spec.) Free play in linkage more than 1/4 inch Steering gear binds or jams Front wheels aligned improperly (DOT spec.) Power unit belts cracked or slipping Power unit fluid level improper <b>Suspension System</b> 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 <b>Tires</b> Tread depth less than 2/32 inch Sizes mismatched Visible damage <b>Wheels</b> Visible cracks, damage or repairs Mounting bolts loose or missing <b>Exhaust System</b> Leakage Catalytic Converter
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DEALER NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ EMAIL \_\_\_\_\_

FOR COMPLAINTS AFTER SALE, CONTACT: \_\_\_\_\_

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**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).

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

GUÍA DEL COMPRADOR			
<b>IMPORTANTE:</b> Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.			
MARCA DEL VEHÍCULO	MODELO	AÑO	NÚMERO DE IDENTIFICACIÓN DEL VEHÍCULO (VIN)
<b>GARANTÍAS PARA ESTE VEHÍCULO:</b>			
<input type="checkbox"/> <b>COMO ESTÁ - SIN GARANTÍA DEL CONCESIONARIO</b> EL CONCESIONARIO NO PAGARÁ NINGUNA REPARACIÓN. El concesionario no es responsable por ninguna reparación, sin importar lo que cualquier persona le haya dicho.			
<input type="checkbox"/> <b>GARANTÍA DEL CONCESIONARIO</b> <input type="checkbox"/> GARANTÍA COMPLETA. <input type="checkbox"/> 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 <i>garantías implícitas</i> , según las leyes de su estado, podrían darle derechos adicionales.			
<b>SISTEMAS CUBIERTOS:</b>		<b>DURACIÓN:</b>	
<b>GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:</b>			
<input type="checkbox"/> SE APLICA LA GARANTÍA DEL FABRICANTE. La garantía original del fabricante para el vehículo no venció. <input type="checkbox"/> SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS. <input type="checkbox"/> 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.			
<input type="checkbox"/> 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 <i>garantías implícitas</i> según las leyes de su estado podrían darle derechos adicionales.			
<b>PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.</b>			
<input type="checkbox"/> SI EL CONCESIONARIO MARCÓ ESTE CUADRO, EL CONCESIONARIO TIENE UN INFORME SOBRE EL HISTORIAL DEL VEHÍCULO Y LE ENTREGARÁ UNA COPIA SI USTED SE LA PIDE. El Informe del Historial del Vehículo puede contener información sobre los registros de los títulos de propiedad, galpones de desguace, y compañías de seguro. También puede incluir el historial de desguace, reparación, accidentes, y de propietarios previos. Independientemente de que el concesionario haya marcado el cuadro, la FTC le recomienda que consiga el Informe del Historial del Vehículo. Para más información sobre cómo obtener un informe del historial del vehículo, cómo buscar vehículos retirados del mercado, y otros temas, visite el sitio <a href="http://ftc.gov/carrosusados">ftc.gov/carrosusados</a> de la FTC. Para aprovechar al máximo los recursos de este sitio necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.			
<b>CONSULTE EL DORSO</b> para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.			

FIGURE 5 - IMPLIED WARRANTIES ONLY Buyers Guide (Spanish)

GUÍA DEL COMPRADOR			
<p><b>IMPORTANTE:</b> Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.</p>			
MARCA DEL VEHÍCULO	MODELO	AÑO	NÚMERO DE IDENTIFICACIÓN DEL VEHÍCULO (VIN)
<b>GARANTÍAS PARA ESTE VEHÍCULO:</b>			
<p><input type="checkbox"/> <b>SOLO GARANTÍAS IMPLÍCITAS</b></p> <p>El concesionario no hace ninguna promesa de reparar lo que sea necesario cuando compre el vehículo o posteriormente. Sin embargo, las <i>garantías implícitas</i> 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.</p>			
<p><input type="checkbox"/> <b>GARANTÍA DEL CONCESIONARIO</b></p> <p><input type="checkbox"/> GARANTÍA COMPLETA.</p> <p><input type="checkbox"/> 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 <i>garantías implícitas</i>, según las leyes de su estado, podrían darle derechos adicionales.</p>			
<b>SISTEMAS CUBIERTOS:</b>		<b>DURACIÓN:</b>	
<b>GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:</b>			
<p><input type="checkbox"/> SE APLICA LA GARANTÍA DEL FABRICANTE. La garantía original del fabricante para el vehículo no vendió.</p> <p><input type="checkbox"/> SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.</p> <p><input type="checkbox"/> SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.</p> <p>Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.</p>			
<p><input type="checkbox"/> 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 <i>garantías implícitas</i> según las leyes de su estado podrían darle derechos adicionales.</p>			
<p><b>PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.</b></p> <p><input type="checkbox"/> SI EL CONCESIONARIO MARCÓ ESTE CUADRO, EL CONCESIONARIO TIENE UN INFORME SOBRE EL HISTORIAL DEL VEHÍCULO Y LE ENTREGARÁ UNA COPIA SI USTED SE LA PIDE. El Informe del Historial del Vehículo puede contener información sobre los registros de los títulos de propiedad, galpones de desguace, y compañías de seguro. También puede incluir el historial de desguace, reparación, accidentes, y de propietarios previos. Independientemente de que el concesionario haya marcado el cuadro, la FTC le recomienda que consiga el Informe del Historial del Vehículo. Para más información sobre cómo obtener un informe del historial del vehículo, cómo buscar vehículos retirados del mercado, y otros temas, visite el sitio <a href="http://ftc.gov/carsusedocs">ftc.gov/carsusedocs</a> de la FTC. Para aprovechar al máximo los recursos de este sitio necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.</p> <p><b>CONSULTE EL DORSO</b> para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.</p>			

FIGURE 6 - REVERSE SIDE Buyers Guide (Spanish)

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

<b>Chasis y carrocería</b> Grietas en el chasis, soldaduras correctivas u enmendadas Descuadrado: chasis doblado o torcido <b>Motor</b> Pérdidas de aceite, excepto las filtraciones normales Bloque o cáter con grietas Correas ausentes o fuera de servicio Golpes o fallas relacionados con lavavidrios de lavas o buelas Descarga del escape fuera de lo normal <b>Transmisión y eje motor</b> Nivel inadecuado de fluido o pérdidas excepto filtraciones normales Grietas o daños visibles en la caja Ruidos o vibraciones fuera de lo normal ocasionados por la transmisión o el eje motor Cambios o funcionamiento inadecuados en cualquier velocidad Patrones o vibraciones del embrague manual <b>Diferencial</b> Nivel inadecuado de fluido o pérdidas excepto filtraciones normales Grietas o daños visibles en el cáter del diferencial Ruidos o vibraciones fuera de lo normal ocasionados por fallas en el diferencial	<b>Sistema de enfriamiento</b> Pérdidas, incluidas las del radiador Funcionamiento inadecuado de la bomba de agua <b>Sistema eléctrico</b> Pérdidas en la batería Funcionamiento inadecuado del alternador, generador, batería o arrancador <b>Sistema de combustible</b> Pérdidas visibles <b>Accesorios fuera de servicio</b> Indicadores o dispositivos de advertencia Aire acondicionado Calefacción y Desempañador <b>Sistema de frenos</b> Luz de advertencia de fallas rota Falta de frenada 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 desgastados (según especificaciones del fabricante) Grosor de la placa o del revestimiento interior que 1/32 pulgadas Unidad de potencia fuera de servicio o con pérdidas Partes estructurales o mecánicas dañadas <b>Bolsas de aire</b>	<b>Sistema de dirección</b> Desnivelado juego en el volante (según especificaciones del DOT) Juego mayor a 1/4 de pulgada en el volante El mecanismo de dirección se traba Alineación inadecuada de las ruedas frontales (según especificaciones del DOT) Grietas o desplazamientos en las correas de la unidad de potencia Nivel inadecuado de fluido de la unidad de potencia <b>Sistema de suspensión</b> Juntas de resaca dañadas Partes estructurales dobladas o dañadas Barra estabilizadora desconectada Resaca rota Cojinete del amortiguador suelto Cojinetes de caucho dañados o ausentes Brela dañada o ausente Amortiguador con pérdidas o con funcionamiento inadecuado <b>Neumáticos</b> Profundidad de las ranuras menor que 2/32 de pulgada Tamaño que no corresponden Daños visibles <b>Ruedas</b> Grietas, daños o reparaciones visibles Tornillos de sujeción sueltos o ausentes <b>Sistema de escape</b> Pérdidas Convertidor catalítico
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NOMBRE DEL CONCESIONARIO \_\_\_\_\_

DIRECCIÓN DEL CONCESIONARIO \_\_\_\_\_

TELÉFONO \_\_\_\_\_ CORREO ELECTRÓNICO \_\_\_\_\_

PARA QUEJAS DESPUÉS DE LA VENTA COMUNIQUESE CON: \_\_\_\_\_

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**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 (18 C. F. R. 455).

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2014-28000 Filed 11-26-14; 8:45 am]

BILLING CODE 6750-01-C

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[EPA-HQ-OPPT-2007-0490; FRL-9919-77]

RIN 2070-AJ96

### Certain Nonylphenols and Nonylphenol Ethoxylates; Significant New Use Rule; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** EPA issued a proposed rule in the **Federal Register** of October 1, 2014, concerning 15 related chemical substances commonly known as nonylphenols (NP) and nonylphenol ethoxylates (NPE). For 13 NPs and NPEs, EPA proposed to designate any use as a “significant new use,” and for 2 additional NPs, EPA proposed that any use other than use as an intermediate or use as an epoxy cure catalyst would constitute a “significant new use.” This document extends the comment period for 45 days, from December 1, 2014, to January 15, 2015. The comment period is being extended because EPA received comments contending that the proposed NP/NPE Significant New Use Rule (SNUR) contains many chemicals that need to be

analyzed, there are many documents in the docket that need to be reviewed, the rule involves some companies correcting how they identify chemicals, and companies need more time to determine whether they use the chemicals for purposes other than what EPA has identified. Extending the comment period will allow companies to more accurately assess and communicate to EPA how the chemicals are being used.

**DATES:** The comment period for the proposed rule published October 1, 2014 (79 FR 59186), is extended. Comments, identified by docket identification (ID) number EPA-HQ-OPPT-2007-0490, must be received on or before January 15, 2015.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of