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Legal & Regulatory Group

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SUBMITTED ELECTRONICALLY

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex H)
600 Pennsylvania Avenue, N.W., Washington, D.C. 20580
Electronic address: <https://secure.commentworks.com/ftc-UsedCarRuleReview> (CRT Docket No. 106)

Re: “Used Car Rule Regulatory Review, Matter No. P087604”

The National Automobile Dealers Association (“NADA”) submits the following supplementary comments to the Federal Trade Commission (“FTC” or the “Commission”) regarding its notice of request for public comment (“Notice”) on its Used Motor Vehicle Trade Regulation Rule (“Used Car Rule” or “Rule”).

I) BACKGROUND

a) Comments Filed in Response to the Notice

The Notice was issued as part of the FTC’s periodic regulatory review of the Used Car Rule. In the Notice, the FTC sought comment on “a range of issues” focusing on two specific questions: “whether a bilingual Buyers Guide would be useful or practicable,” and whether changes should be made “to the Buyer’s Guide [to] reflect the various types of [certified and other] warranties potentially available today.”ⁱ Those comments were initially due on September 19, 2008, but on that date, the FTC announced that it was extending the comment period to November 19, 2008 at the request of a consortium of consumer groups.ⁱⁱ

On November 19, 2008 NADA submitted comments (“Comments”) which addressed the two questions specifically posed by the Commission and the proposed amendments to the Buyers Guide. The Comments also generally outlined NADA’s view that the Used Car Rule continues to serve an important role in the disclosure of dealer warranties on used vehicles, and NADA’s agreement with some minor modification of the Rule to allow dealers the option of disclosing manufacturer warranty information in addition to the current requirement that dealers disclose warranties the *dealer* may offer on a used vehicle. The Comments also detailed the inherent difficulty used car dealers face in trying to provide complete manufacturer warranty information,

given the lack of access dealers have to adequate and accurate data. For all of the reasons outlined in our Comments, dealers often do not know and cannot determine manufacturer or other warranty information, and as discussed, it serves no one – dealers or used vehicle consumers - to require disclosure of incomplete or inaccurate information.

Other comments were also filed on the November 19, 2008 deadline. Several of these comments raise issues outside the scope of the Commission’s regulatory review, and far beyond the specific questions raised by the Commission in the Notice. For example, comments filed on behalf of several consumer groupsⁱⁱⁱ (“Consumer Comments”) suggest a number of far-reaching changes to the Used Car Rule that would transform the Rule beyond its current format and purpose, and impose significant, costly, and in some cases, impossible burdens on used car dealers. Similarly, comments filed by the National Association of Attorneys General^{iv} (“NAAG Comments”) advocate changes in the Rule that would require dealers to provide information that not only goes far beyond the scope and intent of the Used Car Rule, but in many cases would require dealers to provide information they simply do not have.

NADA files these supplementary comments (“Supplementary Comments”) to respond to several of those newly raised issues, which are beyond the scope of this periodic review and are thus not appropriate for formal consideration. NADA respectfully requests that the FTC consider these Supplementary Comments at this time because they address issues not specifically mentioned in the Notice, and because there has been no previous chance to respond to these newly raised issues. NADA also believes that it is important that the FTC consider the issues raised in these Supplementary Comments, as well as any raised by other parties, who should have the opportunity to address these proposals, before making the decision whether to engage in any formal rulemaking process on these issues.

II) PROPOSALS TO REQUIRE VEHICLE HISTORY AND TITLE BRAND INFORMATION IN THE BUYERS GUIDE ARE INAPPROPRIATE AND UNLIKELY TO PROVIDE SIGNIFICANT HELPFUL INFORMATION TO CONSUMERS

The main issue^v raised by both the Consumer Comments and the NAAG Comments that we wish to address in these Supplementary Comments is the suggestion that dealers be required to include vehicle history and title brand information on the Buyers Guide. The basic argument made in the NAAG and Consumer Comments is that:

Certain standard vehicle history information is reflected on all titles in the United States;

Such information is important to prospective purchasers and relevant to whether a used vehicle is covered under a manufacturer’s warranty;

Dealers covered by the Rule have ready access to such information, and therefore;

Such information should be included on the Buyers Guide.

The true facts belie this argument at every turn.

First, vehicle history and title brand information proposed to be required on the Buyers Guide comes from vehicle titles, which are regulated by state laws involving long-established, and vastly differing statutory schemes. This lack of uniformity makes any national disclosure

standard nearly impossible, and in and of itself precludes the use of the Used Car Rule as a means of disclosing vehicle history information as the Rule was specifically designed to be national in scope, and to provide simple, well recognized, and easily understood warranty information to prospective purchasers in every state.

Second, even assuming that some title brands may have an effect on a used vehicle's continuing coverage under a manufacturer warranty, the Used Car Rule requires only that dealers disclose what warranty (if any) they are providing on a vehicle. *Dealer* warranties have no connection to vehicle history or title brand and such information would not help prospective purchasers determine warranty coverage when shopping for a used vehicle.

Third, title brand and vehicle history information is often not available to dealers because a used vehicle title is often not at the dealership when vehicles are being offered for sale, and NMVTIS in its current form is not a viable solution. Moreover, title information, even when available, is often unreliable, and as a result, of marginal use to the consumer.

Fourth, it would be inappropriate to require such disclosures under the guise of the Used Car Rule, which as noted above requires only that dealers disclose *dealer* warranty information. To the extent prospective consumers are interested in a vehicle's title history information, however imperfect, such information is available through the National Motor Vehicle Title Information System (NMVTIS) and through private providers such as Carfax or Autocheck. Again, however, such information is outside the scope and intended purpose of the Rule.

Finally, and perhaps most importantly, disclosure of this information on the Buyers Guide is an outdated and incomplete solution that does little to address the concerns raised. Used vehicle consumers do not need a box on the Buyers Guide that would provide incomplete and difficult to understand information. They need real-time access to accurate vehicle history information. Efforts to implement such measures are currently underway and should be allowed to continue. NMVTIS is designed to fill the void in public knowledge about vehicle history. At this time, it is not a workable solution, but once it is fully implemented it will provide valuable information to consumers. In addition, Congress is currently considering^{vi} other efforts, such as total loss disclosure legislation (discussed in more detail below) that would address the heart of the concerns outlined in the NAAG and Consumer Comments. NADA has strongly supported these efforts and others to bring these systems into the twenty-first century. Rather than superimposing an incomplete paper-based solution onto a warranty disclosure document, the FTC should support the development and implementation of those modernization efforts to improve real-time electronic access to information about used vehicles.

In sum, forcing dealers to disclose vehicle condition and title brand information on a form designed for dealer warranty disclosure would not only expand the Rule far beyond its intended scope, it would be inefficient, would interrupt other, more complete solutions, and would bring confusion rather than clarity to the used vehicle marketplace.

a) A National Disclosure Standard is Virtually Impossible Because State Title Brand and Vehicle History Information is Not Uniform

To include title brand and vehicle history in the Buyers Guide, the Guide would have to be modified so that dealers, using a revised standard form, could disclose this information.

However, developing such a standard format that would convey any meaningful information to consumers would be nearly impossible.

The states regulate titles for vehicles and each of the fifty states has different title requirements and regulations. These state provisions differ in many important ways including:

- how and when titles are issued and to whom they are issued;
- how and whether duplicate titles are issued;
- who holds the title on a vehicle with a lien -- the consumer or the lienholder;
- how and where liens are recorded on the title;
- what title brands the states use, which brands are reflected on the title, and how;
- what the title brands mean;
- how long it takes for title brands to be reflected on the title, and;
- whether and which title brands from other states carry over for a vehicle previously titled in that other state.

These key differences make the interpretation and collection of title history information very difficult, and a national disclosure standard nearly impossible. Each of these factors affect a dealer's access to the title and the utility of that information reflected on the title.

For example, there simply is no standard set of title brands that could be used on a national form because each of the states uses a unique set of title brands.^{vii} A state title brand chart from the American Association of Motor Vehicle Administrators ("AAMVA"), attached as Exhibit A, shows the wide array of title brands used. For example:

Alaska uses only one title brand - "Reconstructed"

Kentucky uses: "Odometer brands (exceed mechanical limits, not actual mileage)", and "Hail Damaged".

Colorado uses only "S" for salvage.

Idaho uses: (1) "Bonded"; (2) "issued upon statement of applicant; (3) "glider kit vehicle"; (4) "for junk only"; (5) "reconstructed vehicle"; (6) "replica-reconstruct vehicle"; (7) "specially constructed vehicle"; (8) "branded by previous state, brand carried forward from previous title"; (9) "repaired vehicle".

Maryland uses: "Duplicate Title", "Corrected Title", "Fuel legends", "Odometer legends", "TAXI", "XTAXI", "XSALVG", "KT (Kit)", "GLKT (Glider kit)", "ACV (All terrain, 3-wheel)", "RECO (Reconditioned)", "ATV", "Reconstructed", and "Rebuilt".

Pennsylvania uses: A— Antique Vehicle; C— Classic Vehicle; D— Collectible Vehicle; F— Out of Country; G— Originally Mfgd. for Non-U.S. Distribution; H— Agricultural Vehicle; L— Logging Vehicle; P— Formerly a Police Vehicle; R— Reconstructed; S— Street Rod; T— Recovered Theft Vehicle; V— Vehicle Contains reissued VIN; W— Flood; and X— Formerly a Taxi.

In addition, states often treat title brands from other states differently.^{viii} For example:

In Alabama, title brands from other states are captured in Alabama's database, but not printed on the title

In Alaska, title brands from other states are generally not carried forward onto subsequent titles.

Idaho carries title brands from other states but lists them under "Other Pertinent Data."

In Minnesota, title brands are carried over from other states unless the vehicle is over 6 years old.

In Montana, title brands are carried over from other states "whenever possible."

In Texas, they carry forward out of state brands onto the Texas brand only under certain circumstances.

This is one of several reasons why a used vehicle's title does not accurately reflect information about the vehicle itself.

Moreover, the same terms often have different meanings in different states. For example, a "salvage" vehicle in Arkansas is any vehicle that has sustained physical damage that equals or exceeds 70% of the average retail value of the vehicle. In Connecticut, a "salvage" vehicle is one that has been declared a "total loss" by an insurance company or by a self-insured organization. Colorado's statutory definition of a "salvage" vehicle is a vehicle less than six (6) years old that is damaged by collision, fire, flood, accident, or other occurrence, excluding hail damage, in excess of the retail fair market value of the vehicle.^{ix} But in Montana, "Salvage vehicle" means a vehicle damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the owner, an insurer, or other person acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical to repair the vehicle. The point is that even if some standardized disclosure format were adopted, terms like "Salvage" used on that form have vastly different meanings in different states and may bring more confusion than clarity to the marketplace.

These are just a few examples of why the suggestions made in the NAAG and Consumer Comments make little sense as a practical matter. NADA is and has been a strong proponent of efforts designed to bring uniformity to the way states brand and transfer brand information, and of a complete centralized database for such information, easily accessible to prospective consumers. The bottom line, however, is that without a vast overhaul of the current, outdated, paper-based state titling regime, it would be nearly impossible to synthesize a form that would be able to accurately reflect the various state title brands.

In addition, such a national standard ignores that complex and long-established statutory regimes states have implemented (and dealers and consumers alike have come to rely on) regarding titling and disclosure issues. The states have developed titling procedures and entire infrastructures based on, and in reliance on their own scheme. Furthermore, as noted in the NAAG Comments, part of the current scheme in many states includes a requirement that dealers

and other vehicle sellers disclose certain information about a vehicle's history.^x As a result, there is little need for a national solution where disclosure is already required under state law.

b) Title Information is Often Unavailable and Often Unreliable

Both the Consumer Comments and the NAAG Comments seem to suggest that disclosure of vehicle history and title brand information on the Buyers Guide would be simple and virtually cost-free – little more than a matter of checking a box on the Buyers Guide.^{xi} Unfortunately, this is simply not accurate.

i) Dealers Often Do Not See the Title

Title brand information about a vehicle exists in only two places: (1) on the physical title itself, and (2) in the issuing state titling agency's database. For any number of reasons, dealership used vehicle department personnel responsible for accurately completing and posting Buyers Guides neither have access to physical titles, nor to any title database.

Most customers who trade in a vehicle as a part of a new or used vehicle purchase transaction have a lien on that trade in vehicle. In most states, where there is a lien on a vehicle, the lienholder holds the title. This means that the title is not present at the time of the transaction and it make take a great deal of time for the dealer to get the title. The Consumer Comments explain:

“[M]ost states allow dealers to sell traded-in vehicles or vehicles purchased from auctions or other dealers before they obtain clear title to them. The dealer cannot show the buyer the title because it is still in the possession of the previous owner or the lienholder. It may take a month or longer before the dealer obtains title, if at all.”^{xii}

A title may also not be present as the prior owner may have lost it. This happens with great frequency. At other times, used vehicle titles are held by a floorplan finance source or are kept in a central location for safekeeping. The Used Car Rule was designed to provide warranty information, and it works because such information is readily available to the seller since the seller has control over and first hand knowledge of this information. By contrast, even when accurate, vehicle history information is neither readily available nor easily verifiable.

ii) NMVTIS is Not a Viable Solution

In addition, despite claims to the contrary, dealers simply do not have electronic access to the state title brand databases. Much is made in both the Consumer and NAAG Comments of the enactment of the National Motor Vehicle Title Information System (“NMVTIS”), but the reality is that NMVTIS is simply not a viable solution. NMVTIS may be “intended to make both positive and negative vehicle history information available at a keystroke to American car buyers,” but it currently does not.^{xiii} Only 13 states currently fully participate with NMVTIS. While the Department of Justice and others are working diligently to implement NMVTIS, efforts to establish the national database have been ongoing since the Anti-Car Theft Act was passed in 1992, and have had a long and difficult history since that time.

NADA supports efforts to fully implement the current rule as well as efforts to modernize the NMVTIS rule, which is based on a 17-year-old law. The following limitations of NMVTIS are important loopholes that NADA has been seeking to address with federal legislation:

full state participation is necessary for complete and accurate information;

delayed insurance and salvage reporting of totaled vehicles still allows for some totaled vehicles to escape disclosure;

the scope of total loss information must be expanded to cover more vehicles and more safety information;

the wholesale used car market needs commercial access to alert consumers to stay away from severely damaged vehicles; and

DMV information must be integrated with other sources of vehicle history information to streamline information to make it more efficient and accessible to the public.

The bottom line is that it makes no sense to require dealers or anyone else to disclose title information based on a claim that such information is currently “readily available” via NMVTIS.

iii) Title Brand Information is Often of Limited Value

Of course, even where the dealer has access to the title a title database, the information is only as good as the information reflected on the title or in that database. Again, the Consumer Comments identify this problem noting that “even if a buyer were to see the title, it would still not be a reliable form of disclosure.” *Id.*

There are several reasons why a paper title or a check of the state title database may reflect no title brands even where they exist. First, by definition, a “washed” title will reflect no title brand. A national titling system is only as strong as the weakest link, and as long as unscrupulous individuals can get a new “clean” title in another state, any title brand information will be suspect. NADA supports efforts to improve these processes and to eliminate title washing loopholes.

Even an “unwashed” title may not be reliable. For example, it can take up to six weeks for title updates to be reflected in the state database.^{xiv} This time delay allows for significant opportunities for wrongdoing and thus undermines the potential accuracy of any title databases. Consumers who rely on the title brand or the title brand database are often relying on bad information and may believe a vehicle has not been wrecked or that the vehicle has a “clean” title even when it does not. Rather than providing useful information to consumers, such disclosures would lead to confusion and may actually give consumers a false sense of security about the history or safety of a vehicle.

iv) Title “Washing” Is a Serious Concern for Which There Are Solutions

Reselling flooded and other salvage vehicles by “washing” the title is a serious problem. As noted above, the current outdated, non-uniform state titling system allows determined individuals to find ways to introduce potentially dangerous vehicles into commerce.

One factor that contributes to this problem is that currently, insurance companies do not always disclose the VINs of vehicles that have been declared a total loss. To combat this problem, NADA has long advocated for better tracking of wrecked, flooded, and stolen vehicles by requiring insurance companies to fully and electronically disclose the VINs of all totaled vehicles. (See NADA Issue Summary and related chart attached as Exhibits B and C).

Disclosure of the VINs of totaled vehicles is an important way to improve the accuracy and utility of state databases and NMVTIS.

c) The Wisconsin Model is not Appropriate or Workable on a National Scale

Both the NAAG and Consumer Comments point to Wisconsin as a model that the FTC should follow in adopting changes to the Used Car Rule Buyers Guide.^{xv} The NAAG Comments contend that “[i]f Wisconsin dealers are required and can determine facts sufficient to make that disclosure, so too should dealers in the rest of the nation.”^{xvi} Such comparisons, however, simply do not work.

First, as addressed above, while a standardized form designed for a particular state may be feasible in that state, under the current system no such standardized form would function on a national basis. The Wisconsin form reflects the title brands used in Wisconsin, and Wisconsin dealers and consumers can understand or readily determine the meaning and importance of those brands. The same would not be true nationwide.

Second, some of the specific provisions in the Wisconsin titling scheme make title brand disclosure more feasible. For example, Wisconsin carries forward title brands from other states, which other states do not do, or may do on a limited basis. Another crucial difference between Wisconsin and most other states is that Wisconsin is among the minority of states where the individual consumer is issued the title regardless of the existence of a lien.^{xvii} This means that unlike most other states, Wisconsin dealers generally have access to the title when they take in a trade, and can determine whether it reflects any title brands.

The bottom line is that a system that works in one state will not translate nationally. Unless and until a uniform state titling process is enacted, no such national standard is possible.

In addition, the Wisconsin approach is the direct result of a provision in the Used Car Rule that allows for states to petition for an exception from the standard, uniform, easy to understand national Buyers Guide. In fact, Wisconsin’s process predated the federal rule and, through the exception process, was in effect grandfathered by it. This exception to the Rule was fully considered by the FTC when the Used Car Rule was promulgated. It is not appropriate as a national standard and should not now somehow become the Rule itself.

d) The Used Car Rule Requires Disclosure of Dealer Warranties Which Have No Connection to Vehicle History or Title Brand

Even if a practical solution to these problems could be found, such disclosures would not be appropriate under the Used Car Rule. The Buyers Guide is designed to allow prospective purchasers to determine what warranty coverage is provided on a used vehicle by the selling dealer. The nature and extent of warranty coverage is useful to a prospective purchaser because that warranty coverage protects a used car consumer from a wide array of potential problems. The Buyers Guide allows for easy dealer warranty information comparison for prospective purchasers.

The claimed nexus underlying the proposals to require dealers to provide this information on the Buyers Guide pursuant to the Used Car Rule is that title history can affect warranty coverage.^{xviii} For example, the NAAG Comments claim “that prior history is a determinant of whether the warranty the selling dealer claims is available is truly available.”^{xix} However, such

claims mistakenly conflate dealer and manufacturer warranties. Even assuming that a vehicle's prior history may affect whether it is covered under a *manufacturer* warranty, it is irrelevant to any warranty the *dealer* may issue, which is all that the Used Car Rule requires to be disclosed.

Title brands are but one of a number of facts that can affect manufacturer warranty coverage. Others include the transferability of the warranty from the original owner, vehicle maintenance and service records, installation of certain aftermarket or other products on the vehicle, and changes or updates to the warranty programs themselves. Any or all of these factors could potentially void or limit a manufacturer's warranty, but dealers neither know whether these factors affect a given warranty, let alone any way of conclusively determining whether any of these circumstances exist on a given vehicle.

The FTC has long recognized that dealers generally do not know whether a manufacturer's warranty applies, and the Rule does not require that such information be disclosed. The same holds true for vehicle history and title brand information. Dealers often do not have access to this information, and even when they do, it is often outdated, inaccurate, or misleading. The Used Car Rule has a specific purpose, and it has served that purpose well. It is not designed to be, is not currently, and should not become a catch-all disclosure rule requiring dealers to disclose information they may not have and cannot verify.

e) Current Solutions Exist and Should be Allowed to Work

i) Private Reports, While Limited, Are Publicly Available

We agree with the Consumer and NAAG Comments that the desire for vehicle information has seen private alternatives such as Carfax and Autocheck become increasingly popular.^{xx} The data from these and similar private companies is often more complete than the state databases or the current iteration of NMVTIS because they obtain data from more sources. However, as the Consumer Comments note, the "information provided by [services such as Carfax and Autocheck] is far from complete and often unreliable" and "[o]ften, pertinent information such as prior damage histories, do (sic) not appear in a timely fashion, or at all, so the data can be quite misleading."^{xxi}

The services that those companies provide can be helpful in that they provide one central location for data from multiple sources, but at the end of the day, because they purchase their data from the states and other sources, it is still only as timely and accurate as the data in the source's database. In fact, the data is less timely than that in the state and other databases because they often do not get updates in real time. Therefore, even if the state (or other) database is timely; Carfax or Autocheck will not be until they receive and process a periodic update which may be weeks later. (As discussed above, this is one reason why NADA believes that the total loss disclosure legislation is necessary to accelerate the accurate reporting of totaled vehicles.)

ii) Requiring Dealers to Run a Private Report Would Unnecessarily Add to the Cost of Used Vehicles

The NAAG Comments suggest that the proposed requirement to disclose vehicle history and title brand information could be met by forcing the dealer to run a private report from one of these companies.^{xxii} Putting the utility of such reports aside, forcing dealers to pay \$20-30 or more to a private company for potentially each prospective purchaser of each used vehicle would

add a considerable cost to all cars that dealers would have to pass along to actual purchasers. The marketplace should decide (and is already deciding) whether this information is worth the price. Consumers who value this information despite its limitations already get it themselves through dealers or otherwise. While dealers are often more than willing to conduct such checks for their prospective purchasers who desire one, mandatory checks are unjustified.

iii) A Large and Growing Number of Dealers Already Provide Reports

Finally, as both the NAAG and Consumer Comments note,^{xxiii} a significant and growing number of dealers already offer Carfax, Autocheck, or similar reports with all the used cars they sell at retail. These reports are gaining wide acceptance with the used car buying public, and in many markets, it is quickly becoming a standard part of many transactions. Consumers to whom this information is important can obtain the reports themselves, or shop based on the availability of such information from the dealers. While for all the reasons described above, these reports are certainly far from perfect, they do provide consumers with options to consider.

iv) NMVTIS and Other Proposals Currently Before Congress Such as Total Loss Disclosure Legislation are the Long Term Solutions

For over a decade, NADA has championed efforts to better track severely damaged vehicles and worked for enactment of legislation and rulemaking to establish NMVTIS to connect all state DMVs to combat title fraud. NADA also strongly supports the Justice Department's recent rule that establishes NMVTIS and requires insurance and salvage yards to report totaled vehicles. NADA believes the NMVTIS system is a critical, but still incomplete, tool to detect auto salvage fraud. Total loss disclosure legislation is currently before Congress, and if enacted will help consumers gain access to more current information about a vehicle. Such efforts will take time, but they should be given the opportunity and time needed to work. The proposals to enact a paper based solution would neither be appropriate under the Used Car Rule, nor helpful to consumers.

III) CONCLUSION

The Used Car Rule and the Buyers Guide assist prospective purchasers by requiring disclosure of dealer warranties. It would diminish the value of the Guide if consumers were not able to fully rely on the information presented. In addition, as described above, there are practical and economic reasons why the suggestions to require dealers to disclose title information on the Buyers Guide does not make sense. This is especially true given existing state disclosure requirements, the fact that is NMVTIS is not a comprehensive solution, and the widespread availability of private solutions. The suggested approach may inhibit the development and implementation of solutions such as NMVTIS and other market-based solutions that may be more beneficial to the consumer.

Dealers and consumers alike would benefit from more and better information on title brands from all jurisdictions. NADA has long supported efforts to make this and other information available to NMVTIS in a timely fashion. Title brands should be more uniform, branding systems should be accurate, and databases should be complete. Pursuing these goals via a window sticker is an outmoded concept that makes little sense. Instead, this type of information should be gathered, maintained, and made available to consumers in a uniform electronic format. NADA strongly supports, and will continue to support projects such as NMVTIS and total loss

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disclosure legislation to aid in reaching those goals, and would urge the FTC and others to continue to join in these efforts, and in efforts to modernize and standardize the outdated state titling schemes.

NADA appreciates the FTC's consideration of these Supplemental Comments, and looks forward to working with the Commission in its efforts to improve and update the Buyers Guide. Please feel free to contact us if we can provide additional information that would be useful in your inquiry going forward.

Sincerely,

Bradley T. Miller

Associate Director, Legal and Regulatory Affairs

ⁱ July 16, 2008 news release announcing approval of Federal Register Notice on Regulatory Review of Used Car Rule: <http://www.ftc.gov/opa/2008/07/ucr.shtm>.

ⁱⁱ <http://www.ftc.gov/opa/2008/09/ucrsun.shtm>. The groups that sought the extension were Consumer Action, Consumers for Auto Reliability and Safety, Consumer Federation of America, National Association of Consumer Advocates, and National Consumer Law Center, *see* September 12, 2008 letter posted at <http://www.ftc.gov/os/comments/usedcarrule/080912requestforeotfilecomment.pdf>.

ⁱⁱⁱ Consumer Action, Consumers for Auto Reliability and Safety, Consumer Federation of America, Consumer Federation of California, National Consumer Law Center, U.S. Public Interest Research Group, and the Watsonville Law Center, Comment # 536945-00015, November 19, 2008, John Van Alst.

^{iv} Comment # 536945-00013, November 19, 2008, submitted by Ellen Taverna.

^v These Supplementary Comments do not address the proposal in the Consumer Comments to require a vehicle inspection. We note only that such efforts have a long history and have repeatedly been rejected by the FTC, by Congress, and others. The NAAG Comments note that “[s]imilar inspection requirements that were implicitly imposed in the precursor to the Used Car Rule resulted in industry opposition to that rule and the subsequent Congressional effort to veto that defect disclosure rule. *We are not advocating reincarnating that long-ago debate.*” *See* NAAG Comments at 7 (emphasis added). For all the same reasons prior efforts were rejected, such disclosures must not be required.

^{vi} On March 5, H.R. 1257, The Damaged Vehicle Information Act was the subject of a Subcommittee on Commerce, Trade, and Consumer Protection (House Energy and Commerce Committee) hearing . The legislation was introduced by Congressman Cliff Stearns (R-FL) and Gene Green (D-TX).

S. 202, The Passenger Vehicle Loss Disclosure Act of 2009, was introduced by Senator John Ensign (R-Nev.) with 4 cosponsors (3 Democrats, 1 Republican) and has been referred to the Senate Committee on Commerce, Science, and Transportation.

Last Congress there was a full Committee hearing on total loss disclosure legislation S. 545, on April 11, 2007 before the Senate Commerce, Science and Transportation Committee. The sponsor of “the Passenger Vehicle Loss Disclosure Act” was Senator Trent Lott (R-Miss.) and the bill had 11 cosponsors (7 Republicans, 4 Democrats). After Senator Lott’s retirement the bill was reintroduced as S. 3483, by Senator Ensign with 2 new Democratic cosponsors . The House companion, H.R. 1029, the Damaged Vehicle Information Act, sponsored by Rep. Stearns, received strong bipartisan support with 80 Cosponsors (42 Republicans, 38 Democrats).

^{vii} The following data is from “The Fast Track to Vehicle Services Facts”, a survey of U.S. and Canadian state motor vehicle departments, conducted by the American Association of Motor Vehicle Administrators, Section 2, pp. 39-42. (*See also* 2006 AAMVA Title Brand Chart attached as Exhibit A, and the “NADA Title and Registration Textbook,” 2008 Edition.)

In response to the question “What title brands are used in your jurisdiction?,” the states responded as follows:

Alabama - Salvage; Rebuilt; Reconstructed; Odometer Legends; Assembled; Sold for Parts Only; Frame Change; “This certificate of title issued under a three year surety bond;” “This is a replacement certificate and may be subject to the rights of a person under the original certificate;” Lemon-Law code— “This vehicle was returned to the manufacturer because it did not conform to its warranty;” those brands notated from foreign states titles prior to July 1, 1985, such as a police car, flood or water damage, permit to dismantle, previously recorded as salvage.

Alaska - “Reconstructed Vehicle” and “Specially Constructed Vehicle”

Arizona - Salvages, Dismantles, Reconstructed, Restored Salvage, Duplicate.

Arkansas - "Replacement" (duplicate title), "Damaged" (salvage), "Previous Damage" (rebuilt salvage), "Assembled Vehicle" and NHTSA required odometer brands.

California - Salvaged, Non-Repairable, Lemon Law Buyback, Warranty Return, Police, Prior Police, Taxi, Prior Taxi, Non USA and Remanufactured, Competition MC, Park Trailer.

Colorado - "S" for salvage.

Connecticut - Rebuilt; Duplicate: Distinctive (may be subject to undisclosed lien); (Safety) inspection required to register; Title Only; Bond Posted; Glider Kit; True Mileage Unknown.

Delaware - N-New; T-Transferred; X-Taxi; R-Reconstructed; P-Previous Taxi; F-Flood Damaged; A-Antique; D-Disabled Veteran; S-Salvaged; E-Exempt (Brand appears in the use block).

District of Columbia - Vehicles titled as salvage in prior jurisdiction, DC will stamp "Salvage" on face of DC certificate of title.

Florida - Salvage, Rebuilt, Police Car, Taxi, Glider Kit, Electric, Water Damage, lease, replica, assembled Kits, and any odometer brand that is applicable.

Georgia - Salvage, rebuilt, replacement, flood damage, odometer legends, fire damage, bond legend, stolen—unrecovered and special constructed.

Hawaii - Previously junked vehicle; replica vehicle; reconstructed/rebuilt vehicle insured salvage rebuilt vehicle; glider kit vehicle; kit vehicle; duplicate. The following brand appears on our certificate of registration when title is being withheld pending completion of certain requirements: Vehicle not transferable.

Idaho - (1) Bonded; (2) issued upon statement of applicant; (3) glider kit vehicle; (4) for junk only; (5) reconstructed vehicle; (6) replica-reconstruct vehicle; (7) specially constructed vehicle; (8) branded by previous state, brand carried forward from previous title; (9) repaired vehicle.

Illinois - Rebuilt and Not Eligible for Registration. Do not brand Salvage or Junk, but do issue salvage and junking certificates. Specially constructed can also be printed in the make or body type fields.

Indiana -Buy-back— Disclosure on File, Dup voids original, correction, salvage title, rebuilt vehicle, rebuilt, do not register, odometer— actual, odometer— is not actual, odometer— exceeds mechanical limits.

Iowa - Rebuilt, Rebuilt and a two-digit state abbreviation, Salvage, Salvage and a two-digit state abbreviation, Flood, Fire, Theft & Vandalism Two-digit state abbreviation, Prior salvage— July 1, 1992.

Kentucky - Odometer brands (exceed mechanical limits, not actual mileage). Hail Damaged.

Louisiana (AV)— Assembled Vehicle, (DT)— Duplicate Title, (GK)— Glider Kit, (KC)—Kit Car, (ME)— Mileage exceeds mechanical limits, (NM)— Not actual mileage, (RC)— Reconstructed/Wrecked Vehicle, (ST)— Salvage Vehicle, (WA)— Water Damaged.

Maine - Salvage, rebuilt, reconstructed, imported, duplicate, may be subject to an undisclosed lien, may be subject to the rights of a prior owner, issued on bond, water damage. Salvage brands: collision, fire, water damage and theft. Odometer: per TIMA.

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Maryland - Duplicate Title, Corrected Title, Fuel legends, Odometer legends, TAXI, XTAXI, XSALVG, KT (Kit), GLKT (Glider kit), ACV (All terrain, 3-wheel), RECO (Reconditioned), ATV, Reconstructed, and Rebuilt.

Massachusetts - Odometer Brands: Odometer Altered; Odometer Discrepancy; Odometer Replaced. Other Brands: Undisclosed Lien, Memorandum/Non-negotiable; Vehicle Bonded. Salvage Brands: Reconstructed Brands; Repairable Parts Only; Fire; Flood; Theft; Vandalism; Collision; Salt.

Michigan - Police, Taxi, Municipal, Duplicate, Salvage Vehicle. This vehicle was previously issued a salvage title, not eligible for plate— no tax paid. Not eligible for plate— Safety inspection required.

Minnesota - Salvage, rebuilt, flood, reconstructed, prior salvage.

Mississippi - Salvage, rebuilt, other, previous title contained brand, flood.

Missouri - Original, duplicate, non-negotiable, repossessed, corrected, mechanic lien, salvage, junking, reconstructed motor vehicle, specially constructed vehicle, motor change vehicle, and non-USA standard vehicle, prior salvage and bonded vehicle. Non-negotiable is not a title brand – it is a title type.

Montana - HMDE, HOME, KT, RB, REBUILT, JUNKED, RE, JUNKED, DUPLICATE. Rebuilt salvage reconstructed, rebuilt title, bonded title, flood damage, unrecovered theft, recovered theft.

Nebraska - Salvage, previous salvage, non-transferable, manufacturer buyback And any other state's brand carried forward with that state's 2-digit abbreviation.

Nevada - Flood damage, lemon law buyback, non-rebuild able, non-US vehicle, and not street legal.

New Hampshire - Duplicate, Salvage, Re-Built, Reconstructed, Direct Import Vehicle, Glider Kit, Bonded Vehicle, Recovered Theft, Flood Damaged Vehicle, Homemade Vehicle, Replica Vehicle, Actual Mileage, Not Actual Miles, Exceeds Mechanical Limits, Mileage in Kilometers. New Hampshire also will carry over any brands placed on foreign state titles re-titled in New Hampshire.

New Jersey - S— Salvage; F— Flood; T— Taxi; P— Police; A— Actual Mileage; N— Not Actual Mileage; M— Mileage exceeds the mechanical limits; L— Lemon.

New Mexico - Salvage, Homemade, Rebuilt, Original, Duplicate, Non-Negotiable.

New York - Reconstructed, Non-USA standard, Lemon Law, Odometer.

North Carolina - Reconstructed, Salvage Rebuilt, New Salvage, Water Flood.

North Dakota - Salvage and Damaged.

Ohio - Rebuilt Salvage, self-assembled Vehicle, Flood Vehicle, Former Taxi, buyback vehicle and Former Police Vehicle.

Oregon - Previously damaged (state); Reconstructed; Replica; Assembled; Totaled.

Pennsylvania - A— Antique Vehicle; C— Classic Vehicle; D— Collectible Vehicle; F— Out of Country; G— Originally Mfgd. for Non-U.S. Distribution; H— Agricultural Vehicle; L— Logging Vehicle; P— Formerly a Police Vehicle; R— Reconstructed; S— Street Rod; T— Recovered Theft Vehicle; V— Vehicle Contains reissued VIN; W— Flood; X— Formerly a Taxi.

Rhode Island - Salvage, Unrecovered theft, Flood damaged, reconstructed/kit vehicle.

South Carolina - Odometer reading is in excess of its mechanical limits; odometer reading is not actual mileage; Warning: Odometer discrepancy; Salvage; Salvage-Fire; Salvage-Water; Salvage-Non-removable; Rebuilt; This is a valid and assignable certificate of title, however, this vehicle may be subject to an undisclosed lien. (Off-road use).

South Dakota - Rebuilt.

Tennessee - Rebuilt, Salvage, non-repairable, Specially Constructed, Salvage, Not Actual Mileage, Exceed Mechanical Limits. We attempted to maintain all brands of other states if we do not have a corresponding brand.

Texas - Diesel, DOTS Standards Proof Required, Exempt, Flood Damage, Fixed Weight, Permit Required to Move, Reconditioned (issued 1996 and previous), Rebuilt Salvage-Loss Unknown, Rebuilt Salvage-75%-94% loss, Rebuilt Salvage loss, Rebuilt Salvage-Issued by, Reconstructed, Survivorship Rights, Actual Mileage, Not Actual Mileage, Mileage Exceeds Mechanical Limits.

Utah - Rebuilt/Restored; Flood/Restored; Manufacturer's Buyback; Damaged; Duplicate; Title Only.

Vermont - Salvage, Rebuilt, Undisclosed Lien, Glider Kit. Abandoned Duplicate.

Virginia - Salvaged, Salvage Rebuilt, Reconstructed, Water Damaged and Ex-Taxi.

Washington - Former Taxicab, Former For Hire, Former Exempt, Rebuilt, Street rod and Extaxi. Washington does not assign salvage, junk and destroyed brands but will carry those brands from other jurisdictions.

West Virginia - Salvage Certificate, Not to be titled, Reconstructed Vehicle, Flood or Fire Damage.

Wisconsin - This vehicle has been flood damaged; This vehicle transferred to insurer upon payment of claim; This vehicle was manufactured as a Non-USA Standard and has been modified to meet Federal Safety and emission standards; This vehicle was previously used as a police vehicle; This vehicle is rebuilt salvage— WI Inspection passed; This motor vehicle has previously been used as a taxicab or for public transportation; This vehicle previously junked and reconditioned (only on titles where the legend already exists); This vehicle may be subject to an undisclosed security interest; Not for highway use, junked and not reconditioned (only on title where the legend already exists). (If purchased prior to May 1, 1989— a salvage title would be issued); 5 percent WI sales tax paid on this vehicle; NO WI sales tax paid on this vehicle; This is a replacement certificate and may be subject to the rights of a person under the original certificate; This vehicle has been inspected and complies with MVD percent and WIS STATS Chpt. 347 Inspection Date, Officer Signature, Title Employed By (Law Enforcement Agency) _____ (Only used for the The Fast Track to Vehicle Services Facts current TO defective titles that have not yet been inspected) (There will not be any more TO defective titles produced); Special designed vehicle; certificate of registration must be carried in vehicle at all times; previously titled in _____; Previously titled in _____ as _____; Previously titled in _____ showing; Previously titled in a foreign country; vehicle previously owned by U.S. Government; This is a salvage vehicle; this vehicle is a manufacturer's buyback; this is a replica vehicle; this is a street modified vehicle; WI also note what state the vehicle was previously titled in.

Wyoming - Salvage, rebuilt, flood, hail, vandalism, junk, collision

^{viii} See "NADA Title and Registration Textbook," 2008 Edition; see also "The Fast Track to Vehicle Services Facts", American Association of Motor Vehicle Administrators, Section 2, p 42, ("all jurisdictions responding will carry over a brand from another jurisdiction except for[] Alabama, Connecticut, Delaware, New Hampshire, [and] New York.")

^{ix} Alabama - When the frame or engine is removed from a motor vehicle and not immediately replaced by another frame or engine; or when an insurance company has paid money or made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be salvage.

Alaska - Do not have a statutory definition for salvage vehicle. However, they do for “wrecked vehicle”— a vehicle that is so disabled that the whole vehicle cannot be used for its primary function without substantial repair or reconstruction. When a vehicle is wrecked or dismantled, the certificate of title, registration, and plates must be immediately surrendered to the Division. When a wrecked, dismantled, or salvaged vehicle has been reconstructed, it is titled and registered as a “reconstructed” or “specially constructed” vehicle and the title is so annotated.

Arizona - Vehicle that has been wrecked or damaged beyond repair and/or insurance company has determined that the vehicle is a total loss. Also, stolen vehicles not recovered, are issued salvages due to total loss.

Arkansas - When a motor vehicle is water damaged or sustains damage in an amount equal to or exceeding seventy percent (70 percent) of its average retail value.

California - “Total loss salvage vehicle” means a vehicle of a type subject to registration which has been wrecked, destroyed, or damaged to such an extent that the owner, leasing company, financial institution, or the insurance company that insured the vehicle considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage.

Colorado - Any vehicle that is damaged by collision, fire, flood, accident, trespass, or other occurrence, excluding hail damage, to the extent that the cost of repairing the vehicle for legal operation on the highways exceeds the vehicle’s fair market value immediately prior to such damage, as determined by the person who owns the vehicle at the time of such occurrence or by the insurer or other person acting on behalf of such owner.

Connecticut - Vehicle that has been declared a “total loss” by an insurance company, or by a self-insured organization.

Delaware - Whenever any registered or unregistered motor vehicle, for which a title has been issued by the Department, is transferred as salvage as a result of a total loss insurance settlement.

District of Columbia - Defined by the issuing jurisdiction. No salvage law in the District.

Florida - Motor vehicle or mobile home that is a total loss as declared by an insurance company. If cost to repair the vehicle is more than 80 percent of the current value, the vehicle issued a “Certificate of Destruction”.

Georgia - Any motor vehicle that has been (a) damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts but shall not mean any such motor vehicle that has been repaired and the title to which is not transferred as a result of such damage or repair; (b) acquired by an insurance company as the result of the vehicle’s being damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts; (c) an insurance company has paid a total loss claim and the vehicle has not been repaired, regardless of the extent of damage to such vehicle or the number of major components parts required to repair such vehicle but shall not mean or include any stolen motor vehicle, for which an insurance company paid a total loss claim only to the extent that its restoration to an operable condition would not require the replacement of two or more major components parts that have the manufacturer’s vehicle identification number plate intact; or (d) is an imported motor vehicle that has been damaged in shipment and disclaimed by the manufacturer as a result of the damage, has never been the subject of a retail sale to a consumer, and has never been issued a certificate of title.

Hawaii - Any vehicle that has been declared a total loss by an insurer and that has material damage to the vehicle’s frame, unitized structure or suspension system and the projected cost of repair exceeds the market value.

Idaho - Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

Illinois - When an insurance company makes a payment of damages on a total loss car.

Indiana - (1) Insurance company has determined economically impractical to repair and has made an agreed settlement, or (2) cost of repairing exceeds 70 percent of fair market value immediately before accident.

Iowa - "wrecked or salvage vehicle" means a damaged motor vehicle subject to registration and having a gross vehicle weight rating of less than 30,000 pounds, for which the cost of repair exceeds 50 percent of the fair market value of the vehicle, as determined in accordance with rules adopted by the department, before it became damaged.

Kentucky - Damages of 75 percent or more of NADA book value.

Louisiana - A "total loss" motor vehicle that has sustained damages equivalent to 75 percent or more of the market value as determined by the most current NADA book.

Maine - Vehicle, by reason of its condition or circumstance, that is declared a total loss by an insurer or owner, or a vehicle for which a certificate of salvage has been issued by the Secretary of State or by another state.

Maryland - Any vehicle that has been: (1) damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the cost to repair the vehicle for legal operation on a highway exceeds the fair market value of the vehicle prior to sustaining the damage; (2) acquired by an insurance company as the result of a claim settlement; or (3) acquired by an automotive dismantle and recycle as an abandoned vehicle or for rebuilding or for use as parts only.

Massachusetts - "Total loss salvage motor vehicle," a motor vehicle which has been stolen and unrecovered or that has been wrecked, destroyed or damaged by collision, fire, water, or other occurrence to such an extent that the owner or if the vehicle was insured, the insurer, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in such damage.

Michigan - A late-model distressed vehicle. Distressed vehicle is defined as a vehicle that has been wrecked, damaged, or destroyed to an extent that the total estimated cost of repair for the vehicle is 75 percent to 90 percent of the vehicle's predamaged cash value.

Minnesota - Any late model vehicle (vehicles that are newer than six years old) or high value vehicle (vehicles valued in excess of \$5,000 prior to damage) that (1) is acquired by a MN licensed insurance company through the payment of damages, or (2) is owned by a self-insured owner and sustains damage in excess of 70 percent of the vehicle's value, or (3) there is a transfer of ownership on an existing MN salvage title, or (4) there is a transfer of ownership from a foreign state salvage title, or (5) a foreign state titled vehicle was damaged in excess of its value.

Mississippi - Motor vehicle will require replacement of more than five minor component parts as determined by insurer or owner and which an insurance company is to obtain from the owner as a result of paying a total loss claim resulting from collision, fire, flood, accident, trespass, unrecovered theft, or other occurrence. The provisions of this section shall not apply to a motor vehicle, which is ten (10) years old or older with a value of one thousand five hundred dollars (\$1,500.00) or less, or to a motor vehicle with damage that will require the replacement of five or fewer minor component parts.

Missouri - Motor vehicle, semi trailer or house trailer which, by reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it, or by an insurance company as a result of settlement of a claim for loss due to damage or theft; or a vehicle, ownership of which is evidenced by a salvage title.

Montana - "Salvage vehicle" means a vehicle damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the owner, an insurer, or other person acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical to repair the vehicle.

Nebraska - Vehicle that is a late model that has been wrecked, damaged, or destroyed to the extent that the estimated total cost of repair to rebuild and restore the vehicle to its condition immediately before it was damaged exceeds 75% of the retail value of the vehicle at the time it was damaged.

Nevada - Vehicle is declared as "salvage" by an insurance company as a result of a total loss insurance settlement. The insurance company is required to issue a "bill of sale of salvage" to the purchaser. The insurance company is required to forward the endorsed ownership certificate along with a copy of the "bill of sale of salvage" to the department within 30 days.

New Hampshire - "A total loss vehicle" shall mean either an unrecovered stolen vehicle or one, which has sustained damage or injury so extensive that it is physically or economically impractical to repair.

New Jersey - Any motor vehicle that has been reported stolen or is damaged to such an extent that it is economically impractical to repair.

New Mexico - Vehicle that is damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds its fair market value immediately prior to damages; or is declared a total loss by an insurance company.

New York - Any 1973 or later model year vehicle that has been transferred to an insurance company in settlement of a claim for damage thereto or theft thereof and any 1973 or later model vehicle that has been sold or disposed of as junk or salvage.

North Carolina - Any vehicle damaged by collision or other occurrence to the extent that the cost of repairs exceeds seventy-five percent (75 percent) of the fair market value.

North Dakota - Vehicle that has been damaged in excess of 75 percent of value.

Ohio - When an insurance company declares it economically impractical to repair a motor vehicle and has paid an agreed price.

Oregon - The following vehicles are subject to salvage title requirements: (1) Vehicles declared a total loss by an insurer obligated to cover the loss or that the insurer takes possession of or title to; (2) A vehicle totaled due to damage and the loss is not covered by insurance; (3) A wrecked, disassembled, dismantled, substantially altered vehicle, or an abandoned vehicle sold under ORS 819.220 or other similar Oregon county or city ordinance, if the buyer intends to: (a) Repair or rebuild the vehicle; (b) Use the frame or unibody to repair or reconstruct another vehicle; (c) Transfer the ownership of the vehicle to anyone except a licensed wrecker whose sole purpose is to completely destroy the vehicle including the frame or unibody.

Pennsylvania Vehicle that is inoperable or unable to meet the vehicle equipment and inspection standards to the extent that the cost of repairs would exceed the value of the repaired value. The term does not include a vehicle that would qualify as an antique or classic vehicle except for its lack of restoration or maintenance.

Rhode Island - Motor vehicle for which a certificate of title has been issued in this state that has been declared a total loss because of damage of such vehicle, in settlement of a claim for damage or theft.

South Carolina - Vehicle must be declared salvage if it has been damaged to the extent that the cost of repair including all labor and parts is estimated to be 75 percent.

Tennessee - Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds 75 percent of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values. The value of repair parts for purposes of this subdivision shall be determined by using the current published retail cost of the repair parts to be used in the repair, or in the absence of a published retail cost the reasonable and customary cost in the community where repair parts are purchased. The labor cost of repairs for purposes of this subdivision shall be computed by using the hourly labor rate and time allocations that are reasonable customary in the automobile repair industry in the community where the repairs are performed. "Salvage vehicle" also includes without regard to whether such passenger motor vehicle meets the 75 percent threshold specified in the first sentence, any passenger motor vehicle whose owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. Such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities.

Texas - A late model motor vehicle, other than a late model vehicle that is a non repairable vehicle, that is damaged to the extent that the total estimated cost of repairs, other than repairs related to hail damage but including parts and labor, is equal to or greater than an amount equal to 75 percent of the actual cash value of the vehicle in its pre-damaged condition.

Utah - Damage by collision, flood, or other occurrence to the extent that two or more major component parts suffer major damage requiring repair or replacement.

Vermont - Vehicle that has been scrapped, dismantled or destroyed or totaled by an insurance company and is less than 10-years old.

Virginia - "Salvage vehicle" means (i) any late model vehicle which has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds seventy-five percent of its actual cash value; or (iii) any other vehicle which is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle provided that such a vehicle is not a nonrepairable vehicle.

Washington - Vehicle whose certificate of ownership has been surrendered to the department due to the vehicle's destruction or declaration as a total loss or for which there is documentation indicating that the vehicle has been declared salvage or has been damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair the vehicle. The term does not include a motor vehicle having a model year designation of a calendar year that is at least six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless immediately before the vehicle was wrecked, destroyed, or damaged, the vehicle had a retail fair market value of at least the then market value threshold amount and has a model year designation of a calendar year not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged. Washington State Senate Bill 6530, passed during the 2002 legislative session, expanded the definition of salvage vehicle in Washington and added the element of MARKET VALUE THRESHOLD, which is determined annually, based on information in the Consumer Price Index.

West Virginia - When a vehicle has been determined to be a total loss or otherwise designated as totaled by an insurance company. Amount of damage determines if it can be repaired.

Wisconsin - Vehicle less than seven model years old that is not precluded from subsequent registration and titling and which is damaged by collision or other occurrence to the extent that the estimated or actual cost, whichever is greater, of repairing the vehicle exceeds 70 percent of its fair market value.

Wyoming - Any motor vehicle which has been wrecked, destroyed, or damaged to the extent that it has been declared a total loss by the insurance company or, in the event an insurance company is not involved in the settlement of the claim, the total estimated or actual cost of parts and labor to rebuild or reconstruct the motor vehicle to its pre-accident condition exceeds 75 percent of the actual retail cash value of the motor vehicle.

Source: "The Fast Track to Vehicle Services Facts", a survey of U.S. and Canadian state motor vehicle departments, ©2003 American Association of Motor Vehicle Administrators, Section 2, pp. 31-35.

^x See NAAG Comments at 5 n. 9.

^{xi} "[A]ny competent dealer should already . . . find out a vehicle's history" [and the proposed requirement to disclose vehicle condition and title brand history] "would simply require that dealers share information they already have, with prospective buyers, on a sheet of paper posted on the vehicle." See Consumer Comments at 14. "[Vehicle history and title brand information] is readily available to dealers." See NAAG Comments at 7.

^{xii} Consumer Comments at 13.

^{xiii} NAAG Comments at 3.

^{xiv} "The Fast Track to Vehicle Services Facts", a survey of U.S. and Canadian state motor vehicle departments, American Association of Motor Vehicle Administrators, at Section 2 p. 7-8.

"Indicate the average number of days before a certificate of title is updated on your database:

Alabama - Day prior to issuance

Alaska - Immediate upon issuance of new title

Arizona - Immediate

California - 3 days after application is processed in local office

Colorado - 1 day

Connecticut - Immediate upon issuance of new title

District of Columbia - Immediate upon time it takes to update database

Delaware - Immediate online update of computer files

Florida - Immediate

Georgia - Immediate

Hawaii - Immediate if processed online; one week if batch processed

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Idaho - Immediate

Illinois - Immediate

Indiana - Before the title document is printed

Iowa - Daily

Kansas - 2 days after title is printed

Kentucky - One day

Louisiana - Walk-in: immediate; mail-in: 2-3 days

Maine - 3 days

Maryland - Overnight

Massachusetts - Immediate

Michigan - 1 day

Minnesota - Same day to 10 days. Database is updated the day before the title is issued

Mississippi - 10-20 working days

Missouri - 7 days

Montana - Immediate

Nebraska - Immediate

Nevada - 3 days

New Hampshire - Immediate

New Jersey - Immediate

New York - Immediate

North Carolina - Over-the-counter: Immediate; regular title: 1 week-10 days

North Dakota - Over-the-counter: Immediate; regular title: 1 week-10 days

Ohio - 24 hours

Oklahoma - Immediate

Oregon - 18 days

Pennsylvania - Immediate at time paperwork is processed

Puerto Rico - 10 days

Rhode Island - 1 day

South Carolina - Immediate

South Dakota - Immediate

Tennessee - 3 weeks

Texas - New automated system-implemented counties: 5 days from receipt of application at headquarters. Specials, non-implemented counties 4–6 weeks

Utah - 4–6 weeks

Vermont - 7 days

Virginia - Immediate

Washington - 24 hours

West Virginia - 7–10 working days

Wisconsin - Immediate

Wyoming - 30 days or less”

^{xv} NAAG Comments at 8-9, Consumer Comments at 20.

^{xvi} NAAG Comments at 8.

^{xvii} In The following states, the title is issued to the vehicle owner: Arizona, Kentucky, Maryland, Michigan, Minnesota, Montana, New York, Oklahoma, South Dakota, and Wisconsin

In the following states, it is issued to the lien holder: Alabama (issued to owner, mailed to lien holder), Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia (Issued to lien holder if there is a lien holder), Florida (can be mailed to owner if lien holder approves), Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts (can be mailed to owner if lien holder approves), Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wyoming.

Source: “The Fast Track to Vehicle Services Facts”, a survey of U.S. and Canadian state motor vehicle departments, American Association of Motor Vehicle Administrators, at Section 2 p. 13-14.

^{xviii} No connection of any kind is claimed in either the NAAG Comments or the Consumer Comments between vehicle history and manufacturer’s warranty coverage.

^{xix} NAAG Comments at 8.

^{xx} NAAG Comments at 4-5; Consumer Comments at 5.

^{xxi} Consumer Comments at 5.

^{xxii} NAAG Comments at 7-8 (“[Vehicle history and title brand information] is readily available to dealers through private data sources . . .”).

^{xxiii} NAAG Comments at 4-5; Consumer Comments at 5.