



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

**General Counsel**

1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

March 17, 2015

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

**Re: Used Car Rule Regulatory Review  
16 CFR Part 455, Project No. P087604**

The United States Department of Transportation (Department or DOT) is pleased to have the opportunity to comment on the Commission's supplemental notice of proposed rulemaking (SNPRM), published in the Federal Register on November 28, 2014. As discussed below, DOT has some suggestions to offer to the Commission on ways in which the Used Car Buyers Guide might be amended to provide additional information to consumers about safety recalls.

The National Highway Traffic Safety Administration (NHTSA), an operating administration of the Department, is charged with, among other things, overseeing and implementing programs to enhance motor vehicle safety and reduce the incidence of vehicular traffic crashes, injuries, and deaths associated with motor vehicles or motor vehicle equipment that contain safety defects or fail to comply with Federal Motor Vehicle Safety Standards (FMVSS).

In our first comment to the Commission's proposed rulemaking (dated May 10, 2013), DOT outlined the various methods that NHTSA uses to inform consumers about motor vehicle and equipment safety recalls. Between the mailed notifications that manufacturers are required to send to vehicle owners and NHTSA's website, [www.safercar.gov](http://www.safercar.gov), where users can search for recalls and join a free email subscription service for recall alerts, safety recall information has long been available to consumers. Nonetheless, we estimate that around 25% of recalled vehicles are not remedied. Millions of vehicles are recalled every year to address safety defects and failures to comply with minimum safety standards. Extrapolating for all vehicles recalled in the last 10 years, an estimated 52 million vehicles on U.S. roadways have a safety defect or fail to meet minimum safety standards.

In an effort to reduce the numbers of unremedied vehicles on U.S. roadways, NHTSA issued a final rule in August 2013, which requires large volume light vehicle and motorcycle

manufacturers to provide free safety recall completion look-up tools on their respective web sites.<sup>1</sup> The final rule also requires manufacturers, through adherence with technical specifications that NHTSA provides, to transmit the same safety recall information to NHTSA's website so the same recall searches, based on Vehicle Identification Numbers (VINs), can be conducted on [www.safercar.gov](http://www.safercar.gov).

In August 2014, NHTSA launched a VIN look-up tool on its website,<sup>2</sup> which allows users to search for open safety recalls across all major light vehicle manufacturers (including motorcycles). With NHTSA's new tool, a consumer can enter her 17 character VIN and quickly learn if her vehicle has any open safety recalls. NHTSA's tool works across all major light vehicle manufacturers, including 54 vehicle brands (shown in Figure 1, attached). Furthermore, recall results must be accurate and the data no older than seven (7) days from when a consumer searches her VIN. A VIN search sample result is shown in Figure 2, attached. If an open recall does exist on a vehicle, directions for contacting the manufacturer and obtaining the free remedy are provided to the user. In the event the manufacturer does not yet have remedy parts available, this must also be communicated in the recall results.

In tandem with NHTSA's tool, the same manufacturers launched VIN-based look-up tools on their respective websites. These individual look-up tools must meet certain performance requirements,<sup>3</sup> which include: being free and easily accessible; not displaying sales or marketing messages; and informing whether a vehicle has any open recalls. Both manufacturer look-up tools and the NHTSA tool are regularly monitored to ensure that safety recall information is successfully disseminated in accordance with NHTSA's 2013 final rule.

Nevertheless, successful recall completion still hinges on consumer awareness of unremedied safety recalls that apply to a vehicle that the consumer either currently owns or is looking to purchase. Consumers who are better informed are empowered to act wisely. And that is precisely where the FTC, through this rulemaking, can have a direct and significant positive impact on individual consumer and the general public's safety. By the FTC's own estimate,<sup>4</sup> almost 29 million used cars are sold by dealers each year. These 29 million consumers need critical safety recall information during the used car transaction.

Consistent with the FTC's SNPRM as to vehicle history, the Department recommends the FTC consider a requirement that if a used car dealership has searched for uncompleted safety recalls on a vehicle it is selling, whether as part of a vehicle history report or as a stand-alone search, it provide those results to the buyer. We propose that the FTC add a new statement and checkbox to the Buyers Guide that provides actual notice to used car shoppers about any outstanding safety recalls on the specific vehicle they are looking to purchase. This statement could read, for example, "If the dealer checked this box, the dealer has checked safety recalls that have not been completed on this vehicle and will provide a copy to you upon request. You can check for open

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<sup>1</sup> Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Regulations, 78 FED. REG. 51,382 (Aug. 20, 2013).

<sup>2</sup> <https://vinrcl.safercar.gov/vin/>

<sup>3</sup> See 49 C.F.R. § 573.15.

<sup>4</sup> Supplemental notice of rulemaking, 79 FED. REG. 70,804, 70,813 (Nov. 28, 2014).

safety recalls by visiting [www.safercar.gov](http://www.safercar.gov) and entering the vehicle's 17-digit VIN." The statement could be prefaced with a checkbox to indicate if the dealer has searched the vehicle's VIN for any open recalls. If checked, the dealer would provide a simple print-out of the recall results, and whether those results are part of a vehicle history report or a stand-alone search result. NHTSA's [www.safercar.gov](http://www.safercar.gov) website has a built-in print feature for recall results. Recall results obtained from manufacturer look-up tools are also easily printable. An example of our proposed statement can be found in Figure 3, attached.

The Department's suggestion would not make the safety recall search compulsory (unless required under existing State law). However, DOT has proposed a reauthorization bill, the GROW AMERICA Act,<sup>5</sup> which would give the Department the authority to require used car dealers to remedy safety recalls before resale. GROW AMERICA Act § 4109. While GROW AMERICA contains a stronger requirement than our proposal today, the FTC can also work to implement the changes to the Buyers Guide that the Department suggests here, and this would help to improve consumer awareness of safety-critical information.

We believe that our suggested approach provides a workable arrangement to benefit consumers without undue burdens to car dealers. For dealers who search for open recalls and provide this safety-critical service to their customers, this proposal would give them the opportunity as well to ensure that vehicles they sell are free from known safety issues. And, since manufacturers repair recalled vehicles free of charge, perhaps some dealers will choose to have their recalled vehicles remedied before re-selling the vehicles to their customers. *See* 49 U.S.C. § 30120(a). For dealers who choose not to search a vehicle's recall status, there would be full transparency to the buyer as the checkbox would remain unchecked. Perhaps most importantly, this statement would make safety recalls part of the conversation when buying a used vehicle. By learning a vehicle's safety recall status during the transaction, a second owner can be armed with the needed information and, where an open recall is discovered, take the needed steps to obtain the free remedy.

The Department would be pleased to offer any additional assistance that it can to the Commission in the consideration of this issue.

Respectfully,

  
Kathryn B. Thomson

Attachments

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<sup>5</sup> <http://www.dot.gov/policy-initiatives/grow-america-facts/grow-america-improving-transportation-safety>

**ATTACHMENTS: FIGURES 1-3**

Available Manufacturers		
Acura	Hummer	Pontiac
Audi	Hyundai	Porsche
BMW	Infiniti	ProMaster
BMW Motorcycles	Jaguar	RAM
BRP Can-Am	Jeep	Saab
Buick	Kawasaki	Saturn
Cadillac	Kia	Scion
Chevrolet	KTM Motorcycles	SMART
Chrysler	Land Rover	Subaru
Dodge	Lexus	Suzuki Motorcycles
Ducati Motorcycles	Lincoln	Tesla
Ferrari	Mazda	Toyota
FIAT	Mercedes-Benz	Triumph
Ford	Mercury	Volkswagen
Genuine Scooters	MINI	Volvo
GMC	Mitsubishi	Yamaha Motorcycles
Harley-Davidson	Nissan	
Honda	Oldsmobile	
Honda Motorcycles	Polaris	

**Figure 1** – Manufacturers available through NHTSA’s VIN Look-up Tool.

**safercar.gov**

HOME   VEHICLE SHOPPERS   VEHICLE OWNERS   VEHICLE MANUFACTURERS   PARENTS CENTRAL

You are here: Home / Vehicle Owners VIN

Do You Have a Safety Problem or Complaint?  
 File a Complaint Now

Search for all Recalls, Complaints & Investigations

Recalls Look-up by VIN (Vehicle Identification Number)

Recalls FAQ

Receive Updates for Latest Recalls  
 Sign-up for Email Alerts  
 Subscribe to RSS Feeds

Resources

Databases (Flat Files)

Passenger Van Safety

Emergency Response Vehicles

### Recalls Results Look-up by VIN Print

**VIN:**  
**Year: 2005 Make: TOYOTA Model: Sienna**  
**Number of Open Recalls: 5**

**NHTSA Recall Number: 14V273** **Recall Date: May 22, 2014**  
**Manufacturer Recall Number: E1S**

**SUMMARY:**  
 Toyota Motor Engineering & Manufacturing (Toyota) is recalling certain model year 2004-2011 Sienna vehicles originally sold in, or currently registered in, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The affected vehicles have a spare tire carrier assembly mounted under the vehicle whose attachment cable may corrode due to high concentrations of road salt splashing onto the spare tire carrier.

**SAFETY RISK:**  
 If the carrier cable is corroded due to road salt, the spare tire may separate from the vehicle, increasing the risk of a crash.

**REMEDY:**  
 Toyota will send owners an interim notification to advise owners of the recall and dealers will remove the spare tire and relocate it to the luggage compartment, free of charge. Owners will be mailed a second letter when remedy parts are available and dealers will replace the spare tire carrier assembly with an improved one, free of charge. The manufacturer has not yet provided a notification schedule. Owners may contact Toyota customer service at 1-800-331-4331. NOTE: 2004-2010 Siennas subject to this recall were subject to recall campaign 10V-160 initiated in 2010. Those owners are advised that they must have their vehicles remedied again under this campaign and that having the earlier recall completed did not remedy their vehicles. Additionally, model year 1998-2003 Siennas were recalled as part of safety recall 10V-160. Owners of those vehicles that have not had the remedy performed on their vehicles, should contact their Toyota dealer to schedule a free repair.

**RECALL STATUS: Recall INCOMPLETE. Remedy not yet available**

**MANUFACTURER NOTES:**

THIS RECALL DATA LAST REFRESHED: Feb 10, 2015

**NHTSA Recall Number: 13V429** **Recall Date: September 26, 2013**  
**Manufacturer Recall Number: D0R**

**Figure 2** – Example of NHTSA VIN Look-up results.<sup>6</sup>

If the dealer checked this box, the dealer has checked safety recalls that have not been completed on this vehicle and will provide a copy to you upon request. You can check for open safety recalls by visiting [www.safercar.gov](http://www.safercar.gov) and entering the vehicle's 17-digit VIN.

**Figure 3** – Example of proposed Buyers Guide statement.

<sup>6</sup> Results are for a NHTSA test vehicle subjected to destructive testing and are used for demonstration purposes only. See <http://www.nhtsa.gov/apps/jsp/salvage/salvage.htm>.