

That airspace extending upward from 700 feet above the surface within a 4.9-mile radius of Byron Airport.

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Issued in Los Angeles, California, on November 21, 1995.

James H. Snow,

*Acting Manager, Air Traffic Division,
Western-Pacific Region.*

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FEDERAL TRADE COMMISSION

16 CFR Part 455

Regulatory Flexibility Act and Periodic Review of Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission announces that its review of the Used Car Rule (the "Rule"), which was conducted pursuant to the Regulatory Flexibility Act ("RFA"), and the Commission's review program, has been completed. Having considered all of the issues raised during the comment period, the Commission is now issuing non-substantive amendments to the Rule. The Commission is making several minor grammatical changes to the Spanish language version of the Buyers Guide. Further, the Commission is amending the Rule to permit dealers to post Buyers Guides anywhere on a used vehicle, instead of requiring that they be posted on a side window, provided the Buyers Guide is conspicuously and prominently displayed and both sides can be easily read. Finally, the Commission is amending the Rule to allow dealers the option of obtaining a consumer's signature on the Buyers Guide, if accompanied by a disclosure that the buyer is acknowledging receipt of the Buyers Guide at the close of the sale.

DATES: The effective date of these non-substantive amendments will be January 4, 1996.

ADDRESSES: Requests for copies of the regulations and the notice of final, non-substantive amendments should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington D.C. 20580.

FOR FURTHER INFORMATION CONTACT: George Brent Mickum IV, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 326-3132.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 6, 1994, the Commission, in accordance with the RFA's requirements, and its own program to review all its rules and guidelines periodically, published a Notice in the Federal Register soliciting comments on the Rule.¹ The Notice solicited comments about the impact of the Rule generally, and whether it had had a significant economic impact on small entities,² and, if so, whether the Rule should be amended to minimize any such impact. The Notice also sought comment on certain proposed changes to the Rule.

The Commission received 26 comments in response to the Notice.³ These comments came from eight used car dealers;⁴ four Attorneys General;⁵ four consumer protection groups;⁶ three trade associations;⁷ one state government;⁸ one radio station;⁹ one national distributor of Buyers Guides;¹⁰

¹ 59 FR 23647 (May 6, 1994) ("the Notice").

² For the purpose of the RFA review, a "small entity" is a used motor vehicle dealer with less than \$11.5 million in annual sales, as defined by the Small Business Size Standards, 13 CFR 121.601.

³ The comments were placed on the public record under category 23 (Regulatory Flexibility Act Review Comments) of Public Record Docket No. P944202. References to the comments are made by means of the author and number of the comment and, when appropriate, the page of the comment. Two of the comments were consumer complaints that were inadvertently classified as comments. Although some comments were submitted shortly after the closing date of July 6, 1994, the Commission has included them in its analysis.

⁴ Chuck Gould, J.O.A. Motors Ltd., B-03; Anonymous South Carolina dealer, B-04; Karl Kroeger, K&K Auto Sales, Inc., B-05; F. Whalen, B-06; Kenny Loveless, Northside Auto Sales, B-09; Mike Zibura, B-10; Lee S. Maas, Sun-West Audi, B-18; Duane H. Wallace, Town & Country Chevrolet Oldsmobile Inc., B-26.

⁵ Alaska Attorney General, Bruce M. Botelho, B-01; Illinois Attorney General, Roland W. Burris, B-08; Iowa Attorney General, William L. Brauch, Assistant Attorney General, B-15; Washington Attorney General, Christine O. Gregoire, B-17.

⁶ National Coalition for Consumer Education ("NCCCE"), Carol Glade, Executive Director, B-12; Office of Consumer Credit Commissioner, Richard R. Woodward, Examiner, B-16; National Consumer Law Center ("NCLC"), B-23; National Association of Consumer Agency Administrators ("NACAA"), Lawrence A. Breeden, President, B-25.

⁷ The National Independent Automobile Dealers Association ("NIADA"), B-07; the Texas Automobile Dealers Association ("TADA"), B-11; the National Automobile Dealers Association ("NADA"), B-19.

⁸ Michigan Department of State, Jeff Villaire, Director, Dealer Division, Bureau of Automotive Regulation, B-14.

⁹ WBBM Newsradio 78, Naomi Hood, Director, B-13.

¹⁰ Reynolds & Reynolds, Joe Hurr, Director, Automotive Forms Marketing, B-20.

one CPA firm that represents used car dealers;¹¹ and one consumer.¹²

II. The Regulation

The Commission promulgated the Used Car Rule under the authority of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.* ("FTC Act"), and the Magnuson Moss Warranty Act, 15 U.S.C. 2309, on November 19, 1984. 49 FR 45692 (1984). The Rule became effective on May 9, 1985.¹³ A violation of the Rule constitutes an unfair or deceptive act or practice under the FTC Act, and one who violates the Rule is subject to civil penalties of up to \$10,000 per violation.

The Used Car Rule is primarily intended to prevent and to discourage oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. The Rule provides a uniform method for written disclosure of warranty information on a window sticker called the "Buyers Guide." The Rule requires sellers to disclose on the Buyers Guide the basic terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty.

The Rule also requires certain other disclosures, including: a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; a warning against reliance on spoken promises that are not confirmed in writing; and a list of fourteen major systems of an automobile and the major problems that may occur in these systems. The Rule also provides that the Buyers Guide disclosures are incorporated by reference into the sales contract and govern in the event of an inconsistency between the Buyers Guides and the sales contract.

The public comments on the questions asked in the Notice and the additional information gathered during the reviews are discussed below.

III. Non-Substantive Amendments to Spanish Language Version of the Buyers Guide

In the Notice, the Commission proposed two non-substantive amendments to the Rule involving the

¹¹ Hundman & Woodward, Carl Woodward, C.P.A., B-21.

¹² Jay R. Drick, Esq., B-25. As indicated earlier, two of the comments were consumer complaints that were misclassified as comments. Warren and Irma Muncey, B-02; Sam A. Amato, B-22.

¹³ Two states, Wisconsin and Maine, subsequently petitioned the Commission and received exemptions pursuant to section 455.6 of the Rule.