

enforcing the Rule in private sales would not be cost effective. NIADA offered no data that would contradict the findings in the SBP. Thus, the Commission has determined that a proceeding to amend the Rule to include private sales under the Rule is unnecessary.

## 2. Demonstrators

i. *Summary of Comments.* NADA suggested that Buyers Guides not be required on "demonstrator" vehicles, because such vehicles also are required to have a new car Monroney Label that cannot be removed until after the vehicle is sold at retail.<sup>39</sup> The purpose of the Monroney label is to provide consumers with the manufacturers' suggested retail price for the vehicle, and a list of the optional equipment that comes with the vehicle. NADA believes that the Buyers Guide, when combined with the Monroney Label, confuses customers without providing additional useful information. It stated that all demonstrators are covered by factory new vehicle warranties, and manufacturers require dealers to review the warranty coverage of new vehicles with the customer at the time of delivery.<sup>40</sup>

ii. *Discussion.* "Demonstrator" vehicles are considered "used" under the Rule because they have been driven for purposes other than test driving or moving.<sup>41</sup> However, for purposes of the Monroney Act they are "new" because they have not been titled.<sup>42</sup> In promulgating the Used Car Rule, the Commission expressly rejected defining whether a vehicle is new by virtue of titling laws.<sup>43</sup> The Commission determined that the definition of a used vehicle should be consistent with the Commission's decision in *Peacock Buick, Inc.*<sup>44</sup> The *Peacock* order prohibits the defendants from "[r]epresenting \* \* \* that any vehicle is new when it has been used in any manner, other than the limited use necessary in moving or road testing a vehicle prior to delivery of such vehicle to the customer."<sup>45</sup>

Further, the rulemaking record reflected that used cars sold as demonstrators were subject to dealer oral misrepresentations. Thus, there was substantial justification on the record for including demonstrators within the scope of the Rule.<sup>46</sup> Consequently, the Commission defined a "used vehicle" as "any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery. \* \* \*" <sup>47</sup> In adopting this definition, the Commission was aware that the term would cover demonstrators, and that the definition was broader than the definition employed in some states, which rely on titling to determine whether a vehicle is used. Because of the Commission's prior consideration of this issue and the fact that the Monroney Label does not serve the purposes the Buyers Guide was designed to address, the Commission has determined that amending the Rule's coverage of demonstrators is unnecessary.

## 3. Salvage Vehicles

Iowa's Attorney General suggested that the Commission amend the Rule to cover sales of vehicles on salvage or equivalent certificates of title.<sup>48</sup> The Rule excludes from the definition of a "used vehicle" "any vehicle *sold only for scrap or parts (title documents surrendered to the State and a salvage certificate issued).*" <sup>49</sup> Addressing this issue in the SBP, the Commission stated:

Insofar as a vehicle is sold for its parts and not as an operating vehicle, there appears to be no need to provide consumers with the kind of information customarily used to evaluate an automobile as a means of personal transportation. Accordingly, the definition of "used vehicle" specifically excludes those cars sold only for salvage.<sup>50</sup>

Although the Iowa AG's comment does not discuss the reasons why the Rule should be extended to include salvaged vehicles, the Commission is aware that the sale of salvaged vehicles is viewed as a problem in some parts of the country. This occurs because unscrupulous individuals take advantage of state laws that do not require titling documents to show that

a vehicle has been rebuilt from salvaged vehicles. These individuals obtain salvaged vehicles, restore them, and then transport them to a state that does not require the title to show that a vehicle has been salvaged. There, a clean title with no reference to the fact that a vehicle has been salvaged is obtained. The vehicle may then be taken to any state, even a state that requires a salvage disclosure, and be retitled and sold as a used vehicle without disclosing that it was a salvaged vehicle.

The Used Car Rule, however, only addresses warranty coverage, not the source of car parts, which is the underlying issue with vehicles rebuilt from salvaged parts. Even if the Rule were amended to require Buyers Guides for such vehicles, consumers still would not have information about the vehicle's history. Further, because the vehicle could be sold "As-Is" or with a limited warranty of short duration, a Buyers Guide is unlikely to provide the desired protection for individuals purchasing vehicles rebuilt from salvaged parts.

This problem is best addressed by the states or by federal legislation,<sup>51</sup> and not by an amendment to the Rule. To the extent that consumers want or need to know that the vehicle they are purchasing is constructed from a salvaged vehicle or vehicles, the more appropriate and effective remedy would be uniform laws regarding the way salvage vehicles are required to be titled. For these reasons, the Commission has determined that it is unnecessary to amend the Buyers Guide to indicate that a vehicle has been salvaged.

## 4. Leased Vehicles

NCLC suggested that the Rule be amended to cover leased used vehicles.<sup>52</sup> The comment, however, did not provide information indicating the leasing of used vehicles is particularly pervasive or fraught with the same types of problems the Commission found were associated with the sale of used cars. Other than NCLC's suggestion, there is no evidence on the record to suggest a need for the Commission to initiate a proceeding to amend the Rule. The Consumer Leasing Act, among other things, requires lessors to disclose in writing who is responsible for repairs and maintenance on the vehicle and

<sup>39</sup> Under the Monroney Act, 15 U.S.C. 1231-33, new vehicles must display a document (called the Monroney Label) that contains the manufacturer's price, all optional equipment on the vehicle, the location of the dealer to whom the vehicle was shipped, and the Vehicle Identification Number of the car.

<sup>40</sup> B-19 at 2.

<sup>41</sup> See 16 CFR 455.1(d)(2).

<sup>42</sup> 15 U.S.C. 1231(d).

<sup>43</sup> In adopting the Rule, the Commission stated that "many states, for the purpose of titling laws, identify as 'new' vehicles for which title has not passed to a purchaser despite extensive use of the vehicle as a demonstrator model." SBP at 45707.

<sup>44</sup> 86 F.T.C. 1532 (1975).

<sup>45</sup> 86 F.T.C. at 1566.

<sup>46</sup> See SBP at 45707. Demonstrators include dealer-licensed vehicles that can have thousands of miles on them. These vehicles have only the period of new car warranty coverage that remains on the vehicle at the time of purchase, not the full manufacturer warranty that comes with the purchase of a new car. Thus, consumers may wish to negotiate with the dealer for additional warranty coverage.

<sup>47</sup> 16 CFR 455.1(d)(2).

<sup>48</sup> B-15 at 3.

<sup>49</sup> 16 CFR 455.1(d)(2)(emphasis added).

<sup>50</sup> SBP at 45707.

<sup>51</sup> The Final Report of the Motor Vehicle Title, Registration, and Salvage Advisory Committee, submitted by a Presidential Task Force on February 10, 1994, proposes federalizing the definition of a salvage vehicle to prevent the practice of allowing salvage vehicles to be retitled in states that do not require disclosure on the title certificate that a vehicle is a salvaged vehicle.

<sup>52</sup> B-23 at 3.