

Chicago, IL, Chicago Midway Intl, RNAV (GPS) Z RWY 13C, Orig-D

Chicago, IL, Chicago Midway Intl, RNAV (GPS) Z RWY 22L, Orig-A

Chicago, IL, Chicago Midway Intl, RNAV (GPS) Z RWY 31C, Amdt 4

Chicago, IL, Chicago Midway Intl, RNAV (RNP) Y RWY 4R, Orig-A

Chicago, IL, Chicago Midway Intl, RNAV (RNP) Y RWY 13C, Amdt 2A

Chicago, IL, Chicago Midway Intl, RNAV (RNP) Y RWY 22L, Amdt 1

Chicago, IL, Chicago Midway Intl, RNAV (RNP) Y RWY 31C, Orig-A

Gaithersburg, MD, Montgomery County Airpark, NDB RWY 14, Amdt 2A, CANCELED

Greenville, ME, Greenville, Takeoff Minimums and Obstacle DP, Amdt 3

Kalispell, MT, Glacier Park Intl, VOR/DME RWY 30, Amdt 10A

Statesville, NC, Statesville Rgnl, ILS OR LOC/DME Z RWY 28, Amdt 1

Statesville, NC, Statesville Rgnl, RNAV (GPS) RWY 10, Amdt 1

Statesville, NC, Statesville Rgnl, RNAV (GPS) RWY 28, Amdt 3

Statesville, NC, Statesville Rgnl, VOR/DME RWY 10, Amdt 9

Teterboro, NJ, Teterboro, RNAV (GPS) Y RWY 19, Orig

Teterboro, NJ, Teterboro, RNAV (RNP) Z RWY 19, Orig-D

New York, NY, John F. Kennedy Intl, RNAV (GPS) X RWY 31L, Amdt 1B, CANCELED

New York, NY, John F. Kennedy Intl, RNAV (GPS) Y RWY 31L, Amdt 2

New York, NY, John F. Kennedy Intl, RNAV (GPS) Y RWY 31R, Amdt 2

New York, NY, John F. Kennedy Intl, RNAV (RNP) Z RWY 31L, Amdt 1

New York, NY, John F. Kennedy Intl, RNAV (RNP) Z RWY 31R, Amdt 1

New York, NY, La Guardia, RNAV (RNP) Z RWY 4, Amdt 1

Oklahoma City, OK, Will Rogers World, ILS OR LOC RWY 17L, Amdt 3

Oklahoma City, OK, Will Rogers World, ILS OR LOC RWY 17R, Amdt 12

Oklahoma City, OK, Will Rogers World, ILS OR LOC/DME RWY 35L, Amdt 2

Oklahoma City, OK, Will Rogers World, ILS OR LOC/DME RWY 35R, ILS RWY 35R (SA CAT I), ILS RWY 35R (CAT II), Amdt 10

Oklahoma City, OK, Will Rogers World, RNAV (GPS) RWY 13, Amdt 3

Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 17L, Amdt 3

Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 17R, Amdt 4

Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 35L, Amdt 4

Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 35R, Amdt 3

Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 17L, Amdt 3

Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 17R, Amdt 1

Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 35L, Amdt 1

Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 35R, Amdt 2

Oklahoma City, OK, Will Rogers World, Takeoff Minimums and Obstacle DP, Amdt 2

Harrisburg, PA, Capital City, ILS OR LOC RWY 8, Amdt 12

Harrisburg, PA, Capital City, RNAV (GPS) RWY 8, Amdt 1

Allendale, SC, Allendale County, VOR-A, Amdt 6

Nashville, TN, Nashville Intl, RNAV (GPS) Y RWY 2C, Amdt 1B

Blackstone, VA, Allen C Perkinson Blackstone AAF, NDB-A, Amdt 12

Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 2, Amdt 1A

Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 16, Amdt 1A

Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 20, Amdt 2

Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 34, Amdt 1A

Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 2, Orig

Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 16, Orig

Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 20, Orig

Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 34, Orig

West Dover, VT, Mount Snow, NDB RWY 1, Amdt 1, CANCELED

July 14, 2014

Graford, TX, Possum Kingdom, RNAV (GPS)

¹ Automotive Parts Remanufacturers Association (APRA), p. 1.

² ., p. 1; Motor & Equipment Manufacturers Association (MEMA), pp 1-2 (MEMA submitted comments on behalf of its affiliated organization, Motor & Equipment Remanufacturers Association.)

³ The final revised guides contain a new paragraph (b) in section 20.0 describing the purpose and status of the guides, which is consistent with the Commission's long standing treatment of its industry guides. 16 CFR 1.5.

⁴ 77 FR 29922 (May 21, 2012).

comments were received.⁵ Five of the commenters expressed support for the Guides because of the benefits they provide for consumers and/or the marketplace and suggested no specific changes.⁶ Three commenters recommended changes but also expressed support for the Guides.⁷ Two

⁵ The commenters consisted of (a) six trade associations: American Insurance Association (AIA), Automotive Parts Remanufacturers Association, Automotive Recyclers Association (ARA), Electric Rebuilders Association, Global Automakers, and Motor & Equipment Manufacturers Association; (b) three consumer organizations: American Automobile Association (AAA), Consumers Union, and RetireSafe; (c) two businesses: Bryner Chevrolet (Bryner) and United Auto Supply; and (d) one individual, Andrew Stilnovic.

The Commission has decided to accept and consider the delayed submission of the AIA. This entity contacted the agency on August 14, 2012, eleven days after the August 3, 2012, close of the comment period, stating that it had tried to submit its comments online and thought it had done so successfully, but that its submission did not appear on the Commission's Web site with the other comments. The Commission notes that the document the AIA submitted on August 14 is dated August 3, 2012, and accepts the AIA's explanation that it thought it had submitted the comments on time.

The Commission declines to accept a secondary submission from MEMA after the close of the comment period on August 3, 2012. On August 28, 2012, MEMA sent a letter to then-Commission Chairman Leibowitz, along with proposed revisions to the Guides that would implement the suggestions in its original comment. MEMA did not explain its failure to include these materials in its original submission, which was timely. Thus, the Commission declines to accept the August 28 submission.

⁶ AIA, p. 1 ("[T]he current Guides provide a level of consistency for the repair and insurance industries . . . We do not believe there are any changes needed at this time."); Consumers Union, p. 1 (The Guides provide "a basic and necessary protection for consumers," and are still needed "to protect consumers from deceptive practices and maintain high standards in the used car industry."); Electric Rebuilders Association, pp. 1-2 (The Guides "provide clear and readily understandable rules for the marketing of used parts and the steps which must be taken before a used part can be sold as rebuilt or remanufactured."); Global Automakers, p. 1 ("The Guides provide important safeguards for consumers and should be retained." The terms used to describe automobile parts (original equipment manufacturer, aftermarket, rebuilt, remanufactured, salvaged, used) can be very confusing and without the Guides "consumers may not have the information they need to make informed purchase decisions."); RetireSafe, p. 1 (The Guides "are well-crafted to protect consumers," and the FTC should "avoid imposing any new regulatory burdens that may lead to additional costs being passed along to consumers.");

⁷ AAA, p. 1 ("AAA believes that the current FTC guidelines are extremely important to ensure that vehicle equipment information is accurately identified and labeled to avoid any confusion by consumers and automotive service and repair technicians. Overall, AAA endorses the Commission's Used Auto Parts Guides and believes they should be retained."); APRA, p. 2 ("The Association believes that the Guides are an important tool to ensure that previously used motor vehicle parts are properly identified and that parts labeled as 'rebuilt' or 'remanufactured' have received reconditioning appropriate to the use of

commenters expressly made their support for the Guides contingent on the Commission accepting their suggested changes.⁸ The two remaining commenters were not clear about their support for the Guides.⁹

The Commission has determined to retain and revise the Guides. The comments show a continuing need for the Guides for the benefits they provide, including both protections for consumers and clarity for industry members.¹⁰ Further, the Guides do not appear to impose substantial costs; none of the commenters stated that compliance with the Guides is burdensome. On balance, it appears that the benefits of the Guides outweigh their costs. Therefore, the record supports retaining them. In addition, as set forth below, the record supports certain changes to the Guides. The Commission has considered numerous other changes proposed by commenters and concluded not to adopt them.

The remainder of this Section II summarizes the record and explains the Commission's decisions as to specific items.

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Several commenters suggested that the Commission modify the Guides to define additional terms used to describe industry products. These commenters believed such definitions would further inform consumers as to the amount of work done on an industry product after

those terms. Therefore, except for a few modifications suggested later in this letter, the Association believes that the Guides should be retained in their current form."); Stilnovic ("These guides are most definitely needed in this industry.");

⁸ ARA, p. 1 ("ARA's continued support of the publication of the Guides is only possible if amended."); MEMA, p. 1 ("[T]he Guides are outdated and outmoded because they suggest that remanufactured automotive products and various used automotive products are largely equivalent"), p. 5 ("We urge the FTC not to finalize the Guides in the current format, [T]he Commission should overhaul the Guides to reflect this ongoing evolution of the remanufacturing industry.");

⁹ Bryner ("THANK YOU for addressing this issue The main concern I have with used parts is safety.") (emphasis in original); United Auto Supply ("[I]t has been my experience that in MOST cases, commonly sold rebuilt/remanufactured/used aftermarket parts are clearly labeled and described correctly to the purchaser It has also been my experience that the marketplace quickly punishes anyone selling sub-standard parts of any kind, new, rebuilt, remanufactured, or used. I think there is a need for careful regulation, but there exists a risk if those regulations are hard to comply with It is my view that this problem is very well regulated by the marketplace. I am unaware of any major problems with mislabeled or misleading auto parts other than counterfeit parts which is another issue.");

¹⁰ MEMA, pp. 3-4, note 6.

its removal from the original vehicle.¹¹ Industry products come in a broad range

¹¹ APRA, p. 2 (the Guides need to distinguish between a part on which no work has been done and a part on which some work has been done but not enough to qualify as "rebuilt" or "remanufactured"); Bryner, p. 1 (parts from a salvage yard should be labeled as such; "recycled" implies some work on a previously used part); MEMA, pp. 3-4 (specify that "remanufactured" parts are neither new nor used); AAA, p. 1 (the current guides are important to ensure accurate identification and labeling of parts); AIA, p. 1 (the current terms are appropriate and not in need of changing).

¹² 16 CFR 20.3.

¹³ 16 CFR 20.1(b).

¹⁴ APRA, pp. 2, 5; Global Automakers, p. 1; MEMA, pp. 3-4; and Bryner.

¹⁵ MEMA, pp. 2-3.

which previously sold, worn or non-functional products are returned to same-as-new, or better, condition and performance.”¹⁶ The standardized process, according to MEMA, is done in a factory and requires “technical specifications, including engineering, quality, and testing standards to yield products.”¹⁷ The process incorporates upgrades and corrects defects identified since the product first went on a vehicle.¹⁸ MEMA urged the Commission “not to finalize the Guides in the current format, which does not properly recognize the significant advancements made by the U.S. remanufacturing industry over the past 30 years.”¹⁹

The Commission declines to adopt MEMA’s proposed definition of “remanufactured,” but, as discussed below, is revising the Guides to provide that the term “remanufactured,” like the term “factory rebuilt,” should be used only if the product was rebuilt “in a factory generally engaged in the rebuilding” of industry products. The Commission declines to adopt MEMA’s proposed definition of “remanufactured” because the Commission does not have a basis to believe that MEMA’s specific proposal will necessarily improve consumers’ understanding of the difference between remanufactured products and other industry products.²⁰ In addition, the

¹⁶ ., (emphasis in original).

¹⁷ ., p. 3 (emphasis in original).

¹⁸ MEMA distinguishes “remanufactured” from “rebuilt” parts. According to MEMA, an individual can rebuild a part without following the same procedure every time, and any specific rebuilt part may contain a high percentage of the components it originally contained. As we understand it, MEMA’s definition of remanufacturing involves complete disassembly of an industry product into components. An assembly line starts with one component, and as the line advances additional components are added, some new, some, perhaps, used. At the end of the line the remanufactured part is complete. Each remanufactured part, however, may contain few, if any components that were together originally, and assembly of each remanufactured part follows the same procedure. The remanufacturing process incorporates any upgrades, and corrects any defects identified, since the part was made originally, changes that, according to MEMA, may not occur in a part that is “factory rebuilt,” as that term is defined in the Guides. 16 CFR 20.3.

¹⁹ MEMA, p. 5.

²⁰ Moreover, assuming, without deciding, that industry products meeting MEMA’s definition of “remanufactured” are superior to “rebuilt,” “factory rebuilt,” or other industry products, adopting MEMA’s proposed definition is not necessary to communicate this difference. Indeed, MEMA noted that it is developing “a certification program that will let consumers and commercial customers know that remanufactured parts from MERA are truly remanufactured.” MEMA, p. 4 (MERA stands for Motor & Equipment Remanufacturers Association, an affiliate of MEMA.) The program would include “a process

record does not identify any costs or confusion resulting from definitions in the Guides not matching those in international trade agreements.

MEMA’s comments, however, provided evidence that “remanufacture” involves a process performed in a factory setting in a way that “rebuilt” does not.²¹ The Commission has, therefore, decided to change § 20.3 to delete “remanufacture” from subsection (a) and add it to subsection (b). Whereas the Guides currently impose the same requirements on use of the terms “remanufactured” and “rebuilt,” the revised Guides provide the same requirements for the use of the terms “remanufactured” and “factory rebuilt.”

The May 2012 **Federal Register** Notice posed two questions about the disclosures required by the Guides: (1) should the Guides define “clear and conspicuous,” and (2) should the Guides specify when an installer of an industry product must disclose the use of that product to the consumer.

1. Clear and Conspicuous

The Guides provide that “clear and conspicuous” disclosure that the product is used or contains used parts should be made when industry products are advertised or sold. These disclosures should appear in advertisements and promotional literature, on invoices, on packaging, and on the product itself. The current Guides suggest some descriptive terms to describe a product’s condition—“used,” “secondhand,” “repaired,” “remanufactured,” “reconditioned,” “rebuilt,” and “relined”²²—and allow codes to describe the products on invoices between different sellers.²³ Beyond these statements, however, the Guides do not prescribe specific methods for

certification seal that can be affixed to the part and/or box and used in advertising and other promotional materials by participating companies.”

²¹ MEMA, pp. 2–3. This distinction is also supported by reference to prevailing understandings of the terms. For example, Webster’s Third New International Dictionary defines “manufacture” both as a noun (“the process or operation of making wares or other material products by hand or by machinery esp. when carried on systematically with division of labor”) and as a verb (“to produce according to an organized plan and with division of labor”). Webster’s Third New International Dictionary 1378 (2002). “Rebuilt,” by contrast involves extensive repairs, reconstruction, restoration to a previous state, or remodeling, but does not indicate a systematic process. . at 1893.

²² “Recycled” may also be used if its usage complies with the Guides for the Use of Environmental Marketing Claims, 16 CFR 260.7(e).

²³ 16 CFR 20.1(b) (2013).

providing “clear and conspicuous” disclosures.

One commenter responded on this point. The APRA suggested that the Guides return to the language from before their 2002 revisions. Before these revisions, the Guides not only gave examples of terms to describe industry products,²⁴ but also defined “conspicuous.” Conspicuous disclosures were: pr T* (pur s34 ftheda)Tjteraturehe

²⁴ 16 CFR 20.1(b)(1) (2000).

²⁵ 16 CFR 20.1(b)(2) (2000).

²⁶ APRA, p. 9.

²⁷ In certain circumstances, the Guides do provide more information about the placement and conspicuoussness of disclosures. 16 CFR 20.2(b).

²⁸ The Guides would apply if the installer also manufactures, sells, distributes, markets, or advertises the industry product.

use of an industry product be disclosed on the consumer's invoice. The AAA further recommended that engines, transmissions, and other assemblies represented to have "low mileage" be accompanied by documentation of their conditions, such as pictures and Carfax reports.²⁹

The APRA asserted that the Guides complement laws in some states that require mechanics to disclose the use of industry products and that without the Guides such disclosures would be "more difficult and less effective."³⁰ The APRA, however, also asserts that disclosures by installers should be regulated by state or local agencies.³¹

Mr. Stilnovic suggested that car dealers provide consumers interested in used cars with a pamphlet alerting the consumers to the Guides and disclosing any industry products in the vehicle the consumer is considering.

None of these commenters provided data or other evidence to support their positions or indicate the extent of the problems they address, and the Commission has determined not to modify the Guides without such information. The AAA's suggestions on disclosure have intuitive appeal. The existing record, however, does not contain specific evidence of a problem with the timing of disclosures, nor does the Commission possess other evidence of such a problem. The Commission will monitor developments in this area and revise the Guides if evidence of problems with the timing of disclosures about industry products arises.

Mr. Stilnovic's suggestion of a pamphlet disclosure given in connection with used cars would impose burdens on dealers, with uncertain benefits for consumers. The disclosure would inform consumers of the Guides, but such generic information may well be of little value

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²⁹ AAA, p. 2. Carfax is a private company that, for a fee, provides title and insurance reports on specific vehicles, including any insurance claims for repairs. The claims history may alert a prospective purchaser of the car to check carefully for latent problems.

³⁰ APRA, p.5.

³¹ .., pp. 9-10.

³² 77 FR 29922, 29923-29924 (May 21, 2012).

³³ 16 CFR 20.0.

³⁴ 69 FR 56932 (September 23, 2004).

³⁵ 69 FR at 56933.

³⁶ ARA, p. 7 (include tires in the Guides, but require "a visual appearance inspection and tread depth evaluation to determine whether a tire should be resold"); Stilnovic (include tires in the Guides

so consumers know what they are getting). The Commission declines to adopt ARA's inspection and evaluation requirements because the purpose of the Guides is to provide notice to consumers, not to establish quality standards.

The third commenter on this topic urged continued exclusion of tires because the terms used in the Guides to describe industry products have not been applied to used tires or "mean something different when applied to tires," creating the potential for confusion. APRA, p. 13. The Commission does not believe the likelihood of confusion outweighs the benefits of ensuring that used tires are sold in a non-deceptive manner. Sellers of used tires are not required to use any of the terms mentioned in the Guides and may continue to use terms they have used in the past as long as the use is not deceptive.

³⁷ 16 CFR 20.0.



