

**NOTICE OF PROPOSED AMENDED RULE**

The Attorney General is proposing to amend 12.2.14 NMAC, regarding the misrepresentation of the age and condition of motor vehicles. The rule is being amended by the authority vested in the Attorney General pursuant to the New Mexico Unfair Practices Act, NMSA 1978, Section 57-12-13 (1967). The notice and proposed amendment will be published in Volume XXVI, Issue #24, of the New Mexico Register.

The proposed amended rule is available at the Office of the Attorney General located in the Paul Bardacke Attorney General Complex in Santa Fe located at 408 Galisteo Street, Consumer Protection Division; at the Attorney General's Office located in Albuquerque at 111 Lomas Blvd. NW, Suite 120; and in Las Cruces at 201 North Church Street, Suite 315.

The proposed amended rule is also posted on the Office of the Attorney General's website and may be accessed, free of charge, from the following website: [www.nmag.gov](http://www.nmag.gov).

To request that a copy of the proposed amended rule be mailed to you, please submit your request in writing to:

**Office of the Attorney General  
Consumer Protection Division  
Attention: Lori Chavez  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508**

You may also request a copy of the proposed amended rule by calling the following telephone number: 1-800-678-1508. There is a \$.25 copying charge per page for written and telephone requests for copies of the proposed amended rule.

You may also request a copy of the proposed amended rule by emailing: [lchavez@nmag.gov](mailto:lchavez@nmag.gov), subject line: "12.2.14 Amended Rule."

Any person who is or may be affected by this proposed amended rule may submit written comments.

Written comments concerning the proposed amended rule may be submitted by mail to:

**Office of the Attorney General  
Consumer Protection Division  
Attention: Lori Chavez  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508**

The Office of the New Mexico Attorney General will accept written comments for consideration provided on or before January 29, 2016.

If you are an individual with a disability who is need of special assistance or accommodations, please contact Daniel Rios by telephone at 505-827-6000. The Office of the Attorney General requests at least ten (10) days advance notice to provide requested special accommodations.

**This is an amendment to 12.2.14.1 NMAC, Sections 6 through 11, effective xx/xx/xxxx.**

**12.2.14.5**        **EFFECTIVE DATE:** April 1, 2014, unless a later date is cited at the end of a section.  
[12.2.14.5 NMAC - N, 4/1/2014]

**12.2.14.6**        **OBJECTIVE:**

A.        [The purpose of this rule is to:  
\_\_\_\_\_ (1) \_\_\_\_\_ deter the misrepresentation of the age or condition of a motor vehicle in motor vehicle sale transactions;

\_\_\_\_\_ (2) \_\_\_\_\_ protect retail buyers from unfair and deceptive practices involving the misrepresentation of the age or condition of a motor vehicle in motor vehicle sale transactions through uniform disclosure of material information concerning the age or condition of a motor vehicle. NMSA 1978, Section 57-12-2(D)(14); and

\_\_\_\_\_ (3) \_\_\_\_\_ provide to sellers clear legal standards as to what constitutes “to the best of seller’s knowledge” when selling motor vehicles to retail buyers. NMSA 1978, Section 57-12-6(B).

\_\_\_\_\_ **B.** \_\_\_\_\_ The attorney general’s office has long been concerned about unfair and deceptive practices involving the sale of motor vehicles to retail buyers. The attorney general’s consumer protection division receives numerous written complaints and telephone calls alleging failure by sellers to (1) disclose material information concerning the age or condition of motor vehicles or (2) provide the mandatory affidavit. Sellers of motor vehicles have continually complained to the attorney general’s office about the ambiguity of the affidavit requirement and over the years have been subject to litigation by retail buyers concerning the interpretation of “to the best of the seller’s knowledge”.

\_\_\_\_\_ **C.** \_\_\_\_\_ This rule interprets and clarifies unfair and deceptive trade practices involving the sale of motor vehicles as provided under the Unfair Practices Act. The attorney general has concluded that this rule is in the best interest of the health, safety and general welfare of the citizens of New Mexico. The purpose of this rule is to:

\_\_\_\_\_ (1) \_\_\_\_\_ deter misrepresentation of the age or condition of used motor vehicles in retail motor vehicle sale transactions;

\_\_\_\_\_ (2) \_\_\_\_\_ protect retail buyers in motor vehicle sale transactions through uniform disclosure of material information concerning the age or condition of used motor vehicles; Section 57-12-6(A) NMSA 1978;

\_\_\_\_\_ (3) \_\_\_\_\_ provide sellers clear legal standards as to what constitutes “to the best of seller’s knowledge” when selling used motor vehicles to retail buyers. Paragraph (2) of Subsection B of Section 57-12-6 NMSA 1978;

\_\_\_\_\_ (4) \_\_\_\_\_ establish standards for used motor vehicle damage inspections; and

\_\_\_\_\_ (5) \_\_\_\_\_ establish standards for disclosure of used motor vehicle alteration or damage inspection results to motor vehicle buyers.

\_\_\_\_\_ **B.** \_\_\_\_\_ This rule is not intended to restrict or limit claims to Section 57-12-6 NMSA 1978 that may be alleged under other provisions of the Unfair Practices Act, Section 57-12-1 NMSA 1978 et seq.

\_\_\_\_\_ **C.** \_\_\_\_\_ The alteration or damage inspection and disclosure standards in this rule for used motor vehicles are not intended to negate or limit obligations of sellers to disclose damage to new motor vehicles. See *Hale v. Basin Motor Co.*, 110 N.M. 314 (N.M. 1990).

\_\_\_\_\_ **D.** \_\_\_\_\_ Nothing in this rule is intended to increase, decrease or otherwise in any way affect the rights or responsibilities of motor vehicle manufacturers or sellers under federal motor vehicle safety laws or regulations, or under New Mexico or other state products liability laws, principles or case law.

\_\_\_\_\_ **E.** \_\_\_\_\_ The attorney general has concluded that this rule is in the best interest of the health, safety and general welfare of the citizens of New Mexico.

[12.2.14.6 NMAC - N, 4/1/2014; A, xx/xx/xxxx]

#### 12.2.14.7 DEFINITIONS:

\_\_\_\_\_ **A.** \_\_\_\_\_ [“Alteration” shall mean:

\_\_\_\_\_ (1) \_\_\_\_\_ the act or procedure of changing, modifying or repairing a motor vehicle’s cab, chassis or body;

\_\_\_\_\_ (2) \_\_\_\_\_ the condition resulting from changing, modifying or repairing a motor vehicle’s cab, chassis or body; or

\_\_\_\_\_ (3) \_\_\_\_\_ the modification to a motor vehicle’s cab, chassis, or body; the alteration may, but need not necessarily, be the result of wreck damage. Goods are altered if, as measured against the reasonable expectations of the consumer, the characteristics or value of the motor vehicle are affected in a meaningful way by the changes, modifications or repairs. See *Hale v. Basin Motor Co.*, 110 N.M. 314, 317-318 (N.M. 1990).

\_\_\_\_\_ **B.** \_\_\_\_\_ “Body” shall mean the external structure of the motor vehicle, exclusive of the cab and chassis.

\_\_\_\_\_ **C.** \_\_\_\_\_ “Cab” shall mean the compartment of a motor vehicle where the driver and passengers sit.

\_\_\_\_\_ **D.** \_\_\_\_\_ “Calculation of cost for alteration or repair” shall mean calculating the cost of repair based upon industry accepted reverse engineering protocols and original equipment manufacturer “OEM” replacement parts.

\_\_\_\_\_ **E.** \_\_\_\_\_ “Chassis” shall mean frame and working parts of the motor vehicle, including standard factory equipment.

\_\_\_\_\_ **F.** \_\_\_\_\_ “Flat rate manual cost” shall mean the estimated cost of repair as indicated by a nationally recognized manual commonly used in the industry of auto repair.

~~G. “Inspection” shall mean inspection of the motor vehicle for any type of alteration or repair not consistent with I CAR repair standards or equivalent industry standards for alteration or repair. Inspections shall be conducted with reasonable care.~~

~~H. “Inspection report” shall mean the inspection report provided for in 12.2.14.11 NMAC of this rule or equivalent form. The inspection form shall include:~~

- ~~(1) the name of the seller and contact information;~~
- ~~(2) a description of the vehicle, including year, make, model, stock number and vehicle identification number;~~
- ~~(3) the vehicle condition report required by 12.2.14.9 NMAC of this rule;~~
- ~~(4) the odometer reading of the motor vehicle;~~
- ~~(5) a statement of the calculation and total cost for alteration or repair;~~
- ~~(6) a statement as to whether or not the alteration or repair causes safety issues;~~
- ~~(7) a statement as to whether or not the motor vehicle has frame damage;~~
- ~~(8) the identification and contact information of the qualified person who performed the inspection;~~
- ~~(9) the inspection date and the calculation and total cost for the motor vehicle inspection.~~

~~I. “Motor vehicle” shall mean every vehicle that is self propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails. This includes, but is not limited to, automobiles, trucks of all varieties, motor cycles, recreational vehicles, reconstructed motor vehicles, specially constructed motor vehicles, and road tractors, all of which may be for personal, household, or commercial use.~~

~~J. “Qualified person” shall mean either:~~

- ~~(1) a person who is ASE, I CAR level II or qualified by any other equivalent industry recognized certification program, and has adequate experience with performing vehicle repairs in the areas of:
  - ~~(a) painting and refinishing;~~
  - ~~(b) structural and non structural analysis and repair;~~
  - ~~(c) mechanical and electrical components analysis and repair of motor vehicle cab, chassis, and body;~~
  - ~~(d) inspection of vehicles for previous alteration or repair; or~~~~
- ~~(2) a person who possesses equivalent or similar knowledge, skills and experience as defined in this subsection.~~

~~K. “Repair or repairing” shall mean to restore or attempt to restore to I CAR standards or equivalent industry standards a motor vehicle’s cab, chassis, or body whether or not the damage resulted from a collision.~~

~~L. “Sales price” shall mean the actual stated price on the contract before the deduction of the value of any trade in and shall not include such charges as taxes, registration fees, extended warranties, service contracts, credit of disability insurance, or any other charges incidental to the sale.~~

~~M. “Seller” shall mean natural persons, corporations, trusts, partnerships, associations, cooperative associations, clubs, companies, firms, joint ventures or syndicates which include either:~~

- ~~(1) any person who sells, solicits or advertises the sale of new or used motor vehicles to retail buyers and who is licensed pursuant to the Motor Vehicle Code, NMSA 1978, Section 66-4-1(A); or~~
- ~~(2) any person who sells four or more motor vehicles to retail buyers in a calendar year whether licensed to do so or not pursuant to NMSA 1978, Section 66-4-1(A).~~

~~N. “Seller’s knowledge” shall mean “to the best of the seller’s knowledge” pursuant to NMSA 1978, Section 57-12-6(B)(2) and does not necessarily mean actual knowledge, but shall mean knowledge that a prudent person would have if the person had exercised reasonable care or diligence. One who intentionally remains ignorant is chargeable in law with knowledge. See *Stevenson v. Louis Dreyfus Corp.*, 112 N.M. 97, 100 (N.M. 1991).~~

~~O. “Unibody” shall mean a motor vehicle construction technique in which the body is integrated into a single unit with the chassis rather than having a separate body on frame.] “Alteration” shall mean damage to or modification of a motor vehicle’s cab, chassis, or body which materially diminishes the value of the motor vehicle; the alteration may but need not necessarily be the result of wreck damage; goods are altered if, as measured against reasonable expectations of a consumer, the characteristics or value of a motor vehicle are diminished in a meaningful way; repairs must be more than just substituting one standardized part with a new one. See *Hale v. Basin Motor Co.*, 1990-NMSC- 068, 110 N.M. 314.~~

~~B. “Body” shall mean the external structure of the motor vehicle, exclusive of the cab and chassis.~~

~~C. “Cab” shall mean the compartment of a motor vehicle where the driver and passengers sit.~~

D. "Good faith estimate of cost" for alteration or repair shall mean a good faith estimate of the flat rate manual cost of prior alteration or repair discovered in the used motor vehicle alteration or damage inspection contemplated by this rule, and disclosed in substantially the manner shown in the model inspection report which accompanies this rule, but "good faith estimate of cost" shall not be interpreted as a warranty as to actual cost which is unknown to the seller, nor is "good faith estimate of cost" intended to be a substitute for disclosure of actual cost if known to the seller.

E. "Chassis" shall mean the frame and structural components of the motor vehicle.

F. "Flat rate manual cost" shall mean estimated cost of repair as indicated by a nationally recognized manual commonly used in the industry.

G. "Inspection" or "reasonable inspection" shall mean an investigation of the age and condition of a motor vehicle for visible evidence of prior alteration or prior repair due to alteration or wreck damage. Inspections shall be consistent with 12.2.14.9 NMAC.

H. "Inspection report" shall mean the inspection report provided for in 12.2.14.10 NMAC of this rule, or equivalent form, including the model inspection report form which accompanies this rule.

I. "Qualified person" shall mean a person who possesses the requisite knowledge, skill or experience to perform the used motor vehicle inspection required by this rule and by the accompanying model inspection form, in order to find evidence of:

(1) painting and refinishing;

(2) structural and non-structural damage repair;

(3) repair of motor vehicle, cab, chassis and body; or

(4) previous alteration.

J. "Repair or repairing" shall mean to restore or attempt to restore a motor vehicle's cab, chassis, or body to industry standards.

K. "Retail buyer" or "buyer" shall mean a person who is not in the business of buying and selling motor vehicles and who buys or agrees to buy a motor vehicle from a retail seller;

L. "Retail seller" or "seller" shall mean natural persons, corporations, trusts, partnerships, associations, cooperative associations, clubs, companies, firms, joint ventures or syndicates who regularly and principally engage in the business of selling motor vehicles to retail buyers for profit, but does not include selling motor vehicles to other motor vehicle dealers licensed with the New Mexico Motor Taxation and Revenue Department-Motor Vehicle Division pursuant to Section 66-4-1(A) NMSA 1978.

M. "Sales price" shall mean the actual stated price on the contract before the deduction of the value of any trade-in and shall not include such charges as taxes, registration fees, extended warranties, service contracts, credit of disability insurance, or any other charges incidental to the sale.

N. "Unibody" shall mean a motor vehicle construction technique in which the body is integrated into a single unit with the chassis rather than having a separate body-on-frame.

O. "Used" motor vehicle shall mean a used motor vehicle as defined in 12.2.4.7 NMAC.  
[12.2.14.7 NMAC - N, 4/1/2014; A, xx/xx/xxxx]

**12.2.14.8** ~~[AFFIDAVIT REQUIRED: It is an unfair or deceptive trade practice for a seller of a motor vehicle to fail to provide the purchaser with an affidavit at the time of sale if it has been determined that the alterations or repairs to any part of the motor vehicle for which the fixed flat rate manual costs in the aggregate amounts to or exceeds six percent or of the sale price of the vehicle. The affidavit must:~~

~~A. describe the vehicle; and~~

~~B. state, to the best of the seller's knowledge, what specific alterations or repairs have been done to the motor vehicle, including whether the motor vehicle title should have been branded salvage or has been branded salvaged.]~~ **TO THE BEST OF THE SELLER'S KNOWLEDGE:**

A. A seller of a motor vehicle shall furnish at the time of sale of a motor vehicle an affidavit that states to the best of the seller's knowledge whether there has been an alteration or chassis repair due to wreck damage, except where not required. Section 57-12-6(B) NMSA 1978.

B. A seller of a motor vehicle shall be deemed to meet the obligation of "to the best of the seller's knowledge" as set forth in Section 57-12-6(B)(2) NMSA 1978, when the seller in good faith

(1) conducts a motor vehicle inspection that substantially complies with 12.2.14.9 NMAC, and;

(2) completes an inspection report pursuant to 12.2.14.10 NMAC. The seller shall maintain the inspection report for three years and make the inspection report available to the buyer upon request.

C. When a seller determines that an affidavit is required pursuant to Section 57-12-6(B) NMSA 1978, the seller shall attach a report which substantially complies with 12.2.14.10 NMAC to the affidavit to disclose the prior alteration or repair.

D. When visible unsafe alterations or repairs are identified by an inspector during the inspection, the unsafe alterations or repairs shall be disclosed in the inspection report provided for in 12.2.14.10 NMAC, and a copy of the inspection report shall be provided to the buyer.

E. A seller shall not represent to the buyer that the absence of any information or condition of the motor vehicle on a Carfax, Autocheck or other motor vehicle history report is proof that the motor vehicle has never been altered or repaired.

F. When a seller determines that an affidavit is required pursuant to Section 57-12-6(B) NMSA 1978, a copy of the affidavit shall also be maintained by the seller for three years.  
[12.2.14.8 NMAC - N, 4/1/2014; A, xx/xx/xxxx]

**12.2.14.9** ~~[UNFAIR AND DECEPTIVE TRADE PRACTICE: It is an unfair or deceptive trade practice for a seller of a motor vehicle to:~~

~~\_\_\_\_\_ A. fail to obtain a reasonable inspection of the motor vehicle performed by a qualified person, prior to offering the motor vehicle for retail sale, in order to comply with the affidavit requirements of the Unfair Practices Act NMSA, 1978, Section 57-12-6(B);~~

~~\_\_\_\_\_ B. fail to obtain an inspection report;~~

~~\_\_\_\_\_ C. fail to provide to the retail buyer, prior to the sale, with a copy of the inspection report and any other reports obtained by the seller in connection to the inspection of the motor vehicle;~~

~~\_\_\_\_\_ D. omit any information required to be disclosed on the inspection report;~~

~~\_\_\_\_\_ E. state that the absence of any indication of an accident on a carfax, autocheck or other vehicle history report is proof that the vehicle has never been altered or repaired;~~

~~\_\_\_\_\_ F. fail to disclose in writing the specific alteration(s) or repair(s) performed to the motor vehicle if the alteration(s) or repair(s) to any part of the motor vehicle amounts to six percent or more of the sales price of the motor vehicle, based on the flat rate manual costs in the aggregate;~~

~~\_\_\_\_\_ G. fail to disclose in writing, if to the best of the seller's knowledge, the motor vehicle title should have been branded salvage or has been branded salvaged, if the motor vehicle is defined by law as salvaged pursuant to NMSA 1978, Section 66-1-4.16(C) or 18.19.3.50 NMAC through 18.19.3.52 NMAC;~~

~~\_\_\_\_\_ H. fail to include the itemized cost for the inspection on the sales agreement as required by this rule;~~

~~\_\_\_\_\_ I. charge the retail buyer for the inspection an amount above the actual amount paid by the seller for the inspection; or~~

~~\_\_\_\_\_ J. fail to retain a copy of any and all motor vehicle reports and inspection reports for three years after the sale of the motor vehicle.] [RESERVED]~~

[12.2.14.9 NMAC - N, 4/1/2014; Repealed, xx/xx/xxxx]

**12.2.14.10** **REASONABLE INSPECTION:** [The following motor vehicle inspection shall be deemed reasonable pursuant to NMSA 1978, Section 57-12-6(B):

~~\_\_\_\_\_ A. obtaining publically available reports on the age or condition of the motor vehicle such as the national motor vehicle title information system report, carfax, or auto check;~~

~~\_\_\_\_\_ B. inspecting the motor vehicle for evidence of repainting such as:~~

~~\_\_\_\_\_ (1) differences in paint color or texture;~~

~~\_\_\_\_\_ (2) mismatched sizes of metallic sparkle in the paint;~~

~~\_\_\_\_\_ (3) embedded dirt or deep scratches in the top coat of the paint; and~~

~~\_\_\_\_\_ (4) uneven paint thickness;~~

~~\_\_\_\_\_ C. inspecting the motor vehicle body and cab for evidence of any repair or alteration, with the inspection involving only minimal disassembly, for:~~

~~\_\_\_\_\_ (1) uneven gaps between sheet metal panels;~~

~~\_\_\_\_\_ (2) differences between the headlamps;~~

~~\_\_\_\_\_ (3) paint overspray on moldings and trim;~~

~~\_\_\_\_\_ (4) paint tape edges in the jams;~~

~~\_\_\_\_\_ (5) paint chipped off of bolt heads;~~

~~\_\_\_\_\_ (6) paint missing around bolt heads or bolts not centered in the bolt hole;~~

~~\_\_\_\_\_ (7) hammer damage;~~

~~\_\_\_\_\_ (8) holes drilled and plugged in jams or shell of the motor vehicle;~~

- ~~(9) damage inside the trunk or under the spare tire; and~~
- ~~(10) signs of corrosion or lack of corrosion protection;~~
- ~~D. inspecting the motor vehicle chassis for evidence of such things as:~~
  - ~~(1) pinched weld flange underneath the motor vehicle;~~
  - ~~(2) weld sites;~~
  - ~~(3) signs of repair to unibody structural parts;~~
  - ~~(4) signs of buckles or non-OEM welding repair to unibody structural parts;~~
  - ~~(5) signs of corrosion or lack of corrosion protection;~~
  - ~~(6) any other alteration or repair that may have been performed to the chassis; and~~
  - ~~(7) odometer alteration or repair;~~
- ~~E. inspecting the motor vehicle's caulking and seam sealer for differences and inconsistencies;~~
- ~~F. inspecting the motor vehicle's identification number tags;~~
- ~~G. inspecting the motor vehicle parts for labels that say "R-DOT";~~
- ~~H. inspecting the motor vehicle for any type of repairs not consistent with I-CAR repair standards or equivalent;~~
- ~~I. based upon any information or evidence obtained during the vehicle inspection performed pursuant to Subsections A-H of this section, perform any additional inquiry or inspection into the motor vehicle's age or condition appropriate to assure compliance with this rule.] The following motor vehicle inspection shall be conducted by qualified persons and shall be deemed reasonable pursuant to Section 57-12-6(B) NMSA 1978 by:~~
  - ~~A. inspecting the motor vehicle for evidence of repainting such as:~~
    - ~~(1) differences in paint color or texture;~~
    - ~~(2) mismatched sizes of metallic sparkle in the paint;~~
    - ~~(3) embedded dirt or deep scratches in the top coat of the paint; and~~
    - ~~(4) uneven paint thickness;~~
  - ~~B. inspecting the motor vehicle for evidence of any repair or alteration, with the inspection involving only minimal disassembly, for:~~
    - ~~(1) uneven gaps between sheet metal panels;~~
    - ~~(2) differences between the headlamps due to impact replacement;~~
    - ~~(3) paint overspray on moldings and trim;~~
    - ~~(4) paint tape edges in the jams;~~
    - ~~(5) hammer damage;~~
    - ~~(6) replaced body panels due to impact;~~
    - ~~(7) holes drilled and plugged in jams or shell of the motor vehicle;~~
    - ~~(8) damage visible inside the trunk; and~~
    - ~~(9) signs of corrosion or lack of corrosion protection;~~
  - ~~C. inspecting the motor vehicle chassis for evidence of such things as:~~
    - ~~(1) pinched weld flange underneath the motor vehicle;~~
    - ~~(2) weld sites;~~
    - ~~(3) signs of repair to unibody structural parts;~~
    - ~~(4) signs of buckles or non-original equipment manufacturer ("OEM") welding repair to unibody structural parts;~~
    - ~~(5) signs of corrosion, or lack of corrosion protection; and~~
    - ~~(6) other non-OEM alteration or repair that may have been performed to the chassis;~~
  - ~~D. inspecting the motor vehicle's caulking and seam sealer for differences and inconsistencies;~~
  - ~~E. inspecting the motor vehicle's identification number tags;~~
  - ~~F. inspecting the motor vehicle parts for labels that say "R-DOT" (replacement department of transportation);~~
  - ~~G. inspecting the motor vehicle for repairs not consistent with repair industry standards; and~~
  - ~~H. performing reasonable additional inspection or inquiry into the age and condition of the motor vehicle when reasonably necessary to assure compliance with this rule.~~

[12.2.14.9 NMAC - N, 4/1/2014; A, xx/xx/xxxx]

**12.2.14.11 PREVIOUS WRECK DAMAGE OR ALTERATION INSPECTION REPORT:**

[The following information is an example of what should be contained within an inspection report form:

- ~~A. seller's name;~~
- ~~B. dealer license number;~~

- \_\_\_\_\_ **C.** address, including city, state, and zip code;
- \_\_\_\_\_ **D.** the year, make, model, and stock number of the motor vehicle;
- \_\_\_\_\_ **E.** the motor vehicle identification number;
- \_\_\_\_\_ **F.** the exterior and interior color of the motor vehicle;
- \_\_\_\_\_ **G.** an odometer reading of the motor vehicle, including actual miles, and not actual miles;
- \_\_\_\_\_ **H.** a calculation of the total cost for alteration or repair;
- \_\_\_\_\_ **I.** a “yes” and “no” check box should be used to indicate any inspection revealed safety issues; if “yes” is checked, then the inspection report shall identify the safety issues with particularity;
- \_\_\_\_\_ **J.** a “yes” and “no” check box should be used to indicate any inspection revealed frame damage; if “yes” is checked, then the inspection report shall identify the frame damage with particularity;
- \_\_\_\_\_ **K.** the remainder of the inspection report form should be captioned “AGE AND CONDITION OF MOTOR VEHICLE CERTIFICATION”;
- \_\_\_\_\_ **L.** for the following paragraphs and subparagraphs of this subsection, a “yes” and “no” check box should be checked for each item which is applicable; if “yes” is checked, then the report shall identify the alteration or repair with particularity and where on the vehicle the alteration or repair is located:
  - \_\_\_\_\_ (1) inspection of the motor vehicle for evidence of repainting;
    - \_\_\_\_\_ (a) differences in paint color or texture;
    - \_\_\_\_\_ (b) mismatched sizes of metallic sparkle in the paint;
    - \_\_\_\_\_ (c) embedded dirt or deep scratches in the top coat of the paint;
    - \_\_\_\_\_ (d) uneven paint thickness;
  - \_\_\_\_\_ (2) inspection of the motor vehicle body and cab;
    - \_\_\_\_\_ (a) uneven gaps between sheet metal panels;
    - \_\_\_\_\_ (b) differences between the headlamps;
    - \_\_\_\_\_ (c) paint overspray on moldings and trim;
    - \_\_\_\_\_ (d) paint tape edges in the jams;
    - \_\_\_\_\_ (e) paint chipped off of bolt heads;
    - \_\_\_\_\_ (f) paint missing around bolt heads or bolts not centered in the bolt hole;
    - \_\_\_\_\_ (g) hammer damage;
    - \_\_\_\_\_ (h) holes drilled and plugged in jams or shell of the motor vehicle;
    - \_\_\_\_\_ (i) damage inside the trunk or under the spare tire;
    - \_\_\_\_\_ (j) signs of corrosion or lack of corrosion protection;
  - \_\_\_\_\_ (3) inspection of the motor vehicle chassis;
    - \_\_\_\_\_ (a) pinched weld flange underneath the motor vehicle;
    - \_\_\_\_\_ (b) weld sites;
    - \_\_\_\_\_ (c) signs of repair to unibody structural parts;
    - \_\_\_\_\_ (d) signs of buckles or non-OEM welding repair to the unibody structural parts;
    - \_\_\_\_\_ (e) signs of corrosion or lack of corrosion protection;
    - \_\_\_\_\_ (f) signs of any other alteration or repair having been performed to the chassis;
    - \_\_\_\_\_ (g) odometer alteration or repair;
  - \_\_\_\_\_ (4) signs of differences and inconsistencies with the motor vehicle’s caulking and seam sealer;
  - \_\_\_\_\_ (5) signs of tampering with motor vehicle’s identification tags;
  - \_\_\_\_\_ (6) signs of motor vehicle parts labeled “R DOT”;
  - \_\_\_\_\_ (7) signs of any type of repairs not consistent with I-CAR collision repair standards or equivalent;
- \_\_\_\_\_ **M.** date of inspection;
- \_\_\_\_\_ **N.** calculation and total cost for inspection;
- \_\_\_\_\_ **O.** the name of the business or individual who conducted the inspection;
- \_\_\_\_\_ **P.** the name, and address of the business or individual who conducted the inspection, including city, state, and zip code;
- \_\_\_\_\_ **Q.** the telephone number of the business or individual who conducted the inspection;
- \_\_\_\_\_ **R.** the printed or typed name of the technician who conducted the inspection; and
- \_\_\_\_\_ **S.** the signature of the technician who conducted the inspection.] The seller’s inspection report shall be in substantially the form which accompanies this rule and shall include the following information:
  - \_\_\_\_\_ **A.** seller’s name;
  - \_\_\_\_\_ **B.** address, including city, state, and zip code;

- C. the year, make and model of the motor vehicle;
  - D. the motor vehicle identification number;
  - E. the exterior color of the motor vehicle;
  - F. an odometer reading of the motor vehicle;
  - G. a “yes” and “no” check box to indicate any visible safety issues revealed by the inspection; if “yes” is checked, the inspection report shall identify such issues with particularity;
  - H. a “yes” and “no” check box to indicate any visible chassis or structural damage revealed by the inspection; if “yes” is checked, the inspection report shall identify such damage with particularity;
  - I. a “yes” and “no” check box to indicate any visible non industry-standard repair revealed by the inspection; if “yes” is checked, the inspection report shall identify such repair with particularity;
  - J. a “yes” and “no” check box to indicate any visible unrepaired damage revealed by the inspection; if “yes” is checked, the inspection report shall identify such damage with particularity;
  - K. whether a good faith estimate of the cost of prior alteration or damage repair discovered on inspection exceeds six percent of the estimated sales price of the motor vehicle;
  - L. date of inspection;
  - M. cost for the inspection;
  - N. contact information for the business/individual who performed the inspection, including city, state, and zip code and telephone number;
  - O. the printed or typed name of the qualified person who performed the inspection;
  - P. the signature of the qualified person who conducted the inspection; and
  - Q. a statement to the effect that “prior damage/repair inspection is based on good faith observation, minimal disassembly and without use of computerized measuring system(s),” that the inspection report is not a warranty, and containing a citation to this rule, NMAC 12.2.14.1.
  - R. The seller’s inspection report may also include:
    - (1) a statement whether the motor vehicle was placed on a lift to inspect the chassis as part of the inspection;
    - (2) a statement whether a paint mil thickness gauge was used to measure paint thickness as part of the inspection; or
    - (3) reasonable additional detail about the condition of the chassis, body panels and paint of the motor vehicle which was revealed by the inspection and is believed by the inspector to be useful to a buyer.
- [12.2.14.11 NMAC - N, 4/1/2014; A, xx/xx/xxxx]

**12.2.14.12 DISCLOSURE IN LIEU OF INSPECTION FOR HIGH MILEAGE/AGED MOTOR VEHICLES:** In lieu of the used motor vehicle damage inspection contemplated by 12.2.14.9 NMAC and the used motor vehicle damage inspection report contemplated by 12.2.14.10 NMAC, the seller of a motor vehicle which either:

- A. is 10 or more years old based on its model year, or
  - B. has more than 100,000 odometer miles, may provide the buyer of such a motor vehicle with a conspicuous written disclosure on a separate form containing a statement to the effect that “because of age in excess of 10 years or mileage in excess of 100,000 this motor vehicle has not received a used motor vehicle damage inspection pursuant to 12.2.14.1 NMAC et seq., and buyer may obtain an independent inspection of the motor vehicle at buyer’s own expense before purchase, if buyer so chooses.” This section is not intended to prevent the seller of such a high mileage/aged motor vehicle who chooses to do so from nevertheless obtaining a damage inspection and report on such a motor vehicle, in which case the seller shall provide the inspection report and any applicable affidavit to the buyer as with any other used motor vehicle. This section is not intended to negate or limit any obligation of a seller of such a high mileage/aged motor vehicle to disclose damage which is nevertheless actually known to the seller.
- [12.2.14.12 NMAC - N, xx/xx/xxxx]

**12.2.14.13 SEVERABILITY:** If any part of this rule is held invalid, the remainder of the rule and applications thereof shall remain unaffected.  
[12.2.14.13 NMAC - N, 4/1/2014; Rn, 12.2.14.12 NMAC, xx/xx/xxxx]

**12.2.14.14 USED MOTOR VEHICLE ALTERATION OR DAMAGE INSPECTION FORM:**

Seller Name and Contact Information:

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Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Color \_\_\_\_\_

VIN \_\_\_\_\_ Odometer \_\_\_\_\_

None  
Noted Yes Describe, if yes

**VISIBLE SAFETY ISSUES**  
**CHASSIS OR STRUCTURAL DAMAGE**  
**NON INDUSTRY-STANDARD REPAIR**  
**UNREPAIRED DAMAGE**

**CHASSIS INSPECTION** None  
Noted Yes Location – Details, if yes

**Frame/Unibody Repair/Welds**  
**Frame Machine Pinch Marks**  
**Other**

**BODY PANEL INSPECTION** None  
Noted Yes Location – Details, if yes

**Replaced Body Panels**  
**Damaged/Repaired Body Panels**  
**Uneven Body Panel Gaps**  
**Other**

**PAINT INSPECTION** None  
Noted Yes Location – Details, if yes

**Difference in Paint Color/Texture**  
**Uneven Paint Thickness**  
**Aftermarket Overspray/Mask-lines**  
**Other**

Was motor vehicle placed on a lift to inspect chassis? Yes No  
Was a paint mil thickness gauge used to measure paint thickness? Yes No  
**Good faith estimate whether discovered prior alteration/damage/repair cost exceeds 6 percent of sales**

**Other Inspection Comments**

**price:** Yes No  
Cost of Inspection: \$ \_\_\_\_\_ Date of Inspection: \_\_\_\_\_  
Inspector Name: \_\_\_\_\_  
Inspector Contact Information: \_\_\_\_\_

Inspector Signature: \_\_\_\_\_

**PRIOR ALTERATION/DAMAGE/REPAIR INSPECTION IS BASED ON GOOD FAITH OBSERVATION, MINIMAL DISASSEMBLY AND WITHOUT USE OF COMPUTERIZED MEASURING SYSTEM(S). See NMAC 12.2.14.1, et seq. (NOT A WARRANTY.)**

[12.2.14.14 NMAC - N, xx/xx/xxxx]