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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN FRANCISCO DIVISION

15 PUBLIC CITIZEN, INC.,  
 16 et al.,  
 17 Plaintiffs  
 18 v.  
 19 MICHAEL MUKASEY, ATTORNEY  
 GENERAL OF THE UNITED STATES  
 20 Defendant.  
 21

No. CV 08-0833 (MHP)

**NOTICE OF SIGNATURE, PUBLIC  
 DISPLAY AND IMPENDING  
 PUBLICATION OF PROPOSED RULE**

1           **PLEASE TAKE NOTICE THAT** Defendant files herewith a copy of the Proposed  
2 Rule, 28 CFR Part 25, related to the National Motor Vehicle Title Information System  
3 (NMVTIS). This Rule will implement the NMVTIS reporting requirements imposed on junk and  
4 salvage yards and insurance carriers pursuant to 49 U.S.C. § 30504(c), clarify the NMVTIS  
5 funding process, clarify the various responsibilities of the NMVTIS operator, states, junk and  
6 salvage yards, and insurance carriers regarding NMVTIS, and set a reporting commencement  
7 date of June 1, 2009. The Proposed Rule was signed by Michael Mukasey, Attorney General of  
8 the United States, on September 16, 2008, and hand delivered to the United States Government  
9 Printing Office on September 17, 2008. It was placed on public display on the Office of the  
10 Federal Register website ([http://federalregister.gov/OFRUpload/OFRData/2008-22070\\_PL.pdf](http://federalregister.gov/OFRUpload/OFRData/2008-22070_PL.pdf))  
11 on September 19, 2008, and will be published in the Federal Register on September 22, 2008.  
12 As set forth in Defendant's September 2, 2008 filing, this publication will moot Plaintiffs' First  
13 and Second Claims for unlawful withholding and/or unreasonable delay of agency action. See  
14 Def.'s Opp'n and Reply at 15-18.

15       Dated: September 19, 2008

Respectfully submitted,

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**BILLING CODE: 4410-02**

**DEPARTMENT OF JUSTICE**

**28 CFR Part 25**

**Docket No. FBI 117; AG Order No. 3000-2008**

**RIN 1110-AA30**

**National Motor Vehicle Title Information System (NMVTIS)**

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The National Motor Vehicle Title Information System (NMVTIS) has been established pursuant to 49 U.S.C. 30502 and is in operation, or partial operation, in at least 25 states. NMVTIS is intended to provide authorized recipients with instant and reliable access to motor vehicle titling information maintained by the states. The goal of NMVTIS is to assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles into interstate commerce. NMVTIS helps state titling agencies by verifying motor vehicle and title information, information on brands applied to motor vehicles, and information regarding whether motor vehicles have been reported stolen. This rule implements the NMVTIS reporting requirements imposed on junk yards, salvage yards, and insurance carriers pursuant to 49 U.S.C. 30504(c). This rule also clarifies the process by which NMVTIS will be funded and clarifies the various responsibilities of the operator of NMVTIS, states, junk yards, salvage yards, and insurance carriers regarding NMVTIS.

**DATES:** Written comments must be submitted on or before [INSERT 60 days from publication

in the Federal Register].

**ADDRESSES:** Comments may be mailed to: James Landon, 935 Pennsylvania Ave., NW, Washington, DC 20535. To ensure proper handling, please reference FBI Docket No. 117 on your correspondence. You may submit comments electronically or view an electronic version of this proposed rule at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** David P. Lewis, 810 7<sup>th</sup> Street, NW, Washington, DC 20531, 202-616-6500.

**SUPPLEMENTARY INFORMATION:**

**Posting of Public Comments**

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase “PERSONAL IDENTIFYING INFORMATION” in the first paragraph of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much

confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Further Information Contact" paragraph.

### **Background**

The Anti-Car Theft Act of 1992 (Pub. L. 102-519) required the Department of Transportation (DOT) to establish an information system intended to enable states and others to access automobile titling information. As part of the Anti-Car Theft Act of 1992, DOT was authorized to designate a third party to operate the system. Since 1992, the American Association of Motor Vehicle Administrators (AAMVA) has acted in the capacity of the operator of the system. AAMVA is a nonprofit, tax exempt, educational association representing U.S. and Canadian officials who are responsible for the administration and enforcement of motor vehicle laws. The requirements of the Anti-Car Theft Act of 1992 were amended by Public Law 103-272 and the Anti-Car Theft Improvements Act of 1996 (Pub. L. 104-152). The Anti-Car Theft Improvements Act of 1996 renamed the automobile titling system the "National Motor Vehicle Title Information System" (NMVTIS) and transferred responsibility for implementing the system from DOT to the Department of Justice (hereinafter, the Anti-Car Theft Act of 1992 and the revisions made by Public Law 103-272 and the Anti-Car Theft Improvements Act of 1996, codified at 49 U.S.C. 30501-30505, are collectively referred to as the "Anti-Car Theft Act").

The purpose of NMVTIS is to provide an electronic means for verifying and exchanging title, brand, and theft data among motor vehicle administrators, law enforcement officials, prospective purchasers, and insurance carriers.<sup>11</sup> To date, the implementation of NMVTIS has focused on establishing access by the states and not on providing access to other authorized users. Currently, 33 states are actively involved with NMVTIS, representing more than 60 percent of the U.S. motor vehicle population. Specifically, 13 states are participating fully in NMVTIS, 12 states are regularly providing data to the system, and an additional 8 states are actively taking steps to provide data or participate fully.<sup>22</sup> States that participate fully in the system provide data regularly and have the ability to make NMVTIS inquiries before issuing a new title. These states also send updates to the system when necessary. States that regularly provide data to the system provide data to NMVTIS through a batch upload process.

In 2006, the Integrated Justice Information Systems (IJIS) Institute, a nonprofit organization made up of technology companies, was asked by Department of Justice's Bureau of Justice Assistance (BJA) to conduct a full review of the NMVTIS system architecture to identify any technological barriers to NMVTIS implementation and to determine if any potential cost savings was available through emerging technology. The IJIS Institute report found that: "... the NMVTIS program provides an invaluable benefit to state vehicle administrators and the public community as a whole. Advantages of the program include improving the state titling process, as well as providing key information to consumers and law enforcement agencies."

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<sup>1</sup> Brands are descriptive labels regarding the status of a motor vehicle, such as "junk," "salvage," and "flood" vehicles.

<sup>2</sup> There are currently 13 states participating fully in NMVTIS: Arizona, Florida, Indiana, Iowa, Kentucky, Massachusetts, New Hampshire, Nevada, Ohio, South Dakota, Virginia, Washington, and Wisconsin. Twelve states are providing regular data updates to NMVTIS: Alabama, Georgia, Idaho, Louisiana, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and Wyoming. Eight states are actively taking steps to provide data or participate

NMVTIS is a powerful tool for state titling agencies. Fully participating state titling agencies are able to use NMVTIS to prevent fraud by verifying the motor vehicle and title information, information on brands applied to a motor vehicle, and information on whether the motor vehicle has been reported stolen - all prior to the titling jurisdiction issuing a new title. In order to perform this check, these states run the vehicle identification number (VIN) against a national pointer file, which provides the last jurisdiction that issued a title on the motor vehicle and requests details of the motor vehicle from that jurisdiction, including the motor vehicle's last reported odometer reading.

Verification of this data allows fully participating states to reduce the issuance of fraudulent titles and reduce odometer fraud. Once the inquiring jurisdiction receives the information, a state is able to decide whether to issue a title. For fully participating states, if a new title is issued, NMVTIS notifies the last titling jurisdiction that another jurisdiction has issued a title. The old jurisdiction then can inactivate its title record. This action allows fully participating jurisdictions to identify and purge inactive titles on a regular basis.

NMVTIS also allows fully participating states to ensure that brands are not lost when a motor vehicle travels from state to state. As noted above, brands are descriptive labels regarding the status of a motor vehicle. Many brands, such as a flood vehicle brand, indicate that a motor vehicle may not be safe for use. Unfortunately, motor vehicles with brands on their titles can have their brands "washed" (i.e., removed ) from a title if the motor vehicle is retitled in another state that does not check with the state that issued the previous title to determine if it has any existing brands. Because NMVTIS keeps a history of brands applied by any state to the motor

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fully: Arkansas, Delaware, Montana, New Mexico, Oklahoma, South Carolina, Vermont, and West Virginia.

vehicle, it protects consumers by helping ensure that unsuspecting purchasers are not defrauded or placed at risk by purchasing an unsafe motor vehicle.

**Provisions of this Proposed Rule**

The continued implementation of NMVTIS and its effectiveness depends on the participation and cooperation of a number of parties. According to a cost-benefit study conducted by the National Institute of Justice: “The way NMVTIS is implemented—piecemeal, regionally, or nationally—will affect how criminals respond. Criminals are highly mobile and may avoid NMVTIS states until most of the country is covered by the system. Criminals use technology to their advantage, both to identify potential theft targets and to camouflage stolen vehicles.” As a result, any states not fully participating in NMVTIS and their citizens may be disproportionately targeted by criminals committing vehicle crimes.

Participation in NMVTIS needs to be expanded to all states. In addition, insurance carriers, junk yards, and salvage yards also need to provide certain information to NMVTIS relevant to the life-cycle of an automobile’s title in order for NMVTIS to function as intended. The Anti-Car Theft Act requires junk yards, salvage yards, and insurance carriers to report monthly to NMVTIS on all junk and salvage automobiles they obtain. Pursuant to 49 U.S.C. 30504(c), the Attorney General is authorized to issue regulations establishing “procedures and practices to facilitate reporting in the least burdensome and costly fashion.”

Accordingly, this rule implements the reporting requirements imposed on junk yards, salvage yards, and insurance carriers pursuant to 49 U.S.C. 30504(c). In addition, this rule clarifies the various responsibilities of the operator of NMVTIS, states, junk yards, salvage yards, and insurance carriers under the Anti-Car Theft Act to help ensure its effectiveness. Finally, this rule also proposes a means by which user fees will be imposed to fund NMVTIS.

#### 1. State Responsibilities

The effectiveness of NMVTIS increases as more states begin to participate. NMVTIS will only be as good as the quality and quantity of information it contains. Consequently, all non-participating states are strongly urged to comply with their obligations under the Anti-Car Theft Act and begin reporting titling information to NMVTIS as soon as possible. While the immediate goal of this proposed rule is to, at a minimum, have all states providing regular data updates to NMVTIS, the ultimate goal is for all states to participate fully in the system by providing real time data updates and by making inquiries into NMVTIS prior to issuing new titles.

In accordance with 49 U.S.C. 30502, NMVTIS must provide a means of determining whether a title is valid, where the automobile previously was titled, the automobile's reported mileage, if the automobile is titled as a junk or salvage automobile in another state, and whether the automobile has been reported as a junk or salvage automobile under 49 U.S.C. 30504. Each state is required to make their titling information available to NMVTIS. 49 U.S.C. 30503(a). Further, each state is required "to establish a practice of performing an instant title verification check before issuing a certificate of title." 49 U.S.C. 30503(b). This proposed rule clarifies what information must be reported by states to NMVTIS pursuant to the Anti-Car Theft Act and

sets out the procedures and practices that states must follow to provide this needed information. Pursuant to 49 U.S.C. 30503(a), states are required to make the titling information they maintain available for use in NMVTIS. Specifically, states will be required to report an automobile's VIN, any description of the automobile included on the certificate of title, the name of the individual or entity to whom the certificate was issued, and information from junk or salvage yard operators or insurance carriers regarding the acquisition of junk automobiles or salvage automobiles, if this information is being collected by the state.

The Anti-Car Theft Act specifically covers "automobiles" as defined at 49 U.S.C. 32901(a). That definition, which is part of the fuel economy laws, was most recently amended by the Energy Independence and Security Act of 2007, Pub. L. 110-140, and generally covers vehicles with 4-wheels that are rated at less than 10,000 pounds gross vehicle weight, but excludes vehicles that operate on rails, certain vehicles manufactured in different stages by two or more manufacturers, and certain work trucks. Participating states, however, have been providing information to NMVTIS on other types of motor vehicles<sup>33</sup> possessing VINs, such as motorcycles and various work trucks. Information on these other types of motor vehicles is very useful to the users of NMVTIS. Therefore, states are strongly encouraged to continue reporting information on all motor vehicles possessing VINs in their state titling systems to NMVTIS.

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<sup>3</sup> Pursuant to 49 U.S.C. 30102(6), a "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

The Anti-Car Theft Act also requires that the operator of NMVTIS make available the odometer mileage that is disclosed pursuant to 49 U.S.C. 32705 on the date the certificate of title for the automobile was issued and any later mileage information, if noted by the state.

Accordingly, the rule proposes to require states to provide such mileage information. In addition, the rule will permit, with the approval of the operator and the state, the state to provide any other information that is included on a certificate of title or that is maintained by the state in relation to the certificate of title.

2. Insurance Carriers

The Anti-Car Theft Act authorized the Attorney General to issue regulations establishing procedures by which insurance companies must report monthly to NMVTIS on the junk and salvage automobiles they obtain. 49 U.S.C. 30504(c). Accordingly, this proposed rule clarifies the reporting requirements imposed on insurance carriers regarding junk and salvage automobiles. Salvage automobiles are defined by the Anti-Car Theft Act to mean “an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.” 49 U.S.C. 30501(7). For purposes of clarification, the Department of Justice has determined that this definition includes all automobiles found to be a total loss under the laws of the applicable jurisdiction or designated as a total loss by the insurance carrier under the terms of its policies. As a practical matter, the determination that an automobile is a total loss (i.e, that the automobile has been “totaled”) is the logical event that should trigger reporting by an insurance carrier. Insurance carriers will be required under this proposed rule to provide NMVTIS with the VIN of such automobiles, the date on which the automobile was obtained or designated as a junk or salvage automobile, the name of the individual or entity from whom the automobile was obtained or who possessed it when the automobile was designated as a junk or salvage automobile, and the name of the owner of the automobile at the time of the filing of the report. In accordance with 49 U.S.C. 30504(b), the report must provide such information on “all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are junk automobiles or salvage automobiles.”

In addition, although not specifically required by the Anti-Car Theft Act or this proposed rule, this rule will permit insurance carriers to provide the NMVTIS operator with information on other motor vehicles, including older model automobiles, and other information relevant to a motor vehicle's title, including the reason why the insurance carrier obtained possession of the motor vehicle. For example, the insurance carrier may have obtained possession of the motor vehicle because it had been subject to flood, water, collision, or fire damage, or as a result of theft and recovery. The reporting of this information by insurance carriers will help reduce instances when thieves use the VINs of junk or salvage motor vehicles on stolen motor vehicles. Also, this information will be useful in making it more difficult for criminals to wash brands in order to defraud purchasers. Accordingly, the Department of Justice strongly encourages insurance carriers to report such additional information to the operator.

3. Junk Yards and Salvage Yards

Under this proposed rule, junk yards and salvage yards will be required to provide NMVTIS with the VIN, the date the automobile was obtained, the name of the individual or entity from whom the automobile was obtained, and a statement of whether the automobile was crushed or disposed of, for sale or other purposes. The reporting of this information will be limited to junk yards and salvage yards located within the United States. Pursuant to the Anti-Car Theft Act, junk and salvage yards are defined as individuals or entities engaged in the business of acquiring or owning junk or salvage automobiles for resale in their entirety or as spare parts or for rebuilding, restoration, or crushing. See 49 U.S.C. 30501(5) and (8). For purposes of the reporting requirement imposed by this rule, the Department of Justice has determined that so-called “salvage pools” that acquire junk and salvage automobiles for resale are included within the scope of the definitions of junk and salvage yards. A salvage pool is an entity that acquires junk and salvage automobiles from a variety of parties and consolidates them for resale at a common point of sale. The pooling of junk and salvage automobiles attracts a large number of buyers. It is the Department of Justice’s belief that some of these buyers purchase junk and salvage automobiles at salvage pools in order to acquire VINs that can be used on stolen motor vehicles or to create cloned motor vehicles for other illicit purposes.

Pursuant to 49 U.S.C. 30504(a)(2), junk yards and salvage yards will not be required to submit reports to NMVTIS if they already report the required information to the state in which they are located and that state makes that information available to the operator; or if they are issued a verification stating that the automobile or parts from the automobile are not reported as stolen.

#### 4. Lenders and Automobile Dealers

The Anti-Car Theft Act requires the operator to make NMVTIS information available to prospective purchasers, including auction companies and entities engaged in the business of purchasing used automobiles. The Department believes that the scope of prospective purchasers also includes lenders who are financing the purchase of automobiles and automobile dealers. Lenders and dealers are integral components of the automobile purchasing and titling process. The Department also proposes to allow the operator to permit public and private entities involved in the purchasing and titling of automobiles to access NMVTIS if such access will assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce. Allowing such entities to query NMVTIS information not only will provide a means of identifying stolen motor vehicles, but also will help to prevent fraud and improve public safety.

##### 5. Responsibilities of the Operator of NMVTIS

In accordance with 49 U.S.C. 30502, NMVTIS must provide a means of determining whether a title is valid, where the automobile previously was titled, the automobile's reported mileage, if the automobile is titled as a junk or salvage automobile in another state, and whether the automobile has been reported as a junk or salvage automobile under 49 U.S.C. 30504. Further, the operator of NMVTIS must make relevant information available to states, law enforcement officials, prospective purchasers, and prospective and current insurers. This rule clarifies that the operator of NMVTIS will be responsible for collecting the required information and providing the necessary access.

In particular, the operator of NMVTIS will be responsible for ensuring that law enforcement agencies have access to titling information through NMVTIS. NMVTIS is a

powerful tool to combat automobile theft. Before NMVTIS, a thief could steal a car, take it over the state line, and then get a valid title by presenting fraudulent ownership documentation to the new state. Thieves often would switch the VIN plate of a stolen motor vehicle with one from a junked car in order to get a valid title for the stolen car. These activities were possible because the states had no instant, reliable way of validating the information on the ownership documentation prior to issuing the new title. NMVTIS will provide law enforcement agencies with access to make inquiries to further their investigations of motor vehicle theft and fraud. This access will allow law enforcement agencies to better identify stolen motor vehicles and enhance their ability to identify vehicle theft rings. NMVTIS will reduce the ability of organized criminal organizations to obtain fraudulent vehicle registrations by linking state and international authorities with real-time verification of information. This system also will provide an additional tool to identify and investigate international organized criminal and terrorist activity. NMVTIS will assist investigations of vehicles involved in violent crimes, smuggling (narcotics, weapons, undocumented aliens, and currency) and fraud.

The operator of NMVTIS also will be responsible for ensuring that a means exists for allowing insurers and purchasers to access information prior to purchasing a motor vehicle, including information regarding brands and odometer readings. As noted above, motor vehicles that incur significant damage are considered “junk” or “salvage.” Fraud occurs when junk or salvage motor vehicles are presented for sale to purchasers without disclosure of their real condition. Not only are unsuspecting purchasers paying more than the motor vehicle is worth, they do not know if the damaged vehicles have been adequately repaired and are safe to drive. For example, during Hurricane Katrina, thousands of motor vehicles were completely flooded

and many remained under water for weeks before flood waters subsided. Many of these flooded motor vehicles were taken to other states where they were be cleaned and sold as purportedly undamaged used cars, despite the damage caused by the flood which jeopardizes the motor vehicles' electrical and safety systems. This fraud has serious consequences for not only commerce and law enforcement, but highway and citizen safety.

The Department anticipates that the operator will implement a web-based method of permitting prospective purchasers to access NMVTIS information. The Department welcomes comments on whether access should be provided solely by the operator or the Department of Justice, or if web-based access should be permitted through other public or private entities, including consumer groups and for-profit organizations. The cost for web-based prospective purchaser inquiries likely will be nominal and may be combined with fees that may be charged by other public or private entities should that option be exercised.

6. User Fees

Pursuant to 49 U.S.C. 30502(c), NMVTIS is to be “paid for by user fees and should be self-sufficient and not be dependent on amounts from the United States Government. The amount of fees the operator collects and keeps ... subject to annual appropriations laws, excluding fees the operator collects and pays to an entity providing information to the operator, may be not more than the costs of operating the System.” Rather than charge states user fees based on the number of transactions they place with NMVTIS, the operator of NMVTIS currently employs a 10-tiered fee structure. The fee a particular state is charged depends on which tier that state is placed based on the number of titled motor vehicles in that state. As a result of the great disparity between the states in their total number of titled motor vehicles, the per vehicle fee currently charged by the operator of NMVTIS ranges from less than 1 cent per vehicle in the states with the most titled motor vehicles to nearly 7 cents per vehicle in the state with the lowest number of titled motor vehicles. This fee structure was developed by AAMVA and approved by their Board of Directors. As noted above, AAMVA is a nonprofit, tax exempt, educational association representing U.S. and Canadian officials who are responsible for the administration and enforcement of motor vehicle laws.

This rule proposes to continue to allow the operator of NMVTIS to charge user fees to the states based on the total number of motor vehicles titled in the state, but without employing tiers. Such a pro rata fee structure would simplify billing for both the states and the operator of NMVTIS. In addition, a state would not be subject to a significant change in user fees if it moves from one tier to another. Moreover, by eliminating tiers, a state at the low end of a tier with fewer titled motor vehicles would no longer have to pay the same fee as a state at the high end of a tier with more titled motor vehicles.

The Department of Justice also proposes to continue the practice of basing the state fees on the number of motor vehicles, as opposed to the number of automobiles, titled in a state. Participating states currently are providing information on motor vehicles other than automobiles and the total fees paid by a given state would likely be comparable even if the fees were based on the total number of titled automobiles.

In addition, the Department of Justice proposes to allow the operator to charge the user fee to all states, even if a state is not a current participant in NMVTIS. In accordance with 49 U.S.C. 30503(a) and (b), each state is required to make titling information available to NMVTIS and conduct title verification checks before issuing a title. Because all states are required to participate in NMVTIS, this rule proposes to allow the operator to charge the user fee to all states, regardless of their current level of participation.

Under this proposed rule and consistent with the Anti-Car Theft Act, users, such as purchasers, insurers, consumers, and other non-governmental entities, may be charged a transaction fee for inquiries they make to NMVTIS. The operator would not be permitted to charge fees for transactions performed by fully participating states or inquiries made by law enforcement agencies under this proposed rule.

The expenses to be recouped by the operator of NMVTIS through its fees will consist of labor costs, data center operations costs, the cost of providing access to authorized users, annual functional enhancement costs (including labor and hardware), and the cost of technical upgrades. AAMVA currently estimates that the annual cost of operating NMVTIS is approximately \$5,650,000. According to DOT's 2005 Highway Statistics, 241,193,974 vehicles were titled in the United States in 2005. Therefore, the cost to fund NMVTIS will be less than 3 cents per

motor vehicle title. The operator of NMVTIS will inform the states of the applicable fees either through publication in the Federal Register or by direct notice to the states. AAMVA currently has contracts with the states by which fees to fund NMVTIS are imposed or adjusted.

The operator will be required to recalculate its fees on at least an annual basis. Any fees charged to the states would be offset by transaction fees charged to non-governmental entities. In addition, the total fees charged to the states would be reduced by future funds awarded by the U.S. Government to the operator to assist in implementing the system. Any fee structure imposed by the operator must be approved by the Department of Justice.

As alternatives to a non-tiered fee structure based on the total number of motor vehicles titled in a state, the Department welcomes comments on: i) whether the state fee should be limited solely to participating states; ii) whether the state fee should be based on the total number of titled motor vehicles, the total number of titled automobiles, or some other subset of motor vehicles; iii) whether the fee structure should be tiered or non-tiered; and iv) whether all or a portion of the state fee should be based on the number of transactions conducted by a particular state.

Although a transaction-based fee structure would be a more traditional basis for a user fee, such a fee structure would require the operator of NMVTIS to revise its billing process and would likely be more costly to implement. AAMVA estimates that it currently processes approximately 46,213,983 transactions per year. Therefore, the cost to fund NMVTIS would be approximately 13 cents per transaction under a transaction-based fee structure.

Since Fiscal Year 1997, the Department of Justice, through BJA, has provided over \$12 million to AAMVA for NMVTIS implementation. In Fiscal Year 2007, BJA invited states to apply for funding to support initial NMVTIS implementation. This competitive funding solicitation closed on July 19, 2007, with 5 states applying. BJA also invited AAMVA, the system operator, to apply for direct funding from BJA in Fiscal Year 2007, to supplement state participation fees received by AAMVA, as authorized under the Anti-Car Theft Act, and encouraged states to apply through its other funding programs to enhance NMVTIS participation. As a result of these solicitations, funding was awarded to AAMVA to assist with NMVTIS implementation, and funds were awarded to the states of Delaware, New Mexico, South Carolina, Vermont, and Wisconsin to begin initial implementation or to enhance their participation. As noted above, funds awarded to the operator of NMVTIS will reduce the amount of user fees that must be imposed to implement NMVTIS.

### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Although the reporting requirements imposed by the Anti-Car Theft Act will apply to all small insurance companies and small junk and salvage yard operators that handle junk or salvage automobiles, the Department believes that the incremental cost for these entities to collect VINs and the other required information will be minimal and that the rule will not have a significant economical impact on them. Many insurance companies and junk and salvage yards already capture VINs as a means of positively identifying automobiles and tracking inventory. The

additional cost to insurance companies, junk yard operators, and salvage yard operators to report the collected information electronically to NMVTIS is not expected to exceed 1 cent per motor vehicle for most entities after the first year. In the first year only, start up investments increase this per vehicle cost to approximately 4 cents per vehicle. For the estimated small number of non-automated reporting entities, a manual reporting process may be required, in which case the additional cost is estimated at 96 cents per vehicle annually. In the first year only, the cost for these entities is estimated at \$1.86 per vehicle due to initial investment or start up needs. Indeed, these costs may be significantly lower or possibly even eliminated altogether if insurance, salvage and junk data is provided through a state or third party that may already have access to the data and may be in a position to establish a data sharing arrangement with NMVTIS in order to reduce the reporting burden on these entities.

Moreover, insurance companies will not be required to provide data on automobiles older than the four previous model years. In addition, junk and salvage yards will not be required to report if they already report the information to the state and the state makes that information available to the operator; or if they are issued a verification under 49 U.S.C. 33110 stating that the automobile or parts from the automobile are not reported as stolen.

The Department has attempted to minimize the impact of the rule on small businesses by allowing them to use third parties to report the statutorily required information to NMVTIS. In addition, the monthly reporting requirements of this rule only apply to automobiles obtained by the business within the prior month.

The Department seeks comments on the assumptions used in this analysis and is interested in any data that commenters can provide on the time and cost to collect the required information and to submit the information to the operator of NMVTIS.

### **Paperwork Reduction Act**

The Department has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995, Public Law No. 104-13, 109 Stat. 163. The proposed information collection is published to obtain comments from the public and affected agencies.

Public comments are encouraged and will be accepted until [INSERT 60 days from publication in the Federal Register]. We request comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to: James Landon, 935 Pennsylvania Ave., NW, Washington, DC 20535.

*Overview of This Information Collection:*

(1) Type of information collection: New collection.

(2) Title of the form/collection: NMVTIS.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: No form. FBI, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit (states, motor vehicle insurers, junk yards, and salvage yards).

Brief Abstract: The Department of Justice is implementing the NMVTIS, 49 U.S.C. 30501, *et seq.*, by issuing regulations to establish a national system for verifying the titles of motor vehicles marked with a VIN. Under specific conditions detailed in the regulations, the following entities or persons must provide information: a state, insurance carrier, or a person or entity operating a junk yard or salvage yard.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: Fifty states and the District of Columbia, 3,000 insurance companies and 10,000 junk and salvage yard operators. The states and insurance companies already are capturing most of the data needed to be reported, and the reporting will be electronic, so the time to respond will be minimal. For junk and salvage yard operators it is estimated that it will take respondents an average of 30 minutes per month to respond.

(6) An estimate of the annual total public burden (in hours) associated with the collection: 60,000 total burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **Executive Order 12866**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f). Accordingly, this rule has been reviewed by the Office of Management and Budget.

*Regulatory Impact Assessment*

In 1999, the then General Accounting Office (GAO) conducted a review of NMVTIS. The GAO report found that a life-cycle cost and benefits analysis should be performed to determine if further federal funding of NMVTIS was warranted. Accordingly, at the request of the Department of Justice, the Logistics Management Institute (LMI) conducted such an analysis. The 2001 LMI report found that NMVTIS would achieve significant net benefits if it is fully implemented in all 50 states and the District of Columbia. In addition, the 2006 IJIS Institute report found that: "... the NMVTIS program provides an invaluable benefit to state vehicle administrators and the public community as a whole. Advantages of the program include improving the state titling process, as well as providing key information to consumers and law enforcement agencies." Based on these reviews of NMVTIS and the Department's experience with automobile theft and fraud, the Department believes that the full implementation of NMVTIS should reduce the market for stolen motor vehicles, enhance public safety, and reduce fraud. This rule will serve to enhance the efficacy of NMVTIS by implementing the statutory reporting requirements imposed on junk and salvage yards and insurance carriers and clarifying the obligations of the states and the operator of NMVTIS.

The operator of the NMVTIS is entitled to receive revenues from user fees to support the system. Currently, these fees generate approximately \$1.5 million annually. AAMVA, however, estimates the annual operating cost of the system to be approximately \$3,500,000 to \$5,650,000 - depending on necessary system upgrades that may be required and user volume. Therefore, the current AMMVA fee structure underfunds NMVTIS by \$2,000,000 to \$4,150,000 according to their estimates. According to the Department of Transportation's 2005 Highway Statistics,

241,193,974 vehicles were titled in the United States in 2005. Therefore, the total cost to the operator to fund NMVTIS ranges from 1 cent to 2.3 cents per motor vehicle title titled in the U.S. Consequently, the average fees to charged to the states by the operator under this proposed rule should be less than 3 cents per vehicle. In most cases, states that choose to integrate the NMVTIS processes of data provision and inquiry into their titling process generally incur one-time upgrade costs to establish these connections. In nearly every case, once a connection to the system is established, data transmission for uploads and inquiries is automated and occurs without recurring costs. With these one-time costs and state fees considered, the costs to states are estimated at 6 cents per vehicle. This scenario includes making the data available to NMVTIS via real time updates and making inquiries into the system prior to issuing new titles. While the frequency of reporting does not impact costs under this scenario, states can lower their upgrade costs by choosing to integrate the NMVTIS reporting and inquiry requirements into their business rules but not into their electronic titling processes. In these cases, states would see lower costs by establishing a regular reporting/data upload process but not re-engineering their own title information systems for real time updates. Under this scenario, instead of a state's title information system automatically making the NMVTIS inquiry, the title clerk would switch to an internet enabled PC to perform a web search of NMVTIS via a secure virtual private network (VPN). Because this type of search is internet-based versus state title information system-based, no changes to the state's title information system is required and therefore there is no cost for this aspect of compliance. For the reporting aspect however (*i.e.*, programming an automated batch upload process via file transfer protocol (FTP)), it is anticipated that states would incur reporting costs of less than 1 cent per vehicle. Assuming the reporting costs for states are 0.005

cents per vehicle and that 241,193,974 vehicles are titled in the United States, the Department estimates that the reporting costs for states is approximately \$1,205,970.

The incremental cost to insurance companies and junk and salvage yard operators that handle junk or salvage automobiles also is expected to be low. Many insurance companies and junk and salvage yards already capture VINs as a means of positively identifying automobiles and tracking inventory. Additionally, for both the insurance sector and the junk/salvage industry, many companies are already reporting much of the required data to independent third parties who have indicated a willingness to pass this data on to DOJ for NMVTIS use.

According to the National Insurance Crime Bureau (NICB), it is estimated that there are approximately 321 insurance groups representing approximately 3,000 insurers that report an estimated 2.4 million salvage and total loss records annually (based on the most recent three-year average). Furthermore, based on 2007 insurance data, over 60% of these motor vehicles will originate from the ten largest insurance groups. These 3,000 insurers would then be responsible for reporting this total loss information to NMVTIS if not already reported to a state or to a third party that agrees to provide the data to NMVTIS. In those cases where the data is already reported to a state or to a cooperating third party, there is no additional cost to insurance carriers. In cases where this data is not currently reported to a cooperating third party or state, the carrier would be required to report the data to NMVTIS. With the assumption that the data is already collected and in a format that is exportable, and assuming that NMVTIS would establish a reporting mechanism involving a simple FTP-based solution, the cost to insurance carriers is similar to the state reporting costs of less than 1 cent per vehicle. The FBI previously has estimated that approximately 10.5 million junk and salvage vehicles are handled each year.

Assuming that it costs insurance carriers approximately 0.005 cents per vehicle to report and that the insurance carriers are required to report on all 10.5 million junk and salvage vehicles, then the reporting costs to insurance carriers will be approximately \$52,500 annually.

Similarly, junk and salvage yard operators that already are reporting to cooperating third parties would not be required to report separately. Thus, NMVTIS would impose no additional burden. For those entities not voluntarily reporting to a cooperating third party, a separate reporting mechanism would be established. Depending on the type of mechanism established (e.g., FTP-based solution, form-fax solution, etc.), the costs will vary. It is assumed that all junk and salvage yard operators already collect much of the information required under the rule and therefore it is only the transmission of this data to NMVTIS that will result in costs. The table below summarizes these cost estimates.

| <b>Yard Size</b>             | <b>Reporting Method</b> | <b>Initial Investment Costs</b> | <b>Annual Ongoing Labor Costs</b> | <b>Annual Vehicle Volume*</b> | <b>Total Annual Average Labor Costs per vehicle</b> | <b>Total First Year Costs (includes initial investment costs and annual labor costs)</b> |
|------------------------------|-------------------------|---------------------------------|-----------------------------------|-------------------------------|---|--|
| <b>Small (non-automated)</b> | <b>Fax</b>              | <b>\$90</b>                     | <b>12 hours per year/\$96.00</b>  | <b>1-200</b>                  | <b>96 cents</b>                                     | <b>\$1.86</b>  |
| <b>Small (automated)</b>     | <b>FTP</b>              | <b>\$0</b>                      | <b>24 minutes per year/\$3.12</b> | <b>1-200</b>                  | <b>3 cents</b>                                      | <b>3 cents</b>   |
| <b>Medium</b>                | <b>FTP</b>              | <b>\$0</b>                      | <b>24 minutes per year/\$3.12</b> | <b>201-500</b>                | <b>&lt;1 cent</b>                                   | <b>&lt;1 cent</b>  |
| <b>Large</b>                 | <b>FTP</b>              | <b>\$250</b>                    | <b>24 minutes per year/\$3.12</b> | <b>501-7,800</b>              | <b>&lt;1 cent</b>                                   | <b>6 cents</b>   |

(\* Note: Per vehicle costs based on an average annual vehicle volumes.)

While it is difficult to estimate how many junk/salvage yards are not automated, the National Salvage Vehicle Reporting Program (NSVRP) and other industry representatives estimate that nearly all have some form of data collection even if they do not have automation in

place. The NSVRP has discussed with many of the inventory management vendors the assistance that can be made available to establish reliable reporting protocols through its voluntary and independent efforts within the industry. If such assistance is available from these vendors, nearly all junk/salvage yards will have some form of automation and be capable of exporting and sending monthly reports electronically.

In cases in which small junk and salvage yards have no form of automation or computerized files, the Departments assumed that a fax process would be needed. This paper-based process would likely incur additional labor costs that would bring the estimated per vehicle costs for this small number of businesses to approximately 0.96 cents per vehicle (annual labor costs). However, according to industry representatives, the number of junk/salvage yards of this size are relatively few (estimated at 20 percent of licensed junk and salvage yards) and the number of these few businesses without any automation is even lower (expected to be less than 1,700 licensed businesses in the U.S.). These businesses would not incur these costs if already reporting this data to a state or another cooperating third party.

Assuming that small junk and salvage yards handle approximately 170,000 vehicles annually (at \$0.96 per vehicle annual labor costs) and that the remaining junk and salvage yards handle 10,330,000 vehicles annually (at an average labor cost of 1 cent per vehicle), then the Department estimates that their annual reporting costs will be approximately \$266,500.

The Department anticipates that the cost for web-based prospective purchaser inquiries will be nominal. Similarly, the cost to law enforcement to access NMVTIS also is expected to be minimal assuming law enforcement is not charged any direct transaction costs. Law enforcement will access NMVTIS through their existing infrastructure. The only cost will be to

the operator of the system based on the number of inquiries received from law enforcement. The expected cost to the operator is less than 12 cents per inquiry.

The Department of Justice also considered possible alternatives to those proposed in the rule. Indeed, pursuant to 49 U.S.C. 30504(c), the Attorney General was required to establish “procedures and practices to facilitate reporting in the least burdensome and costly fashion” on insurance carriers and junk and salvage yards. Because of the statutory requirements imposed by the Anti-Car Theft Act, however, the Department of Justice did not have many options regarding the information that must be provided and the scope of the entities that must report the required information. In particular, the information required to be reported by the proposed rule is mandated by the Anti-Car Theft Act. The Department also considered various alternatives for funding NMVTIS, such as a tiered-based fee structure and a transaction-based fee structure. The Department believes that the proposed non-tiered fee structure based on the total number of motor vehicles titled in a state is preferable to these alternatives because it complies with the Anti-Car Theft Act and minimizes any burden imposed on reporting entities.

With regard to all sector reporting requirements, in most cases reducing the reporting timelines from monthly to semi-annually or less will not significantly reduce costs due to the benefits of automated processes. Additionally, the costs that this reduced reporting would incur by enabling theft and fraud to continue far outweighs the benefits. Consumers, states, law enforcement, and others need to know as soon as possible when a vehicle is reported as totaled or salvage to prevent the vehicle from being turned over to another state or consumer with a clean title. Moreover, a monthly reporting cycle is expressly required by statute.

The Department welcomes input from the public regarding the costs and benefits of the proposed provisions in this rule.

### **Executive Order 13132**

In accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant a federalism summary impact statement. The rule does not impose substantial direct compliance costs on State and local governments and does not preempt State law. In formulating this rule, the Department has worked closely with AAMVA regarding the implementation of NMVTIS.

### **Executive Order 12988**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

### **List of Subjects**

#### 28 CFR Part 25

Crime, Law enforcement, Motor vehicles safety, Motor vehicles, Reporting and recordkeeping requirements, Transportation.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510 and, for the reasons set forth in the preamble, part 25 of chapter I of Title 28 of the Code of Regulations is proposed to be amended as follows:

### **PART 25 - DEPARTMENT OF JUSTICE INFORMATION SYSTEMS**

1. The Authority citation for part 25 is revised to read as follows:

**Authority:** Pub. L. 103-159, 107 Stat. 1536, 49 U.S.C. 30501-30505; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

2. Part 25 is amended by adding subpart B to read as follows:

**Subpart B - National Motor Vehicle Title Information System (NMVTIS)**

Sec.

25.51 Purpose and authority.

25.52 Definitions.

25.53 Responsibilities of the Operator of NMVTIS.

25.54 Responsibilities of the States.

25.55 Responsibilities of Insurance Carriers.

25.56 Responsibilities of Junk yards and Salvage yards.

**Subpart B - National Motor Vehicle Title Information System (NMVTIS)**

**§ 25.51 Purpose and authority.**

The purpose of this subpart is to establish policies and procedures implementing the National Motor Vehicle Title Information System (NMVTIS) in accordance with Title 49 U.S.C. 30502.

**§ 25.52 Definitions.**

For purposes of this subpart B:

*Automobile* has the same meaning given that term in 49 U.S.C. 32901(a).

*Certificate of title* means a document issued by a state showing ownership of an automobile.

**Insurance carrier** means an individual or entity engaged in the business of underwriting automobile insurance.

**Junk automobile** means an automobile that -

- (1) Is incapable of operating on public streets, roads, and highways; and
- (2) Has no value except as a source of parts or scrap.

**Junk yard** means an individual or entity engaged in the business of acquiring or owning junk automobiles for -

- (1) Resale in their entirety or as spare parts; or
- (2) Rebuilding, restoration, or crushing.

**Motor Vehicle** has the same meaning given that term in 49 U.S.C. 3102(6).

**NMVTIS** means the National Motor Vehicle Title Information System.

**Operator** means the individual or entity authorized or designated as the operator of NMVTIS under 49 U.S.C. 30502(b), or the office designated by the Attorney General, if there is no authorized or designated individual or entity.

**Purchaser** means the individual or entity buying an automobile or financing the purchase of an automobile. For purposes of this subpart, purchasers include auction companies or entities engaged in the business of purchasing used automobiles, lenders financing the purchase of new or used automobiles, and automobile dealers.

**Salvage automobile** means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.

Salvage automobiles include automobiles determined to be a total loss under the law of the applicable jurisdiction or designated as a total loss by an insurer under the terms of its policies.

Salvage yard means an individual or entity engaged in the business of acquiring or owning salvage automobiles for -

- (1) Resale in their entirety or as spare parts; or
- (2) Rebuilding, restoration, or crushing.

State means a state of the United States or the District of Columbia.

Total loss means that the cost of repair plus projected supplements plus projected diminished resale value plus rental reimbursement expense exceeds the cost of buying the damaged automobile at its pre-accident value, minus the proceeds of selling the damaged automobile for salvage.

VIN means the vehicle identification number;

### **§ 25.53 Responsibilities of the Operator of NMVTIS**

- (a) The operator shall make available:
  - (1) To a participating state on request of that state, information in NMVTIS about any automobile;
  - (2) To a Government, state, or local law enforcement official on request of that official, information in NMVTIS about a particular automobile, junk yard, or salvage yard;
  - (3) To a prospective purchaser of an automobile on request of that purchaser, information in NMVTIS about that automobile; and
  - (4) To a prospective or current insurer of an automobile on request of that

insurer, information in NMVTIS about the automobile.

(b) NMVTIS shall permit a user of the system to establish instantly and reliably:

(1) The validity and status of a document purporting to be a certificate of title;

(2) Whether an automobile bearing a known VIN is titled in a particular state;

(3) Whether an automobile known to be titled in a particular state is or has been a junk automobile or a salvage automobile;

(4) For an automobile known to be titled in a particular state, the odometer mileage disclosure required under 49 U.S.C. 32705 for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the state; and

(5) Whether an automobile bearing a known VIN has been reported as a junk automobile or a salvage automobile under 49 U.S.C. 30504.

(c) The operator is authorized to seek and accept additional information from state and public and private entities which is relevant to the titling of automobiles and to assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce. The operator, however, may not collect any social security account numbers as part of any of the information provided by any state or public or private entity. The operator also may allow public and private entities that provide information to NMVTIS to query the system if such access will assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce.

(d) The means by which access is provided by the operator to users of NMVTIS must be approved by the Department of Justice.

(e) The operator may establish and collect user fees from the states and users of NMVTIS to pay for its operation, but the operator may not collect fees in excess of the costs of the operating the system. The expenses to be recouped by the operator of NMVTIS will consist of labor costs, data center operations costs, the cost of providing access to authorized users, annual functional enhancement costs (including labor and hardware), and the cost of technical upgrades. User fees collected from states should be based on the states' pro rata share of the total number of titled motor vehicles. All states, regardless of their level of participation, may be charged this user fee. Transaction fees, other than fees based on the number of motor vehicles titled by a state, may not be collected from a fully participating state, but transaction fees may be collected from other users of NMVTIS. No fees should be charged for inquiries from law enforcement agencies. The operator will be required to recalculate the user fees on at least an annual basis. Any user fee structure established by the operator must be established with the approval of the Department of Justice. The operator of NMVTIS will inform the states of the applicable user fees either through publication in the Federal Register or by direct notice to the states.

(f) The operator will establish procedures and practices to facilitate reporting to NMVTIS in the least burdensome and costly fashion. If the operator is not the Department of Justice, the operator must provide an annual report to the Department of Justice detailing the fees it collected and how it expended such fees and other funds appropriated to operate NMVTIS.

#### **§ 25.54 Responsibilities of the States**

(a) By no later than June 1, 2009, each state shall provide, or cause to be provided by an

agent or third party, to the designated operator and in a format acceptable to the operator, titling information for all automobiles maintained by the state. The titling information provided to NMVTIS must include the following:

- (1) VIN;
- (2) Any description of the automobile included on the certificate of title;
- (3) The name of the individual or entity to whom the certificate was issued; and
- (4) Information from junk or salvage yard operators or insurance carriers

regarding the acquisition of junk automobiles or salvage automobiles, if this information is being collected by the state.

(5) For an automobile known to be titled in a particular state, the odometer mileage disclosure required under 49 U.S.C. 32705 for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the state.

(b) With the approval of the operator and the state, the titling information provided to NMVTIS may include any other information included on the certificates of title and any other information the state maintains in relation to these titles.

(c) Each state shall perform an instant title verification check through NMVTIS before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another state. The check will consist of --

- (1) Communicating to the operator --
  - (i) The VIN of the automobile for which the certificate of title is sought;
  - (ii) The name of the state that issued the most recent certificate of title for

the automobile; and

(iii) The name of the individual or entity to whom the certificate of title was issued; and

(2) Giving the operator an opportunity to communicate to the participating state the results of a search of the information.

**§ 25.55 Responsibilities of Insurance Carriers.**

(a) By no later than June 1, 2009, and on a monthly basis as designated by the operator, any individual or entity acting as an insurance carrier conducting business within the United States shall provide, or cause to be provided on its behalf, to the operator and in a format acceptable to the operator, a report that contains an inventory of all automobiles of the current model year or any of the four prior model years that the carrier, during the past month, has obtained possession of and has decided are junk automobiles or salvage automobiles. An insurance carrier shall report on any automobiles that it has determined to be a total loss under the law of the applicable jurisdiction or designated as a total loss by the insurance company under the terms of its policies.

(b) The inventory must contain the following information:

(1) VIN;

(2) The date on which the automobile was obtained or designated as a junk or salvage automobile;

(3) The name of the individual or entity from whom the automobile was obtained or who possessed it when the automobile was designated as a junk or salvage automobile; and

(4) The name of the owner of the automobile at the time of the filing of the report.

(c) Insurance carriers are strongly encouraged to provide the operator with information on other motor vehicles or other information relevant to a motor vehicle's title, including the reason why the insurance carrier obtained possession of the motor vehicle. For example, the insurance carrier may have obtained possession of a motor vehicle because it had been subject to flood, water, collision, or fire damage, or as a result of theft and recovery. The provision of information provided by an insurance carrier under this paragraph must be pursuant to a means approved by the operator.

**§ 25.56 Responsibilities of Junk yards and Salvage yards.**

(a) By no later than June 1, 2009, and continuing on a monthly basis as designated by the operator, any individual or entity engaged in the business of operating a junk yard or salvage yard within the United States shall provide, or cause to be provided on its behalf, to the operator and in a format acceptable to the operator, an inventory of all junk automobiles or salvage automobiles obtained by that entity in the prior month.

(b) The inventory shall include the following information:

(1) VIN;

(2) The date the automobile was obtained;

(3) The name of the individual or entity from whom the automobile was obtained;

(4) A statement of whether the automobile was crushed or disposed of, for sale or other purposes.

(c) Junk and Salvage yards, however, are not required to report this information if they

already report the information to the state and the state makes that information available to the operator; if they are issued a verification under 49 U.S.C. 33110 stating that the automobile or parts from the automobile are not reported as stolen.

(d) Junk and Salvage yards are encouraged to provide the operator with similar information on motor vehicles other than automobiles that they obtain that possess VINs.

September 16, 2008

Date

\_\_\_\_\_  
Michael B. Mukasey  
Attorney General

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