



American Association of Motor Vehicle Administrators

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NHTSA Proposes Rule to Allow Electronic Odometer Disclosure

The National Highway Traffic Safety Administration (NHTSA) has [published](#) a Notice of Proposed Rulemaking (NPRM) regarding Odometer Disclosure Requirements. The Moving Ahead for Progress in the 21st Century (MAP-21) Act required NHTSA to prescribe regulations allowing states to accept an electronic odometer disclosure. This NPRM attempts to allow electronic odometer disclosures while maintaining and protecting the existing systems that ensure accurate odometer disclosures and aid law enforcement in prosecuting odometer fraud.

NHTSA has proposed some variations in requirements for electronic and physical systems and documents, including:

- [49 CFR 580.1](#) to add the option of electronic disclosures;
- [580.3](#) to add and amend definitions for “electronic document,” “physical document,” and “sign or signature” to accommodate physical and electronic filings;
- [580.4](#) to clarify separate requirements for the security of physical disclosures and electronic disclosures;
- [580.5](#) to clarify methods of disclosure for physical and electronic systems;
- Add a new section 580.6 which would contain unique requirements for electronic odometer disclosures;
- [580.7](#) to add provisions allowing for the option of electronic disclosures for leased motor vehicles;
- [580.8](#) to include electronic copies among the forms of disclosures that must be retained and general requirements for that retention;
- [580.11](#) to add the newly created 580.6 to the sections a state may seek exemption from via petition for alternative disclosure requirements and update the address for NHTSA
- [580.13 and 580.14](#) to revise the provisions relating to the use of a power of attorney to address the potential that transferors from an electronic title state wishing to convey a vehicle to a transferee in a physical title state may not have an opportunity to obtain a state-issued secure physical title before transferring ownership of the vehicle;
- [580.15](#) to add language clarifying that power of attorney certification is limited to physical document disclosures; and
- [580.17](#) to extend the disclosure exemption from ten years to 25 years.

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Government Affairs Questions

For questions about AAMVA's Government Affairs, please contact Cian Cashin at ccashin@aamva.org

Signatures

NHTSA has made a preliminary determination that at least a National Institute of Standards and Technology (NIST) Level 3 verification of electronic signatures should be required (as outlined in the NIST publication "[Electronic Authentication Guideline](#).")

NHTSA proposes to require that each "signature" in an electronic environment apply only to a single individual, not to an organization. If a dealership wished to allow multiple employees to execute odometer disclosures, each employee would be required to have and maintain a distinct access identity or code to the system.

Security of Title Documents

The NPRM change to §580.4 seeks to clarify that existing requirements apply to physical documents and sets forth requirements for electronic documents to ensure comparable levels of security and authenticity.

Electronic Odometer Disclosure System Security

NHTSA has preliminarily determined that it would be counter-productive to propose specific minimum requirements for system security, but requests comments on whether it should establish minimum specific security requirements such as compliance with the Federal Information Security Management Act (FISMA).

Odometer Disclosures

NHTSA makes clear (even through amending) that the requirements specified in §580.5 apply to both physical and electronic documents. To clarify requirements that disclosures must be made on the title, NHTSA has added language that specifies "physical document" for paper titles and "electronic form incorporated into the electronic title" for instances of electronic title transfers.

NHTSA notes that electronic odometer disclosure systems would need to be designed to contain or otherwise embed the electronic odometer disclosure in the electronic title. For electronic transfers where the transferor is the individual in whose name the vehicle is titled, reassignment documents would not be necessary. In terms of the required warnings, NHTSA proposes that in instances of electronic transfer, the required information must be displayed on the screen and acknowledged prior to signature. In an electronic disclosure jurisdiction, parties would not have physical control of the disclosure documents, so NHTSA proposes that the responsibility to provide copies of the disclosure must fall to the operator of the disclosure system. Jurisdictions providing electronic disclosure must provide a way for the transferor and transferee to obtain copies of the disclosure. NHTSA also proposes to not extend the printed name requirements to electronic disclosure, but seeks comment on technologies that provide comparable electronic handwriting examples.

Requirements for Electronic Transactions

NHTSA proposes adding a new section (§580.6) with the following new requirements for electronic transactions:

- Electronic records be retained in a format that cannot be altered
- Electronic records indicate any attempts to alter it
- Each individual person be uniquely identified by their own unique electronic signature
- If the individual is acting in a business capacity or on behalf of any other individual or entity, that the business or entity also be identified as part of the unique electronic signature
- Any requirement to disclose, issue, execute, return, notify, or otherwise provide information to another person is satisfied when a copy of the electronic disclosure or statement is electronically transmitted or made accessible to the party required to receive the disclosure
- Any physical documents used to make electronic disclosures comply with existing applicable requirements
- Once an odometer disclosure is incorporated in the electronic title, the electronic title containing the disclosure is the official record of ownership and mileage. The electronic disclosure does not continue as a record separate from the electronic title
- If an electronic title containing an odometer disclosure must be converted to a paper document as the official document, only a state or state-authorized entity can create the new official document. Further the paper document must be set forth by means of a secure printing method as a physical, paper document
- Allows states to authorize the issuance of some type of record of ownership document that would contain the information on a title and/or odometer disclosure but would not replace the official document and clearly indicate that it is not an official title or odometer disclosure
- Requirements on conversion of paper title to an electronic system, including that prior title be copied electronically for retention and that paper title be destroyed at the time of conversion to electronic documents. Scanned documents must provide a resolution of 600 dpi to ensure preservation of security features during conversion

Record Retention

NHTSA is proposing to amend record retention requirements for dealers and distributors to maintain records in electronic format to include electronic copies or electronic documents as an acceptable form of record. Records must be stored for five years in a manner and method so that they are accessible to NHTSA and other law enforcement personnel. They must also be stored in a manner that makes them difficult or impossible to alter and indicates any attempt to alter the document.

Exemptions

NHTSA currently exempts any vehicle which is more than 10 years old from odometer disclosure requirements. NHTSA proposes to raise this exemption to 25 years, and requests comments on whether this exemption should be eliminated.

Comments on this NPRM are due no later than **May 24, 2016**. The AAMVA e-Odometer Task Force has been actively involved in this issue and plans to conduct outreach to the stakeholder community in the coming weeks to help formulate comments for the docket. AAMVA and industry members who submit comments to the docket are encouraged to copy governmentaffairs@aamva.org to ensure those comments are reflected in the association's own.



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