



American Association of Motor Vehicle Administrators

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NHTSA Issues Final Rule Permitting Electronic Odometer Disclosures

The National Highway Traffic Safety Administration (NHTSA) has announced a [final rule](#) establishing standards under which states may allow for odometer disclosures in an electronic format. The final rule fulfills a requirement in the Moving Ahead for Progress in the 21st Century Act of 2012 ([P.L. 112-141](#), Section 24111). With publication of the final rule, the former latitude of a state to pursue independent solutions via FAST Act authority ([P.L. 114-94](#), Section 24111) "ceases to be effective on the date the regulations become effective." The final rule adds new requirements applying to electronic disclosures to ensure the secure creation and maintenance of records.

AAMVA emphasizes that NHTSA is amending the mileage disclosure exemption to vehicles that are 20 years old or older (from the previous 10). The final rule amends exemption rules in [49 CFR 580.17](#) such that a transferor or lessee must disclose odometer mileage for an expanded number of vehicles extending beyond the previous 10-year limitation as described in the new §580.17. **This portion of the rule affects all jurisdictions regardless of their electronic titling intentions and provides an implementation methodology to incrementally modify the exemption.**

Amended §580.8 details odometer record retention to include that, "any odometer disclosure statement made on an electronic title or electronic power of attorney shall be retained by the jurisdiction for a minimum of five years and made available upon request to dealers, distributors, and lessors for retrieval at their principal place of business and inspection on demand by law enforcement officials."

Among other areas of import, AAMVA notes that the final rule has significantly revised proposals carried in the Notice of Proposed Rulemaking (NPRM). For instance, the final rule contains new definitions for "Access," "Electronic Power of Attorney," "Electronic Title," "Jurisdiction," "Printed Name," "Original Power of Attorney," "Sign or Signature," and "Transferor." The definition of "Sign or Signature" has been modified from earlier proposals in that requirements for an electronic signature require a National Institute of Standards (NIST) level 2 authentication system (rather than NIST Level 3). The final rule's requirements for electronic titles and electronic powers of attorney also diverge from the NPRM in allowing authorized modifications to electronic records. The final rule more clearly recognizes electronic titles and odometer disclosures may take many forms, from scanned copies of paper documents to database entries.

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Government Affairs Questions

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

Page 81 of the final rule provides an overview and summary, including:

- The more precise definitions cited above
- Allowance of both physical and electronic titles and powers of attorney
- Authorization of use of an electronic power of attorney
- Provides for electronic reassignments when a transferee is given a paper title by the transferor but does not take title to the vehicle
- "Sign" or "Signature" includes an electronic signature employing NIST level 2 authentication system or its equivalent, instead of NIST Level 3
- Allows authorized modifications to electronic records
- Recognizes that electronic titles and odometer disclosures may be held in a variety of formats, and provides that a jurisdiction issuing an electronic title shall retain the capacity to issue physical titles meeting all requirements of the regulation
- Retains proposal that an individual signing a disclosure on behalf of a business must identify themselves and the business
- Abandons the NPRM proposal to delete printed names from electronic transactions
- Relaxes the proposed requirements for scanning documents to allow document conversion in black and white at a resolution of 200 dot per inch (dpi) and recordkeeping requirements in §580.8 and §580.9
- Promulgates provisions allowing both electronic and paper powers of attorney if a title is unavailable to a transferor because the title is lost, physically held by a lienholder, electronically controlled by a lienholder, or when an electronic title is inaccessible
- Resets exemptions so that vehicles that are 20 years old or older (rather than 10) are exempt from mileage reporting
- Explicitly establishes how this exemption will be applied to different model years

While the rule has yet to be officially published, AAMVA wanted to get this information to members as soon as possible. Separate from the final rule, NHTSA is expected to publish a [request for comment](#) on the proposal to define the scope of potential benefits, and available resources for, states and other stakeholders in moving towards a paperless system. AAMVA has been in contact with NHTSA on educational opportunities related to the rule's release and will provide more information as it is developed in the coming weeks. Members submitting comment to the request are encouraged to copy governmentaffairs@aamva.org so that the association may reflect those comments in its own. The final rule is effective 90 days from publication in the Federal Register. For reference, AAMVA's E-Odometer Task Force published its "[Roadmap to Electronic Odometer Disclosure](#)" in March, 2018.



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