



American Association of
Motor Vehicle Administrators

ODOMETER
electronic
Disclosure *Titling*
TECHNOLOGY
FAST Act
modernization



Roadmap to Electronic Odometer Disclosure

*Guidance Document from the
E-Odometer Task Force*



March 2018

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Section I

Introduction

Executive Summary

There is a movement among states* to modernize motor vehicle titling systems and processes, and states are eager to implement an electronic titling (e-titling) system that will facilitate the transfer of ownership electronically. The implementation of this process provides an opportunity to increase efficiency as well as inhibit fraud, including odometer fraud.

The National Highway Traffic Safety Administration (NHTSA) proposed a rule in May 2016 to accept an electronic odometer (e-odometer) disclosure, which is a crucial step toward the modernization of state titling systems and e-titling. It is anticipated the final regulatory framework will address the current technology available and allow for future technological advances without further regulatory action. However, the goal of this guidance document is to assist states in determining how to move forward in the absence of the final rulemaking and provide recommendations for consideration when implementing an e-odometer process under the authorization of the Fixing America's Surface Transportation (FAST) Act.

The Task Force recognizes each state's desire to develop and maintain solutions that conform to its specific business requirements and fit its information technology (IT) systems. However, the Task Force recommends consistent data collection so a standard exchange of data can be implemented between the states.

Therefore, it is recommended states follow this roadmap and consider the recommendations of the Task Force as a standard approach to reduce challenges in the future to electronically communicate between states.

It is also important to note this document will need to be reevaluated after the final rule is issued to determine if there are any recommendations inconsistent with the rule. Any state that has implemented an e-odometer process based on the recommendations in this document or under the FAST Act may have to modify the process to comply with the rule upon its issuance.

* A state within the context of this document includes any entity responsible for processing title paperwork. This could include a state or local government agency, a private entity, an agent on their behalf, and so on.

Timeline of Events

-
- 1972** **Congress enacts the Motor Vehicle Information and Cost Savings Act.**
- Requires the transferor to provide written odometer disclosure to the transferee at the time vehicle ownership is transferred
-
- 1986** **Congress passes the Truth in Mileage Act (TIMA), intending to improve the effectiveness of odometer disclosures.**
-
- 1988** **The Pipeline Safety Reauthorization Act amends the Costs Savings Act.**
- Permits the use of a secure power of attorney, if permitted by state law, for the purpose of odometer disclosure
-
- 1990** **Congress again amends the Cost Savings Act.**
- Requires that a vehicle be titled in the state in which the power of attorney was issued and addresses retention of powers of attorneys by states
-
- 1994** **Cost Savings Act is repealed and then reenacted and codified without substantive changes.**
- Odometer statute is now codified at 49 U.S.C. 32.701 et Seq.
-
- 2012** **The Moving Ahead for Progress in the 21st Century Act (MAP-21) amends Section 32705 of 49 U.S.C.**
- Requires NHTSA to prescribe regulations permitting any written disclosure or notices and related matters to be provided electronically within 18 months (which would have been January 2014)
-
- 2012** **American Association of Motor Vehicle Administrators (AAMVA) Board approves the E-Title Task Force. The goal was to develop an e-title proof of concept (POC).**
-
- 2013** **E-Title Task Force closes POC to redirect efforts on solving the challenge of electronic odometer disclosures.**
-
- 2014** **The E-Odometer Task Force (the Task Force) is formed to identify a flexible approach to successfully implement an e-odometer approach on a broad basis.**
- Task Force issues an E-Odometer Report in December.
-

2015 **President Barack Obama signs the Fixing America’s Surface Transportation (FAST) Act on December 4. Among other mandates, the Act:**

- Requires NHTSA to issue rules to allow states to adopt schemes for electronic odometer disclosure statements
- Allows states to implement an e-odometer process, without petitioning NHTSA, until the date NHTSA’s rule takes effect

2015 **Task Force meets with members of the industry in Arlington, Virginia.**

2016 **NHTSA releases its Notice of Proposed Rulemaking. The rulemaking can be found at <https://www.regulations.gov/document?D=NHTSA-2016-0037-0001>**

- March 25– Comments due back by May 24
- NHTSA Received 31 (one corrected) comments

The [30 comments](#) received were from the following:

States

- Arizona
- California
- Florida
- Oregon
- Texas
- Virginia

Industry and Stakeholders

- AAMVA
- Allstate
- American Financial Services Association
- American Insurance Association (AIA)
- CoPart
- Credit Union Coalition of Texas
- Credit Union National Association (CUNA)
- Dealertrack
- Electronic Signature and Records Association (ESRA)
- Heartland Credit Union Association
- Insurance Auto Auctions (IAA)
- Liberty Mutual Insurance Company
- National Auto Auction Association
- National Automobile Dealers Association (NADA)
- National Association of Federal Credit Unions (NAFCU)
- National Association of Mutual Insurance Companies
- National Independent Automobile Dealers Association (NIADA)
- National Odometer and Title Fraud Enforcement Association (NOTFEA)
- National Salvage Vehicle Reporting Program
- National Title Solutions Forum of the American Financial Services Association (NTSF)
- Ohio Automobile Dealers Association
- Property Casualty Insurers Association of America (PCI)
- Thaddeus Lopatka

2017 **Task Force publishes the Roadmap to Electronic Odometer Disclosure in the absence of a final rule promulgated by NHTSA.**

References

Federal Legislative and Regulatory Actions

In 1972, Congress passed the Motor Vehicle and Cost Savings Act, frequently referred to as the Cost Savings Act. In § 408 of this Act (since recodified as 49 U.S.C. § 32705), a requirement was created for the transferor of a motor vehicle to provide a written statement of the mileage on the vehicle's odometer at the time of transfer. In 1986, Congress passed TIMA, intending to improve the effectiveness of this requirement for odometer disclosures. Through the years, Congress has amended, repealed, and re-enacted the requirements for odometer disclosures; this guidance document does not attempt to recount all of the details of this legislative history. Based on this legislation, NHTSA provides guidance for odometer disclosures in 49 C.F.R. § 580 (2016) – Odometer Disclosure Requirements, referred herein as The Rule.

- TIMA is a federal law that requires the transferor whose name is on the title of a motor vehicle to provide an odometer disclosure to the transferee upon transfer of ownership. The transferee must sign the title acknowledging the mileage disclosure.
- MAP-21 amends Section 32705 of 49 U.S.C. and requires NHTSA to prescribe regulations permitting any written disclosure or notices and related matters to be provided electronically.
- The FAST Act of 2015 allows states to adopt electronic odometer disclosure systems without prior approval from the Secretary of the Department of Transportation until adoption of the proposed rule. The risk with moving

forward under the FAST Act is the state may have to incur the expense to update or replace its electronic solution to comply with The Rule.

- Prior to the FAST Act, states were required to follow The Rule, which does not allow electronic processing of odometer disclosure statements and contains no guidance for electronic processing of odometer disclosure statements. Prior to the passage of the FAST Act, if a state wanted to use electronic processing, it had to obtain a waiver from The Rule by petitioning NHTSA for approval of an alternate disclosure process. The alternate disclosure process had to be consistent with the purpose of the Motor Vehicle Information and Cost Savings Act. At least five states (Florida, New York, Texas, Virginia, and Wisconsin) have applied and received some type of approval from NHTSA (Arizona was denied by NHTSA). Partly because of the restrictive nature of these approvals, only one state (Texas) has actually implemented any e-odometer processing.

In March 2016, NHTSA issued a Notice of Proposed Rulemaking seeking to allow odometer disclosures in an electronic medium while maintaining and protecting the existing systems that ensure accurate odometer disclosures and aids law enforcement in prosecuting odometer fraud. As of the date this document was published, NHTSA had not issued a final rule following the notice of proposed rulemaking.

AAMVA Actions

The E-Titling Working Group (Working Group) was formed in 2010 to develop best practices to assist states with the development of uniform procedures and approaches for an electronic title (e-title) program. It is anticipated most states will consider e-titling as they continue to look for ways to reduce cost and enhance efficiency. To date, states have developed their own unique approaches to implementation without standards or best practices available for guidance to follow. The Working Group was to serve as the member sounding board and advisory group for an e-title POC to evaluate the processes for a true e-title process.

In August 2011, the Working Group requested the AAMVA Board consider a member-driven POC for e-titling. The goal was to demonstrate cost savings, process efficiencies, and reduction in fraud by implementing technology and procedures to electronically track a new vehicle from its manufacturer to first title issuance. The Board approved the project, and the Working Group developed the following two deliverables in support of a pilot:

- [E-Titling Proof of Concept Definition](#)
- [E-Titling Work Breakdown Structure](#)

The members chose to focus their efforts through AAMVA to use efficiencies through use of existing infrastructure (i.e., network connectivity, National Motor Vehicle Title Information System [NMVTIS], and Electronic Lien and Title [ELT]) to develop neutral and standardized interstate transactions and most important because the project clearly supports the mission of AAMVA members, dovetailing into three of the four goals contained in the AAMVA 2012–2014 Strategic Plan.

The approach to the pilot, as defined by the Working Group, was to focus on the following:

- Remain a state-initiated and state-controlled program.

- To the extent possible, use or adapt existing tools or systems including those:
 - Under direct state control
 - Provided by industry
 - Controlled by the federal government
- Comply with both state and federal regulations.
- Collaborate with industry stakeholders to gain their support.

Ultimately, the POC was a success but identified the federal requirement for wet-signature odometer disclosures and the lack of tools for states to track chain of ownership as major challenges. In October 2013, the Working Group made the decision to close out the POC and redirect efforts on solving the e-odometer challenge. Results from the POC and documentation on the path forward to a national e-titling solution can be found in the following documents:

- [E-Titling Evaluation](#)
- [E-Titling Roadmap](#)

The result of closing out the POC was the creation of a new Task Force.

In January of 2014, the Task Force was formed to identify a flexible approach to an e-odometer disclosure that the majority of states could successfully implement. NHTSA participated in meetings as a technical advisor, and Clerus Solutions, LLC, was a consultant providing project management for the kickoff meetings and report. Based on the state Task Force representatives' long history and experience with odometer disclosures, the Task Force identified issues, opportunities, and challenges related to e-odometer disclosure.

The Task Force finalized and published the [E-Odometer Task Force Report](#) with its findings in December 2014.

In 2015, the FAST Act was signed and included the following language:

■ Section 32705(g) is amended –

- (1) by inserting “(1)” before “Not later than” and indenting appropriately; and
- (2) By adding at the end of the following:

“(2) Notwithstanding paragraph (1) and subject to paragraph (3), a State, without approval from the Secretary under subsection (d), may allow for written disclosures or notices and related matters to be provided electronically if-

“(A) in compliance with-

“(i) the requirements of subchapter 1 of chapter 96 of title 15; or

“(ii) the requirements of a State law under section 7002(a) of title 15; and

“(B) the disclosures or notices otherwise meet the requirements under this section, including appropriate authentication and security measures.

“(3) Paragraph (2) ceases to be effective on the date the regulations under paragraph (1) become effective.

The resulting legislation is as follows:

(g) Electronic Disclosures.—

- (1) Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.

- (2) Notwithstanding paragraph (1) and subject to paragraph (3), a State, without approval from the Secretary under subsection (d), may allow for written disclosures or notices and related matters to be provided electronically if-

(A) in compliance with-

(i) the requirements of subchapter 1 of chapter 96 of title 15; or

(ii) the requirements of a State law under section 7002(a) of title 15; and

(B) the disclosures or notices otherwise meet the requirements under this section, including appropriate authentication and security measures.

- (3) Paragraph (2) ceases to be effective on the date the regulations under paragraph (1) become effective.

This statutory language is key in that it provides states with the authority to implement an e-odometer process, without petitioning NHTSA, until the date the regulations are effective.

Goals of E-Odometer Disclosure

Background

Current federal law requires the transferor of a motor vehicle, whose name is on the title, to provide an odometer disclosure to the transferee at the time of sale or transfer of ownership. The transferee must sign the title acknowledging the mileage disclosure. Prior to the FAST Act, a paper process with a wet signature was required for both the transferor and transferee. This has been the gold standard of consumer protection against odometer fraud. However, advancement in technology has allowed the capture of e-signatures to authenticate and identify the signer. The paper process for a wet signature provides little to no verification of the identity of the transferor or transferee.

In recent years, government entities and private industry have transitioned to electronic processes to securely sign a myriad of documents, thereby providing a model in which odometer disclosures can be signed securely with an electronic process. The Task Force believes the implementation of an e-odometer disclosure process will establish the foundation for future development of a complete e-title process.

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Anticipated Benefits

- Secure capture of the odometer disclosure statement
- Identity authentication of both the transferor and transferee
- Enhanced consumer protection
- Fraud deterrence
- Cost savings by reducing or eliminating the need for paper
- Increased control of access to secure records

Anticipated Efficiencies

- Improved data accuracy
- Improved timeliness of data exchange
- Elimination of paper forms
- Reduction of the use of secure forms
- Reduction of office control of secure forms
- Reduction of mailing costs
- Improved security over data and forms
- Reduction of retention requirement costs for paper records
- Reduction of printing costs
- Reduction of lost documents and simplified procedures for replacement of documents
- Increased data points available for investigative purposes and prosecuting odometer fraud



Section II

**Implementation
Considerations**

Administration

Summary of the Issue

Many factors should be taken into consideration from the administration perspective when shifting from a paper process to an electronic process. The state should do a comprehensive review of all affected systems and stakeholders and should consider the end goals for the project before starting.

Guidance from the Task Force

The Task Force has determined the following list of items to be considered and incorporated into a work plan to implement an e-odometer disclosure process:

- **Approach:** States should consider long-term goals of implementing an e-odometer process and develop a plan to achieve the goals. This plan should include phasing in transactions and stakeholder groups rather than immediate implementation for all transactions and stakeholders. The Task Force also recommends each state allow for ample time to review all systems, gather data and document requirements, draft system specification documents and materials, and complete programming and testing.
- **Systems:** An evaluation of all impacted systems should be completed, and system performance and transaction volume should be considered. All data elements that need to be included, all information that needs to be captured during the transactions, and any interfaces should be documented. When implementing a new system, a state should consider who the users are going to be and identify all training and support needs. AAMVA has a [System Modernization Best Practices document](#) available on its website; this document aims to provide a roadmap to assist those in or about to begin their modernization project.
- **Stakeholders:** The Task Force recommends identifying all stakeholders, internal and external, and bringing them to the discussion early in the process. This allows the state to gain perspective from each stakeholder and identify opportunities for process improvements and potential hurdles that will need to be overcome. The role of each stakeholder is a vital component in developing a system to meet all of the needs for the e-odometer process.
- **Industry partners:** When determining the technology to use for an e-odometer disclosure process, the Task Force recommends considering what options industry partners are able to provide. Involving or considering the products and services available by industry partners can assist you in determining the best options for your state.
- **What information is needed:** It is recommended each state determine and outline all information and data elements that need to be obtained and retained. Outlining this information during the initial stages of development will allow you to better determine the needs of the process and plan for the appropriate amount of time.
- **Who will use the information:** An odometer disclosure is used at the time a vehicle's ownership is transferred but is also used after a transaction occurs for investigation purposes. As

such, it is important to consider everyone who uses the documents and ensure the electronic process will meet or exceed the needs of those who currently use the paper documents.

- **Training:** All users of the electronic process may need some level of training. These users might include state staff, dealer staff, investigators, law enforcement, prosecutors, and vehicle owners. Accordingly, their training needs will need to be met. The training could be conducted in person or by virtual means.
- **Memorandum of understanding (MOU) versus contract and request for proposal (RFP):** For states that decide to use outside resources, it is important to consider if an MOU, contract, or RFP will be needed. If so, all considerations of the language and requirements to include should be carefully contemplated. This may also require advice of legal counsel.
- **System support:** It is important to plan and determine how the electronic process will be supported. The users of the system may not operate during the same business hours as the states. Therefore, it is important to plan for supporting the system during and after hours and to consider when downtime would impact as few users as possible.
- **Transactions:** Each state should evaluate which transactions would benefit from an e-odometer disclosure process and determine the implementation method that would work

best for the state. The Task Force recommends a phased-in approach. Implementing an e-odometer disclosure process *intrastate* will enable development of e-titling processes. The ultimate goal of e-odometer and e-titling is to allow for *interstate* vehicle title transactions with the development of a national solution.

- **Interfaces:** The Task Force recommends a detailed analysis of any interfaces that currently exist between existing systems and possible interfaces that may be needed with electronic transactions. It is recommended to automate as much of the transaction as possible. This will make the electronic process as efficient as possible and decrease potential areas for fraud to occur.

Anticipated Considerations

The Task Force recognizes each state's desire to develop and maintain solutions that conform to its specific business requirements and fit with its IT systems. However, states will eventually want to exchange information with each other, so it is important to maintain some level of consistency.

An e-odometer disclosure process will enable states to develop an e-titling system. Today many states process a large number of applications for a duplicate title. As the volume of states creating e-titles increases, the need for owners to obtain duplicate titles will decrease. States should plan for the resulting decrease in revenue.

Identity Standards and Electronic Signatures

Summary of the Issue

In a paper odometer disclosure transaction, the transferor discloses the current odometer reading on the title or approved supplemental document, and both the transferor and transferee acknowledge the reading is correct by signing the document. In an e-odometer disclosure transaction, the parties involved must be identified remotely and therefore need to provide proof of who they are using a credential that is the result of having undergone some kind of proofing process. The credential can then be used to serve as the signature for online transactions.

- Level 2 provides for remote authentication through presentation of identifying materials or information allowing for some confidence in the validity of the identity.
- Level 3 provides for multi-factor remote authentication and requires verification of identifying materials or information allowing for high confidence in the validity of the identity.

The credentials issued based on any of the levels above become the identification token used in an online transaction. The token(s) can be a username and password, pin, or other authentication technology and is used to verify the identity of the parties in the transaction.

The Task Force recommends requiring a minimum assurance Level 2*. This would provide for an increased assurance level over the paper process today (the paper process is comparable to a Level 1 assurance) and give flexibility to the states for implementing an e-odometer disclosure process.

For the most recent NIST requirements, please go to <https://pages.nist.gov/800-63-3/>. The Digital Authentication Guideline (SP 800-63-3) provides an overview of the digital authentication requirements. The Enrollment & Identity Proofing (SP 800-63A), Authentication & Lifecycle Management (SP 800-63B), and Federation & Assertions (SP 800-63C) provide more detailed requirements for the references in SP800-63-3.

In an e-odometer disclosure transaction, the parties involved must be identified remotely and therefore need to provide proof of who they are using a credential that is the result of having undergone some kind of proofing process. The credential can then be used to serve as the signature for online transactions.

Guidance from the Task Force

The National Institute of Standards and Technology's (NIST's) *Digital Authorization Identity Guidelines* (SP800-63A) provides for three levels of identity assurance.

- Level 1 provides for basic authentication that is self-asserted with little or no confidence in the validity of the identity.

* As of the publication of this document, NHTSA had not promulgated a final rule following the NPRM. The NPRM recommended a Level 3 assurance; however, many comments were received indicating Level 3 was too high and Level 2 was sufficient.

An additional resource that gives a high level overview of levels of assurance and implementation criteria is located in Appendix A, E-Identity Background of the [E-Odometer Task Force Report](#), published in December 2014.

In the March 2016 Notice of Proposed Rulemaking (NPRM), NHTSA addressed the existing requirements of 49 C.F.R. 580.5(f) that a transferee print his or her name on the disclosure. NHTSA opined that requiring a transferee to “print” his or her name is inappropriate for electronic transfers. NHTSA proposes to not extend the printed name

requirement to electronic disclosures because the purpose of the printed name is to provide handwriting exemplars for use in fraud investigations and prosecutions.

NHTSA noted that it is not aware of electronic systems that capture handwriting with the level of clarity and precision that exists when applying handwriting to paper.

The Task Force agrees with the NPRM that a “printed name” provides no additional value in an e-odometer disclosure environment.

Individual Signature vs. Organization

Summary of the Issue

Any electronic signature (e-signature) must identify an individual. If the individual is acting in a business capacity or otherwise on behalf of any other individual or entity, the business or entity must also be identified as part of that unique e-signature.

Guidance from the Task Force

Generally, an endorsement for a company or business name must include the company or business name and an authorized representative's "countersignature" or initials (for example, "XYZ Company by Jane Doe" or

"Jane Doe for XYZ Company"). This countersignature ties the identity of the signor to the transaction. States implementing e-odometer (e-odometer) systems must ensure that the process contains a method to capture and retain the identity of the individual signing on behalf of the company, business, another individual, and so on and that the individual is authorized to sign on their behalf. A single, unique "user ID" or login credential established for each authorized individual should accomplish this. The individual may then sign for many companies using the credential, which ties the signor to the transaction. However, the individual may not sign for both the transferor and transferee.

Reassignment of Ownership

Summary of the Issue

Dealer reassignments are currently captured on the paper title or a separate secure dealer reassignment document. Unfortunately, the paper title and reassignment document can be altered after it leaves the possession of the previous owner. These transactions are often not visible to states until a retail sale occurs resulting in an application for title. In many states, the individual dealer reassignments are not entered into their system. Instead the documents are only imaged.

Guidance from the Task Force

Incorporating e-odometer disclosures into e-titles can provide greater visibility of dealer reassignments. The odometer disclosure record is part of the title record, not a separate record, and if an electronic form is put in place, the title and e-odometer disclosure

should not be separated. States implementing such processes should develop a system that captures each individual reassignment when it occurs. Two methods can be used to achieve this. A new title record can be created upon each reassignment, or the system can capture each reassignment electronically and create an electronic ownership chain similar to what would occur on the back of a title or reassignment document. Electronic reassignments can provide visibility of who has ownership of the vehicle when a new title is not issued upon reassignment. Either method will result in a more reliable independent capture of odometer readings, which will help prevent odometer fraud.

It is recommended that paper disclosures and reassignments not be used when electronic reassignments are incorporated in the transaction. States should also consider the need of a consumer or dealer to obtain a paper title that can be used to transfer if necessary.

Power of Attorney

Summary of the Issue

Current federal regulations only allow the use of a secure power of attorney when the transferor's title is lost or physically held by a lienholder and state law allows it. NHTSA proposes to amend 49 C.F.R. 580.13(a) and (b) to also allow a transferor with a vehicle whose title exists in electronic form to use a power of attorney for odometer disclosures to sell a vehicle to a transferee who resides in a state that does not create or maintain e-titles. NHTSA equates this scenario to a lost title or a title held by a lienholder. Without this additional permitted use of power of attorney, the transferor from an e-title state cannot sell the vehicle unless obtaining a printed title from the e-title state for purposes of making the odometer disclosure.

NHTSA also proposed to allow the use of an electronic power of attorney in limited situations as long as the form made available pursuant to 49 C.F.R. 580.13 and 580.14 is maintained by the state in a secure environment, so it is protected from unauthorized modification, alteration, and disclosure.

In addition, the regulations propose to amend 49 C.F.R. 580.14(a), (e), and (f) relative to a transferee appointing their transferor power of attorney. The amendment specifies the authority granted under 49 C.F.R. 580.14(a) only allows the transferor to review the physical title and any reassignment document, and if there are no discrepancies, to acknowledge disclosure on the physical title. The amendments to 49 C.F.R. 580.14(e) and (f) insert the word "physical" when referencing use of a power of attorney.

Guidance from the Task Force

The proposed changes to the federal regulations allow for e-odometer disclosures, which will facilitate the transfer of e-titles. The proposed regulations do not contemplate use of an electronic power of attorney for the transfer of e-titles, and the Task Force believes powers of attorney will be unnecessary with the ability to transfer titles electronically through the completion of e-odometer disclosures. As such, guidance provided herein is focused on use of an electronic power of attorney with paper titles.

As proposed, a power of attorney, physical or electronic, could be used if the transferor's title is physically held by a lienholder, if the transferor's title exists in electronic form and the transferee is located in a state that does not create or maintain e-titles, or if the transferor to whom the title was issued by the state has lost her or his title and the transferee obtains a duplicate title on behalf of the transferor.

States implementing an electronic power of attorney for the purposes of odometer disclosure must ensure it is maintained in a secure environment protected from unauthorized modification, alteration, and disclosure. It will be up to the state to determine what constitutes a secure environment that is protected from unauthorized modification, alteration, and disclosure. In addition, states should consider the restrictions on when an electronic power of attorney can be used prior to implementation. The most common scenarios allowing use of an electronic power of attorney are when the physical title is held by a lienholder or lost. States should attempt to program the electronic power of attorney so it can only be used in those scenarios

when possible. Consideration should be given to how the electronic power of attorney will be associated with the physical title when it is obtained from the lienholder or a duplicate title is obtained. The authority granted by the electronic power of attorney has to be evident when the transferee is signing on the physical title on behalf of the transferor. In addition, a state will need to determine how the electronic power of attorney will follow the physical title upon subsequent reassignment by a dealer. If a dealer reassigns a title when an electronic power of attorney was initially used, the state must provide a mechanism that allows the purchasing dealer to obtain the electronic power of attorney. Another option would be to require the initial purchasing dealer granted electronic power of attorney to apply for title in the dealer's name prior to resale. For purposes of vehicles brought into a state, consideration should be given to whether or not an electronic power of attorney will be implemented. If the decision is made to incorporate this scenario into an electronic power of attorney process, states may want to develop a method to validate that the incoming title is held electronically in another state. In addition, states would have to develop a process to associate the electronic power of attorney with the physical title received by the other state. As in the previous example of a dealer reassignment, states must determine how the initial electronic power of attorney will accompany the subsequent reassignment on the physical title.

It is important to also consider the changes proposed to 49 C.F.R. 580.14(a), (e), and (f) when implementing an electronic power of attorney. In most states, only a licensed dealer may reassign a title, which is the purpose of § 580.14. Dealers taking a vehicle on trade when the physical title is held by a lienholder may use Part B of the power of attorney to sell the vehicle if the lienholder still physically holds the title. The proposed changes to 49 C.F.R. 580.14(a) only allow the transferor to review the physical title and any reassignment document and to acknowledge disclosure

on the physical title. In addition, the amendments to 49 C.F.R. 580.14(e) and (f) insert the word "physical" when referencing use of a power of attorney. This change prevents a dealer from using an electronic power of attorney if the title is still held by a lienholder when the vehicle is sold. States should consider these scenarios to ensure an electronic power of attorney cannot be used in a manner counter to the proposed changes.

Another consideration that should be made when creating an electronic power of attorney is obtaining a duplicate title if the original title was lost. Transferees obtaining a duplicate title on behalf of the transferor when the original title was lost will need a way to use the electronic power of attorney to apply for the duplicate title on behalf of the transferor. States will need to either account for this process programmatically, or possibly change policy and/or statute, or a combination of all three.

As stated initially, the Task Force does not believe powers of attorney will be necessary with the ability to transfer titles electronically in conjunction with the completion of e-odometer disclosures. We understand there may be a long lead time for states to develop and implement an e-odometer disclosure system that also facilitates the transfer of e-titles. In the interim, it is recommended that states continue to use a physical power of attorney with physical titles. This will eliminate the need to associate an electronic power of attorney with a physical title as well as develop a method to provide the electronic power of attorney to dealers subsequently purchasing vehicles. States would be better served to develop an e-odometer disclosure process and begin creating e-titles for future transfer. Development of these two processes will eliminate future need of a power of attorney, physical or electronic.

Enforcement of Law, Regulations, and Violations

Summary of the Issue

The implementation of an e-odometer or e-title system will potentially change the enforcement of laws and regulations relating to odometers and motor vehicles.

Guidance from the Task Force

In addition to maintaining current fraud deterrence measures, states considering implementation of an e-odometer or e-title system should strive to strengthen fraud prevention measures. The Task Force recommends states consider the following factors.

States should consider the need for additional law enforcement training on the electronic process, as well as the process for document retrieval and certification for court actions.

It is anticipated the conversion to e-odometer disclosures and titling will improve the integrity of the title and the data collection process. In the current paper title environment, the title can be transferred without all necessary data fields (odometer readings, dates, signatures, etc.) being completed or these data fields being altered on the paper document. Alteration of the odometer reading by a subsequent transferee is a common method used to commit odometer fraud. The failure to have all data fields completed on paperwork can hinder enforcement action and prosecution of fraudulent activity. The e-title system should have “hard stops” incorporated into the application process that require completion of all required data fields before processing the title application.

The transferor inputting the mileage directly into the electronic system adds to the integrity of the vehicle history records and reduces the chance of alterations or fraud by the transferee. The e-title system should also have a hard stop that would not allow the accidental or fraudulent entry of a lower mileage than is currently on the motor vehicle title record without branding the title. This would reduce odometer corrections. The e-title system should have the ability to track and retrieve forensic evidence such as the IP address of the person making the online transaction.

States should consider the need for additional law enforcement training on the electronic process, as well as the process for document retrieval and certification for court actions. States implementing e-odometer disclosures should consider the impact on determining venue for prosecution. The current process requires the investigator to determine the location of the disclosure completion or uttering of the record. An electronic system could change the process for determining venue for prosecution because of the ability to input data at remote locations and store data on offsite servers. Investigators should discuss the question of venue with prosecutors in the possible states.

The following enforcement benefits, including fraud deterrence, may result from a state switching to an e-odometer and title system:

1. **Odometer fraud:** Transferor entry of the mileage at the time of sale into the portal would eliminate the ability of the transferee to alter the paper document. Dealers entering mileage into the system on every reassignment eliminates the ability of the last owner in a chain of ownership from being able to alter the odometer disclosure

- on the paper title or reassignment document. The portal would provide easier retrieval of odometer statements that were scanned into the system versus going to the dealership to retrieve documents. The additional odometer certifications by transferors and dealer reassignments into the portal would help deter fraud and improve the integrity of the odometer history.
2. **Title skipping:** Transferor entry of the transferee name into the portal at the time of sale could reduce the ability of the transferee to skip titling. We currently have many people who buy and sell vehicles without taking title to the vehicles, for example, on websites such as Craigslist and Facebook. This could also increase revenue collection for the state through proper payment of tax, title, and license fees.
 3. **Curb stoning:** Unlicensed dealers often skip titling to avoid alerting authorities that they are selling more vehicles than allowed by law by posing as private sellers. The above reduction in title skipping could help reduce the ability of curb stoners to buy and sell vehicles anonymously. The electronic system should be able to flag individuals who sell too many vehicles.
 4. **Tax fraud:** Transferor entry of the sale price into the portal would reduce tax fraud and the ability of the transferee to underreport a purchase price. In states where tax is collected off a purchase price entered by the transferee, there could be an increase in collection of the taxes due.
 5. **Title transfer delinquency:** Transferor entry of the date of sale in the portal could reduce the ability of the transferee to change the dates to avoid title and registration penalties.
 6. **Dealer auditing:** The electronic system should provide investigative access to the title documents and odometer disclosures entered by dealers and customers. As opposed to the process of having to go to the dealership to view a dealer's title paperwork, an investigator would have the ability to view dealer title paperwork and disclosure forms from the investigative computer at any time. This could greatly improve efficiency and the ability to investigate all vehicles sold by a dealership. Also, electronic records would provide the ability to review dealer paperwork without their knowledge versus a process in which the dealership has the ability to fail to locate or destroy documents requested during an audit or warrant execution.

Notary Public

Summary of the Issue

A notary public is an official appointed by state government who serves as an impartial witness in performing a variety of official fraud-deterrent acts related to the signing of important documents. Because the transferee's signature may not appear on the odometer disclosure on the certificate of title or on the application for title following a transfer of ownership, some states require use of a notary public to serve as a witness to the execution of these documents by the transferor or transferee, respectively. Some states require notaries to witness odometer statements provided by a vehicle's new owner (transferee) under a power of attorney provided by the former owner (transferor).

Guidance from the Task Force

When odometer disclosures are executed electronically using security measures intended to positively identify the transferor and transferee, the additional benefit of a notary public as a witness is unclear. An AAMVA survey of states in March 2016 showed inconsistent practices, with 25 of the 35 respondent states claiming they do not allow or require a notary during the titling

process and the remaining 10 of responding states saying they required or allowed a notary for paper transactions, but not electronic, or for both paper and electronic transactions.

The limited reliance on notaries for motor vehicle title transactions is consistent with AAMVA's 2013 policy position: "AAMVA recommends that notary public requirements be eliminated on all motor vehicle forms." NHTSA's notice of proposed rulemaking for (e-odometer reporting) did not propose anything relative to notaries, nor did NHTSA raise any questions concerning notaries. Of the 29 comments filed with NHTSA concerning the notice of proposed rulemaking, only the Electronic Records and Signatures Association (ESRA) raised the issue, saying only, "If a State requires notarization of such a [power of attorney] document, ESRA supports and encourages use of electronic notarization for this purpose in accordance with applicable State law."

The Task Force recommends eliminating or avoiding the use of notaries public on e-odometer disclosures. The Task Force found no reason to deviate from AAMVA's policy position of eliminating or avoiding the use of notary public on e-odometer disclosures.

Security of the Disclosure Statement and Trust

Summary of the Issue

States must strive to provide assurances that their e-odometer solutions are trusted and users can rely on the authenticity of e-signatures. States are already entrusted with maintaining security of the data within their electronic storage systems.

Guidance from the Task Force

When developing e-odometer solutions, states must approach it in the same manner as they have in developing processes for the collection and storage of other sensitive data, such as driver data under the Driver Privacy Protection Act (DPPA).

When adopting an electronic solution, states should work with their IT security staff to develop a secure auditable system that prevents unauthorized changes. It should also allow for identifying attempts to make unauthorized changes.

States should develop an e-signature process designed not only to prevent but also to aid in detection and prosecution of fraudulent electronic disclosures. As states develop e-odometer solutions, they should rely on guidance from the NIST's Special Publication 800-63-2, *Electronic Authentication Identity Guideline*, to ensure compliance with the authentication standard published in the final rule.

Proposed changes would allow for transactions for which disclosures can be made and stored in a secure electronic format that cannot be altered and that indicate any attempts to alter it. Such disclosures would include a secure e-signature that identifies individuals making the disclosure.

The Task Force recognizes each state's desire to develop and maintain solutions that conform to its specific business requirements and fit with its IT systems. It is recommended that in developing e-odometer solutions, each state maintain or improve security currently provided for in paper document disclosures.

Standards for Scanned Documents

Summary of the Issue

In paper transactions, the odometer statement is typically on the title or Manufacturer's Certificate of Origin (MCO). One method of converting to an electronic process for the purpose of odometer disclosure, from an entirely paper process that requires the mailing or hand delivery of titling documents, is to scan the original paper documents and then electronically transmit them to the titling state or legal custodian of the record, thus saving time, reducing costs, and improving overall operational efficiency. If forensic analysis of handwriting becomes necessary in a suspected case of fraud involving an odometer disclosure, the scanned documents that have been stored electronically must have sufficient resolution to preserve the security features contained in the original paper title or MCO and to allow forensic analysis of the handwriting contained on the scanned document. Upon completion of implementing a fully electronic process, there would not be any paper documents to scan. However, prior to full implementation, the Task Force recommends the following standards for scanning paper documents.

Guidance from the Task Force

Original documents such as physical titles, reassignments, and powers of attorney, with their security features and handwriting, are the best evidence in criminal prosecutions. However, retaining original documents is becoming increasingly less common because of the costs associated with their storage and, when necessary, retrieval. States almost universally scan documents into electronic record management systems to reduce costs and to make documents more

readily retrievable. In fact, states' laws may allow for, or require, the electronic storage of records. When establishing scanning standards, one must consider the forensic value of any scanned versions of these records. In past assessments of state petitions for alternative odometer disclosure schemes, NHTSA has stated that states should not rely on methods of retaining and transmitting secure paper documents that do not preserve the security features and handwriting characteristics of the originals. More specifically, NHTSA has stated that low-resolution scans of such documents are not secure and may not offer sufficient forensic value to reveal forgeries or alterations that would have been revealed had the originals been available.

In determining an appropriate standard for scanned documents, states must give consideration to the storage requirements that must be made available to archive scanned odometer statements. Documents scanned at higher resolutions consume more storage space than those scanned at lower resolutions, which increases storage costs. Similarly, scanning at higher resolutions requires more time to scan each document, more time to upload it to the storage system, more time to download it in preparation for transmission, and more time to transmit it. Therefore, it becomes important to consider what resolution is sufficient to preserve the security features of a given document and, in the case of a scanned odometer statement, the digital representation of the handwriting from the original paper document, while still keeping the file size small enough for efficient storage, retrieval, and transmission.

In a 2013 presentation given to NIST, forensic document examiner Janet Fenner Masson compared various scanning resolutions, modes of scanning, and electronic file types to determine if a useful forensic analysis of scanned documents could be conducted. In her examination, sample documents were scanned in three modes: color, grayscale, and black and white. Resolutions at three levels were used: 100 pixels per inch (ppi), 200 ppi, and 300 ppi. Two storage file types were used, .tif and .pdf. Even low-resolution black-and-white scans preserved features such as letter designs, internal proportions of letters, and height and spacing relationships, although there were deficiencies in their duplication of more subtle features. Images scanned in grayscale were better than black and white, and color was better than grayscale. No differences in the reproduction of features were found between the images of handwriting stored as .tif files compared with .pdf files, provided the two were made at the same resolution and mode. Ms. Masson concluded that although there are limitations inherent in the examination of scanned images, in many instances,

these images, especially those scanned in color at resolutions from 200 to 300 ppi, are sufficient for a reliable evaluation of the handwriting.

Therefore, based on this analysis, it is recommended that states wishing to use scanned documents as a part of an electronic titling system that includes scanned odometer disclosure statements do so in a manner in which the security features can be detected and the title cannot be printed and altered for fraudulent use. Because states may already have scanning standards in place for retention of vehicle titling documents, the scanning standards should be reviewed to determine if they will meet this minimum standard. Scanning standards in excess of a color resolution of 200 ppi are unnecessarily high, from the standpoint of obtaining a reliable evaluation of handwriting, and put an unneeded burden from both a cost and efficiency perspective on states.

Each state should determine document retention in compliance with its record retention policy regardless of the document format, electronic or paper.

Imports and Exports

Summary of the Issue

States should consider that there are unique consequences around an electronic title and odometer solution for imported and exported vehicles.

Guidance from the Task Force

Although most of the focus on odometer disclosure fraud concerns the rolling back of odometer mileage, states should be aware of other odometer fraud circumstances

when creating an electronic process. For example, odometers on vehicles exported from the U.S. may be rolled forward, adding excessive mileage, to intentionally devalue the vehicle's worth and reduce the amount of tax on the vehicle. After being delivered to the other country, the odometer is rolled back to make the vehicle appear to have a higher value to the purchaser, commanding a much higher price. The electronic solution should look for anomalies that could be instances of odometer fraud on imported or exported vehicles.

Data Privacy

Summary of the Issue

The adoption of an e-odometer disclosure process should not have a negative impact on the data privacy of personal information.

Guidance from the Task Force

Under the DPPA of 1994, 18 U.S.C. § 2721 et. seq., personal information is defined as “information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status,” according to 18 U.S.C. § 2725(3).

Disclosure of personal information is restricted by the DPPA. However, as provided by 18 U.S.C. § 2721(b), it is required in some cases,

Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of

non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49.

Specifically, DPPA enumerates 14 uses for which personal information may be disclosed. Information on a vehicle title record includes personal information and therefore is subject to the DPPA.

When an owner relocates to another state, the vehicle must be titled in the new state. The disclosure of personal information for government uses is specifically authorized by the DPPA § 2721(b)(1).

If the title information is transferred from state to state directly, the protections of the DPPA remain in place. This is true without regard to the manner of transfer (electronic or paper title). If the title is in the possession of the owner, after it is presented to the new state, the provisions of the DPPA would then apply. Accordingly, the creation of e-odometer disclosure would not constitute a change regarding the personal privacy of the persons involved in the transfer of motor vehicles.

Industry and Government Partnerships

Summary of the Issue

States should consider their current and future partnerships with other states and other industry stakeholders when implementing an e-odometer solution.

Guidance from the Task Force

Implementation of an e-odometer disclosure solution will have impact throughout the motor vehicle industry. Current and potential stakeholders include:

- State agencies within your state
- Local government agencies
- Legislative and executive branch
- Other states
- The federal government
- New and used vehicle dealers
- Manufacturers
- Fleet industry
- Numerous vehicle dealer associations
- Leasing companies
- Banks, finance companies, and other lenders
- Insurance companies

- Auto auctions and salvage companies
- Vendors of current motor vehicle registration products and services
- Vendors of e-signature products and services
- Law enforcement
- Notaries public

The Task Force is of the opinion an e-odometer disclosure should be considered as the first step toward full e-titling and ultimately toward a national e-title solution. States should consider the guidance in this document and should consider reaching out to and requesting information from other states and industry partners to avoid dedicating valuable resources to development of a system that may be difficult to modify for communication with other states. To support a national e-title solution, states should be cognizant that a standard exchange of data will need to be established. Many approaches could be taken to arrive at a national solution. Industry partners have experience exchanging title information to the states, and AAMVA has experience in exchanging title information between states. NMVTIS, which contains automobile titling information from states, insurance carriers, and the salvage industry, is an example of AAMVA's successfully exchanging title information between states.

Section III

Looking to the Future

Next Steps

An e-odometer disclosure process that is consistent with federal regulations is the first step toward full e-titling of motor vehicles and ultimately toward a national e-title solution. An e-title would need to meet the goals of the national standards for paper titles. An e-title would need to be consistent with the purpose of a paper title and list the same data elements and incorporate appropriate security features to be accepted by all states.

To transfer e-titles from other states, a state's titling system would need to electronically communicate with the titling system from the state that holds the current e-title. Vehicle data, ownership, liens, odometer readings, and brands would need to be validated. If electronic state-to-state communication cannot be obtained, a copy of the state's motor vehicle record would need to be submitted that shows this information. NMVTIS contains messages that inform states when their record has been superseded. States should consider incorporating the message into their titling process when allowing the transfer of e-titles in their state.

To transfer e-titles within a state, the titling system would need to be accessed so that the e-title can be transferred to a new transferor or lienholder. Vehicle data, ownership, liens, odometer readings, and brands would need to be validated and carried forward if applicable. E-titles could provide the ability to track the owner name, lienholder name, addresses (to see how many vehicles are titled to a specific address and to flag any invalid addresses), specific brands, stolen vehicles, duplicate records, invalid vehicle identification numbers, and legal restraints. States should leverage technology to ensure the integrity of electronic records and prevent the sale of encumbered vehicles and trafficking in stolen vehicles.

The Task Force recommends the AAMVA membership revisit the documentation prepared by the 2011 e-title POC Working Group and complete the e-title POC after the federal rule permitting e-odometer has been promulgated.

Appendix A

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Appendix B

AAMVA Comment to Odometer Disclosure Requirements, NHTSA-2016-0037 (RIN 2127-AL39)



American Association of
Motor Vehicle Administrators

**safe drivers
safe vehicles
secure identities
saving lives!**

May 24, 2016

Docket Management Facility (M-30)
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RE: Odometer Disclosure Requirements; NHTSA-2016-0037 [RIN 2127-AL39]

The American Association of Motor Vehicle Administrators (AAMVA) welcomes the opportunity to comment on odometer disclosure requirements and the prospect of granting state authority for electronic odometer disclosures. The development of clear and concise guidelines from NHTSA will set the stage for a state's ability to handle odometer disclosures electronically, and allow for progressive odometer disclosure processes between jurisdictions.

This NPRM baselined assumptions about the odometer disclosure process by analyzing the current paper processes associated with written odometer disclosures and then suggested transformations towards a more robust electronic process. AAMVA believes that instead of trying to make a paper process conform to an electronic environment this rule should focus on the development of a new electronic method for collecting all of the required data elements for successful odometer disclosure. Such an approach would be much more effective in serving the states, consumers, and the industry.

The NPRM cites the provisions of the Fixing America's Surface Transportation (FAST) Act of 2015 that allow a state to adopt electronic odometer disclosure systems without the prior approval of the Secretary provided it meets "appropriate authentication and security measures" and the requirements of 15 U.S.C. §7001 and 49 U.S.C. 32705. However, a state's authority to pursue an odometer disclosure solution are subject to any new rule as proposed by NHTSA – making the pursuit of a solution a potentially dangerous and costly endeavor. States like Iowa that are obligated under state law to develop an odometer disclosure system would benefit from the prompt implementation of a rule so that the state can develop its system to conform to the requirements of the rule. In the absence of clear regulatory guidance, and under the pressure of satisfying state law, Iowa is in the precarious situation of being required to develop a solution as required by state law, but lacking assurances that their system will meet the requirements of a yet-to-be-developed rule.

Previous State Petitions for Approval of Electronic Odometer Disclosure Schemes

AAMVA requests clarification on the effect of this NPRM on existing waivers granted to states. Specifically, clarification on whether states granted a waiver by U.S. DOT to proceed with an alternative process to collect odometer disclosures continues to have the authority to operate that system under the waiver. States have invested significant resources under the current waiver process. This NPRM and subsequent rules should not jeopardize state investments in systems that have been approved by the Secretary and have been found to present a safety threshold equal to or greater than that which already

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exists. AAMVA requests that states who have been granted a petition for alternate odometer disclosures continue to be granted the authority to operate those systems.

Ongoing Concerns Regarding Electronic Disclosures in Light of Previous State Petitions

In an effort to allow program flexibility in meeting the objectives outlined by NHTSA, AAMVA recommends NHTSA utilize the following minimum performance requirements for an authorized system:

1. The system must protect consumers as prescribed by the Truth in Mileage Act.
2. The odometer disclosure must be made during the title transaction or electronic equivalent portion of the transaction, and not (except for a very few limited number of exceptions) on any other document. If the process cannot be completed under fully electronic conditions, a paper title may be used, but no new documents or processes should be integrated.
3. An electronic disclosure system should minimize or eliminate odometer disclosures on physical documents. Electronic odometer processes should not simply become “electronic” by scanning documents. The implemented electronic process will perform all of the necessary components of the paper process in a more secure electronic environment.
4. The scanning of any secure paper documents, or supporting documents, must be done at a resolution that preserves the security features and the ability to identify forgeries and alterations.
5. Any electronic odometer disclosure system must provide adequate means for verifying the identity of the transferors and transferees.
6. Electronic title and odometer disclosure systems must also foreclose the possibility that a seemingly valid physical title and electronic title do not coexist.
7. Any system designed to accommodate transactions involving leased vehicles must employ measures that meet the existing regulatory requirements without employing physical forms, such as power of attorney documents.
8. All electronic odometer disclosure systems must be designed not to impede interstate vehicle sales while providing consumer protection against odometer fraud.

The NPRM states, “Similarly, an electronic odometer disclosure system may not rely on a method of transmitting secure paper documents if that method does not preserve the security features now present in physical titles, reassignments, and powers of attorney. A low resolution scan of such a document is not secure and such a scan may not reveal forgeries or alterations.” Given this statement, AAMVA notes that in a fully electronic odometer disclosure system, there would not be any physical documents to scan.

E-Manifest

AAMVA recognizes that there are differences between in-person electronic signatures and remote electronic signatures and agree that a rule would not be beneficial if it is prescriptive of how the state must implement the technology components of an e-odometer solution. However, the NPRM is prescriptive with regards to certain technological parameters – such as the level of assurance, the 600 DPI scanning requirements, the potential required hardware – that run counter to the suggestion of a flexible approach to implementation of a system. While each state has the ability to set standards, AAMVA emphasizes that these standards must be malleable and adaptable with the evolution of technology. AAMVA suggests that it is in the best interests of the consumers, states and stakeholders if this rule is permissive in nature and avoids overly-specific technology and methodology requirements.

Once an intrastate methodology has been established for electronic odometer disclosures, the focus will shift towards interstate transactions. Currently, there is no national database that serves all states for the purposes outlined in this NPRM. AAMVA has demonstrated expertise in developing technology solutions to support states in their efforts to access and exchange information on driver licensing, vehicle titling and secure identities. The National Motor Vehicle Title Information System (NMVTIS) is an example of how AAMVA has been able to support the states in exchanging vehicle titling information that includes

odometer capture. AAMVA is uniquely positioned to assist the states in identifying a solution or leveraging existing technologies in support of e-odometer disclosure requirements.

Purpose of Odometer Disclosure Requirements

States already have an underlying incentive to develop electronic systems that improve e-commerce. In the case of electronic titling, a continuous electronic record of ownership shared between states would limit the frequency with which a paper title must be created and relieve the states from the expense associated with paper title issuance. AAMVA recommends the NPRM avoid pursuing interstate communication requirements as they could have the unintentional effect of stifling innovation and restricting the pool of available solutions prematurely. States, and particularly the Departments of Motor Vehicles (DMVs), exchange information through secure means in a variety of different ways – all in accordance with applicable federal and state law. AAMVA believes states can use a similar methodology for electronic odometer disclosures and eventually electronic titling. AAMVA again urges NHTSA to permit states to move forward on implementation authority, but to avoid specific process and procedure requirements that may restrict a state's options.

NHTSA has requested comments on whether it should go further in order to prevent, or limit, variation among the various state's systems. AAMVA discourages NHTSA from going any further or limiting state participation in any way. Variations exist in state systems today, yet the states are able to conduct interstate transactions. Not all states have established electronic titles, few have developed electronic title systems, and even fewer have the ability to complete fully electronic transactions or odometer disclosures. The development of restrictive requirements before all states have had the opportunity to evaluate their existing systems and determine what such a transition could look like is premature. The NPRM should focus on the overall program objectives that a state must meet in order to be granted the authority to process electronic odometer disclosures, and not on mandating new state-specific requirements that may run contradictory to existing state law or regulation. The NPRM should be inclusive of state process and data exchange as long as a state meets the overall program goals for being granted operating authority.

Odometer Disclosure Requirements

As NHTSA considers making changes to the rule, it provides the opportunity to update and reinforce antiquated provisions based on past legislation, court rulings, changes in industry and inquiries to NHTSA. Specifically, 49 CFR 580.13(f) references that "the dealer shall not complete the mileage disclosure on the title" when outlining how to handle a discrepancy between a power of attorney form indicating lower mileage than that appearing on the title. Either this citation provides an errant reference to the dealer, or this citation implies that only a dealer would be completing the mileage disclosure on a title. AAMVA does not believe this is the true intention of the regulation. AAMVA recommends this section be clarified so that the section applies to all transactions, or that additional qualification be provided clarifying that this is the only acceptable use of power of attorney.

Definitions

Electronic Document – AAMVA recommends this be referenced as "electronic record." Once an electronic process is implemented, a paper "document" is eliminated. A "document" is not created in an electronic environment, instead data elements are captured, stored, and aligned with the information previously printed on a paper document. The term "record" also includes information extending beyond title information retained in state systems, which NHTSA should consider when clarifying access points and power of attorney authority.

Sign or Signature – AAMVA recommends NHTSA remove references to the term "form" as it relates to electronic odometer disclosure and electronic titles. Required disclosures and statements will still need to be made by the transferor and the transferee, but these disclosures and statements will not be made on a paper-based "form."

Identify Parties to a Motor Vehicle Transfer and Security of Signatures

The Executive Summary of the National Institute of Standards and Technology (NIST) Special Publication 800-63-2, *Electronic Authentication Guideline* states:

“Electronic authentication (e-authentication) is the process of establishing confidence in user identities electronically presented to an information system. E-authentication presents a technical challenge when this process involves the remote authentication of individual people over an open network, for the purpose of electronic government and commerce.”

Because the process will ultimately be so different for persons that present themselves in person and those where the parties are separate, NHTSA must distinguish between an in-person transaction where an electronic signature is captured as separate from remote identity verification.

The recommendation for a Level of Assurance (LOA) 2 is reasonable and achievable for remote identification verification scenarios. However, compliance with a LOA-3 would have adverse implications for all entities involved in an online transaction. Per the NIST *Electronic Authentication Guideline*:

“Level 3 – Level 3 provides multi-factor remote network authentication. At least two authentication factors are required. At this level, identity proofing procedures require verification of identifying materials and information. Level 3 authentication is based on proof of possession of the allowed types of tokens through a cryptographic protocol. Multi-factor Software Cryptographic Tokens are allowed at Level 3. Level 3 also permits any of the token methods of Level 4. Level 3 authentication requires cryptographic strength mechanisms that protect the primary authentication token against compromise by the protocol threats for all threats at Level 2 as well as verifier impersonation attacks. Various types of tokens may be used as described in Section 6.

Authentication requires that the Claimant prove, through a secure authentication protocol, that he or she controls the token. The Claimant unlocks the token with a password or biometric, or uses a secure multi-token authentication protocol to establish two-factor authentication (through proof of possession of a physical or software token in combination with some memorized secret knowledge). Long-term shared authentication secrets, if used, are never revealed to any party except the Claimant and Verifiers operated directly by the CSP; however, session (temporary) shared secrets may be provided to independent Verifiers by the CSP. In addition to Level 2 requirements, assertions are protected against repudiation by the Verifier.”

According to the standard – if the requirement by rule is set at LOA-3, then every aspect of the online transaction- including the systems and the participating entities must meet the LOA-3 standard. If one aspect of the transaction does not meet the LOA-3 standard, then the entire transaction is considered at the threshold of the lowest common denominator – which in this case would mean that if one aspect of the transaction only satisfies LOA-2, then the entire transaction system may only be considered LOA-2. The following citation from the NIST guideline affirms this:

“4.8 Calculating the Overall Authentication Assurance Level

The overall authentication assurance level is based on the low watermark of the assurance levels for each of the components of the architecture. For instance, to achieve an overall assurance level of 3:

- *The registration and identity proofing process shall, at a minimum, use Level 3 processes or higher.*

- *The token (or combination of tokens) used shall have an assurance level of 3 or higher.*
- *The binding between the identity proofing and the token(s). If proofing is done separately from token issuance, shall be established at level 3.*
- *The authentication protocols shall have a Level 3 assurance level or higher.*
- *The token and credential management processes shall use a Level 3 assurance level or higher.*
- *Authentication assertions (if used) shall have a Level 3 assurance or higher.*

Understanding that there are a combination of usability factors, general business impacts, and fiscal realities, an attempt to force all potential participating parties to comply with a standard set at LOA-3 will ultimately lead to a common inability to do so. In light of the self-asserted nature of a signature on a physical document (LOA-1) and the improvement that assertions of a higher level of assurance provide, AAMVA believes that LOA-2 is an achievable goal that would demonstrate process improvements and provide all interested parties with a higher level of assurance than currently provided. AAMVA emphasizes that the current paper process and authentication of a wet signature is not believed to be the preeminent method for verifying the identity of the transferors and transferees or the ability to identify forgeries and alterations.

NHTSA requests comment on whether any other requirements are necessary to ensure that investigators can trace an electronic signature to identify the individual and/or computer used in the electronic equivalent of a paper trail. Conversely, if an odometer disclosure is altered, do the proposed system requirements develop an adequate paper trail to lead investigators to the IP address or computer used to alter the discloser, and if not, what additional system requirements are necessary? AAMVA recommends that NHTSA develop the rule in such a manner that the electronic odometer solution should provide the appropriate information to identify the individual and/or device used in order to process the electronic odometer disclosure statement. Further, the solution should provide investigators with the necessary information to identify and recommend odometer fraud crimes for prosecution. AAMVA discourages NHTSA from identifying specific technology or system requirements as any such requirements will unlikely be able to keep pace with the evolution of applicable technology. The states stand with NHTSA in working to ensure investigatory tools and prosecution methods for odometer fraud stay intact. An electronic odometer disclosure solution will provide additional information well beyond the information currently available with a paper-based, wet signature process and may further assist odometer fraud investigations. The state titling agencies are well aware of the need to protect the information associated with vehicle ownership and title documents. The states have been collecting and protecting this information, along with other sensitive information, for decades.

Security of Title Documents

NHTSA seeks comment regarding whether proposed changes to 49 CFR 580.4 appropriately matches the security and authenticity requirement for electronic documents with respect to current paper documents. The changes and additions to §580.4 provide no clear comparison. Currently, titling agencies are required to print titles on secure paper. In transitioning to an electronic environment, titling agencies will instead be required to retain the same information in a secure electronic environment. Many titling agencies already convert information from the title to their system of records and adequately protect that information. The security of state titling systems provides a level of security beyond that of a paper document. States implementing an electronic odometer disclosure system will take into account the risks associated with data collection and establish the appropriate safeguards. Rather than include overly prescriptive requirements on system security, NHTSA should understand that states are already collecting and protecting this information in their system of records and that the data is comparable whether in electronic or paper form.

NHTSA also cites the need to “have certain security safety features to inhibit altering the disclosure and to aid in the detection of alterations.” AAMVA notes that in most cases, dates and times are available to the states to make determinations on who accessed certain records. AAMVA understands the need to clarify record controls, however, AAMVA cautions that the language must take into consideration the extensive business processes used by the states each day so that any requirements do not interrupt titling agency business.

NHTSA requests comment on whether requirements should be included for the hardware used in an electronic odometer system to protect the system from threats which could disrupt the electronic records. AAMVA reemphasizes that states have been protecting sensitive data for a long time. The states will continue to safeguard the title information regardless of how it is captured. Including hardware requirements not only limits a state’s ability to keep pace with technology innovations, but it also carries the potential to put a state into conflict with procurement and competitive bidding policies as the regulation ages.

Odometer Disclosures

It seems that the NHTSA approach to this NPRM is to transform a paper-based disclosure process into an electronic disclosure by simply scanning current documentation - the title, the reassignment or the power of attorney. These physical documents are being scanned today as part of the titling process but take place entirely outside the scope of an electronic disclosure system. If a secure document is physically signed, than that document already conforms to existing regulation and really has no bearing on any shift to an electronic disclosure system. Any reliance on a physical document, whether scanned or not, does not constitute an electronic disclosure system and should not provide the basis for an electronic disclosure system.

The secure power of attorney process as described in the NPRM is not consistent with current business process. State titling agencies do not accept a physical power of attorney from a state without the corresponding title. This NPRM contemplates the use of a power of attorney to facilitate transfer from an electronic title state to a physical title state. This process is already utilized without NPRM consideration and has served as the basis for numerous NHTSA responses to state petitions that require a state to maintain the ability to provide a secure physical title. The ability to produce a secure physical title does not necessarily preclude the possibility of an electronic disclosure system working in tandem with title production.

AAMVA does anticipate a use for power of attorney that the existing and proposed regulations do not address. A secure power of attorney, whether physical or electronic, needs to be permissible when the current record of title is electronic. Current regulations require the title be physically held by the lienholder. Because an electronic title cannot be physically held and there is no title available for the seller to sign, power of attorney could be utilized just as if the title were in physical possession of the lienholder.

NHTSA has requested comment on the proposal that disclosures be made on an electronic form incorporated into the electronic title. AAMVA envisions that the concept for electronic odometer disclosures would be capturing each complete data field and integrating that data as a part of the electronic title record. There would be no need for an electronic “title” as the data elements previously printed on paper titles would become part of the electronic record. The same information that was collected on the paper title document would continue to be a part of the electronic record maintained by the titling agency.

NHTSA requests comments on the proposal to not extend the printed name requirement to electronic disclosures, including technologies that provide comparable electronic hand-writing exemplars as paper document exemplars, and on the proposal to require that any electronic system be capable of providing

the transferor and transferee with a copy or record of the disclosure made. AAMVA fully agrees with the NPRM that a “printed name” provides no additional value in an electronic odometer disclosure environment.

NHTSA requests comments on the proposal to limit the current separate document disclosures for first title issuance and for when the title does not contain sufficient space for the disclosure requirements in paper-based jurisdictions. AAMVA does not support requiring the document upon which the odometer statement is completed in these situations to be on a secure document set forth by the jurisdiction since this is not a requirement today.

NHTSA also seeks comment on requiring disclosures for first title issuance to be conducted within the electronic title system in electronic disclosure jurisdictions. AAMVA supports allowing (but not requiring) jurisdictions to facilitate an electronic process for first title issuance.

Requirements for Electronic Transactions

NHTSA requests comments on the additional requirement for electronic disclosures and what, if any, more specific requirements would be appropriate to ensure that electronic records are not altered and indicate any attempts to alter them. AAMVA is wary of NPRM verbiage relating to “accessing” and “altering” information. While AAMVA assumes NHTSA intends this language in terms of odometer fraud protection, titling agencies will need have the authorization to access electronic odometer disclosure information, and in some instances, alter that information to correct it. While AAMVA supports NHTSA’s intent to provide a mechanism to track *unauthorized* access and alteration of this information, we caution against any language that would limit titling agency authority or impede titling agency business.

NHTSA proposes to add §580.6(a)(2) requiring that any electronic signature identify an individual and, further, that if the individual is acting in a business capacity or otherwise on behalf of any other individual or entity, that the business or entity also be identified as part of that unique electronic signature. AAMVA supports individual identification and the affiliation of an individual to any entity that is completing the odometer disclosure in a business capacity as part of the electronic signature requirement.

NHTSA proposes to add §580.6(a)(3) which provides that any requirement in the regulations 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 otherwise electronically accessible to the party required to receive the disclosure. AAMVA does not support this proposal. The responsibility to provide odometer disclosure information resides with the transferee and transferor and should remain there. Further, the notification emphasis should be transaction based rather than a process based on individual account notification methods. Were NHTSA to pursue such a method, it would also impose additional technology requirements on the states.

With regard to physical documents used in making electronic disclosures, AAMVA agrees that the continued use of physical documents to accomplish transfer of title or odometer disclosure in an electronic disclosure jurisdiction should be strongly discouraged. Each different document inserted into the process presents a new opportunity for fraudulent activity to occur. AAMVA also agrees that to the extent that continued use of physical documents is necessary in an electronic system, any physical documents used must comply with regulatory requirements.

The exchange of electronic and paper title records will be necessary. A successful electronic system should be able to designate which title or record is the current title of record – as titling agencies currently provide today. AAMVA encourages the common practice of destroying expired, antiquated, transferred or invalid paper titles. An active electronic title record and an active paper title cannot coexist. A disclosure from a previous transaction cannot be affiliated with another title transaction. Once completed, the disclosure is translated to a new odometer reading on a new electronic title record or a

new paper-based title. Any odometer reading that is disclosed and acknowledged on a previous transfer is required to be incorporated and printed on the new title. The same holds true for current electronic record transactions. An odometer disclosure on a transfer is incorporated on a new record, and is maintained in an electronic environment. States provide receipts of transfers today with the newly recorded mileage that do not constitute ownership evidence regardless of the whether the title is paper or electronic.

In instances where paper titles are combined with an electronic disclosure, jurisdictions cannot reliably ensure the destruction of existing physical documents. These paper titles can be invalidated and the record superseded (as is current practice) but the new jurisdiction of record has no control over whether or not a transferor or transferee actually destroys the document. Given that states are currently required to perform a title check prior to title transactions to determine if they have the most current title issued, states already have a process in place to validate that they are not dealing with an out-of-date or superseding title.

NHTSA has requested comments on the standards that should be used for scanning and maintaining documents, including whether the scan must be in color, be made at a minimum resolution, or preserve the security features of the original to ensure that fraud or alteration could be detected. In terms of resolution, a 600 dpi scan is excessive and the NPRM provides no clear evidence or case study to support a high resolution standard. Utilizing a 600 dpi resolution unnecessarily increases the file size to the point that storage and transmission of title histories sent via email become overly expensive and burdensome. Further, whether a document is scanned at 300 dpi or 600 dpi, or whether the document is scanned in color, states would still not retain the original document for evidentiary purposes once they are destroyed. Odometer cases are proven through interviews and statements from vehicle owners as well as reference to vehicle history through the numerous vehicle records that delineate the timeline and odometer readings of the vehicle. Documents such as the vehicle service records, crash records, and insurance records provide a much clearer resource of evidence than an original document that may include an alteration. The creation of vehicle history systems and databases provide investigators with a great tool to identify mileage discrepancies that were not previously available.

AAMVA further notes that reviewing titles for alterations is not as relevant in an electronic environment. Many states already invest in a system where they scan title documents into an image system prior to destruction. Instead of focusing on title document alteration, the focus should be redirected to the increased reporting and improved integrity of odometer disclosures captured by an electronic system. Incorporating all sellers and buyers who independently report odometer information into an electronic state system would add increased value to law enforcement and investigators.

Leased Vehicles

NHTSA proposes to add language to §580.7(a) specifying that legal notices given on paper odometer disclosure documents must be provided to, and acknowledged by, an individual making an electronic disclosure; adding language to §580.7(b) clarifying that a printed name need not be provided for electronic disclosures; and add a new §580.7(e) requiring any electronic system maintained by a lessor for the purpose of complying with this section meet the requirements set forth in this part. State titling agencies are not currently involved in this process and AAMVA does not support involving the state in transactions made between the lessee and the lessor. The use of the term “physical document” as associated with a lessee making an odometer disclosure to a lessor is particularly troublesome. As proposed, these physical documents would include a title, reassignment document, or power of attorney. AAMVA recommends that the duty of the state remain only in the receipt of an actual odometer disclosure made by the titled owner.

NHTSA requests comments as to whether electronic disclosures of leased vehicles should be a required part of the electronic system established by a jurisdiction or are best left to individual companies/lessors

to establish and whether the current proposal would sufficiently aid law enforcement in detecting altered documents. Because the actual odometer disclosure performed on the title of the transaction is done by the owner of the vehicle (the lessor) AAMVA does not feel state intervention in this process is necessary or warranted. AAMVA does not support any requirement mandating lessor/lessee odometer information exchange take place within the confines of a state system.

Record Retention

NHTSA is proposing to add a specific requirement in a new §580.8(d) and in §580.9 that electronic records kept by motor vehicle dealers and distributors and by auction companies must be stored in a format that cannot be altered and which indicates any attempts to alter the document, consistent with the standards set forth in proposed §580.4(b). NHTSA requests comment on whether this requirement would be sufficient to allow law enforcement to detect altered documents. AAMVA feels that this requirement is unnecessary as states systems would provide the required security protocols. Only authorized access and modifications to the records as submitted to the states would be permitted and further specific regulation seems unnecessary. Law enforcement will still be able to obtain the appropriate information to detect fraud and any new requirements carry the potential to further obfuscate paper versus electronic processes between parties.

Power of Attorney

NHTSA proposes to amend §580.13(a) and (b), to allow an individual with a vehicle titled in an electronic title state to use a power of attorney to sell a vehicle in a paper title state. In this way, the electronic title with the required odometer disclosure is equivalent to a lost title or a title held by a lienholder. While the use of power of attorney provides an additional step in the transfer process, and thus another opportunity for fraud to occur, the agency believes as a practical matter that there must be some other way for a vehicle owner from an electronic title state to sell the vehicle in a paper title state without first obtaining a converted official paper title from the electronic title state. AAMVA does not believe that a power of attorney is or would be the appropriate document to transfer ownership. These transactions should be performed on a secure physical title like they are today.

NHTSA requests comments on whether power of attorney would be necessary in an electronic odometer system for intra-state transfers. A power of attorney may still be necessary in intrastate transactions within an electronic titling state in instances where the buyer or seller does not have the ability to complete the transaction electronically.

NHTSA notes that the requirements in §580.13 permitting disclosures by power of attorney assume that the power of attorney document itself is a physical document. Therefore, NHTSA requests comments on whether odometer disclosure by power of attorney would be made on something other than a paper document, i.e. electronically, in these situations and, if so, explanation of how that would work. AAMVA does not believe a power of attorney will be necessary in electronic odometer disclosure transactions, but does not suggest the rule preclude a state from using a power of attorney if necessary. Should an acceptable methodology be determined to proceed with an electronic power of attorney, AAMVA supports the development of that methodology.

Exemptions

Section 580.17(3) currently exempts any vehicle which is more than 10 years old from the odometer disclosure requirements. The average age of the United State vehicle fleet has been trending upward and recently reached 11.5 years. Because of this, NHTSA is proposing to raise this exemption to 25 years. AAMVA supports the extension of the exemption beyond the current 10 years. Twenty-five years is consistent with many definitions of an antique vehicle among the titling agencies, though it is not uniformly recognized at that age. Some states discontinue the issuance of titles once a vehicle has reached a certain age – for example 15 years. This presents a potential area of impact as a title document for odometer disclosure may not be offered by the state.

AAMVA is concerned with the process of implementing the extended exemption and the lack of clarity regarding how states should process vehicles that are currently exempt but will not be exempt upon the effective date of the final rule. An immediate 25-year exemption has the potential to increase fraud by allowing sellers to disclose mileage on vehicles that are currently exempt with no documented mileage on their titles. Should this be permitted, states would need clarification on whether the newly certified mileage would be distinguished as "Actual," "Not Actual," or another designation. Any discrepancies would create confusion for the customer, the titling agency, and law enforcement. Titling agencies would have mileage disclosed on previously exempt vehicles with little assurance of its accuracy, notwithstanding the historical mileage figures available prior to the vehicle attaining 25 years of age. AAMVA recommends that any vehicle that does not reflect "actual" mileage in the title record be precluded from movement towards an actual reporting even if mileage is disclosed at a later date.

AAMVA recommends that the rule phase-in the 25 year exemption, by first applying the requirement to vehicles under 25 years old that are currently subject to odometer reporting. AAMVA further recommends that the rule does not require odometer disclosures on vehicles that were previously exempt. For example, as it stands today, a 2007 or newer model year is required to have an odometer disclosure. If the rule becomes effective in 2016, AAMVA would recommend the following rule language for §580.17:

"Odometer disclosure are required on vehicles manufactured in model year 2007 or newer. Exemption: A vehicle that was manufactured in a model year beginning at least twenty five years before January 1 of the calendar year in which the transfer occurs is exempt. Example to paragraph (a)(3): For vehicle transfers occurring during calendar year 2032, model year 2007 or older vehicles are exempt."

This proposed solution would ensure that no vehicles are to go from exempt status today to a disclosed certified mileage on the next title transfer. Vehicles that currently have a certified mileage on the title will continue to maintain mileage until they become exempt at 25-years old. Every year, titling agencies would get one year closer to the goal of a 25-year exemption. In 15 years, all vehicles 25 model years old or less would have a complete 25-year history.

Miscellaneous Amendments

NHTSA has conducted maintenance, but has not addressed items of importance in existing regulation. For example, the term "dealer" is mentioned without context in §580.13. This term needs to be changed to transferee or NHTSA needs to provide further clarification as to the intent of the regulation.

AAMVA requests clarification on when the use of power of attorney in conjunction with odometer disclosure is permitted outside of the use delineated in regulation. For example, is use by third parties such as lienholders, title services, and auctions signing a non-secure power of attorney permissible?

AAMVA requests the regulations be updated to allow for a power of attorney to be used in intrastate transactions when there is an electronic title. A secure power of attorney should be permissible when there is an existing electronic title within a jurisdiction and transfer is taking place within that jurisdiction. This would be comparable to a title being unavailable when held by a lienholder or lost.

Finally, AAMVA believes that states should have an option to petition for an alternative disclosure process. AAMVA hopes that the final rule is written in such a way that the petition process is not necessary but feels that alternative disclosure requirements from those proposed in §580.6 provides an applicable safeguard.

AAMVA thanks NHTSA for the opportunity to comment on this NPRM. These initial steps can help titling agencies, dealers, and consumers take the first responsible steps towards bringing ownership transactions

into the 21st century. We look forward to continued collaboration with NHTSA and all relevant stakeholders in furthering the discussion and making electronic odometer disclosures a tangible solution.

Appendix C

Memo from the E-Odometer Task Force to the Vehicle Standing Committee Regarding the Proposed Exemption Modification



American Association of
Motor Vehicle Administrators

**safe drivers
safe vehicles
secure identities
saving lives!**

MEMO

TO: Betty Johnson, Chair, Vehicle Standing Committee
FROM: Casey Garber, Manager, Vehicle Program on behalf of the E-Odometer Task Force
DATE: August 3, 2017
RE: 25 Year Exemption Change Proposed in NHTSA Notice of Proposed Rulemaking
Odometer Disclosure Requirements, NHTSA-2016-0037

The E-Odometer Task Force carefully reviewed the notice of proposed rulemaking (NPRM) regarding odometer disclosure requirements. Included within the proposal was a modification to the 25 year exemption. After reviewing the changes, the E-Odometer provided input to be included in the AAMVA comment to the rule. The following is an excerpt from the AAMVA comment to the NPRM:

Exemptions

Section 580.17(3) currently exempts any vehicle which is more than 10 years old from the odometer disclosure requirements. The average age of the United State vehicle fleet has been trending upward and recently reached 11.5 years. Because of this, NHTSA is proposing to raise this exemption to 25 years. AAMVA supports the extension of the exemption beyond the current 10 years. Twenty-five years is consistent with many definitions of an antique vehicle among the titling agencies, though it is not uniformly recognized at that age. Some states discontinue the issuance of titles once a vehicle has reached a certain age – for example 15 years. This presents a potential area of impact as a title document for odometer disclosure may not be offered by the state.

AAMVA is concerned with the process of implementing the extended exemption and the lack of clarity regarding how states should process vehicles that are currently exempt but will not be exempt upon the effective date of the final rule. An immediate 25-year exemption has the potential to increase fraud by allowing sellers to disclose mileage on vehicles that are currently exempt with no documented mileage on their titles. Should this be permitted, states would need clarification on whether the newly certified mileage would be distinguished as “Actual,” “Not Actual,” or another designation. Any discrepancies would create confusion for the customer, the titling agency, and law enforcement. Titling agencies would have mileage disclosed on previously exempt vehicles with little assurance of its accuracy, notwithstanding the historical mileage figures available prior to the vehicle attaining 25 years of age. AAMVA recommends that any vehicle that does not reflect “actual” mileage in the title record be precluded from movement towards an actual reporting even if mileage is disclosed at a later date.

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AAMVA recommends that the rule phase-in the 25 year exemption, by first applying the requirement to vehicles under 25 years old that are currently subject to odometer reporting. AAMVA further recommends that the rule does not require odometer disclosures on vehicles that were previously exempt. For example, as it stands today, a 2007 or newer model year is required to have an odometer disclosure. If the rule becomes effective in 2016, AAMVA would recommend the following rule language for §580.17:

“Odometer disclosure are required on vehicles manufactured in model year 2007 or newer. Exemption: A vehicle that was manufactured in a model year beginning at least twenty five years before January 1 of the calendar year in which the transfer occurs is exempt. Example to paragraph (a)(3): For vehicle transfers occurring during calendar year 2032, model year 2007 or older vehicles are exempt.”

This proposed solution would ensure that no vehicles are to go from exempt status today to a disclosed certified mileage on the next title transfer. Vehicles that currently have a certified mileage on the title will continue to maintain mileage until they become exempt at 25-years old. Every year, titling agencies would get one year closer to the goal of a 25-year exemption. In 15 years, all vehicles 25 model years old or less would have a complete 25-year history.

The E-Odometer Task force fully supports a phased in approach if and when the exemption is extended beyond the current 10 year exemption. A phased in approach would not have an impact on current vehicles that are exempt today and require a mileage disclosure at the time of the next title transfer. The recommendation from the Task Force is to require the odometer disclosure on all vehicles manufactured in year X + the number of years exempt beginning on January 1 of the next year as an effective date. This proposed solution would continue to require odometer disclosures on all current vehicles requiring an exemption until the vehicle becomes of the age where an odometer disclosure is no longer required.

The complete AAVMA response to the NPRM is included in the appendix of the Roadmap to Electronic Odometer Disclosure document on the AAMVA website or on the [NHTSA website](#). The Task Force wanted to send this memo to the Vehicle Standing Committee for historical purposes to document the review and position on this issue.

If you have any questions, please feel free to contact Casey Garber for further discussion with the E-Odometer Task Force.

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