

STATEMENT OF SCOPE

Department of Transportation

Rule No.: Transportation Rule 154

Relating to: Odometer Disclosure Requirements

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The Wisconsin Department of Transportation (WisDOT) proposes to amend Wisconsin Administrative Code ch. Trans 154, relating to odometer disclosure requirements, to conform with Federal changes recently adopted by the National Highway Traffic Safety Administration (NHTSA) regarding odometer reporting exemptions. The new federal regulation extends the duration of odometer reporting requirement and record retention from ten (10) years, to twenty (20) years. Changes to 49 CFR 580.17 will be effective January 1, 2021 and require the amendment of Wis. Admin. Code ch. Trans 154. The proposed rule will bring Wisconsin Administrative Code ch. Trans 154 into conformity with the updated federal regulations.

The National Highway Traffic Safety Administration (NHTSA) has announced a final rule establishing standards under which states may allow for odometer disclosures in an electronic format.

The federal rule adopted by NHTSA establishes standards under which states may allow for odometer disclosures in an electronic format. Wis. stat. s. 342.155(1) allows the department to accept odometer disclosures in an automated format authorized by the department. The proposed rule incorporates federal changes regarding the use of electronic signatures for various signatures and certifications required for odometer.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Wis. Admin. Code ch. Trans 154.05(3) currently provides an exemption from disclosure for all vehicles 10 years old or older. This will conflict with the updated 49 CFR 580.17, which will only exempt vehicles manufactured in or after 2011 from mileage disclosure requirements if the transfer is at least 20 years after January 1 of the calendar year corresponding to the designated model year of the vehicle. Vehicles will only be exempt from disclosure requirements after 10 years if the vehicle was manufactured in or before the 2010 model year.

Policy alternatives:

1. No policy change. This will retain existing requirements for handwritten signatures. Increasingly, as transactions throughout commerce are modernized and the use of electronic

signatures increases in acceptance, this handwritten signature requirement is viewed as an unnecessary cost and delay, because hard copy forms must be used, parties must be physically present to effectuate transactions, and original documents must be delivered.

2. Authorize use of electronic signatures for odometer statements and related title transaction forms. This would allow use of electronic signatures in addition to handwritten signatures. This would enlarge the means of signing documents without requiring anyone to change their customary or preferred methods of completing odometer statements and related title documents.

3. Require use of electronic signatures for odometer statements and related title transactions. This would prohibit the use of handwritten signatures, and would be inconvenient for those not having ready access to a computer or other means to effectuate an electronic signature transaction.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

- Section 342.155(1)(b), Stats., authorizes an odometer disclosure statement to be “on a form or in an automated format authorized by the department.”

- Section 342.155(1)(c), Stats., identifies areas for which the Department must promulgate rules related to mileage disclosure requirements of transferors and transferees.

- Under s. 342.115(1)(c)1. and 2., the Department must promulgate rules that “establish the form and manner of the mileage disclosure.” and that “identify which vehicles are exempt from the mileage disclosure requirements”.

- Section 85.16(1), Stats.

- The secretary may make reasonable and uniform orders and rules deemed necessary to the discharge of the powers, duties and functions vested in the department.

- Section 227.11(2), Stats., identifies where rule-making authority is expressly conferred upon agencies.

- Under s. 227.11(2)(a), Stats., “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute.”

- Section 342.06, Stats, authorizes application for vehicle title to be made on a form or in an automated format prescribed by the department.

- Section 342.20(1) authorizes the creation of security interests on a certificate of title by the owner signing, “in the space provided therefor on the certificate of title or on a separate form or in an automated format prescribed by the department.”

- Section 137.15(4), Stats., grants legal recognition of an electronic signature and states, “If a law requires a signature, an electronic signature satisfies that requirement in that law.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

1,000 hours

6. List with description of all entities that may be affected by the proposed rule :

- Wisconsin vehicle owners and purchasers
- Motor vehicle dealers

- Third-party title agents and vendors
- Motor vehicle auctions
- Insurers

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

National Highway Traffic Safety Administration regulations at 49 CFR Part 580 regulate Odometer Disclosure Requirements. Section 49 CFR 580.17 specifically provides exemptions to odometer disclosure requirements. As it currently exists, 49 CFR 580.17(3) exempts vehicles “manufactured in a model year beginning at least ten years before January 1 of the calendar year in which the transfer occurs” from the disclosure requirement. Accordingly, Trans 154.05(3) currently exempts vehicles that are 10 years old or older from the disclosure requirement.

Effective January 1, 2021, 49 CFR 580.17(3) will exempt “a vehicle manufactured in or before the 2010 model year that is transferred at least 10 years after January 1 of the calendar year corresponding to its designated model year”. CFR 580.17(4) will exempt “a vehicle manufactured in or after the 2011 model year that is transferred at least 20 years after January 1 of the calendar year corresponding to its designated model year”.

Federal regulations at 49 CFR Part 580 recently authorized the use of electronic signatures for odometer disclosure statements and specified technical requirements to ensure validity and security of the electronic signature. Because odometer disclosure statements are required and regulated by federal law, the department proposes to adopt practices that conform to those federal electronic signature requirements.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

In 2018, the most recent complete calendar year data available, DMV processed 396,023 title transactions involving vehicle 10 to 20 years old that, under the new Rules, would now require an odometer statement. This accounts for 19% of all title transactions for trucks and autos.

Assumptions:

- 1 odometer statement requires an administrative burden of 1 minute.
- The WI fleet would remain consistent moving forward in regard to size and relative age.
- The administrative burden is reflective of when the Rule is fully implemented in 10 years.

396,023 annual title transaction results in 396,023 minutes or 6,600 hours of administrative burden annually.

According to NHTSA data, 16% of vehicles over 10 years old are sold by motor vehicle dealers. When the Rule is fully implemented, the estimated annual administrative burden for motor vehicle dealers in Wisconsin would be an estimated (6,600 * 16%) 1,056 hours.

The department estimates the use of electronic signatures will save money and expedite vehicle title transactions for those individuals and business that choose to use electronic signatures, for some or all of the signatures required during vehicle title transactions. This rulemaking intends to retain the current use of handwritten signatures and allow--but not require-- the use of electronic signatures, so the department anticipates no increase in costs as result of this rule.

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