

STATEMENT OF SCOPE

Department of Transportation

Rule No.: Trans 154

Relating to: Electronic 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 (the “department”) proposes to amend Wisconsin Administrative Code ch. Trans 154 to conform with recent changes to 49 CFR part 580, which now allows electronic disclosure to transferees and lessors concerning the odometer mileage.

The department proposes incorporating the use of electronic signatures for various signatures and certifications required for odometer disclosures under this rule. Section 342.155 (1) (b), Stats., allows the department to accept odometer disclosures in an automated format authorized by the department.

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:

The National Highway Traffic Safety Administration (NHTSA) announced a final rule establishing standards under which states may allow for odometer disclosures in an electronic format. Section 342.155 (1) (b), Stats., allows the department to accept odometer disclosures in an automated format authorized by the department. Under s. 342.01 (2) (ac), Stats., “automated format” includes any “document, record, or other information generated or maintained in an electronic or digital form or medium.”

Current practice requires wet signatures for odometer statements for all non-exempt vehicles. The written signature is required on the conforming title, a separate odometer disclosure statement (DOT paper form with security features), or a conforming power of attorney form. The completed odometer disclosure must be physically delivered by the transferor to the transferee at the time ownership of the motor vehicle is transferred.

Electronic signatures would provide efficiencies for DMV, third party partners, motor vehicle dealers, lien holders, and department customers. The goal of this rulemaking is to facilitate a secure electronic odometer disclosure process that no longer relies on physical paper. Electronic disclosures create opportunities to increase efficiency and accuracy and mitigates opportunities for odometer fraud. Electronic disclosures are also pandemic friendly as it allows for remote transactions. A no-action alternative would prohibit these improvements and efficiencies.

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):

Chapter Trans 154 administratively interprets s. 342.155 (1) (a), Stats., which implements mileage disclosure requirements.

s. 342.155 (1) (a), Stats.

“Unless exempted by rule of the department, no transferor may transfer ownership of a motor vehicle without disclosing the vehicle's mileage in writing to the transferee by specifying the odometer reading. The disclosure shall state either that the reading is known to be actual mileage, or that the reading is not the actual mileage and should not be relied upon, or that the reading reflects the mileage in excess of the designed mechanical limit.”

Section 342.155 (1) (b), Stats., allows the department to accept odometer disclosures in an automated format authorized by the department.

s. 342.155 (1) (b), Stats.

“The mileage disclosure statement required under par. (a) shall be made in the spaces provided on the certificate of title or on a form or in an automated format authorized by the department. The transferee shall print his or her name on the mileage disclosure statement, sign the statement and return a copy of the statement to the transferor. Except as authorized by rule of the department, no person may sign a mileage disclosure statement as both the transferor and transferee in the same transaction.”

Section 342.155 (1) (c), Stats., allows the department to promulgate rules to establish the form and manner of mileage disclosure.

s. 342.155 (1) (c) 1., Stats.

“(c) The department shall promulgate rules that do all of the following:
1. Establish the form and manner of the mileage disclosure.”

Section 85.16 (1), Stats., grants the department authority to promulgate rules to carry out the functions of the department.

s. 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) (a), Stats., grants agencies the authority to promulgate rules as necessary to effectuate the purpose of the statute.

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 137.15 (4), Stats., grants legal recognition of an electronic signature and states.

s. 137.15 (4), Stats

“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 :

500 hours

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

Wisconsin vehicle owners, motor vehicle dealers, motor vehicle wholesalers, motor vehicle salvage pools, and third party title agents and vendors.

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 :

Under 49 CFR part 580, the NHTSA regulates odometer disclosure requirements, authorizes the use of electronic signatures for odometer disclosure statements, and provides technical requirements to ensure validity and security of the electronic signature.

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

There are no known adverse economic impacts to the department, stakeholders, or customers. The department estimates the use of electronic signatures will save money and expedite vehicle title transactions for individuals and business that choose to use electronic signatures 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.

Contact Person:

Reed McGinn

Wisconsin Department of Transportation Division of Motor Vehicles

4822 Madison Yards Way, Room 206

Madison, WI 53705

(608) 266-7857

reed.mcgin@dot.wi.gov