NADA

October 28, 2019

By Electronic Mail
National Highway Traffic Safety Administration (NHTSA)
Docket Management Facility (M-30)
U.S. Department of Transportation
West Building, Ground Floor, Rm. W12-140
1200 New Jersey Avenue SE,
Washington, DC 20590

Re: Electronic Motor Vehicle Transactions Systems,
49 CFR Part 580, Docket ID NHTSA-2019-0092.

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents more than 16,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ over 1,100,000 people nationwide, yet the majority are small businesses as defined by the Small Business Administration.

Earlier this month, NHTSA issued its long-awaited rule allowing for the adoption by states of electronic odometer disclosures ("e-odometer rule").[1] A few days prior, NHTSA requested comment on the benefits associated with the paperless odometer disclosures, electronic vehicle transactions, and electronic title transfers that are expected to flow from the e-odometer rule.[2] In response, NADA offers the following comments and suggestions.

The e-odometer rule offers motor vehicle dealers and consumers tremendous potential for significant cost savings and burden reductions. These cost savings and burden reductions will derive from the fact that light-duty vehicle transferors and transferees will be able to make and record electronically the disclosures mandated by the federal odometer law.[3] In addition, the e-odometer rule will facilitate electronic titles and title transfers, thereby promoting paperless vehicle sales and lease transactions ("e-commerce"). In addition to dealerships and consumers, significant cost savings and burden reductions are expected to benefit a variety of other regulated and non-regulated entities such as state motor vehicle administrators (MVA), motor vehicle auctions, insurance companies, lenders, lessors, and commercial fleets.

Any potential cost savings and burden reductions will depend on the degree to which MVAs conform with the flexibilities afforded by the e-odometer rule. NADA intends to work closely

[1] 84 Fed. Reg. 52664, *et seq.* (October 2, 2019).
[2] 84 Fed. Reg. 51090-92 (September 27, 2019).
[3] 49 U.S.C. §32705.

with state and local dealer associations, with MVA's, and with other interested stakeholders to see that the e-odometer rule is implemented as broadly and expeditiously as possible.

Franchised dealerships account for over 90% of new light-duty motor vehicles sales. They also account for some 37 percent of used light-duty vehicle sales, with independent dealerships accounting for some 35 percent and private parties another 28 percent. In 2018, franchised dealerships sold approximately 17.2 million new light-duty vehicles and 14.4 million used light-duty vehicles.[4] For the average franchised dealership, 66 percent of its used vehicle sales are at retail with wholesale sales (through auctions and otherwise) constituting the remainder. Franchised dealerships buy the used vehicles they sell through a variety of sources, including trade-ins (65 percent), auto auctions (30 percent), and other purchases (5 percent).

The overwhelming majority of new and used vehicle transfers require odometer information disclosures to be made and acknowledged. The typical used vehicle bought and sold by a franchised dealership involves at least two odometer information disclosures, one to the dealership when the vehicle is bought, and one to the purchaser when the vehicle is sold.[5] Until now, these disclosures largely have been made on paper, with copies provided to both the transferor and the transferee, and with dealership copies kept for at least five years. Secure powers of attorney (POA) are often used when vehicle titles aren't present; such as when liens are outstanding and the titles are held by lienholders, or when titles have been lost. The use of a POA can effectively involve up to two additional odometer information disclosures and at least one additional five-year recordkeeping burden.[6] Lastly, franchised dealerships often help facilitate the odometer information disclosures that are required to be made between lease customers and their lessors.[7]

Dealerships typically handle the new title application process on behalf of their customers when new or used vehicles sold at retail. Inevitably, original manufacturer certificates (or statements) of origin (MCOs), old titles, and/or separate odometer disclosure forms must be submitted in support of new title applications. Most often, title applications are submitted by mail, by overnight mail, or in person. Copies of odometer disclosures typically also are required in support of the loan or lease applications dealerships often facilitate on behalf of their light-duty vehicle retail customers.

Once implemented, the e-odometer rule will greatly reduce the cost and burdens associated with making required odometer information disclosures, with recording and removing liens, with transferring vehicle ownership, and with keeping associated records. NADA surveyed three dealerships of differing size and nameplates on their odometer disclosure, lien management,

[4] Ward's Automotive

[5] 49 CFR §580.5.

[6] 49 CFR §580.13-16.

[7] 49 CFR §580.7. According to *Cox Automotive 2019 Q2 Key Trends and Outlook*, there were some 3.9 million lease turn-ins in 2018, the majority of which required lease turn-in odometer disclosures by lessees and lessors.

and titling practices.[8] Those dealerships stated that, on average, making or receiving odometer information disclosures and handling associated paperwork involves up to 20 minutes per disclosure due to the amount of paperwork required, and the need to make, provide and keep paper copies. When asked how a world in which electronic odometer disclosure, lien recording and title handling is the norm will reduce costs and burdens, the dealerships surveyed estimated an average time savings of ten minutes for each vehicle transfer, retail or wholesale.

NADA salary data indicates that the median dealership title clerk earned about $16.00 per hour in 2018.[9] Thus, an average ten minutes of burden eliminated per transfer translates into an average savings of $2.67 per transfer. For a year such as 2018 with 17.2 million new light-duty vehicle sales, that savings translates into approximately $46 million. With respect to used light-duty vehicles, the average savings doubles since each vehicle is both bought and sold. Thus, for each light-duty used vehicle, the average time savings is $5.34. For a year with 14.4 million used light-duty vehicle sales, the total savings is approximately $77 million. Thus, assuming a 2018 sales year and a fully implemented final rule, franchised dealerships would save an estimated $123.0 million in labor costs alone. In addition, franchised dealerships will greatly reduce their title application transfer and submission costs by completing most applications and transfers electronically. NADA estimates that the e-odometer rule should eliminate an average of $500 per year in postage and messenger costs, for a total annual savings of $8.0 million.

In an e-commerce world with e-titles and e-titling, used vehicles purchased with outstanding liens should, in almost all instances, no longer require franchised dealerships to use a POA to make and receive required odometer information disclosures. NADA conservatively estimates that 30 percent of all used vehicles bought, and 15 percent of all used vehicles sold by franchised dealers involve the use of a POA. At $2.67 per use of a POA and a 14.4 million sales year, the cost savings associated with eliminating the use of POAs is at least $17.0 million.

If, as expected, states move to paperless titles, and when title transfers and lien recordings are conducted electronically, franchised dealerships should experience a major cost savings due to the elimination of costs associated with holding used vehicles in inventory pending the release of outstanding liens. At present, it is illegal in several states for dealers to sell used vehicles without title present. In most of those states, dealers must pay off existing used vehicle loans and obtain titles from lenders before they can sell used vehicles in inventory. Consequently, certain used vehicles are often held in inventory for several days or longer before they can be sold, causing dealers to tie up capital and incur storage and possibly floor plan interest charges. A conservative estimate is that at least 50 percent of all used vehicles bought by franchised dealerships have outstanding liens or otherwise lack titles when purchased.[10] If 50 percent of those vehicles are held for an average of 10 days while awaiting title, at an average daily

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[8] Phone interviews were had with title clerks employed by a small domestic dealership, a midsize domestic dealership, and a dealership with multiple international and domestic brands.

[9] 2019 NADA Dealership Workforce Study.

[10] Used vehicles without title present also include those where titles have been lost and replacement titles must be obtained before they can be sold. E-titling should render the replacement title process virtually instantaneous.

holding cost of $8 per day, the total annual savings for franchised dealerships that will no longer need to hold used vehicles without title present is $288 million.[11]

In the remaining states, where used vehicles without titles present can be sold “title attached,” they are bought and resold by dealerships at a discount relative to what their value would be if their title was present at the time of purchase and sale. It is estimated that these “title attached” used vehicle discounts also conservatively total some $288 million annually.

The above-described savings for franchised dealerships resulting from a fully implemented e-odometer rule with associated e-title and title transfer systems including electronic lien perfection and release, is as follows:

New Vehicle Disclosures/Title Applications-Labor:	$ 46.0 million
Used Vehicle Disclosures/Title Applications-Labor:	$ 77.0 million
New and Used Vehicle Title Application Mailing/Messenger	$ 8.0 million
POA Use	$ 17.0 million
Used Vehicle Holding Costs In Title Present Mandate States	$288.0 million
Used Vehicle Discounts for “Title Attached” Sales	$288.0 million
Total	$724.0 million

Note that these estimated cost savings are conservative do not include such incidental costs such as records management and printing. In addition, these estimated cost savings are only for the franchised dealership members of NADA and do not include the savings that will necessarily be experienced by other interested stakeholders including MVAs, auctions, insurance companies, lenders, lessors, and commercial/government fleets.

On behalf of NADA, I thank NHTSA for the opportunity to comment on this matter.

Respectfully submitted,

Douglas I. Greenhaus
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[11] Per day cost figure derived from a study conducted on the cost of holding recalled used vehicles in inventory pending remedy availability. J.D. Power & Associates, *An Economic Assessment of Trade-In Value Reduction Caused by Preventing Auto Dealers from Selling Passenger Vehicles with any Open Recall*, 2015. Total cost figure based on total sales of 14.4 million, times 25 percent, times 10 days, times $8 per day.