



U.S. Department of Transportation  
**National Highway Traffic Safety  
Administration**



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**BY E-MAIL**

May 7, 2024

Mr. Tony Hall  
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Dear Mr. Hall:

Thank you for your September 12, 2022 letter on behalf of Carvana regarding the federal requirements for electronic signatures on odometer disclosure statements, as set forth in 49 C.F.R. Part 580, and associated state requirements and policies. Your letter expresses concern about “a divergence in electronic signature requirements and allowances” in different states for odometer disclosures. Given Carvana’s nationwide business, you indicate that this divergence undermines the company’s ability to use electronic signatures and “essentially forces continued use of paper based processes, which result in higher costs for doing business.”

The National Highway Traffic Safety Administration (NHTSA) confirms your understanding of certain minimum requirements in its federal odometer disclosure regulations, based on the rule NHTSA issued on this topic in 2019. Insofar as your letter seeks NHTSA’s views on state-level requirements, we decline to provide the formal legal interpretation you requested. Your questions concerning state-level requirements are better addressed through discussions with the states.

As background, NHTSA sets requirements for odometer disclosures pursuant to its statutory authority to combat odometer fraud. *See* 49 U.S.C. § 32705; 49 C.F.R. Part 580. NHTSA estimates that more than 450,000 vehicles are sold each year with false odometer readings. This crime costs American car buyers more than \$1 billion annually. NHTSA’s odometer disclosure regulations help ensure that transferees of motor vehicles are provided with odometer information “to assist them in determining a vehicle’s condition and value by making the disclosure of a vehicle’s mileage a condition of title and by requiring lessees to disclose to their lessors the vehicle’s mileage at the time the lessee returns the vehicle to the lessor.” 49 C.F.R. § 580.2. In 2019, NHTSA issued a final rule pursuant to statutory mandate that amended the Part 580 regulations to “allow odometer disclosures in an electronic medium while maintaining and protecting the existing system(s) ensuring accurate odometer disclosures

and aid law enforcement in prosecuting odometer fraud.” 84 FED. REG. 52,664, 52,664 (Oct. 2, 2019).

NHTSA’s 2019 final rule “establish[ed] regulations permitting states to adopt schemes that allow electronic odometer disclosure statements in conjunction with electronic titling systems associated with the transfer of interests in motor vehicles.” *Id.* The final rule facilitated the transition to electronic titling while recognizing “the nascent state of electronic titling and odometer disclosures, as well as variations in existing title systems in states and territories,” and accordingly declined to adopt “more prescriptive requirements.” *Id.* at 52,670.

Your letter primarily concerns state requirements and policies for odometer disclosures following the 2019 final rule. You state that “[t]he 2019 publication of the revised requirements has led to several states explicitly authorizing electronic signatures on some or all documents, including upon scanned/imaged physical titles and physical powers of attorney, while others continue to prohibit electronic signatures.”

We confirm your understanding of certain minimum federal requirements that apply to a physical document that is scanned or imaged before the odometer statement is completed. Specifically, the signature requirements applicable to physical documents apply to such a scanned or imaged odometer statement.<sup>1</sup> For purposes of Part 580, a “signature” on a physical document, including a physical document that has been scanned or imaged, must be “a person’s name, or a mark representing it, as hand written personally.” 49 C.F.R. § 580.3. There is no federal requirement of NIST Level 2 conformance for such a document. *See id.* Part 580 requires the NIST Level 2 standard for signatures on an “electronic title or power of attorney,” not on a “physical document.” *See id.*<sup>2</sup>

The remainder of your letter addresses various hypothetical state requirements or policies. As stated above, these questions are better directed to the states.

NHTSA’s odometer disclosure regulations “establish minimum requirements for odometer disclosure.” 84 FED. REG. at 52,667. In the 2019 final rule, NHTSA addressed concerns expressed by certain states and other commenters that the approach should not be to “draft a set of detailed and comprehensive regulations creating rules governing technical aspects of system security, identity authentication, interstate communications, and the mechanics of executing transfers.” *See id.* at 52,684. NHTSA noted that “a highly prescriptive approach could be

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<sup>1</sup> A scanned or imaged copy of a physical document, without a completed odometer disclosure, is a physical document converted to an electronic format. *See* 49 C.F.R. § 580.6(h); *see also id.* § 580.13(h). In the 2019 final rule, NHTSA explained that it was not finalizing a definition of “electronic document,” and instead was adopting definitions of the terms “electronic title” and “electronic power of attorney.” *See* 84 FED. REG. at 52,685. Both the definitions of “electronic title” and “electronic power of attorney” state that those definitions are for records created electronically and not for physical documents that were scanned or imaged for storage. 49 C.F.R. § 580.3.

<sup>2</sup> We also note that the American Association of Motor Vehicle Administrators (AAMVA) recently issued “Guidance for the Acceptance of Signatures on Physical Odometer Disclosure Statements” that likewise concluded that “NIST Level 2 only applies to an electronic signature incorporated in an electronic title or [power of attorney].” AAMVA’s guidance, issued in February 2024, is available at [https://www.aamva.org/getmedia/9d45fa06-04a4-40db-9399-50e8691d3a61/Guidance-for-Acceptance-of-Signatures-on-Physical-Odometer-Disclosure-Statements\\_final.pdf](https://www.aamva.org/getmedia/9d45fa06-04a4-40db-9399-50e8691d3a61/Guidance-for-Acceptance-of-Signatures-on-Physical-Odometer-Disclosure-Statements_final.pdf).

interpreted to be inconsistent with the [statutory] direction . . . to promulgate regulations that simply permit electronic disclosures.” *Id.* at 52,670. Thus, NHTSA decided to “take a less prescriptive approach aimed at preserving the essential characteristics of odometer disclosure and providing states with the latitude needed to develop electronic systems consistent with their environment.” *See id.* at 52,684. NHTSA also concurred with comments by states that “states have a deeply rooted fundamental interest in erecting and maintaining electronic titling and odometer disclosure systems that are secure, functional, and efficient.” *See id.* at 52,685.


NHTSA supports states’ ongoing efforts to transition to electronic titling, while recognizing the diversity of challenges states may face in doing so. We recognize the benefits electronic titling may have for both consumers and businesses. During this transitional period, where states have varying infrastructure and technological capacities and may lack sufficient funding to immediately transition to either hybrid or fully electronic processes, we encourage you to continue working directly with the states to address your concerns.

I hope that you find this information helpful.

Sincerely,

**ADAM  
RAVIV**

Adam Raviv  
Chief Counsel

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RAVIV  
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