

SUPPORTING STATEMENT

FOR

49 CFR PART 580 - ODOMETER DISCLOSURE REQUIREMENTS

OMB Control Number 2127-0047

A. Justification

1. Explain the circumstances that make the collection of information necessary. Attach a copy of the appropriate statute or regulation mandating or authorizing the collection of information.

The Federal odometer law, 49 USC Chapter 327, and implementing regulations, 49 CFR Part 580, require each transferor of a motor vehicle to provide the transferee with a written disclosure of the vehicle's mileage. This disclosure is to be made on the vehicle's title, or in the case of a vehicle that has never been titled, on a separate form. If the title is lost or is held by a lienholder, and where permitted by state law, the disclosure can be made on a state-issued, secure power of attorney. In addition, this collection supports the Department of Transportation's Strategic Goal in economic growth and trade, by working towards the reduction in cost of vehicle ownership.

2. Indicate how, by whom, and for what purpose the information is to be used. Indicate actual use of information received from the current collection.

Section 32705(a) of the Federal odometer law, 49 USC Chapter 327, requires the Secretary to promulgate rules requiring each transferor of a motor vehicle to provide to the transferee a written disclosure of the vehicle's mileage and specifying how the information should be retained. Currently, 49 CFR Part 580 sets forth the information which a transferor must disclose to the transferee and requires dealers and distributors to retain each disclosure statement they issue and each one they receive for a period of five years. The Truth in Mileage Act of 1986 and the amendments to Part 580, effective April 29, 1989, require that the disclosure be made on the state title or reassignment document rather than on a separate odometer disclosure statement. If a vehicle has never been titled, i.e., new vehicles and imports, the disclosure statement must be made on a separate document. Because a customer trading-in a vehicle to a dealer may not have the title in his possession, if it is held by a bank or other lienholder or be because the title has been lost, making the disclosure on the title could create problems. The customer would have to mail the title, or in the case where a dealer obtains the title on behalf of the customer, the customer would have to return to the dealership to make the written disclosure. To alleviate these potential burdens, the rule allows the customer whose title is physically held by his lienholder or has been lost to issue a secure power of attorney to his transferee, if that power of attorney form is issued by the state and if it contains a disclosure. Similarly, this rule allows a transferee to authorize his transferor to sign the disclosure on the title document, on behalf of the transferee.

Odometer disclosure statements are used by motor vehicle purchasers to determine the condition,

safety, and value of the vehicles they buy. They are also helpful in proving an odometer was rolled back and by whom. The issuance of odometer disclosure statements and their retention by dealers and distributors have proven to be effective as witnessed by the numerous criminal and civil actions successfully brought in both state and Federal courts during the past several years. In cases investigated by NHTSA and prosecuted by the Department of Justice, the odometer disclosure statement has been the best evidence in proving who was responsible for violations of the law. In some cases, it was the only evidence. Without the odometer disclosure statements and their retention, successful litigation could not be accomplished, thereby defeating the deterrent effect this legislation achieves. The same rationale applies to the secure power of attorney forms since they also include an odometer disclosure statement.

3. Describe whether the collection of information involves the use of technological collection techniques or other forms of information technologies.

The Federal odometer law and implementing regulations require each transferor of a motor vehicle to provide the transferee with a written disclosure of the vehicle's mileage. This disclosure is to be made on the vehicle's title, or in the case of a vehicle that has never been titled, on a separate form. The law does not require either the transferor or the transferee to submit the information to NHTSA. Most high volume dealerships now utilize an automated software package which completely prepares the separate odometer disclosure statements and power of attorney forms along with other necessary business records such as bills of sale, warranties, finance agreements, etc. The major lease companies utilize similar automated software packages. Large volume auto auction companies utilize computer databases to store and retrieve sales information. This automation allows for 100% of the paper-based odometer information to be processed electronically.

4. Describe efforts to identify duplication. Show specifically why similar information cannot be used.

The secure power of attorney form permitted by Section 401 of the Pipeline Safety Reauthorization Act and the rule creates a duplicate disclosure. However, the purpose of these provisions is to alleviate an undue burden on dealers and customers when a customer's title is physically held by a lienholder or has been lost.

Similar information cannot be used because there is no similar information available at the time of transfer of ownership of a motor vehicle.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize the burden.

The small businesses (lower volume dealers, lessors, and auction companies) will need to spend the same time per transfer as large business (high volume dealers, lessors, and auction companies). However, since these small businesses will be involved in fewer transactions, they will spend less time on information collection. The amount of time per transfer should not impose an undue burden on the small businesses involved.

6. Describe the consequence to Federal program or policy activities if the collection is not collected or collected less frequently.

The response to this question would be the same as the response to Question 2 as to the consequences if the information collected were not conducted. Purchasers would not be able to rely on the odometer reading in determining the safety and reliability of a vehicle. Investigations of allegations of odometer tampering would also be hampered.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines set forth in 5 CFR 1320.6.

The procedures specified for this information collection are consistent with the guidelines set forth in 5 CFR, Section 1320.6.

8. Provide a copy of the FEDERAL REGISTER document soliciting comments on extending the collection of information, a summary of all public comments responding to the notice, and a description of the agency's actions in response to comments. Describe efforts to consult persons outside the agency to obtain their views.

See Attachment Three for the FEDERAL REGISTER (page 73972, Volume 72, Number 248, dated December 28, 2007) document soliciting comments on extending the collection of information.

NHTSA received comments from; South Dakota Department of Revenue & Regulation, Texas Department of Transportation Vehicle Titles and Registration, Virginia Department of Motor Vehicles, and Wisconsin Department of Transportation. Each commenter cites a need for the ability to disclose odometer information electronically in a paperless environment. Texas and Virginia specifically reference a petition filed with NHTSA by the Virginia Department of Motor Vehicles seeking approval of alternate odometer disclosure requirements, to wit, electronic odometer statements. NHTSA has preliminarily granted Virginia's proposed alternate disclosure requirements and is currently seeking public comments via the Federal Register. NHTSA's initial determination concerning Virginia's petition was published in the Federal Register on June 24, 2008 (73 FR 35617 – 23).

Additionally, Wisconsin suggests eliminating the ten-year exemption for odometer disclosure statements and conversely Virginia supports the ten-year exemption. NHTSA is reviewing the ten-year exemption and may seek comments in a future Federal Register notice.

Wisconsin cites support for the current use of secure power of attorney forms. NHTSA is not considering changing the regulation governing the use of the secure power of attorney.

Virginia asks NHTSA to consider standardizing the process by which state department of motor vehicles deal with correcting odometer reading discrepancies when recorded at the point sale. Where as this notice deals primarily with the record keeping burden imposed by the Federal odometer law standardizing individual states' error correction procedures is outside the scope of this information collection.

This ICR notice concerns only the information collection requirements under current law, and does not relate to the issues raised by those commenting.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided to any respondent.

10. Describe any assurance of confidentiality provided to respondents.

No assurances of confidentiality are given by the agency because the information is never provided to the agency.

11. Provide additional justification for any questions on matters that are commonly considered private.

The information which is requested of the respondents is not of a private nature. It involves information which should be available to the public such as the date the vehicle is sold and the certification of mileage in connection with the transfer of ownership.

12. Provide estimates of the hour burden of the collection of information on the respondents.

About 16.5 million new vehicles are sold each year that are subject to odometer disclosure requirements. NHTSA estimates that an average of one additional minute (.01667 hours) would be needed for dealers and purchasers to complete the separate odometer disclosure form that is required for new vehicle sales, for a total of 275,055 man-hours annually. (Required entries include the vehicle year, make, model, VIN, odometer reading, dealer name and address, dealer's printed name and signature, customer name and address, and customer's printed name and signature. It is assumed that the dealers record odometer readings while conducting routine sales, inspection, or prep activities).

About 14.5 million used vehicles are sold each year in private transactions between individuals. About 23 percent of these vehicles will be exempt from odometer disclosure because they are 10 years old or older. A total of 11,137,450 private transactions will therefore require the odometer disclosure on the title. NHTSA estimates that an average of 15 additional seconds (.004167 hours) would be needed to complete the odometer disclosure on the title document for a total of 46,410 man-hours annually. (Required additional title entries: 2 printed names, buyer's signature, and the odometer reading).

An estimated 28 million used vehicles are retailed each year from new and used vehicle dealers. 21,506,800 of these will not qualify for the age exemption (77%). Each of these vehicles will be involved with at least two disclosure transactions, one when the vehicle is acquired by the dealer, and one when the vehicle is sold by the dealer. In addition, an unknown number of transactions will occur at the wholesale level when these vehicles are passed among dealers. It is impossible to estimate the number of wholesale transactions that occur. For this analysis, it will be assumed

that an average of 2 additional transactions occur at the wholesale level for each retailed vehicle for a total of 4 disclosure transactions per vehicle. NHTSA estimates that an additional 15 seconds (.004167 hours) will be needed for the transferor and transferee to complete the odometer disclosure on the title document for a total of 358,475 man-hours annually. (Required additional title entries: 2 printed names, buyer's signature, and the odometer reading. It is assumed that dealers record odometer readings while conducting routine sales, inspections, and prep activities).

It is estimated that 8,500,000 used cars that lack title when they are traded in will have their odometer reading disclosed on secure powers of attorney as prescribed by the Federal odometer law. Of these 6,528,850 will not qualify for the age exemption (77%). NHTSA estimates that an additional 15 seconds (.004167 man-hours) will be needed for the transferor and transferee to complete Part A of the odometer disclosure on the secure power of attorney form for a total of 27,206 man-hours annually. (Required additional power of attorney entries (Part A)): 2 printed names, the buyer's signature, and the odometer reading. It is assumed that the dealers record odometer readings while conducting routine sales, inspection, and prep activities). Of the above 6,528,850 cases, an estimated 1,828,078 will still lack title when they are sold by the dealer who will utilize Parts B and C of the same secure power of attorney form to disclose mileage in connection with that sale. NHTSA estimates that an additional 30 seconds (.008333) will be needed to complete the odometer disclosure on Parts B and C of the secure power of attorney form for a total of 15,233 additional man-hours annually (required additional power of attorney entries: Part B, 2 printed names, the buyer's signature, and the odometer reading. Part C, dealer's signature and verification time).

The consumer opportunity cost of the requirement that the same person not sign as transferor and transferee in the same transaction could be 1,175,700 additional man-hours, however, a review of the procedures shows that the permitted use of the secure power of attorney alleviates this burden. The current dealer man-hour cost of restrictions on powers of attorney is 48,049 man-hours. The Federal odometer law also imposes a variety of manpower costs that are not related to the requirement that the same person not sign as the transferor and transferee in the same transaction. These costs, most of which represent state clerical burdens to control secure titles and reassignment forms, average about 16 seconds (.004 hours) and occur in 66,392,000 cases for a total of 265,568 man-hours. State burdens for establishing a control system and verifying powers of attorney forms average just over 4 minutes (.068 hours) and will occur in a total of 13,057,700 cases for a total man-hour estimate of 887,924. Dealers will experience a man-power burden from the need to keep a copy of the secure power of attorney in 6,528,850 cases. The average burden of these tasks will be about one minute (.017 hours) and will total 110,990 man-hours. The total man-hour burden from reporting or disclosure required by these features of the Federal odometer law is estimated to be 2,034,910 man-hours.

NHTSA estimates that the average salary for respondents and record-keepers employed in the automobile industry is \$17.60 per hour. Approximately 75% of the disclosures will involve an automobile industry employee. Therefore, the annual burden hours are 1,526,183. The cost associated with the burden hours is **\$26,860,815**.

13. Provide estimates of the total annual cost to the respondents or record-keepers.

There are approximately 100,400 record-keepers. This figure includes 100,000 retail and wholesale automobile dealers and lease companies. Four hundred auction companies account for the remaining record-keepers. It is estimated that each record-keeper will spend 2 hours per year on record keeping. This number will vary depending on the number of vehicles sold. The total record keeping hours per year is 200,800. NHTSA estimates that the average salary for respondents and record-keepers employed in the automobile industry is \$17.60 per hour. Therefore, the total annual cost for respondents and record-keepers is **\$3,534,080**.

14. Provide estimates of annualized costs to the Federal Government.

The information is not reported to the Federal government; therefore, there are not costs to the Federal government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

The reason for the program change is that additional time was necessary to answer questions from the states. As a result an increase in the number of motor vehicle transfers exempt from odometer disclosure requirements. Vehicles 10 years old or older are exempt from odometer disclosure requirements. Concerning Item 13(b) (1), as previously stated automation allows for data collected electronically to be machine printed onto secure paper; however, all odometer disclosures are currently paper-based. Item 13(a) is corrected to reflect all respondents as opposed to record-keepers as previously reported.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

This collection of information will not have the results published.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Approval is sought to not display the expiration date for OMB approval because the agency does not require the information on a form or in a specified format. The agency only requires that information be provide between parties and to the Federal government.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions." of OMB Form 83-I.

No exceptions to the certification statement are made.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

