

Administrative Rules Committee
March 11, 2014, Rough Rider Room

North Dakota Department of Transportation
Mark Nelson, Interim Deputy Director for Driver and Vehicle Services

Mr. Chairman, members of the committee, I am Mark Nelson, Interim Deputy Director for Driver and Vehicles Services at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to address you today.

With respect to the Administrative rules published in the April 2014 supplement, I will present the following matters:

1. Whether the rules resulted from statutory changes made by the Legislative Assembly.

Yes. N.D.A.C. 37-12-04-01 (starting at page 98 of the Administrative Rules supplement) and 37-12-05-01 (starting at page 99) are administrative rule amendments based on legislative changes to N.D.C.C. §39-05-20.2(3), which requires salvage vehicles to be inspected by private businesses instead of the Highway Patrol.

N.D.A.C. 39-12-06-01 (starting at page 100) is a new rule based on legislative changes to N.D.C.C. §39-02-03, which created a ten dollar maximum fee for all motor vehicle services.

N.D.A.C. 37-09-01-02 (starting at page 97) is an amendment intended to clarify the rule, and is not based on any statutory changes.

Please see Attachment A containing copies of the administrative rules.

2. Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules.

No, the rules are not related to any federal statute or regulation.

3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.

DOT followed required rulemaking procedures including publishing public notices on our website and in state newspapers, and holding a public hearing on October 21, 2013. Please see Attachment B for copies of notice.

4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.

No written or oral concerns, objections or complaints were received.

5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.

It cost \$1,910.70 to advertise the hearing in newspapers statewide.

- 6. An explanation of the subject matter of the rules and the reasons for adopting those rules.**

Sections 37-12-04-01 Untitled Vehicles and 37-12-05 Inspection of Salvage Vehicles

These amendments were based on N.D.C.C. §39-05-20.2(3), which requires salvage vehicles to be inspected by private businesses instead of the Highway Patrol. The rules regulating inspection of untitled and salvage vehicles were changed to enable a private business to conduct the inspection, instead of requiring the Highway Patrol to do so. These changes enabled the Highway Patrol to work on other duties.

Section 37-09 Disclosure of Body Damage to Motor Vehicle

This change added language to clarify the rule. It was not based on any statutory changes.

Section 37-12-06-01 Motor Vehicle branch office fees

This new rule was written based on changes to N.D.C.C. §39-02-03, which created a ten dollar maximum fee for all motor vehicle services. This enabled Motor Vehicle Branch Offices to change fees to help with the cost of doing business and provide services to the public.

- 7. Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether that regulatory analysis was issued. Please provide a copy.**

In response to Questions 7-10, a regulatory analysis, economic impact statement, and constitutional takings assessment were prepared and are provided as Attachment C.

- 8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies.**

Please see Attachment C.

- 9. Whether these rules have a fiscal effect on state revenues and expenditures, including any effect on funds controlled by your agency. If so, please provide copies of a fiscal note.**

There was no fiscal effect.

- 10. Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09. Please provide a copy if one was prepared.**

Please see Attachment C.

- 11. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules. If these rules were adopted as emergency (interim final) rules, what steps were taken to make the rules known to persons who can reasonably be expected to have a substantial interest in the rules?**

The rules were not adopted as emergency rules.

Mr. Chairman that concludes my testimony, I would be happy to answer any questions the committee may have.

NDDOT Attachment A

Untitled Vehicles 37-12-04-01 Procedure

If a North Dakota resident owns a vehicle for which the resident is unable to obtain a proper certificate of title, the motor vehicle division will use the following forms and procedures to determine ownership of a vehicle and issue a certificate of title:

1. A check of the records of the motor vehicle division, as well as the records of other appropriate states, will be conducted to determine if a certificate of title has previously been issued.
 2. If no record of a previous certificate of title is found, the motor vehicle division will issue a North Dakota certificate of title to the applicant upon receipt of:
 - a. A notarized bill of sale.
 - b. A vehicle statement of ownership from the applicant (form SFN 2903).
 - c. An inspection of the vehicle by the North Dakota highway patrol by a business that is registered with the secretary of state, is in good standing, and offers vehicle repair to the public. The business completing the certificate of inspection may not be the business that reconstructed the vehicle and must state the vehicle is in compliance with the requirements of chapter 39 - 21 (form SFN 2486).
 - d. Appropriate title fee, license fees, and motor vehicle excise tax.
 3. When there is no record of a previous title, the motor vehicle division will check the national crime information center computer to determine that the vehicle is not listed as a stolen vehicle.
 4. If a record of a previous certificate of title is found, the motor vehicle division will advise the applicant of the name and address of the last owner of the vehicle but will take no further action to issue a certificate of title. The applicant must obtain the certificate of title from the last owner or obtain an order of the court awarding ownership to the applicant.
-

CHAPTER 37-12-05 INSPECTION OF SALVAGE VEHICLES

37-12-05-01. Procedure.

A ~~highway patrol officer~~, business that is registered with the secretary of state, is in good standing, and offers motor vehicle repair to the public, when inspecting a salvage vehicle under the provisions of North Dakota Century Code section 39-05-20.2, must inspect the following equipment to determine it is in compliance with the provisions of North Dakota Century Code chapter 39-21 and North Dakota Administrative Code article 52-04: headlights, turn signals, windshield, mirrors, horn, brakes, exhaust system, taillights, stoplights, license plate lights, clearance lights and reflectors, bumper heights, tires, fenders, steering wheel, steering and suspension, hood latches, door latches, floor pan, and fuel system. In addition to inspecting the listed equipment, ~~a highway patrol officer~~ a business qualified to perform inspections may require an additional statement from the rebuilder of the salvage vehicle prior to the completion of the certificate of inspection. The additional signed statement, as a part of form SFN2486, shall require the rebuilder to certify the following:

1. The frame of the salvage vehicle was not in need of repair or has been repaired in such a manner that the repairs will not detract from the overall performance of the vehicle and the frame is now in a condition that would be comparable to the frame of a similar vehicle which had not been damaged in an accident.
2. The wheel alignment is within the tolerances allowed for vehicles of the same make, year model, and style. ~~Highway patrol officers~~ A business qualified to perform inspections may require this additional certification when they determine the salvage vehicle may have suffered damage to frame, chassis, or wheel alignment as a result of an accident.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 39-02-03

Law Implemented: NDCC 39-05-20.2

ARTICLE 37-09 DISCLOSURE OF BODY DAMAGE TO MOTOR VEHICLE

CHAPTER 37-09-01 APPLICATION AND REQUIREMENTS OF DISCLOSURE

Section 37-09-01-01 Definitions

37-09-01-02 Damage Disclosure Statement - Contents

37-09-01-03 Damage Disclosure Statement - When Required

37-09-01-04 Damage Verification Statement

37-09-01-05 Salvage and Junk Motor Vehicles

37-09-01-06 Damage Information Placed on Title

37-09-01-07 Effective Date of Chapter

37-09-01-01. Definitions. The definitions provided in North Dakota Century Code title 39 apply to this article, except "motor vehicle" is exclusive of off-highway vehicles, snowmobiles, and low-speed vehicles.

History: Effective April 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 24-02-01.2, 39-02-03

Law Implemented: NDCC 39-05-17.2

37-09-01-02. Damage disclosure statement - Contents. The damage disclosure statement must contain the name and address of the transferor, a statement as to whether the motor vehicle has sustained damage during the time period transferor owned the vehicle, and the name and address of the transferee. The damage disclosure statement must be completed, signed, and certified by the transferor.

History: Effective April 1, 1992.

General Authority: NDCC 24-02-01.2, 39-02-03

Law Implemented: NDCC 39-05-17.2

CHAPTER 37-12-06 MOTOR VEHICLE BRANCH OFFICES

Section 37-12-06-01. Motor vehicle branch office fees

Maximum fees for motor vehicle branch office transactions are listed below:

| <u>MOTOR VEHICLE TRANSACTION</u> | <u>MAXIMUM FEE (\$)</u> |
|--|--------------------------------|
| <u>Motor Vehicle/New Title*</u> | <u>10.00</u> |
| <u>Motor Vehicle/Title Transfer*</u> | <u>10.00</u> |
| <u>Motor Vehicle/Duplicate Title</u> | <u>8.00</u> |
| <u>Motor Vehicle/Registration</u> | <u>10.00</u> |
| <u>Motor Vehicle/Duplicate Registration</u> | <u>8.00</u> |
| <u>Motor Vehicle/New Registration*</u> | <u>5.00</u> |
| <u>Motor Vehicle/Registration Change</u> | <u>10.00</u> |
| <u>Motor Vehicle/Renewal</u> | <u>5.00</u> |
| <u>Motor Vehicle/Title Correction</u> | <u>10.00</u> |
| <u>Other/New Mobility Impaired</u> | <u>10.00</u> |
| <u>Other/Duplicate Mobility Impaired</u> | <u>10.00</u> |
| <u>Other/Renewal Mobility Impaired</u> | <u>10.00</u> |
| <u>Other/New Personal Inventory</u> | <u>10.00</u> |
| <u>Other/Duplicate Personal Inventory</u> | <u>8.00</u> |
| <u>Other/Renewal Personal Inventory</u> | <u>7.00</u> |
| <u>Other/Standard Permit</u> | <u>10.00</u> |
| <u>Motor Vehicle/New Title Branch Admin</u> | <u>2.00</u> |
| <u>Motor Vehicle/Title Transfer Branch Admin</u> | <u>2.00</u> |
| <u>Motor Vehicle/Duplicate Title Branch Admin</u> | <u>2.00</u> |
| <u>Motor Vehicle/Title Correction Branch Admin</u> | <u>2.00</u> |

*The maximum fee for combined New Title and Registration and for combined Title Transfer and Registration is \$12.00. Each fee to be charged by the motor vehicle branch office must be set forth in an agreement between the branch office and the director. The director must approve the fees for each branch office.

History: Effective **General Authority:** NDCC 39-02-03 **Law Implemented:** NDCC 39-02-03

NDDOT Attachment C

REGULATORY ANALYSIS

The North Dakota Department of Transportation has proposed amendments to Article 37-09-01-02, Article 37-12-04-01, Article 37-12-05-01, and new Article 37-12-06-01 which are being written to conform to current state law. The proposed rules will not have a substantial regulatory impact over \$50,000 on the regulated community. There are no administrative or other costs required of small entities. There is no effect on state revenues.

SMALL ENTITY REGULATORY ANALYSIS

The North Dakota Department of Transportation has proposed amendments to Article 37-09-01-02, Article 37-12-04-01, Article 37-12-05-01, and new Article 37-12-06-01 which are being written to conform to current state law. The proposed rules will not have a substantial small entity regulatory impact.

SMALL ENTITY ECONOMIC IMPACT STATEMENT

The North Dakota Department of Transportation has proposed amendments to Article 37-09-01-02, Article 37-12-04-01, Article 37-12-05-01, and new Article 37-12-06-01 which are being written to conform to current state law. The proposed rules will not have an adverse economic impact on small entities.

TAKINGS ASSESSMENT

The North Dakota Department of Transportation has proposed amendments to Article 37-09-01-02, Article 37-12-04-01, Article 37-12-05-01, and new Article 37-12-06-01 which are being written to conform to current state law. The proposed rules will not limit the use of private real property.