



Best Practices Guidelines for Total-Loss, Repairable and Rebuilt Vehicles (Last updated 05-19-2013 based upon Hurricane Sandy Experiences)

In many ways, the problem of protecting the public through the proper application of title branding can be seen as a two-step process. The first step is to insure that all such vehicles get a proper brand. The second step is to minimize ways in which this proper branding can be removed or 'washed'.

The AAMVA best practices working group did an excellent job of enumerating guidelines that would help insure that a vehicle – once it was branded – would avoid having the branding removed through title washing.

The following are recommended best-practices guidelines to help insure that damaged and total-loss vehicles are properly branded and would close loop-holes that are often used to bypass the initial branding of damaged vehicles.

These recommendations, when joined with the original recommendations of the rebuilt and specialized vehicles best practice working group that are well crafted to help reduce title washing of vehicles that already had branded titles.

Recommendations to help insure that damaged and total-loss vehicles are disclosed to the public through proper branding and reporting

- 1) All states should recognize at a minimum two classes of salvage titles – one that allows for repair/rebuilding, and a second that is non-repairable. (The non-repairable title can take the form of a non-repairable brand/ non-repairable junk/ certificate of destruction).
- 2) There should be a clear definition of a threshold for a non-repairable brand. The threshold should be based upon either a cost of repair as percentage of ACV, or a specific level of damage. NSVRP has seen many cases where the definition of when a vehicle must get a non-repairable brand to leave the decision up to the insurer or other owner of the vehicle. This creates a moral hazard that too often results in massively damaged vehicles getting clean or repairable title designations. For purposes of determining branding severity, damage estimates must be complete.
- 3) Damaged vehicles with missing or incomplete estimates should be required to have assigned the highest level of branding severity including non-repairable branding if available in that jurisdiction. There is a widespread practice of branding avoidance through the method of missing or substantially incomplete damage estimates.
- 4) There should be very few (if any) exceptions to when a total-loss vehicle is required to have salvage brand. (Depending upon the level of severity that brand may be either a repairable brand or a non-repairable brand.) If there was a total-loss payout then that should be deemed as proof that there was enough damage that a branding is appropriate to warn a future buyer of the need to inspect and check as to the condition of the vehicle. (An example of a possible salvage branding exception may be for a stolen vehicle that has been recovered fully intact without damage and without missing major components).
- 5) States should not have cutoff years beyond which vehicles get exemptions from branding total-loss vehicles. (The average age today of a vehicle on the road is 11 years. Several states presently exempt vehicles from branding at cutoff year models older than 6-7 years.) If there has been a total loss event, then any such vehicle that is to be re-registered and used by the public should allow for the public protections expected from title branding.
- 6) Used and salvage vehicles should generally only be eligible for titling and registration based upon presentation of a prior valid title or salvage certificate (and not a bill of sale or VIN certificate) to minimize the possibilities for title brand washing through non-presentation of an out of state branded title. In cases of very old cars, cars without prior titles or with claims of lost titles, new or replacement titles should not be issued without first checking in NMVTIS for prior ownership and for prior branding.

The National Salvage Vehicle Reporting Program (NSVRP) is a not-for-profit 501 (C) (3). The organization was founded to support law enforcement and to promote and support efforts to advance the National Motor Vehicle Title Information System (NMVTIS). NSVRP's mission is to support initiatives to control auto-theft and title abuse. NSVRP's Board of Directors consists of representatives of major law enforcement groups, and is an independent third party standards provider for NMVTIS. NSVRP has been recognized both by the Department of Justice and the FBI for 'Exceptional Service in the Public Interest' for its public policy efforts.



- 7) States should generally require the issuing of titles for all vehicles eligible for registration in their state. States should be discouraged from issuing other documentation in lieu of titles (such as a transferable registration certificate).
- 8) The need for when title branding must take place needs to be clearly and broadly defined. Title branding must be determined upon the payoff of all insurance claims at the time the claim is settled and before the vehicle is made available for resale. In the case of owner retained or self-insured fleet vehicles, upon a major accident, flood or other such event there should also be the clear legal obligation to brand the title even before any resale or transfer has taken place. The reporting must be timely. When electronic reporting takes effect, it is recommended that such title branding be required at the time of claims settlement.
- 9) There should be clear definitions of the terms agent/broker/dealer, and both brokers and dealers should be required to be included in any title chain of history. Any transaction where an ownership transfer takes place, and where there is a transfer of funds between parties where seller holds the dealer/broker as a direct party to the transaction shall be considered a transaction that requires that dealer or broker to be included in the chain of title. Failure for those parties to be reported should be deemed to be a violation of title transfer laws, and may also be considered an avoidance of any relevant taxes and transfer fees.
- 10) Multiple title transfers on a single document should be discouraged. The transfer under a clean title of a damaged vehicle is probably the major source of title branding avoidance and a great risk to the public as a secondary buyer. When electronic title processing becomes the norm, this problem would be eliminated, and the ability to do multiple unreported transfers before the documents reach a state jurisdiction would no longer take place.
- 11) Any title transfer of damaged and total-loss vehicle under a clean title should be prohibited. This practice should be prohibited in any case where the vehicle would be subject to a change in title branding status if the transfer were being reported. The owner must be required to get the title branded before being allowed to resell or transfer the vehicle either directly or through an agent.
- 12) States must prohibit the resale of clean title cars from other states for resale at salvage auctions. This practice has been banned by some states because it enables parties to circumvent mandatory branding under rules in the title state and allows vehicles to be resold under previous clean titles without regulation. *As an example, many NY Hurricane Sandy flood vehicles were recently brought directly to NJ salvage auctions in order to bypass mandatory assignment of NY 907a salvage certificates as required by NY state law. They were offered for sale in NJ under the prior (pre-flood) NY clean titles circumventing NY law. As an out-of-state title vehicle, NJ was unaware that they abetted this title branding avoidance.*
- 13) Salvage title vehicles should require full safety inspections before being eligible for receiving a rebuilt/rebuilt salvage title. These can be done under direct state inspection programs or state approved programs. They should include air bag certification validation, brake/steering/suspension/body integrity/electrical diagnostics testing. (Note: Connecticut had a good model program to reference).
- 14) Salvage Title Laws in states should be modified to require mandatory registration and reporting into NMVTIS under state law. These states should define penalties for violation of non-registration and reporting under state law.
- 15) Salvage auctions that sell vehicles to the general public may not sell units to those non-business private parties under an 'as-is, where-is' basis. These auctions should be required to provide an absolute right of cancellation to those private parties for a reasonable period of time after the vehicle is delivered to a location of their choosing for inspection and repair. This right of cancellation would apply regardless if the private party purchased directly from the auction or through a broker registered with the auction and that purchased units on their behalf from the auction. Auctions are aggressively promoting sales to the public over the Internet, and at the same time stripping all consumer protections from the process.

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Additional Notes

- 16) Total-loss flood vehicles should be considered as strong candidates for non-repairable vehicle branding.
- 17) Hazmat branded vehicles should be considered as strong candidates for non-repairable vehicle branding.
- 18) Salvage auctions should be required to insure that all buyers are registered with NMVTIS before being allowed to purchase at their auctions.
- 19) Towing companies obtaining Certificates of Destruction or Derelict Certificates should be mandated by enforcement authorities to have to show proof that all such vehicles have been reported into NMVTIS.
- 20) States should consider requiring that odometer declarations be provided for vehicles older than 10 model years old. The Federal Odometer Act originally required reporting on vehicles 0-24 model years old at the time of transfer. This was later reduced through a rules making process to 0-9 years. Since cars today average 11 years old, the majority of vehicles on the road are no longer covered by the odometer disclosure requirements. This has eliminated one of the most important protections for consumers and a key protection against other fraudulent or criminal practices.

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