

Clearinghouse Rule 19-004

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

The State of Wisconsin Department of Transportation Proposes an Order to Amend Permanent Rule ch. Trans 330 relating to Motor Bus Equipment and Inspection, and affecting small businesses.

**PROPOSED ORDER
AMENDING PERMANENT RULE**

INTRODUCTION

The Statement of Scope for this Permanent Rule, SS 080-15, was approved by the Governor on August 24, 2015, published in Register No. 716B on August 31, 2015, and approved by Secretary of the State of Wisconsin Department of Transportation (“Department”) Mark Gottlieb, P.E., as required by s. 227.135(2), Wis. Stats, on September 21, 2015. The analysis below was prepared by the Department.

ANALYSIS

Statutes Interpreted: 49 CFR Part 393 (Parts and Accessories Necessary for Safe Operation) and Part 396 (Inspection, Repair, and Maintenance).

Statutory Authority: Sections 110.063, 110.064, 110.075, Wis. Stats.

Explanation of Agency Authority: Section 110.063, Wis. Stats., the department shall promulgate and enforce such rules as the department deems necessary in the interests of the safety of persons being transported to cover the design, construction, equipment, inspection and operation of motor buses.

Related Statute or Rule: None not already listed.

Plain Language Analysis: This rulemaking updates Chapter Trans 330, Wis. Adm. Code to meet the Federal Motor Carrier Safety Regulations (FMCSR.) It also updates current rule

language to meet the Federal Motor Carrier Safety Administration (FMCSA) 2009 Audit Titled “Wisconsin MCSAP Review Summary Findings, Recommendations, and Noteworthy Practices Report” and dated July, 2009 (“FMCSA Audit”). The rulemaking updates equipment exceptions to a motor vehicle previously manufactured or equipped as a school bus, which has now been converted into a motor bus.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations: The State’s Motor Bus Equipment and Inspection regulations contained in ch. Trans 330 “Motor Bus Equipment and Inspection” are not compatible with the “Parts and Accessories Necessary for Safe Operation” requirements of 49 CFR Part 393 and the “Inspection, Repair, and Maintenance” in 49 CFR Part 396, as detailed below.

- Ch. Trans 330.03 specifies that the Parts of 49 CFR 393 adopted in ch. Trans 330 are those that were in effect on October 1, 1990. This date will be removed from ch. Trans 330.03.
- In ch. Trans 330.05, the driver is required to do a pre-trip but not a post-trip inspection as required by 49 CFR 396. Ch. Trans. 330.05 will be rescinded.
- In ch. Trans 330.10 (8), the provisions of 49 CFR 393.92 concerning Emergency Exits are adopted, but no longer exist in that section of the FMCSRs. The reference to 49 CFR 393.92 in ch. Trans 330.10(8) will be rescinded.
- In ch. Trans 330.10, the brake requirements in 49 CFR 393.40 – 393.52 are adopted but not the antilock brake requirements as required in 49 CFR 393.55. The reference to 49 CFR 393.55 will be added to ch. Trans 330.10(3).

These changes will make ch. Trans 330 compatible with 49 CFR 393 and 49 CFR 396.

Comparison with Rules in Adjacent States:

Illinois. Have same rules currently being proposed by FMCSA Audit.

Iowa. Have same rules currently being proposed by FMCSA Audit.

Michigan. Have same rules currently being proposed by FMCSA Audit.

Minnesota. Have same rules currently being proposed by FMCSA Audit.

Summary of the Factual Data and Analytical Methodologies: The updates to ch. Trans 330 reflect changes to federal motor carrier safety requirements in 49 CFR Part 393 related to safe operation of motor busses, in 49 CFR Part 396 related to inspection, repair and maintenance of motor busses, and the needed changes to Wisconsin's motor bus regulations required by the FMCSA Audit.

Analysis Regarding Rule's Effect on Small Businesses: This proposed rule will be less restrictive than as currently written. The rule as proposed will also give a clearer understanding to industries who chose to use a converted school bus as a motor bus to transport passengers without jeopardizing any safety standards.

Effect on small business: None

The agency contact person listed below is also the small business regulatory coordinator for this proposed rule. This proposed rule, fiscal estimate, and other related documents may be viewed at <https://docs.legis.wisconsin.gov/code>.

Agency Contact Person:

Captain Brian Ausloos
Division of State Patrol - Motor Carrier Enforcement Section
State of Wisconsin Department of Transportation
4822 Madison Yards Way, 9th Floor South
Madison, WI 53707
Phone: (608) 709-0070
Email: Brian.Ausloos@dot.wi.gov

Place Where Comments Should Be Submitted and Deadline: Comments may be submitted to the agency contact person listed above or through the Legislature's Administrative

Rules website <http://docs.legis.wisconsin.gov/code> until the deadline given in the forthcoming notice of public hearing.

TEXT OF PERMANENT RULE

SECTION 1. Table of Contents:

Trans 330.05. Remove 330.05 from Table of Contents, this section has been rescinded.

SECTION 2. Trans 330.03 is amended to read:

Trans 330.03 Federal regulations adopted. The federal regulations in title 49, Code of Federal Regulations, part 393, parts and accessories necessary for safe operation, and part 571, motor vehicle safety standards, adopted by the United States department of transportation are adopted by the department and in effect on October 1, 1990, that are specified in this chapter shall be enforced in relation to a motor bus under this chapter as though the regulations were set out in full in this chapter.

SECTION 3. Trans 330.05 is repealed.

SECTION 4. Trans 330.07 is amended to read:

Trans 330.07 Converted school bus. (1) If a motor bus originally manufactured or otherwise equipped as a school bus is converted to use as a motor bus as provided in s. 347.44 (4), Stats., and s. Trans 300.19, it shall comply with the equipment standards of this chapter, and the following equipment standards instead of complying with the equipment standards under this chapter, that motor bus shall continue to comply with the equipment standards for a school bus under ch. Trans 300:

- (a) Construction in s. 300.35(1)(2)(3)(4)
- (b) Emergency Exits in s. 300.39.(6)(7)
- (c) Fuel Tank and Fuel System Integrity in s. 300.46
- (d) Rub Rails in s.300.58

(e) Service Door in s. 300.60(4)

(f) Windows in s. 300.69(3)

(g) Wheelchair Fasteners in s. 300.77

(2) The vehicle shall be inspected under this chapter for compliance with the equipment standards under ch. Trans 300 specified in sub. (1) above and the equipment standards of this chapter.

SECTION 5. Trans 330.10(3) is amended to read:

Trans 330.10(3) BRAKES. Brakes shall conform to the requirements under 49 CFR 393.40 to 393.52~~5~~ and applicable standards under 49 CFR 571.105 and 571.121.

SECTION 6. Trans 330.10(8) is amended to read:

Trans 330.10(8) EMERGENCY EXITS. Emergency exits shall conform to the requirements under 49 CFR ~~393.61, 393.62, 393.63 and 393.92~~ and the applicable standards under 49 CFR 571.217.

SECTION 7. Trans 330.10 (30) is amended to read:

Trans 330.10(30) WINDOWS AND WINDSHIELDS. Windows and windshields shall conform to the applicable requirements under 49 CFR 393.60, ~~393.61, 393.62, 393.63~~ and 571.217 and to the following:

SECTION 8. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22

(2) (intro.), Stats.

(END OF RULE TEXT)

Signed this ____ day of _____ 2019.

Craig Thompson
Secretary
State of Wisconsin Department of Transportation