

STATEMENT OF SCOPE

Department of Transportation

Rule No.: Transportation Rule 154

Relating to: Odometer Disclosure Requirements

Rule Type: Emergency

1. Finding/nature of emergency (Emergency Rule only):

The preservation of public welfare necessitates the promulgation of this rule as an emergency rule, pursuant to Section 227.24(1)(a), Stats. The National Highway Traffic Safety Administration (NHTSA) promulgated a [final rule](#), (Odometer Disclosure Requirements, 84 FR 52664 (October 2, 2019), which adopts changes related to odometer reporting exemptions. That regulation was further amended by 84 FR 65017 (November 26, 2019). The changes, effective on January 1, 2021, include exemptions to the reporting requirement based on the model year of the vehicle. Currently, vehicles are subject to odometer reporting requirements for the first 10 years of the vehicle's life. Under the new regulations, vehicles manufactured in or after 2011 will only be exempt from mileage disclosure if the transfer is at least 20 years after January 1 of the calendar year corresponding to the designated model year of the vehicle. This will bring Wisconsin out of conformity with federal odometer disclosure requirements.

This portion of the federal rule affects all jurisdictions and is intended to further consumer protection against odometer fraud by lessening the interruptions of odometer records. Without an emergency rule, public welfare may be jeopardized by the loss of ten (10) years of odometer reading records.

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. Reporting and preserving odometer readings is to deter odometer fraud. A delay in Wisconsin adopting this lengthened odometer reporting requirement will result in the loss of approximately 396,023 odometer readings annually.

2. Detailed description of the objective of the proposed rule:

The Wisconsin Department of Transportation (WisDOT) proposes to amend Wisconsin Administrative Code ch. Trans 154, relating to odometer disclosure requirements, to conform with Federal changes recently adopted by the NHTSA regarding odometer reporting exemptions. The new federal regulation extends the duration of odometer reporting requirement and record retention from ten (10) years, to twenty (20) years. Changes to 49 CFR 580.17 will be effective January 1, 2021 and require the amendment of Wis. Admin. Code ch. Trans 154. The proposed rule will bring Wisconsin Administrative Code ch. Trans 154 into conformity with the updated federal regulations.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Wis. Admin. Code ch. Trans 154.05(3) currently provides an exemption from disclosure for all vehicles 10 years old or older. This will conflict with the updated 49 CFR 580.17, which will only exempt vehicles manufactured in or after 2010 from mileage disclosure requirements if the transfer is at least 20 years after January 1 of the calendar year corresponding to the designated model year of the vehicle. Vehicles will only be exempt from disclosure requirements after 10 years if the vehicle was manufactured in or before the 2009 model year.

1. Do nothing

This alternative would retain the current exemption for odometer reporting after 10 years of a vehicle's life, and would result in inconsistency among vehicle records generated by and maintained by the states. NHTSA has indicated they could go to Federal Court to seek an order compelling states to comply with the new rule.

2. Amend rule to conform

This would conform to federal compliance and would ensure uniform practices among states that conform to federal law.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

- Section [342.155\(c\)](#), Stats., identifies areas for which the Department shall promulgate rules related to mileage disclosure requirements of transferors and transferees.
 - Under s. 342.115(1)(c)(2), the Department shall promulgate rules that "identify which vehicles are exempt from the mileage disclosure requirements".
- Section [85.16\(1\)](#), Stats.
 - The secretary may make reasonable and uniform orders and rules deemed necessary to the discharge of the powers, duties and functions vested in the department.
- Section [227.11\(2\)](#), Stats., identifies where rule-making authority is expressly conferred upon agencies.
 - Under s. 227.11(2)(a), Stats, "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute"

. 5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

500 hours

6. List with description of all entities that may be affected by the proposed rule :

The following entities may be affected by the proposed rule during the process of selling and/or transferring the title of a vehicle :

Wisconsin vehicle owners
Motor vehicle dealers
Third party title agents and vendors
Motor vehicle auctions
Insurers

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

National Highway Traffic Safety Administration regulations at 49 CFR Part 580 regulate Odometer Disclosure Requirements. 49 CFR 580.17 specifically provides exemptions to odometer disclosure requirements. As it currently exists, 49 CFR 580.17(3) exempts vehicles

“manufactured in a model year beginning at least ten years before January 1 of the calendar year in which the transfer occurs” from the disclosure requirement. Accordingly, Trans 154.05(3) currently exempts vehicles that are 10 years old or older from the disclosure requirement.

Effective January 1, 2021, 49 CFR 580.17(3) will exempt “a vehicle manufactured in or before the 2010 model year that is transferred at least 10 years after January 1 of the calendar year corresponding to its designated model year”. CFR 580.17(4) will exempt “a vehicle manufactured in or after the 2011 model year that is transferred at least 20 years after January 1 of the calendar year corresponding to its designated model year”.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

In 2018, the most recent complete calendar year data available, DMV processed 396,023 title transactions involving vehicle 10 to 20 years old that, under the new Rules, would now require an odometer statement. This accounts for 19% of all title transactions for trucks and autos.

Assumptions:

- 1 odometer statement requires an administrative burden of 1 minute.
- The WI fleet would remain consistent moving forward in regards to size and relative age.
- The administrative burden is reflective of when the Rule is fully implemented in 10 years.

396,023 annual title transaction results in 396,023 minutes or 6,600 hours of administrative burden annually.

According to NHTSA data, 16% of vehicles over 10 years old are sold by motor vehicle dealers. When the Rule is fully implemented, the estimated annual administrative burden for motor vehicle dealers in Wisconsin would be an estimated (6,600 * 16%) 1,056 hours.

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Signed this ____ day of _____ 2020

Craig Thompson
Secretary
State of Wisconsin Department of Transportation