

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 11-19-2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Wisconsin Administrative Code ch. Trans 154</p>	
<p>4. Subject Relating to odometer disclosure requirements</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.395(5)(cq)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$47,850 minimum, annually, based on 6,600 hours of total compliance time multiplied by the federal minimum wage of \$7.25 per hour. As discussed below, this is based on an estimate of 1 minute for each sale or transfer of a motor vehicle aged 10-20 years old. Most of those 6,600 hours of work will be done by private parties for private sales, with no associated labor costs. Of those costs, at least \$7,656 will be borne by small businesses. These costs are estimated using the federal minimum wage, and will increase based on the difference between the federal minimum wage and the actual labor rate of pay. Another way of looking at the data is to estimate the cost per vehicle sale or transfer. The Department's assumed time to comply is 1 minute per transaction, and divide a labor cost to determine a cost per transaction. Using the federal minimum wage of \$7.25 per hour, the cost to comply with this rule is \$0.12 per vehicle sale or transfer. These estimated costs are when the Rule is fully implemented, in 10 years. The annual administrative burden for motor vehicle dealers in Wisconsin would be an estimated 1,056 hours.</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule 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. Current Wisconsin law does not conform with the recent federal changes to odometer disclosure requirements</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. This rule affects sellers of motor vehicles, including new car dealers, used car dealers, vehicle wholesalers. The Wisconsin Auto and Truck Dealer Association was contacted for assistance determining the percentage of motor vehicle</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

dealers that might be small businesses.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

In 2018, the most recent complete calendar year data available, DMV processed 396,023 title transactions involving vehicles 10 to 20 years old that, under this proposed rulemaking, 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 regard 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.

According to NHTSA data, 16% of vehicles over 10 years old are sold by motor vehicle dealers (the majority are sold by private sale). 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.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Current Wisconsin law does not conform with the recent federal changes to odometer disclosure requirements. This portion of the federal rule affects all states 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 this state's failure to collect an additional 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 deters odometer fraud and allows a prospective buyer to determine the vehicle's value based on its mileage. A delay in Wisconsin adopting this lengthened odometer reporting requirement will result in the loss of approximately 396,023 odometer readings annually.

16. Long Range Implications of Implementing the Rule

Reporting and preserving odometer readings deters odometer fraud and allows a prospective buyer to determine the vehicle's value based on its mileage. This crime costs American car buyers more than \$1 billion annually.

17. Compare With Approaches Being Used by Federal Government

These changes bring Wisconsin into compliance with recent changes by NHTSA related to Odometer Disclosure Requirements.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois.

Illinois exempts vehicles from odometer reporting requirements at 10 years of age. Illinois will need to amend the state statute to extend the 10-year requirement to 20 years starting with 2011 model year to remain compliant with federal law. 625 Ill. Comp. Stat. Ann. 5/3-112.1 provides:

(d) The transferor will not be required to disclose the current odometer reading and the transferee will not have to acknowledge such disclosure under the following circumstances:

...

(3) A vehicle that is 10 years old or older;

A spokesperson for Illinois Vehicle Services Department stated, "we will be seeking legislation on this issue next year."

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

We ended up having an abbreviated legislative session this year due to COVID and unfortunately odometer legislation wasn't at the forefront of that session! We will be conforming to the new requirements, operating under the dictate that federal law takes precedence."

Iowa.

Effective January 1, 2021, Iowa repealed its odometer readings exemption for vehicles that are 10 years old, instead requiring reporting for all vehicles, "unless an exemption applies under 49 CFR 580.17." Iowa has not yet updated their administrative rules, but will be updating Iowa Administrative Code 761-400.52.

Michigan.

Michigan exempts vehicles from odometer reporting requirements at 10 years of age. Michigan will need to amend the state statute to extend the 10-year requirement to 20 years, starting with 2011 model year to remain compliant with federal law. (MCL 257.233a(5)) provides:

(5) The odometer information described in subsection (1) shall not be required for any of the following:

(c) A vehicle that is 10 years old, or older.

Minnesota.

Minnesota exempts vehicles from odometer reporting requirement consistent with 49 CFR 580.17, "as amended through October 1, 1998", which then exempted vehicles 10 years old. Minn. Stat. Ann. § 325E.15 (West)

A spokesperson for Minnesota said, "Minnesota will be seeking legislation on this issue next year. Minnesota had an abbreviated legislative session this year due to COVID and unfortunately odometer legislation wasn't at the forefront of that session. Minnesota will be conforming to the new requirements, operating under the dictate that federal law takes precedence.

Minnesota will also be requesting legislation to address the federal odometer changes. We originally attempted to have legislation introduced during our first special session this summer, but the legislative agenda was focused on COVID-19. The current odometer statute in Minnesota references the federal code of regulations, and is very specific to calling out the code from October 1, 1998 (Minnesota Statutes 325E.15 Transfer of Motor Vehicle; Mileage Disclosure). The requested legislative change is to eliminate the reference to the October 1, 1998, federal code and strike the language that requires written / wet signature (allow for future e-signatures). Since the federal code for odometer has changed a number of times since 1998, we have had a gap in our compliance to state statute for a while.

The current operating system, MNLARS, is hard programmed to not accept mileage for vehicles older than 10 years. However, we are in the process of modernizing our operating system w/ a COTS solution from Fast Enterprises and will be going live on November 16, 2020. One of the requirements that we have programmed for the new system, MNDRIVE, is to accept mileage for vehicles older than 10 years. So, we should be in good shape w/ the federal compliance requirement on January 1, 2021."

19. Contact Name Reed McGinn State of Wisconsin Department of Transportation Division of Motor Vehicles 4822 Madison Yards Way Room S206 Madison, Wisconsin 53705 Email address: DOTAdminRules@dot.wi.gov	20. Contact Phone Number 608 266-7857
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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

This Rule would increase the administrative burden on motor vehicle dealers by expanding the number of vehicles that will require an odometer statement. Many motor vehicle dealers are small businesses. In 2018, the most recent complete calendar year data available, DMV processed 396,023 title transactions involving vehicles 10 to 20 years old that, under this proposed rulemaking, 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 regard 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.

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. The Department of Transportation licenses motor vehicle dealers and wholesalers, but has no data concerning staffing or sales and so cannot determine how many are small businesses. There are approximately 1,900 licensed motor vehicle dealers, 550 of which sell new cars and would be unaffected by this rule. Of the 1,350 used car sellers, most are assumed to be small businesses. Therefore, the Department estimates that the majority of the 1,056 hour administrative burden will be borne by small businesses.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses
DMV motor vehicle title record data.

"Odometer Disclosure Requirements", final rule, <https://www.govinfo.gov/content/pkg/FR-2019-10-02/pdf/2019-20360.pdf>

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses
None.

5. Describe the Rule's Enforcement Provisions

Current law prohibits any transferor from transferring ownership of a motor vehicle without disclosing the vehicle's mileage in writing to the transferee by specifying the odometer reading, punishable by a forfeiture up to \$1,000 or, if done with intent to defraud, punishable as a Class H felony (fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both).

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Current law also requires the Department to refuse issuance of a certificate of title if the applicant has failed to furnish the mileage disclosure from the most recent titled owner and of all subsequent nontitled owners of the vehicle, unless exempted by Department rule.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No
