

# STATEMENT OF SCOPE

## Department of Transportation

**Rule No.:** Chapter Trans 330

**Relating to:** Motor Bus Equipment and Inspection.

**Rule Type:** Permanent

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

N/A

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

The Wisconsin Department of Transportation (WisDOT) proposes to amend Wisconsin Admin. Code ch. Trans 330, relating to motor bus equipment and inspection, in order to comply with regulations recently adopted by the Federal Motor Carrier Safety Administration (FMCSA). The purpose of this chapter is to establish the department's administrative interpretation of ss. 110.063 and 110.064, Wis. Stats., relating to promoting the safe transportation of individuals in motor buses by providing safety standards for motor bus design, construction, equipment and operation, and providing for annual safety inspections of motor buses.

Specifically, the existing rule, Trans 330, does not conform to 49 CFR Part 393 (Parts and Accessories Necessary for Safe Operation) and Part 396 (Inspection, Repair, and Maintenance). Failure to revise ch. Trans 330, Wis. Admin. Code, and become in compliance with these FMCSA regulations, will result in the potential loss of \$4.5 million in federal funding, which is currently allocated to WisDOT's Motor Carrier Enforcement Program that funds State Patrol motor carrier inspectors and investigators, a program with 32 FTE. This funding is from two federal grants: the Motor Carrier Safety Assistance Program's (MCSAP) Basic and Incentive Grant and the New Entrant Program Grant. The loss of this federal funding would likely eliminate WisDOT's Motor Carrier Enforcement Program and related activities.

### **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:**

Pursuant to Chapter 194, Wis. Stats., the department promulgated ss. Trans 325.02 and 327.03, Wis. Admin. Code, to adopt 49 CFR Parts 393 and 396. However, the federal motor carrier safety regulations previously adopted and referenced in the existing Trans 330 rule are currently outdated and no longer conform to the federal regulations currently adopted in ss. Trans 325.02 and 327.03, Wis. Admin. Code. Trans 330.07, Wis. Admin. Code, requires a motor bus that was originally manufactured or otherwise equipped as a school bus that is later repainted and converted to use as a motor bus to continue to comply with the equipment standards for a school bus under ch. Trans 300. The department intends to require that such a converted school bus, no longer used to transport school children, comply with both the motor bus equipment standards of s. Trans 330.10, Wis. Admin. Code, and specific school bus equipment standards of ch. Trans 300, Wis. Admin. Code.

All proposed modifications to the existing rule are required to become in compliance with current federal regulations. Failure to comply with these federal requirements will result in the potential loss of \$4.5 million in federal funding, which currently funds WisDOT's Motor Carrier Enforcement Program and related activities. As such, no policy alternatives exist.

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

The department is authorized to administer and modify ch. Trans 330, Wis. Admin. Code, by ss. 85.16(1), 110.063, 110.064(1)(b), 110.075 and ch. 347, Wis. Stats.

**85.16 Department rules and forms.**

(1) 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. The secretary may also prescribe forms for applications, notices and reports required by law to be made to the department or which are deemed necessary to the efficient discharge of all powers, duties and functions and prescribe the form and manner in which those applications, notices and reports may be filed or submitted.

**110.063 Inspection of motor buses.**

(1) 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.

(2)

(a) Except as provided in par. (c), the owner of the motor bus shall have it inspected annually by the department for compliance with the requirements of s. 110.075 and ch. 347 and rules promulgated thereunder and any rules promulgated under this section.

(b) The department shall specify by rule a fee for the inspection required under this subsection equal to the cost of the inspection.

**110.064 Motor buses used for pupil transportation.**

(1)

(b) The department shall promulgate and enforce a rule requiring that a motor bus under par. (a) satisfy safety standards providing an equivalent level of safety as the safety standards specified by the department for a school bus having the same gross vehicle weight rating and operation standards specifying that the rear door of a motor bus under par. (a) may not be used for the entry or exit of pupils, except in an emergency, except that the department may not promulgate a rule which is in conflict with federal law, which requires the motor bus to be painted in accordance with s. 347.44(1), or which requires the motor bus to be equipped with flashing red or flashing red and amber warning lights as specified in s. 347.25(2).

**110.075 Motor vehicle inspection.**

(1) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is not in conformity with the requirements of this section.

(2) When directed by any traffic officer or motor vehicle inspector, the operator of any motor vehicle shall stop and submit such motor vehicle to an inspection and such tests as are necessary to determine whether it meets the requirements of this section, or that its equipment is not in proper adjustment or repair, or in violation of the equipment provisions of ss. 110.05, 110.06, 110.063 and 110.064, ch. 347, or rules issued pursuant thereto. Such inspection shall be made with respect to the brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust system, windshield wipers, tires, and other items of equipment designated by the secretary.

(3) Upon determining that a motor vehicle is in conformity with sub. (2), traffic officers or motor vehicle inspectors shall issue to the operator an official inspection sticker which shall be in such form as the secretary prescribes. The official inspection sticker issued following an inspection shall exempt the inspected vehicle from vehicle inspection for a period of one year.

(4) When any motor vehicle is found to be unsafe for operation, traffic officers or motor vehicle inspectors may order it removed from the highway and not operated, except for purposes of removal and repair, until it has been repaired pursuant to a repair order as provided in sub. (5).

(5) When any motor vehicle is not in compliance with sub. (2) a repair order may be issued, in such form and containing such information as the secretary prescribes, to the owner or driver of the motor vehicle. The owner or driver shall thereupon obtain such repairs as are required.

(6) The secretary shall set standards and adopt rules to establish a plan of inspection to implement the inspection program provided by this section. Nothing in this section shall permit the department to promulgate any rule under which the provisions of 49 CFR 393 and 396 are applicable to, or enforceable with respect to, any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle combination's gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a commercial motor vehicle described in s. 340.01(8)(c) or (d), and the vehicle combination is operated solely in intrastate commerce.

(7) Any person producing, manufacturing or using an inspection sticker or causing the same to be done to subvert the provisions of this section shall forfeit not less than \$100 nor more than \$500. Any persons otherwise violating this section, s. 110.06, ch. 347 or rules issued pursuant thereto, unless otherwise provided by statute, shall forfeit not less than \$10 nor more than \$200.

Chapter 347, Wis. Stats., establishes the proper equipment standards for motor buses and motor vehicles.

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

The department estimates that it will take approximately 30 hours to develop this rule. Other resources necessary to develop this rule include the general public, other impacted state agencies and impacted federal agencies. The department will use existing staff to develop this rule.

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

The industry that manufactures and operates Wisconsin-based motor buses engaged in interstate and intrastate commerce may be affected by these proposed rule changes.

#### **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 :**

Trans 330.03, Wis. Admin. Code, adopts, among other things, the provisions of 49 CFR Part 393 that were in effect on October 1, 1990. These federal regulations are specified under ch. Trans 330, Wis. Admin. Code, have been revised since October 1, 1990, but Wisconsin has not yet adopted these revisions.

49 CFR 396.15(c) requires motor carriers to maintain practices to ensure that, following completion of any trip, a defined post-trip inspection shall be conducted. This rulemaking will amend Trans 330.05, Wis. Admin. Code, to require such a post-trip inspection.

Trans 330.10 (8), Wis. Admin. Code, provides that emergency exits shall conform to, among other provisions, the requirements contained in 49 CFR 393.62, which was renumbered to 49 CFR 393.62 in 2005. This rulemaking will update this cross-reference, 70 Fed. Reg. 48252 (August 15, 2015).

49 CFR 393.55 requires certain motor buses to be equipped with a defined antilock brake system. This rulemaking will update Trans 330.10(3), Wis. Admin. Code, to require motor bus brakes to conform to certain federal requirements and standards.

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

None to minimal. The proposed changes to the current rule reflect existing requirements in federal law.

**9. Contact Person:**

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