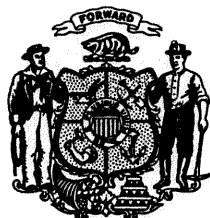


WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC FORM 2 MAY 08 2000

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-068

AN ORDER to amend Trans 131.03 (2) (b), relating to emission tests.

Submitted by **DEPARTMENT OF TRANSPORTATION**

04-04-00 RECEIVED BY LEGISLATIVE COUNCIL.

04-28-00 REPORT SENT TO AGENCY.

RNS:WF:rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

The Wisconsin Department of Transportation proposes an order to amend TRANS 131.03(2)(b), Wisconsin Administrative Code, relating to emission tests.

**NOTICE OF INTENT TO ADOPT RULE
WITHOUT PUBLIC HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 110.06, 110.20 and 227.11(2), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 131 without public hearing unless, within 30 days after publication of this notice [revisor to insert date], the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Carson Frazier, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, Wisconsin 53707-7911, telephone (608) 266-7857.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 110.06, 110.20 and 227.11(2), Stats.

STATUTES INTERPRETED: s. 110.20, Stats.

General Summary of Proposed Rule. Ch. Trans 131 governs the operation of the Vehicle Emission Inspection Program. This rule making proposes to amend s. Trans 131.03(2)(b) which requires a vehicle purchaser to obtain an emission test within 45 days after purchase, unless the vehicle had passed the emission test within 90 days before purchase. Existing policy is that the vehicle has to have been tested within 90 days before vehicle purchase. This provision was intended to assure that no more than 15 months would have passed between a vehicle's testing. However, the requirement dates from the time that tests were done manually. Currently, tests are done every two years,

and the 90-day window is more restrictive than necessary. We propose making the window 180 days instead of 90 days.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis. This proposed rule will have no adverse impact on small businesses.

Copies of Rule. Copies of this proposed rule are can be obtained, without cost, by writing to Carson Frazier, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, Wisconsin 53707-7911, or by calling (608) 266-7857. Alternative formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.06, 110.20 and 227.11(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 110.20, Stats., relating to emission tests.

SECTION 1. Trans 131.03(2)(b) is amended to read:

Trans 131.03(2)(b) Within 45 days of an ownership change registration issuance for vehicles more than 5 model years old at the time of ownership change, unless the vehicle passed inspection within ~~90~~ 180 days prior to such ownership change registration, or

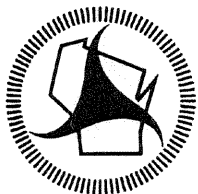
(END OF RULE TEXT)

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), Stats.

Signed at Madison, Wisconsin, this 3 day of April, 2000.

Charles H. Thompson D. Sec.
CHAS H. THOMPSON
Secretary
Wisconsin Department of Transportation

APR 05 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us
April 3, 2000

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

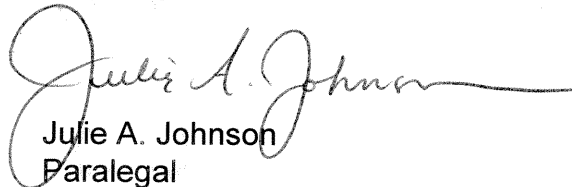
The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF INTENT TO ADOPT RULE WITHOUT PUBLIC HEARING** and Text
of Proposed Rule, relating to **emission tests**, Trans 131

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Intent to Adopt Rule Without Public Hearing and Text of Proposed Rule making relating to the above-entitled matter. This document has also been filed with the Legislative Council and with the Revisor of Statutes in accordance with the requirements of ss. 227.15(1) and 227.16(2)(e), Stats.

Sincerely,


Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Roger D. Cross
Carson Frazier



FEB 24 2000

Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

February 22, 2000

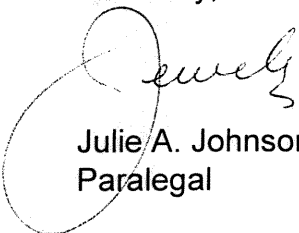
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 131**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 131. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Roger D. Cross
Carson Frazier

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend ch. Trans 131, governing operation of the Vehicle Emission Inspection Program. We propose to amend s. Trans 131.03(2)(b) which requires a vehicle purchaser to obtain an emission test within 45 days after purchase, unless the vehicle had passed the emission test within 90 days before purchase.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Existing policy is that the vehicle has to have been tested within 90 days before vehicle purchase. This provision was intended to assure that no more than 15 months would have passed between a vehicle's testing. However, the requirement dates from the time that tests were done annually. Currently, tests are done every two years, and the 90-day window is more restrictive than necessary. We propose making the window 180 days instead of 90 days.

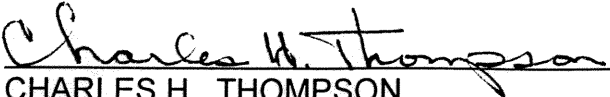
STATUTORY AUTHORITY FOR THE RULE:

§§ 110.06, 110.20 and 227.11(2), Stats.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

20 hours.

Signed at Madison, Wisconsin, this 18 day
of **February**, 2000.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

MAY 22 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

May 18, 2000

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 131**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 00-068

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **00-068**, relating to **emission tests**.
The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson/Senator Judy Robson/Representative Glenn Grothman/
Roger D. Cross/Carson Frazier

CR 00-68

The Wisconsin Department of Transportation proposes an order to amend TRANS 131.03(2)(b), Wisconsin Administrative Code, relating to emission tests.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



JOE MAASSEN
Deputy General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-7364

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 110.06, 110.20 and 227.11(2), Stats.

STATUTES INTERPRETED: s. 110.20, Stats.

General Summary of Proposed Rule. Ch. Trans 131 governs the operation of the Vehicle Emission Inspection Program. This rule making proposes to amend s. Trans 131.03(2)(b) which requires a vehicle purchaser to obtain an emission test within 45 days after purchase, unless the vehicle had passed the emission test within 90 days before purchase. Existing policy is that the vehicle has to have been tested within 90 days before vehicle purchase. This provision was intended to assure that no more than 15 months would have passed between a vehicle's testing. However, the requirement dates from the time that tests were done manually. Currently, tests are done every two years, and the 90-day window is more restrictive than necessary. We propose making the window 180 days instead of 90 days.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Copies of Rule. Copies of this proposed rule are can be obtained, without cost, by writing to Carson Frazier, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, Wisconsin 53707-7911, or by calling (608) 266-7857. Alternative formats of the proposed rule will be provided to individuals at their request.

PART 2

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.06, 110.20 and 227.11(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 110.20, Stats., relating to emission tests.

SECTION 1. Trans 131.03(2)(b) is amended to read:

Trans 131.03(2)(b) Within 45 days of an ownership change registration issuance for vehicles more than 5 model years old at the time of ownership change, unless the

vehicle passed inspection within ~~90~~ 180 days prior to such ownership change registration, or

(END OF RULE TEXT)

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), Stats.

Signed at Madison, Wisconsin, this ____ day of May, 2000.

TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation

PART 4
CR 00-068

ANALYSIS OF FINAL DRAFT OF TRANS 131

(a) **Need for Amended Rule.** Ch. Trans 131 governs the operation of the Vehicle Emission Inspection Program. This rule making proposes to amend s. Trans 131.03(2)(b) which requires a vehicle purchaser to obtain an emission test within 45 days after purchase, unless the vehicle had passed the emission test within 90 days before purchase. Existing policy is that the vehicle has to have been tested within 90 days before vehicle purchase. This provision was intended to assure that no more than 15 months would have passed between a vehicle's testing. However, the requirement dates from the time that tests were done manually. Currently, tests are done every two years, and the 90-day window is more restrictive than necessary. We propose making the window 180 days instead of 90 days.

(b) **Modifications as a Result of Testimony at Public Hearing.** Notice of intent to adopt this proposed rule without public hearing was given under the procedure set forth in s. 227.16(2)(e), Stats. No one petitioned for a public hearing and no public hearing was held.

(c) **List of Persons who Appeared or Registered at Public Hearing.** Because there was no hearing, there were none.

(d) **Response to Legislative Council Recommendations.** The Legislative Council report contained no recommendations.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

MAY 08 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

May 3, 2000

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 131**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 131. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Roger D. Cross
Barb Wehrle
Carson Frazier

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

Chapter Trans 131 governs operation of the vehicle emission Inspection/Maintenance (I/M) program. DOT proposes to amend the rule to specify testing procedures for On-Board Diagnostic testing (termed OBD II testing).

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

The current primary emission test is a transient tail pipe test, and for those vehicles which cannot perform a transient test, a 2-speed idle test is performed. The test is used to determine compliance with applicable vehicle exhaust emission limitations for carbon monoxide, hydrocarbons, and oxides of nitrogen. The OBD II test will measure and ensure the emission system in the vehicle is performing with established manufacturers specifications. EPA will soon require states to test via the OBD II test. The Department, with the encouragement of the Department of Natural Resources, will begin OBD II testing in early 2001, with full implementation by mid-2001.

This rule amendment will specify testing procedures and failure criteria for the OBD II method of testing.

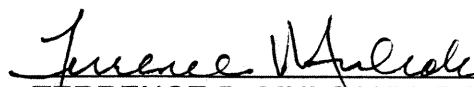
STATUTORY AUTHORITY FOR THE RULE:

ss. 110.06, 110.20(9) and 227.11(2), Stats.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

Approximately 300 hours of staff time including DOT and DNR staff, for development, hearings, and revision of rule draft.

Signed at Madison, Wisconsin, this 2 day
of **May**, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation