

Report From Agency

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

CR 09-044

The Wisconsin Department of Transportation proposes an order to create ch. TRANS 123, relating to registration of off-road (non-standard) vehicles.

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

This report is submitted to the chief clerks 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:

_____/s/
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PART 1
Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 341.10(6), Stats.

Statutory authority: “Grounds for refusing registration,” s. 341.10(6), Stats.; “When registration to be suspended,” s. 341.63, Stats.; “Grounds for refusing issuance of certificate of title,” s. 342.11, Stats.; “Suspension or revocation of certificate,” s. 342.25, Stats.; “Cancellation of title or registration,” s. 342.255, Stats.; “Application for registration,” s. 341.08(2)(e), Stats.

Explanation of agency authority: Current law prohibits the Department of Transportation from registering for on-road use any motor vehicle that is “originally designed and manufactured for off-highway operation” unless the vehicle bears a label on which the manufacturer certifies that the vehicle meets federal standards for on-road vehicles. Current law also requires the Department to suspend registration if it discovers that the registrant does not or cannot register the vehicle properly, and to cancel registration and title if it discovered that law prohibits the issuance or possession of a title or registration. Current law does not specify how to determine whether a vehicle is “originally designed and manufactured for off-highway operation.” As a practical matter, many popular on-road vehicles are designed with significant off-road capabilities, like sport utility vehicles, while other off-road vehicles are increasingly used on roads, like all-terrain vehicles (“ATVs”). Federal law states that any vehicle made for on-road use in this country after 1967 must meet federal equipment standards. A sport utility vehicle meets these standards, while an ATV does not. The Department reads these state and federal laws together to conclude that a vehicle “originally designed and manufactured for off-highway operation” after 1967 is any vehicle that was not made for on-road use in this country. Federal law allows importation of vehicles originally made for foreign markets if the vehicle meets U.S. on-road standards, or is a model deemed to be “substantially similar” to vehicle models made for sale in this country, or is more than 25 years old at the time of importation. Federal law, regulation, and interpretations preempt any state law on equipment standards, but do not preempt state law regarding allowable use or registration of vehicles. This rule making is intended to harmonize state law regarding registration for on-road use with the federal law requiring that vehicles meet U.S. on-road standards, except that this rule making does not adopt for registration purposes the federal exception for importation into the United States vehicles made after 1967 that are more than 25 years old.

Related statute or rule: “Motor Vehicle Safety,” 49 USC 30101-30170 (2006); “Importing motor vehicles capable of complying with standards,” 49 USC 30141 (2006); “Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment,” 49 USC 30112 (2006); “Certification of compliance,” 49 USC 30115; “Federal motor vehicle safety standards” 49 CFR 571 (2008); “Certification,” 49 CFR 567 (2008).

Plain language analysis: This rule making creates ch. Trans 123, relating to grounds for the Department to refuse vehicle registration. Section 341.10(6), Stats., refers to a vehicle “originally designed and manufactured for off-highway operation.”

This rule clarifies that the Department's registration or refusal of registration conforms to the National Highway Traffic Safety Administration (NHTSA) regulations implementing Federal Motor Vehicle Safety Standards (FMVSS), for motor vehicles manufactured 1968 and after and made for the U. S. market; and that Wisconsin exercises its federally-recognized state authority regarding vehicle registration, and does not adopt for the purpose of vehicle registration the federal exception for importation into the United States vehicles made after 1967 that are more than 25 years old. This rule does not apply to any vehicle for which a statutory registration category exists in ch. 341, Stats., including homemade, reconstructed, replica, or street modified vehicles that are eligible for registration under s. 341.268, and former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a).

In 1967, Congress declared a need to reduce traffic accidents, deaths and injuries resulting from traffic accidents and found it necessary to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce. The FMVSS were established in response.

NHTSA defines a "motor vehicle" as a vehicle that uses the public highways on a necessary and recurring basis and can exceed 20 miles per hour. The rule defines "off-road vehicle" as a motor vehicle under Ch. 340, Stats., that does not meet the definition of "motor vehicle" under federal law.

The rule clarifies that the proof that a vehicle complies with FMVSS is that the vehicle displays a certification label as required by s. 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, or bears an FMVSS-conforming vehicle identification number (VIN). A vehicle manufactured for the non-U.S. market may be registered if it meets one of three certification methods to show that it complies with FMVSS.

The rule establishes that an off-road vehicle with a model year 1968 or newer will be registered only if the vehicle displays a certification label affixed by the manufacturer that indicates the vehicle meets Federal Motor Vehicle Safety Standards, or if the manufacturer or importer certifies in one of three other methods that the vehicle complies with FMVSS. The rule does not apply to any vehicle for which a statutory registration category exists in ch. 341, Stats., including homemade, reconstructed, replica, or street modified vehicles that are eligible for registration under s. 341.268, and former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a).

The rule requires the Department to cancel registrations initially made after the rule takes effect if the registration application contained incorrect or false information. The rule "grandfathers" in vehicles currently registered and allows them to continue to be registered until the vehicle is transferred to a new owner.

Summary of, and preliminary comparison with, existing or proposed federal regulation: This rule establishes Wisconsin refusal of registration for motor vehicles in conformity with federal NHTSA regulations implementing FMVSS. Federal law, regulations and interpretations preempt any state law on equipment standards, but do not preempt state law regarding allowable use or registration of vehicles.

This rule clarifies that the Department's registration or refusal of registration conforms to the NHTSA regulations implementing FMVSS, for vehicles manufactured 1968 and after and made for the U. S. market; and that Wisconsin exercises its federally-recognized state authority regarding vehicle registration, and does not adopt for the purpose of vehicle registration the federal exception for importation into the United States vehicles made after 1967 that are more than 25 years old. That is, even though federal law allows 25 year old vehicles that do not meet FMVSS (for the vehicles year of manufacture) to be imported lawfully into this country, Wisconsin will not register them for use on public roads.

Comparison with Rules in the Following States:

Michigan: Michigan law requires vehicles to comply with Michigan law equipment requirements for on-road operation, for titling and registration. If an imported vehicle is subject to federal standards, it must be upgraded by a registered importer before it may be titled and registered in Michigan. If a vehicle was manufactured before 1968, it is considered an antique vehicle and must have all on-road equipment required by Michigan law in effect at the time of manufacture.

Minnesota: Minnesota law requires that a vehicle comply with federal motor vehicle safety standards, for titling and registration. An imported vehicle must be certified by the importer as meeting federal safety standards. A collector military vehicle, 20 years old or older, may be registered only by a non-profit organization and only for operation as a collector's item and not for general transportation purposes.

Illinois: Illinois law requires that a vehicle comply with federal motor vehicle safety standards, for titling and registration. An imported vehicle must be certified by the importer as meeting federal safety standards.

Iowa: Iowa law requires that if federal law requires a vehicle to bear a manufacturer's label, that the vehicle complies with federal motor vehicle safety standards, the label must be present for titling and registration.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The Department had for several years followed a policy interpreting s. 341.10(6), Stats., which prohibits the Department from registering off-road vehicles that do not meet the requirements of s. 114 of the National Traffic and Motor Vehicle Safety Act of 1966. This Department policy does not define "off-road" vehicles but essentially refuses to register for on-road use any vehicle that does not meet federal on-road safety and equipment standards.

The Department concluded that the statutory provision requires Wisconsin to conform to federal regulations. Federal law, regulation, and interpretations preempt any state law on equipment standards, but do not preempt state law regarding allowable use or registration of vehicles. Therefore, this rule is not required to, and does not, adopt for the purpose of vehicle registration the federal exception for importation to the United States of vehicles made after 1967 that are more than 25 years old.

The Department has revised its policy to conform to federal interpretations, and this rule codifies the current Department policy. The Department also addresses issues that were raised in a recent WDOA Division of Hearings and Appeals administrative hearing regarding the Department's cancellation of registration of imported military vehicles made after 1967. Vehicle Owned by Paul Underwood, Case TR-08-0027 (Sept. 18, 2008).

The rule does not apply to any vehicle for which a specific statutory registration category exists in ch. 341, Stats., including homemade, reconstructed, replica, or street modified vehicles that are eligible for registration under s. 341.268, and former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a).

Analysis and supporting documentation used to determine effect on small businesses: This rule clarifies statutory provision that the Department will refuse registration to certain motor vehicles that do not meet FMVSS. Motor vehicle dealers and importers will need to understand eligibility criteria for vehicle registration, before they attempt to sell in Wisconsin motor vehicles intended for on-road use in this state.

Effect on small business: The rule will enable small businesses that are dealers and importers to know the criteria for registration before they import or attempt to sell motor vehicles in Wisconsin. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: 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, sewerage district, or federally-recognized tribes or bands. Although many of these entities use off-road vehicles in their public functions, these vehicles may continue to be registered as "municipal" vehicles for such use.

Anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency contact person and copies of rule. Copies of the rule may be obtained, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@wisconsin.gov.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Chapter Trans 123 is created to read:

CHAPTER TRANS 123
REGISTRATION OF OFF-ROAD (NON-STANDARD) VEHICLES

Trans 123.01 Purpose. This chapter interprets s. 341.10(6), Stats., and establishes eligibility criteria for off-road vehicles for the purpose of vehicle registration under ch. 341, Stats.

Trans 123.02 Applicability. This chapter applies to any vehicle presented to the department for registration under ch. 341, Stats., but does not apply to any of the following:

(a) Homemade, reconstructed, replica, or street modified vehicles that are eligible for registration under s. 341.268.

(b) Former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a).

(c) Any off-road vehicle for which a statutory registration process exists in ch. 341, Stats.

Trans 123.03 Definitions. Unless otherwise stated, the definitions of words and phrases in ss. 340.01 and 341.01, Stats., apply to this chapter. In this chapter:

(1) “Manufacturer’s certification label” means the label or tag permanently affixed to the vehicle in conformity with s. 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 49 USC 30115 (2006), and 49 CFR 567 (2008), that indicates the vehicle complies with applicable federal motor vehicle safety standards for that vehicle type.

(2) “NHTSA” means the National Highway Traffic Safety Administration of the U. S. Department of Transportation.

(3) “Off-road vehicle” means a motor vehicle that is any of the following:

(a) Made after 1967 and that does not conform to federal motor vehicle safety standards.

(b) Not considered to be a motor vehicle for purposes of the National Traffic and Motor Vehicle Safety Act of 1966 as amended, 49 USC 30101-30170 (2006).

(c) Deemed by NHTSA to be a motor vehicle under its regulations or interpretations prior to the effective date of this chapter [legislative reference bureau inserts date], but is not subject to Federal Motor Vehicle Safety Standards established by NHTSA at 49 CFR 571 (2008).

NOTE: Former military vehicles are eligible for registration under ss. 341.266(2) and 341.269.

(d) Deemed to be not a motor vehicle by an interpretation written by NHTSA.

(e) A motor vehicle that does not travel on public highways on a necessary and recurring basis or is not capable of exceeding 20 miles per hour on paved, level ground.

(4) “Register” means to register a vehicle under ch. 341, Stats.

Trans 123.04 Registration of off-road vehicles manufactured 1968 or after.

(1) Upon application to register a vehicle, the department may register an off-road vehicle manufactured 1968 or after if at least one of the following applies:

(a) The vehicle displays a manufacturer’s certification label for a vehicle that can be registered under ch. 341, Stats. The department shall consider the manufacturer’s certification label as sufficient proof that the vehicle meets the provisions of s. 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended.

(b) Certified to NHTSA as meeting federal motor vehicle safety standards by an importer that is registered with NHTSA.

(c) Listed by NHTSA as a model made for use in another country that is substantially similar to a motor vehicle originally made for import into and sale in this country and that meets federal motor vehicle safety standards or meets the requirements in 49 USC 30112(2) (2006).

(d) The department determines, based on written evidence, that the vehicle meets or exceeds federal motor vehicle safety standards in effect at the time of manufacture and the vehicle passes an inspection, as directed by the department, to determine compliance with s. 110.075 and ch. 347, Stats., and rules promulgated under that chapter.

(2) Title or registration obtained in another state does not conclusively establish the vehicle's eligibility for title and registration issued by Wisconsin. The department shall independently assess whether a vehicle is eligible for registration under the laws of this state.

Trans 123.05 Grandfathered off-road vehicles. Notwithstanding any provision of this chapter that might otherwise prohibit registration, the owner of any vehicle that is registered in this state on the effective date of this section [legislative reference bureau inserts date] may renew that registration and may change the type of registration. This section applies only until the owner shown on department records on the effective date of this section [legislative reference bureau inserts date] is removed from department records as an owner of the vehicle. For vehicles owned by more than one owner on the effective date of this section [legislative reference bureau inserts date], this section applies only until the last owner shown on department records on the effective date of this section [legislative reference bureau inserts date] is removed from department records as an owner of the vehicle. Lien holders are

not considered owners for purposes of this section. This section does not allow the renewal of any registration prohibited by ch. 341, Stats.

Trans 123.06 Cancellation, suspension or revocation of registration. If, subsequent to registering a vehicle, the department learns that the information the applicant had presented was incorrect or false and the vehicle should not have been registered, the department shall cancel, suspend or revoke the registration of the vehicle. If the department cancels, suspends or revokes the registration of the vehicle under this section, the applicant may reapply for registration at any time but shall present to the department information that proves to the department that the vehicle is eligible for registration. This section does not apply to vehicles eligible for registration under s. Trans 123.05.

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this 6th day of **August**, 2010.

/s/
FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

ANALYSIS OF FINAL DRAFT OF TRANS 123

(a) **Basis and Purpose of Rule.** This rule making creates ch. Trans 123, relating to grounds for the Department to refuse vehicle registration. Section 341.10(6), Stats., prohibits registration of a vehicle “originally designed and manufactured for off-highway operation.” This rule clarifies that the Department’s registration or refusal of registration conforms to the National Highway Traffic Safety Administration (NHTSA) regulations implementing Federal Motor Vehicle Safety Standards (FMVSS), for vehicles manufactured 1968 and after and made for the U.S. market; and that Wisconsin exercises its federally-recognized sovereign authority regarding vehicle registration, and does not adopt for the purpose of vehicle registration the federal exception for importation into the United States vehicles made after 1967 that are more than 25 years old. In effect, federal law allows the importation of any motor vehicle that does not meet federal on-road safety and equipment standards after the vehicle is 25 years old, but Wisconsin can, and does, refuse to register it for on-road use. This rule does not apply to any vehicle for which a specific statutory registration category exists in ch. 341, Stats., including homemade, reconstructed, replica, or street modified vehicles that are eligible for registration under s. 341.268, and former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a), Stats.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on July 29, 2009. There was overwhelming opposition to the rule. Attendees generally seemed to fall into one of two groups: military vehicle enthusiasts or car collectors. Car collectors included ‘hot rodders’, and enthusiasts of reconstructed, replica, street modified and homemade vehicles. At the time of the hearing, the proposed rule did affect the registration and use of former military vehicles.

The subsequent enactments of 2010 Wisconsin Acts 135 and 225 specifically authorized registration of certain military vehicles (all U.S. military vehicles and foreign military vehicles at least 25 years old that retain original markings), and this rule is modified to exclude former military vehicles that can be registered under that act. Those acts also specifically forbade the registration of former military vehicles that are not eligible for registration under those acts (including foreign military vehicles that are less than 25 years old and foreign or U.S. military vehicles that do not retain original markings), and this rule has no effect on vehicles that can be registered under those acts.

The majority of attendees at the hearing were ‘hobbyists’, or collectors of more traditional automobiles, including reconstructed, replica, street modified and homemade vehicles. Most of the opposition at the hearing appeared to come from supporters of vehicles originally manufactured before 1968. The rule did not intend to affect these vehicles in any way, but the wording of the rule evidently was confusing to many. In response, the Department has deleted from the rule references to vehicles originally

manufactured before 1968.

The remainder of the hobbyist opposition concerned vehicles that do not meet federal motor vehicle safety standards, but for which the law specifically allows registration, including “reconstructed, replica, street modified and homemade vehicles.” Again, the rule did not intend to apply to vehicles for which registration is specifically provided in ch. 341, Stats., notwithstanding the fact that a vehicle does not meet FMVSS. A subset of these commenters mistakenly understood the rule to replace existing state equipment standards (e.g., ch. Trans 305) applicable to non-FMVSS vehicles (such as home built vehicles), with the federal standards. The Department did not intend the rule to change the relationship between state and federal equipment standards in any way and has modified the draft to avoid appearing to change that. The law is, and remains, that vehicles made today for original sale in this country must meet federal safety and equipment standards at the time of sale. State standards (developed some years ago with significant assistance from ‘hobbyists’ and collectors) apply at the time any vehicle is operated or, for some, at the time the vehicle is registered. A state inspection to determine whether a non-FMVSS compliant vehicle meets state standards under ch 347, Stats., and ch. Trans 305 is unchanged for these vehicles as a condition of eligibility for registration (manufactured, homemade, street modified, replica and reconstructed vehicles, including automobiles, light trucks, heavy trucks, motorcycles, motor homes, trailers and semi-trailers).

The Department has modified the rule text to clarify that the rule applies to vehicles manufactured 1968 and after, when federal motor vehicle safety standards are in effect, and that the rule does not apply to homemade, replica, reconstructed, and street modified vehicles, or any off-road vehicle for which a statutory registration category exists.

The Department has modified the rule text to clarify that the rule does not apply to former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a)., Stats., or to any off-road vehicle for which a statutory registration category exists in ch. 341, Stats.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following persons spoke/registered in opposition or for information on the proposed rule at the hearing:

Orazio Aiello, Madison, WI
Robert Anderson, Midwest Military Vehicle Association, McFarland, WI
Mark Austin, Collector, Fremont, WI
Burt Boldebuck, Verona, WI
Richard Bruhn, President, Wisconsin Ford Club, Hales Corners, WI
Chet Caine, Lowell, WI
Dan Calvani, Waukesha Old Car Club, Waukesha, WI
Paul Colette, Avoca, WI (written testimony provided)
Bill Collins, repres. Tired Iron, Edgerton, WI
Mike Connor, President, Badgerland F-100s

Truck Club, Fitchburg, WI
Ronald Diederichs, Madison, WI
Mike Dix, Hartland, WI
Nathan Egli, Owner, Midwest Hybrid LLC, Madison, WI
John Emergy, Midwest Military Vehicle Association, Oconomowoc, WI
George Eppy, Madison Classics
Gary Esse, President, Madison Classics, Madison, WI
Jay Ferus, Legislative Aide to Rep. Zigmunt, 2nd Assembly District, Madison, WI (Ferus--written testimony provided)
Rick Fredericks, Hartland, WI

Dan Gabowski, General Manager, Wisconsin Ducks, Inc., Wisconsin Dells, WI
Randy Gregory, Blanchardville, WI

Tim Hunkins, Street Rodder, Waukesha Old Car Club, Waukesha, WI
Nick Karadis, Madison, WI
Chester King, Dodge Co. Highway Comm'r
Gregory Kluck, representing Wisconsin Street Rod Association, Muskego, WI
Tom Landmann, Avoca, WI (written testimony provided)
Daryl Lehman, Brookfield, WI
Eva Lehman, Brookfield, WI
Louis Louis, President, Madison Area Street Rods, Madison, WI
Mark McCabe, Car Enthusiast, Mequon, WI
Kevin McDonald, Madison, WI
Don Meinhardt, Collector, Wyocena, WI
William Mhlbauer, DeForest, WI
Al Miller, Madison Area Street Rod Club, Madison, WI
Dale Munson, President, Balanced Automotive, Deerfield, WI
John Olson, representing Olson Auto Exchange LLC, Stoughton, WI
Lori Patrick, representing Wisconsin Street Rod Association
Barbara Peterson, representing Tired Iron, Edgerton, WI
Dean Probst, representing All Car Guys, Jefferson, WI
Tadd Rapant, representing Midwest Military Vehicle Association, Cudahy, WI

Pat Rapant, Cudahy, WI
Cecil Roberts, Mazomanie, WI
Jeff Rowsam, Military Veh. Pres. Assoc./WI Historic Military Vehicle Owners, Denmark, WI
William Ruhland, Owner, Willies Repair, Mazomanie, WI
Curt Rymkus, Auto Enthusiast, Butler, WI
John Safro, representing collector car hobby/industry, Nashotah, WI
Cheryl Samuel, American Motors Owners Assoc./Jefferson Collectibles, Jefferson, WI
Pete Seiter, representing Tired Iron, Edgerton, WI
Carolyn Simpson, Midwest Military Vehicle Association, McFarland, WI
John Skinner, Hobbist, Madison, WI
Michael Spangler, American Motors Owners Assoc./Jefferson Collectibles, Jefferson, WI
George Stauffer, Pinzgauer Owner, Blue Mounds, WI
Mark Trader, Military Vehicle Collector, Janesville, WI
Roger Trapp, Albany, WI 53502
Paul Treder, Military Vehicle and Specialty Vehicle Collector, Janesville, WI
Paul Underwood, Blue Mounds, WI (written testimony provided)
Everett White, Acting Chairman, Capital City Corvair Club, Madison, WI
Art Zangerle, P.E., Mukwonago, WI
Steve Zirzow, Franksville, WI

The written comment period was held open until close of business the day of the hearing. Written comments were received from the following individuals in opposition to the rule:

Randy Backhaus
Jeff Bajczyk, North Prairie, WI
David Bundy, Midwest Military Vehicle Association
Scott Grewe
Mark Heinen
Jeff Kneipper, member of the Midwest Military Vehicle Association, Kenosha, WI
Jeff Krickhahn, Delafield, WI
Edward T. Lance-Gomez, Racine, WI
Steve Mastalir
Sandra McCallum, Sussex, WI

Kenneth J. Meyer, Sturgeon Bay, WI
Cliff Peters, New Berlin, WI
Joel Ponty, SYSCO Food Services of Baraboo, WI
Robert Raff, Vice President/GM, WFXS-Davis Television, Wausau, WI
Blair Rogacki, Vehicle Collector, Colgate, WI
Paul R. Smaglick, member of the Midwest Military Vehicle Association, Brookfield, WI
James M. Turnbull
Van Wanggaard, retired Traffic Investigator for the Racine Police Department

Michael G. Wende, Kenosha, WI
Dan Wendl, Waukesha, WI

Senator Robert Wirch, 22nd Senate District

(d) **Summary of Public Comments and Agency Response to those Comments.** Public comments were in two major categories. First, vehicle collectors were concerned that the rule would overturn statutory provisions for homemade, replica, reconstructed, and street modified vehicles and would prohibit collector registration of U.S. built vehicles manufactured prior to 1968. The Department has clarified in the rule text that the rule applies to vehicles manufactured 1968 and after, when federal motor vehicle safety standards are in effect, and that the rule does not apply to homemade, replica, reconstructed, and street modified vehicles, or any off-road vehicle for which a statutory registration category exists.

Second, historic military vehicle collectors were concerned that the rule would prohibit their operation of former military vehicles for shows, parades, and other display functions. The Department has clarified in the rule text that the rule does not apply to former military vehicles that are eligible for registration under s. 341.269 or s. 341.266(2)(a)., Stats., or to any off-road vehicle for which a statutory registration category exists in ch. 341, Stats.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate.** The Department has changed the plain language analysis to reflect changes made to the rule text. In addition, the Department has clarified in the plain language analysis that, while NHTSA has established regulations regarding importation of vehicles older than 25 years old, federal regulations and interpretations state that federal law, regulation, and interpretation do not preempt state law regarding allowable use or registration of vehicles.

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained only two comments, both of which have been incorporated into the proposed rule.

(g) **Final Regulatory Flexibility Analysis.** The rule will enable small businesses that are dealers and importers to know the criteria for registration before they import or attempt to sell motor vehicles.