



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

CR 88-195

RECEIVED

MAY 18 1989

4.00 per
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. AM-33-88 was duly approved and adopted by this Department on March 23, 1989. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 16th
day of May, 1989.


Bruce B. Braun, Deputy Secretary

(SEAL)

8-1-89

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
RENUMBERING AND AMENDING, AMENDING AND CREATING RULES

.....
IN THE MATTER of renumbering and amending .
s. NR 485.06.(intro.),(1) to (5); amending ss. NR .
485.01(2), 485.02, 485.03 AND 485.05 (intro); .
and creating ss. NR 485.02.(1) to (5), 485.06(2) .
and 485.07 of the Wisconsin Administrative Code . AM-33-88
pertaining to the motor vehicle air pollution .
control equipment tampering prohibition and the .
creation of a tampering inspection procedure and .
requirement for a random inspection program in .
the ozone nonattainment area of SE Wisconsin. .
.....

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss.144.31(1)(a), 144.40(3)(a),144.42(6)(e),
and 227.11(2)(a), Stats.

Statutes interpreted: s.144.42(6)(b), (c) and (e), Stats.

The rule will:

1) Amend rules to be consistent with the statutory prohibitions concerning tampering, and

2) Create rules that specify procedures for inspecting motor vehicles for tampering with air pollution control equipment for use within the next Vehicle Inspection and Maintenance (I/M) contract that will allow credit for additional VOC emissions reductions. The I/M program covers the urbanized 6 counties of the ozone nonattainment area of southeastern Wisconsin.

The VOC emission reduction credit would initially apply toward growth accommodation replenishment for the accommodation area including the 6 I/M counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha and the rural, non-I/M county of Walworth. The additional emission reductions may also be necessary to meet new EPA RACT requirements for enhanced vehicle I/M programs. These new requirements are anticipated as part of a new ozone State Implementation Plan requirement following continued designation of the southeastern Wisconsin area as nonattainment after the 1987 compliance deadline.

SECTION 1. NR 485.01(2) is amended to read:

NR 485.01 (2) PURPOSE. This chapter is adopted under ss. 144.31, 144.40 and 144.42, Stats., to establish emission limitations for motor vehicles, internal combustion engines and mobile air contaminant sources ~~and~~ to

prohibit any person from tampering with the air pollution control equipment of a motor vehicle ~~in order to protect air quality and to require tampering inspections.~~

SECTION 2. NR 485.02 is repealed and recreated to read :

NR 485.02 DEFINITIONS. In addition to the definitions in this section, the definitions contained in ch. NR 400 apply to the terms used in this chapter.

(1) "DOT" means the department of transportation.

(2) "Random basis" means random selection of individual vehicles across the entire population of vehicles subject to inspection under s. 110.20(6), Stats.; or random selection of individual vehicles within a particular category of vehicles identified by age or type in Table 1 of s. NR 485.04.

(3) "Rpm" means revolutions per minute.

(4) "Steady-state loaded mode test" means an exhaust emissions test performed on a vehicle while it is maintained at a stabilized engine load, stabilized wheel rpm or stabilized road load horsepower on a vehicle dynamometer.

(5) "Transient loaded mode test" means an exhaust emissions test performed on a vehicle as it is brought from idle to a stabilized engine load, stabilized wheel rpm or stabilized road load horsepower on a vehicle dynamometer. Elements of this test include engine rpm at the start of the test, ending engine rpm, the rate of wheel rpm increase or decrease or the rate of road load horsepower change, and the test duration.

SECTION 3 NR 485.03 is amended to read:

NR 485.03 GENERAL LIMITATIONS. No person ~~shall~~ may cause, suffer, allow, or permit emissions of particulate matter, sulfur oxides, hydrocarbons, carbon monoxide, nitrogen oxides, or odors from a motor vehicle, internal combustion engine, or mobile source which substantially contribute to the exceeding of an air standard or create air pollution.

SECTION 4. NR 485.05(intro.) is amended to read:

NR 485.05(intro.) VISIBLE EMISSION LIMITS FOR MOTOR VEHICLES, INTERNAL COMBUSTION ENGINES, AND MOBILE SOURCES. No person ~~shall~~ may cause, suffer, allow, or permit visible emissions in amounts greater than the following limitations, except when uncombined water is the cause for violation.

SECTION 5. NR 485.06 (intro.)(1) to (4) are renumbered NR 485.06 (1) (a) to (d) and as renumbered are amended to read :

NR 485.06 (1) No person may ~~dismantle, remove, or cause to be inoperative~~ tamper with or fail to maintain in good working order any air pollution control ~~device or system~~ equipment which has been installed on a motor vehicle by the manufacturer prior to sale unless the person repairs or restores the equipment or replaces the device or system equipment with a new identical or comparable tested replacement device or system equipment. Catalytic converters must be original equipment or EPA-certified equipment except as specified in sub. (2). ~~Such devices or systems include~~ Air pollution control equipment includes but ~~are~~ is not limited to :

- (a) Positive crankcase ventilation ~~system~~ equipment.
- (b) Exhaust emission control ~~devices~~ equipment.
- (c) Evaporative fuel loss control ~~systems~~ equipment.

(d) Any control ~~device~~ equipment operating on principles such as thermal decomposition, catalytic oxidation or reduction, absorption, or adsorption.

SECTION 6. NR 485.06(2) is created to read :

NR 485.06 (2) Notwithstanding sub. (1), any person may replace the catalytic converter on a vehicle older than 5 model years or with more than 50,000 miles on the odometer with aftermarket equipment certified by the U.S. environmental protection agency (EPA). If the catalytic converter is replaced, the owner of the vehicle shall provide a receipt or other evidence showing that the replacement converter has been certified by EPA.

SECTION 7. NR 485.07 is created to read :

NR 485.07 RANDOM INSPECTION REQUIREMENT FOR MOTOR VEHICLE TAMPERING.

(1) APPLICABILITY. Any motor vehicle which is subject to the maintenance inspection test under s. 110.20(6), Stats., shall also be subject to selection for an air pollution control equipment tampering inspection. The total number of vehicles selected annually for tampering inspections shall be a minimum of 5% and a maximum of 100% of the vehicles subject to inspection under s. 110.20(6), Stats. Unless 100% of the vehicles subject to inspection are selected for inspection by means of an ongoing schedule that guarantees inspection of each vehicle at least once every three years, then selection for tampering inspections shall be made by the DOT or its designee on a random basis in a manner preapproved by the department.

(2) RECORDS AND COMPLIANCE. DOT or its designee shall maintain a record of vehicles failing the tampering inspection. DOT may not register or renew

registration of a failed vehicle until evidence of repair, replacement or restoration of the failed or missing parts is provided to DOT or its designee, and DOT or its designee reinspects the vehicle for the failed or missing parts.

(3) FULL TAMPERING INSPECTION PROCEDURE. (a) Full tampering inspections shall consist of a visual check for the presence and proper connection of the following air pollution control equipment: the positive crankcase ventilation (PCV) valve and connections; the evaporative emissions control canister; the exhaust system catalytic converter and oxygen sensor; the exhaust gas recirculation (EGR) assembly; the air pump, belts and hoses or the air injector assembly; the fuel inlet restricter; a properly seated gas tank fill cap; and the thermostatic air cleaner/filter assembly.

(b) Full tampering inspections shall also include a test for the presence of lead deposits in the tailpipe if the vehicle is required to use unleaded gasoline. Evidence of the use of leaded fuel in vehicles requiring the use of unleaded fuel as shown by the presence of lead in the tailpipe, the presence of leaded fuel in the gas tank or evidence of current or previous tampering with the fuel inlet restricter shall constitute tampering with the catalytic converter and the exhaust oxygen sensor if the vehicle originally had that equipment. When evidence of fuel inlet tampering is found, and a tailpipe lead test indicates the absence of lead deposits, DOT or its designee may waive the requirement to repair, replace, or restore the catalytic converter and oxygen sensor equipment, if:

1. A full tampering inspection of the vehicle indicates no additional tampering; and

2. The owner of the vehicle provides evidence to DOT or its designee that the catalytic converter and oxygen sensor were replaced subsequent to April 1, 1988, or the owner provides evidence to DOT or its designee that a previously tampered with but partially restored and functional fuel inlet restricter was installed in the vehicle prior to or concurrently with the replacement of the catalytic converter and oxygen sensor, or DOT or its designee determines that the particular vehicle model is on a list of vehicle models that chronically fail the fuel inlet restricter test due to improper new vehicle equipment design, improper new vehicle equipment installation or normal extended wear.

(c) Any reinspection required under sub. (2) may omit the test for the presence of lead in the tailpipe if the catalytic converter has been replaced.

(4) SUBSTITUTE PROCEDURE. (a) Upon written department approval granted to DOT, a partial tampering inspection procedure may be substituted for the full inspection procedure in sub. (3), provided that use of the substitute procedure maintains the inspection program effectiveness in terms of adequate pollution reduction and adequate identification and repair of tampered and misfueled vehicles and improperly maintained pollution control equipment. The department may also consider program operation cost and waiting time impacts in reviewing the substitute procedure. The following types of substitute procedures are acceptable for part or all of the full inspection:

1. A steady-state loaded mode test or a transient loaded mode test for nitrogen oxides, carbon monoxide, carbon dioxide, oxygen or hydrocarbons by which air pollution control equipment tampering or functioning can be demonstrated; or

2. A visual inspection checking for the presence of fewer items than the full inspection procedure.

(b) A substitute procedure shall occur at a sufficient initial inspection frequency to allow annual VOC reductions equivalent to or greater than those generated under the procedure specified in sub. (3) when full inspections are randomly made on a minimum of 5% of the vehicles subject to inspection under s. 110.20(6), Stats. Calculation of annual VOC reductions shall be based on U.S. environmental protection agency (EPA) models or EPA assisted analysis.

(c) Prior to April 1, 1990, if a vehicle fails the substitute inspection, either the initial inspection shall be expanded to include the full inspection procedure, or the failure shall be noted in DOT records and the vehicle shall be fully inspected prior to its next registration or registration renewal. Commencing April 1, 1990, when a vehicle fails the substitute inspection procedure, the initial inspection shall be expanded to include the full procedure in sub.(3).

(5) PROCEDURE REVIEW. The department shall review the tampering inspection procedure in effect at least once after the first 15 months of the DOT inspection contract which is in effect on the effective date of this section and prior to each subsequent DOT inspection contract or contract extension. Upon such review, the department may withdraw or alter any substitute procedure approved under sub. (4).

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 23, 1989.

The rules shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin May 16, 1989.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

33\9001\am9final.rwl



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

May 16, 1989

1020

RECEIVED

MAY 18 1989

Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 702
30 W. Mifflin Street

Revisor of Statutes
Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. AM-33-88. These rules were reviewed by the Assembly Committee on Environmental Resources and Utilities and the Senate Committee on Urban Affairs, Environmental Resources, Utilities and Elections pursuant to s. 227.19, Stats. A summary of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. D. Besadny".

C. D. Besadny
Secretary

Enc.