

CR 82-44
CERTIFICATE

STATE OF WISCONSIN)
) ss
DEPARTMENT OF TRANSPORTATION)

RECEIVED

MAR 2 1984
4:30 p.m.
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule TRANS 131, relating to a Motor Vehicle Inspection Program, was duly approved and adopted by this department in accordance with s. 227.026(1), Stats.

I further certify that the annexed 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 hereunto set my hand and affixed the official seal of the Department of Transportation in the City of Madison, Wisconsin, this 1st day of March, 1984.

Lowell B. Jackson

Lowell B. Jackson, P.E.
Secretary

5-1-84

OFFICE OF THE SECRETARY

In the Matter of the Proposed	:	
Creation of Chapter TRANS 131,	:	ORDER ADOPTING
<u>Wis. Adm. Code</u> , Relating to a	:	RULE
Motor Vehicle Emission Inspection	:	
Program	:	

CLEARINGHOUSE RULE 82-44

RECEIVED

MAR 2 1984

Analysis of Rule Prepared by the
Department of Transportation

Revisor of Statutes
 Bureau

This proposal creates TRANS 131 to establish by rule the department's policies and procedures relating to the federally mandated motor vehicle inspection and maintenance program. Chapter 274, Laws of 1979, created this program in ss. 110.20, 110.21, and 341.10(8)(9) and (10), and amended 341.04(1) (intro). Parts of chapter 20, Laws of 1981, created 20.370(2)(dq), 20.395(5)(hq), 20.395(5)(hr), 110.20(3)(c), 110.20(8)(b) and (c) and 341.295 and amended 110.20(8)(a)(d) and (e), 110.20(9)(a), 110.20(11)(a), and (13)(a), and 341.29(1) to further clarify the program. Also, parts of 1983 Wisconsin Act 27 amended 341.10(9) and (10), 110.20(2)(b), 20.395(5)(hq) and 20.395(5)(hr).

This vehicle inspection/maintenance program is to be implemented in Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties. The responsibility for establishing and conducting the program is split between the Department of Transportation (the department) and the Department of Natural Resources (DNR). The department is directed to contract with a private firm to conduct the inspections. The DNR has set emission standards and has designated the counties

requiring the program. Both departments will participate in the public information and education effort. Automobiles and light duty trucks, registered at a gross weight of 8,000 pounds or less and customarily kept in one of the above counties, are required to participate in the inspection/maintenance program. Ten contractor operated emission inspection stations are now being constructed. The emissions inspections will be funded through the transportation fund. The anticipated commencement date is now projected to be April 2, 1984.

Trans 131.03 provides for all nonexempt vehicles that are customarily kept in counties where emission inspections are required to have an emission inspection completed no more than 90 days prior to expiration of current registration and annually for government vehicles. Samples of tailpipe exhaust emissions will be taken to measure the concentrations of carbon monoxide, hydrocarbons, and carbon dioxide. Unless exempted by this section, all vehicles are to be run on a dynamometer at approximately 25-30 mph and emissions sampled for diagnostic and advisory information. Determination of passing the emissions inspection will be based on the exhaust emission produced in the idle mode. Nonexempt vehicles are entitled to a maximum of two reinspections if they have been adjusted or repaired in accordance with s. 110.20, Stats., and TRANS 131, and are accompanied by the previous vehicle inspection report(s) with repair information completed by the person performing the repairs. Conditions for refusing or prohibiting inspections are given as are instructions for determining applicable emission standards for reconstructed or homemade vehicles, vehicles with exchanged engines, trucks, and vans. Also described is the vehicle inspection report which the operator of each vehicle will receive at the time an inspection is completed.

Trans 131.04 details the procedure wherein the department may grant a waiver of compliance from test requirements. Vehicles which fail to pass an initial emissions inspection and after adjustment or repair again fail to pass the emissions inspection will be eligible for a waiver of compliance determination by the department's waiver surveillance inspector. Criteria for granting waivers are given which in part repeat the requirements of s. 110.20(13), Stats.

Trans 131.05 details the conditions under which a tampering inspection may be conducted. When a waiver of compliance is requested an inspection by the department's waiver surveillance inspector is permitted to determine if specific emission control systems have been subject to tampering as defined in s. 144.42(6), Stats.

Trans 131.06 indicates that the evidence of compliance with emission test requirements shall consist of either a printed vehicle inspection report indicating "passed" or on which the department's waiver surveillance inspector has indicated "waived", or an entry on the department's data records indicating the vehicle license number, vehicle identification number and the notation "passed" or "waived".

Trans 131.07 provides for the voluntary inspection of any nonexempt vehicle that is kept in a county not subject to the requirements of TRANS 131 and which is presented for a voluntary inspection at an inspection station as permitted by s. 110.20(7). Frequency of voluntary tests and requirements for presentation of specific station entry documents are described.

Trans 131.08 contains provisions for obtaining a letter of temporary exemption from test requirements when a vehicle subject to the requirements of TRANS 131 will not be available for testing during the 90 day period prior to the license expiration date. As a condition of granting the letter of temporary exemption the department may require that the vehicle be tested within 30 days of when the applicant indicates that the vehicle will again be operated within a Wisconsin county subject to the emission inspection requirements of TRANS 131.

Trans 131.09 stipulates the requirements for department audits of testing equipment, procedures and records for contractor operated test stations and fleet station test facilities.

Trans 131.10 contains exhaust gas analyzer specifications and equipment calibration procedures for contractor operated facilities. Calibration and maintenance of equipment shall be in accord with manufacturer's specifications or as superceded by contract between the department and contractor.

Trans 131.11 stipulates the requirements for fleet inspection station permits. It limits permits to owners or lessees of at least 15 motor vehicles subject to mandatory inspection if these vehicles are maintained or repaired on a regular basis and if the appropriate equipment and personnel are available to perform the idle mode emissions inspections and adjustments. The owners or lessees must agree to maintain and report all required data to the department and permit agents of the department to enter and inspect the premises, equipment and records at all reasonable times. Persons holding a fleet emissions inspection station permit may not certify compliance of nonfleet vehicles.

Trans 131.12 details the procedures to be followed when fleet vehicles are inspected at fleet inspection stations. Persons employed by the holder of a fleet inspection station permit to conduct emission testing for compliance with TRANS 131 are required to meet specific educational or proficiency requirements. Vehicle inspection reports, as supplied by the department, are to be completed and forwarded to the department.

Trans 131.13 stipulates under what circumstances the department may terminate a fleet inspection station permit.

Trans 131.14 requires that the maintenance and calibration of fleet station inspection equipment be in accordance with manufacturer's specifications and recommendations unless superceded by requirements of this section.

Trans 131.15 provides that as part of the application process for renewal of vehicle registration in accord with s. 341.08(4m), Stats., the department will include notification to vehicle owners whose vehicles are or may be subject to the emission test requirements of TRANS 131.

Fiscal Estimate

Fiscal estimate is attached.

Forms

New forms will be necessary to administer the vehicle emissions inspection program. To date, forms are in process of being developed and will include:

New Forms

1. MVD-2470 Vehicle Inspection Report - Used to report results of emissions tests at test stations and by fleet facilities operating under permit from the department. Also used to record vehicle repair information and results of waiver and tampering inspections.

2. MVD-2471 Vehicle Inspection Report Supplement - Includes explanation of possible causes for excessive emissions, requirement for vehicle to be repaired, maximum repair cost limit, description of low emissions adjustment, waiver criteria, etc.

3. MVD-2472 Letter of Temporary Exemption from Emission Test Requirements - Includes application for, and department approval of, a temporary exemption for vehicles that are unavailable for testing within 90 days prior to the vehicle license expiration date.

4. MVD-2473 Fleet Station Inspection Permit - Provides for permit application, department review of applicant's eligibility, and department approval of requests by owners/lessees of fleet vehicles to perform emissions inspections of their fleet vehicles.

5. MVD-2474 Quality Control of Emission Inspection Stations - Used to monitor equipment accuracy, and test operations as performed by the department's contractor and by fleet inspection stations.

6. MVD-2475 Public Education Brochure - Included as part of the registration renewal notice mailing to inform recipients of station locations, hours of operation, telephone inquiry numbers, legal requirements, etc.

Existing Forms

MVD-2016 Substitute Renewal Notice - Used as a document which will permit entry into a vehicle emissions inspection station. To be utilized when a motorist has misplaced their license plate renewal notice.

MVD-2277 Telephone Pending - A form provided by the department and used to record telephonic inquiries which require additional investigative work prior to finalizing.

MV-3 License Plate Renewal Notice - Used as the primary document which will permit entry into a vehicle emissions inspection station.

MVD-2271 Wisconsin Certificate of Vehicle Registration - Used as a document which will permit entry into a vehicle emissions inspection station.

Environmental Assessment

A copy is attached.

A copy of the proposed rule text and attachments may be obtained upon request from the Wisconsin Department of Transportation, Motor Vehicle Emissions Inspection Section, Room 833 Hill Farms Office Building, P.O. Box 7909 Madison, Wisconsin 53707, phone (608) 266-4129. Questions concerning the details of the proposed rule may be addressed to the Vehicle Emissions Inspection Section at the above address, and telephone number.

RULE TEXT

Pursuant to authority vested in the Department of Transportation by ss. 110.06, 110.20(9), 110.21 and 227.014, Stats., the department proposes to adopt an administrative rule interpreting ss. 110.20 and 110.21, Stats., as follows:

SECTION 1. Chapter TRANS 131 of the Wisconsin Administrative Code is adopted to read:

Chapter TRANS 131

MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM (MVIP)

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TRANS 131.01 PURPOSE AND SCOPE. (1) STATUTORY AUTHORITY. As authorized by ss. 110.06, 110.20(9), 110.21, and 227.014, Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. 110.20 and 110.21, Stats., relating to a motor vehicle emissions inspection program.

(2) APPLICABILITY. This chapter applies to all nonexempt vehicles customarily kept in those counties certified by the department of natural resources under s. 110.20(5)(a), Stats. It also applies to all nonexempt vehicles customarily kept in any county whose board of supervisors has adopted a resolution under s. 110.20(5)(b), Stats., requesting the department establish an inspection and maintenance program, and applies to any nonexempt vehicle which a person presents for a voluntary inspection at an inspection station pursuant to s. 110.20(7) and s. TRANS 131.07. For purposes of determining where a vehicle is customarily kept, the county of domicile as indicated by the vehicle owner and contained in the department's title data base shall be used. In the absence of an indicated county of domicile, the owner or lessee's post office address shall be used to determine county of domicile.

(3) EFFECTIVE DATE. The emission testing provisions of this chapter will become effective with vehicles whose registration expires beginning April 1984.

NOTE: Forms used in this chapter are MVD 2470, vehicle inspection report; MVD 2471, vehicle inspection report supplement; MVD 2472, letter of temporary exemption from emission test requirements; MVD 2473, fleet station inspection permit; MVD 2474, quality control of emission inspection stations; and MVD 2475, public education brochure.

TRANS 131.02 DEFINITIONS. Words and phrases defined in s. 110.20, Stats., have the same meaning in this chapter unless a different definition is specified.

(1) "Calibrating gas" or "primary gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(2) "Contractor" means a person, as defined in sub. (32), with whom the department has a contract that provides for the operation of one or more inspection stations.

(3) "Dealer" has the same meaning as in s. 340.01(11), Stats.

(4) "Department" means the Wisconsin department of transportation

(5) "Drive wheels" means the pair of wheels that propel a vehicle.

(6) "Emission control system" means any equipment or feature which constitutes an operational element, device or mechanism on a motor vehicle which is part of the air pollution control system.

(7) "Emission standards", means the maximum vehicle emission concentrations in s. NR 154.17(3), Wis. Adm. Code.

NOTE: Chapter NR 154 may be obtained from the Wisconsin Department of Natural Resources, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707.

(8) "Emission test" means a combination of the loaded mode, or fast idle, and idle mode tests.

(9) "Exempt vehicles" means all vehicles other than nonexempt vehicles.

(10) "Exhaust emission" or "exhaust gas" means the combination of substances emitted into the atmosphere from the tailpipe or tailpipes of a motor vehicle.

(11) "Fast idle test" means an exhaust emission test conducted at an unmeasured 2500 RPM for the purposes of preconditioning the vehicle and providing diagnostic information to the vehicle driver.

(12) "Fleet inspection station" means an inspection station operated by a fleet owner.

(13) "Fleet owner" means any owner or lessee of at least 15 motor vehicles subject to the inspection who has been issued a fleet station permit under this chapter.

(14) "Fleet vehicle" means a nonexempt motor vehicle owned or leased by a fleet owner.

(15) "Four wheel drive vehicle" means any constant four-wheel drive vehicle which cannot be converted to two-wheel drive except by removing one of the vehicle's drive shafts.

(16) "Fuel" means any material that is burned within a vehicle that is the energy source for propelling the vehicle.

(17) "Gasohol" means a mixture of gasoline and not more than 20% alcohol.

(18) "Government vehicle" means a motor vehicle registered under s. 341.26(2m), Stats., or a vehicle owned or leased by the United States.

(19) "Gross weight" or "gross vehicle weight" has the same meaning as in s. 340.01(20), Stats.

(20) "Homemade vehicle" has the same meaning as in s. 341.268, Stats.

(21) "Idle mode test" means an exhaust emission test conducted with the vehicle engine operating at an idle condition.

(22) "Inspection" means the mandatory vehicle emissions inspection.

(23) "Inspection report" (see "vehicle inspection report").

(24) "Inspection station" means an inspection facility operated by a contractor under contract with the department for the purpose of conducting vehicle emission inspections required by s. 110.20, Stats.

(25) "Inspector" means the individual(s) who performs the vehicle emission inspection for the contractor.

(26) "Letter of temporary exemption" means a letter which grants a temporary waiver from inspection and which may be issued by the department upon the request of owners of nonexempt vehicles subject to the requirements of this chapter that will be unavailable for inspection within the 90 day period preceding registration renewal.

(27) "Loaded mode test" means an exhaust emission test conducted on a chassis dynamometer, simulating driving conditions at approximately 25-30 MPH, for the purposes of preconditioning the vehicle and providing diagnostic information to the vehicle driver.

(28) "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer, or if a reconstructed or homemade vehicle, the first year of titling. If the manufacturer does not designate a production period, the term "model year" means the calendar year of manufacture. Determination of model year shall be as indicated on the vehicle's registration documents.

(29) "New vehicle" means a motor vehicle to which the legal title has never been transferred to an ultimate 'retail purchaser' as defined in s. TRANS 139.02.

(30) "Nonexempt vehicle" means any motor vehicle defined under s. 340.01(35), Stats., which is required to be registered in this state or which is owned by the United States, and which has not been exempted by s. 144.42(5), Stats. and NR 154.17(3)(b), Wis. Adm. Code.

NOTE: Chapter NR 154 may be obtained from the Wisconsin Department of Natural Resources, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707.

(31) "Nonfleet vehicle" means any nonexempt vehicle except a motor vehicle owned or leased by a fleet owner. (s. 110.20(1)(c), Stats.)

(32) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government.

(33) "Reconstructed vehicle" has the same meaning as in s. 341.268, Stats.

(34) "Registered owner" means the person or persons whose name appears on a vehicle's title.

(35) "Registration" has the same meaning as in s. 344.01(2)(e), Stats.

(36) "Span gas" means a gas of known concentration which is used to set the output level of an analyzer.

(37) "Surveillance gas" means a gas used by the department to verify the calibration of emissions analyzers used by inspection stations and by fleet inspection stations.

(38) "Tamper" has the same meaning as in s. 144.42(6), Stats.

(39) "Truck" has the same meaning as "motor truck" as in s. 340.01(34), Stats.

(40) "Van" means a motor vehicle constructed on a truck chassis, with a completely enclosed driver and cargo compartment that may be used as a cargo carrying vehicle or as a passenger vehicle depending upon how it is equipped.

(41) "Vehicle " has the same meaning as in s. 340.01(35), Stats.

(42) "Vehicle inspection report" means a serially numbered document issued at an inspection station at the time of vehicle inspection, indicating that that vehicle has been inspected in accordance with the provisions of this chapter.

(43) "Voluntary inspection" means the voluntary presentation for an emissions inspection of a nonexempt vehicle customarily kept in a county not identified under s. 110.20(5) Stats.

(44) "Waiver of inspection" means the act of waiving the requirement that a vehicle pass specified emissions limitations when such vehicle has failed the required inspection, but has met other statutory requirements.

(45) "Waiver surveillance investigator" means the department employee who approves or disapproves applications for waivers and performs an emission control system tampering check.

(46) Abbreviations and symbols used in this chapter are:

- (a) "CO" means carbon monoxide.
- (b) "CO₂" means carbon dioxide.
- (c) "GVW" means gross vehicle weight.
- (d) "HC" means hydrocarbon.
- (e) "HP" means horsepower.
- (f) "I/M" means inspection and maintenance.
- (g) "LNG" means liquified natural gas.
- (h) "LPG" means liquid petroleum gas.
- (i) "MPH" means miles per hour.
- (j) "N₂" means a molecule consisting of two atoms of nitrogen.
- (k) "NDIR" means non-dispersive infra-red.
- (l) "NO" means nitric oxide.
- (m) "O₂" means a molecule consisting of two atoms of oxygen.

- (n) "%" means percent.
- (o) "PCV" means positive crankcase ventilation.
- (p) "PPM" means parts per million by volume.
- (q) "RPM" means revolutions per minute.
- (r) "VIN" means vehicle identification number.

TRANS 131.03 EMISSION INSPECTION AND REINSPECTION PROCEDURE. (1) GENERAL.

(a) All nonexempt vehicles that are customarily kept in counties certified under s. 110.20(5)(a), Stats., or in a county whose county board adopts a resolution under s. 110.20(5)(b), Stats. shall be inspected at an inspection station or a fleet inspection station.

NOTE: The six counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha were certified by the Department of Natural Resources in a letter to the department dated August 21, 1981.

(b) Nothing in this chapter waives an expired registration because of failure to pass inspection requirements by the registration deadline.

(c) Vehicles fueled with gasohol, LNG or LPG are not exempt from the emission testing unless exempted for other reasons.

(d) Following initial registration of a new vehicle by a retail purchaser, a minimum of 90 days shall elapse prior to the vehicle becoming subject to the requirements of this chapter.

(e) For purposes of calculating the number of model years of vehicle age under ss. 110.20(13) and 144.42(5), Stats., a model year shall be considered synonymous with a calendar year. Not satisfying the emission inspection requirements of this chapter prior to the date of registration expiration shall not extend vehicle age.

NOTE: For example, 1970 model year vehicle shall be considered as being more than 15 model years old commencing January 1, 1985. Also, a vehicle which is required to be inspected in 1985 shall be considered as a model year of more than 10 years prior to the year of inspection if it is a 1974 model year vehicle or older.

(2) WHEN INSPECTION REQUIRED. Nonexempt vehicles subject to an annual inspection shall:

(a) Have the inspection completed at an inspection station or fleet inspection station, as a prerequisite to annual registration renewal, no more than 90 days prior to renewal of annual registration, or

(b) For government owned vehicles, have the inspection completed annually.

(3) POLLUTANTS TO BE TESTED. Vehicle emissions inspection shall consist of sampling the exhaust emissions from the tailpipe or tailpipes, and measuring the concentrations of hydrocarbons (HC), carbon monoxide (CO), and carbon dioxide (CO₂).

(4) EMISSION STANDARDS. Vehicles that do not meet the exhaust emission standards under s. NR 154.17, Wis. Adm. Code, shall fail the inspection.

(5) DOCUMENT REQUIREMENTS. Each vehicle to be inspected at an inspection station shall be accompanied by one of the following documents which identifies the vehicle by make, model year, vehicle identification number, and license number:

(a) A current Wisconsin vehicle license renewal notice.

(b) A current Wisconsin certificate of registration.

(c) A vehicle inspection report if a reinspection.

(d) A letter of temporary exemption issued by the department.

(e) A letter issued by the department at the time registration renewal is denied notifying the vehicle owner that the department has not received proof of emissions compliance.

(f) A properly completed MVD 2016 form.

(6) EMISSION TESTING PROCEDURE. (a) General requirements. 1. Vehicles shall be tested in an as-received condition. The engine shall be at normal operating temperature, not overheating, as indicated by gauge, warning light or boiling radiator, and with all accessories off.

2. The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

3. Vehicles with multiple exhaust pipes may be tested by simultaneous sampling of all tailpipes, or by sampling each tailpipe separately and numerically averaging the emissions measurements.

(b) Inspection procedures. 1. For all vehicles other than four-wheel drive vehicles, and for which the driver's seat is yielded to the inspector, a loaded mode test shall be performed.

2. For automatic transmission equipped vehicles, the loaded mode test shall be performed in drive. For manual transmission equipped vehicles, the loaded mode test shall be performed in second or higher gear.

3. For constant or automatic locking four-wheel drive equipped vehicles, and for which the driver's seat is yielded to the inspector, a fast idle test will be performed in lieu of the loaded mode test. This test shall be performed by increasing idle engine speed to an unmeasured 2500 RPM.

4. Exhaust emission concentrations shall be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Engine speed shall be returned to idle.

5. The vehicle shall be idled in neutral. Exhaust emission concentrations shall be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first.

6. The exhaust emission concentration values for the idle test shall be used to determine compliance with the HC and CO emission concentrations of s. NR 154.17, Wis. Adm. Code.

(c) Fast idle test. The fast idle test may be performed in lieu of the loaded mode test on a vehicle if:

1. The vehicle has a tire on a driving wheel with less than 2/32 inch of tread, with metal protuberances, or with obviously low tire pressure, as determined by visual inspection, or any other condition in the opinion of the contractor, that precludes loaded mode testing for reasons of health or safety or both, to personnel, facilities, equipment or vehicle.

2. The person presenting the vehicle for inspection refuses the loaded mode inspection, or does not yield the driver's seat to the inspector.

3. The contractor experiences a mechanical or electrical malfunction in the operation of the dynamometer. Under such circumstances the use of the fast idle test shall not extend beyond the end of the working day.

4. A fleet inspection station chooses not to conduct a loaded mode test.

(7) REINSPECTIONS. (a) Vehicles exceeding the allowable exhaust emission standards during the vehicle's initial inspection, may be reinspected at any inspection station after the vehicle has been repaired or adjusted according to s. 110.20, Stats., and this chapter.

(b) The vehicle shall be accompanied by its previous vehicle inspection report(s), and repair information as completed by the person performing the repairs shall be indicated in the space provided on the report(s).

(c) If the vehicle successfully passes the retest, the contractor shall issue a vehicle inspection report indicating compliance. If the vehicle cannot successfully pass the retest, the contractor shall issue a vehicle inspection report indicating non-compliance. If the owner desires to request a waiver of

compliance, the department's waiver surveillance investigator shall review the request and shall approve or deny the request in accord with s. TRANS 131.04.

(d) The following limitations on the total number of emission tests shall apply for each vehicle requiring compliance with this chapter:

1. Not more than two reinspections per vehicle.

2. If the vehicle is still unable to satisfactorily meet applicable emission limitations, the owner or driver may apply for a waiver of compliance in accord with s. TRANS 131.04.

(8) TESTING PROHIBITED. The inspector shall refuse to perform the emissions inspection required by this section for any vehicle if:

(a) Leakage within the exhaust system significantly dilutes the exhaust gas being sampled, or there are any other conditions that could materially affect the validity of the exhaust gas concentrations. Exhaust gas dilution shall be considered significant whenever the concentration of CO₂ is measured to be less than 4% by volume. When the measured CO₂ concentration is less than 4% by volume, the driver shall be verbally notified of the invalid test and no vehicle inspection report shall be printed.

(b) The vehicle is carrying explosives or other hazardous material which is recognized as a safety hazard by the contractor.

(c) The vehicle is towing a trailer or another vehicle which is considered a safety hazard by the contractor.

(d) Gasoline, oil, or other fluid leaks are considered a safety hazard by the contractor.

(9) RECONSTRUCTED AND HOMEMADE VEHICLES. All reconstructed and homemade vehicles shall be inspected for emissions compliance using the exhaust emission standards applicable to the model year of the vehicle as indicated on the vehicles' registration documents, unless the owner requests the vehicle be tested

by engine year and the owner provides a signed statement to the department's waiver surveillance investigator certifying engine number, year and make. In addition, the vehicle owner shall locate the engine number on the engine for purposes of number verification by the waiver investigator.

(10) VEHICLES WITH EXCHANGED ENGINES. A motor vehicle with an exchanged engine shall be inspected for emission compliance by the model year of the vehicle unless the owner requests the vehicle be tested by engine year and the owner provides a signed statement to the waiver surveillance investigator certifying engine number, year and make. In addition, the vehicle owner shall locate the engine number on the engine for purposes of number verification by the waiver investigator.

(11) TRUCKS AND VANS. (a) All trucks shall be tested in accord with the exhaust emission standards for light duty trucks as applicable to the manufacturer's GVW rating as indicated on the vehicles doorpost. If there is no manufacturer's GVW rating available, then the vehicle shall be tested according to the registered GVW as indicated on the vehicle's entry document described in sub. (5), or as indicated on the vehicle's license plate.

(b) All vans shall be tested in accord with the exhaust emission standards applicable to light duty trucks.

(12) VEHICLE INSPECTION REPORT. (a) The operator of each vehicle inspected shall be provided with a vehicle inspection report at the time an inspection is completed. The inspection report shall indicate:

1. The test serial number.
2. The date of the test.
3. The vehicle identification number (VIN).
4. The year and make of the vehicle.
5. Odometer reading to nearest 1,000 miles.

6. Emission test results and standards for the vehicle.
7. The pass/fail result.
8. Instructions indicating that the report is to be returned to any emissions test station upon reinspection.
9. Space to indicate repair by owner, garage, or repair facility and the name and address of the repairer.
10. Space to indicate cost of parts and labor for emission-related repair(s).
11. Space to indicate the emission-related repair(s) performed.
12. Space to indicate estimated cost for emission-related repairs.
13. Advisory diagnostic information.
14. Vehicle license number.
15. Other information as the department may reasonably require to enable it to determine compliance with this chapter.

NOTE: MVD form 2470, Vehicle Inspection Report.

(b) Each driver of a vehicle failing inspection shall receive an inspection report supplement containing the following:

1. Instructions indicating that the vehicle should be repaired and returned to an inspection station for a retest,
2. Explanation of repair cost limit for emission related repairs,
3. Low-emissions adjustment definition, and
4. Instructions for waiver applications.

(c) The probable causes of noncompliance if a loaded mode or a fast idle test was performed shall be contained on either the vehicle inspection report or the inspection report supplement.

NOTE: MVD Form 2471. Inspection report supplement.

TRANS 131.04 WAIVER OF COMPLIANCE PROCEDURE. (1) ELIGIBILITY. A vehicle, including a fleet vehicle, which fails to pass the designated emission standards upon an initial inspection, and which after repair and/or adjustment again fails to pass the emission inspection, shall be eligible for a waiver of compliance determination by the department's waiver surveillance investigator provided the following conditions are complied with:

(a) For all 1981 and newer model year vehicles which were less than 5 years of age and were driven not more than 50,000 miles at the time of the annual emissions inspection, the operator must present either a written statement from a vehicle dealership or other designated agent declaring that the vehicle is not eligible for emission control system warranty work, or present a dated invoice indicating that eligible emission control system warranty work has been performed.

(b) The repairs and adjustments made to the vehicle's emissions control system, including costs for parts and labor, have been performed on the vehicle within 90 days prior to renewal of annual registration and such repairs and adjustments are indicated in the space provided on the vehicle inspection report by the person performing the repairs. If the labor for vehicle repair is performed without charge or cost, only the cost of replacement parts shall be indicated and an itemized receipt indicating the parts purchased, cost, and date of purchase shall be provided.

(c) The vehicle shall be able to pass a tampering inspection as described in s. TRANS 131.05

(2) CRITERIA. A vehicle which meets the eligibility requirements of sub. (1) shall be granted a waiver of compliance if any one of the following conditions are met:

(a) The actual cost of repairs performed on the vehicle as reported in accordance with par. (1)(b) exceeds the repair cost limit as provided in s. 110.20(13), Stats. Costs covered by any warranty and costs incurred to repair or replace any emission control device that has been tampered with are to be excluded. (s. 110.20(13)(c), Stats.)

(b) The estimated cost of repairs and adjustments necessary to bring a vehicle into compliance with all applicable emission limitations exceeds the repair cost limit as provided in s. 110.20(13)(b) Stats. and a low emissions adjustment as prescribed by s. 110.20(13)(d), Stats., has been performed on the vehicle within 90 days prior to renewal of annual registration. Evidence of the performance of a low emissions adjustment shall be provided in accordance with par. (1)(b), and an estimate of cost shall also be given in the space provided on the vehicle inspection report.

(c) The model year of the vehicle is more than 10 years prior to the year of inspection and a low emissions adjustment as prescribed by s. 110.20(13)(d), Stats., has been performed on the vehicle within 90 days prior to renewal of annual registration. Evidence of the performance of a low emissions adjustment shall be provided in accordance with par. (1)(b).

(d) Technical difficulties in the manufacturer's design or construction of the vehicle prevent emission testing of the vehicle.

TRANS 131.05 TAMPERING INSPECTION PROCEDURE. (1) When a waiver of compliance is requested, each vehicle may be checked for obvious tampering of the emission control system by the department's waiver surveillance investigator. This check is designed to allow the detection of visual or obvious tampering and does not allow removal or disassembly of parts. The waiver surveillance investigator shall look for the following:

(a) Presence of a properly connected catalytic converter; for example, has the converter been removed, by-passed, or physically altered to be ineffective?

(b) Presence of a fuel tank filler tube restrictor, which has not been enlarged to allow the use of leaded fuel nozzles.

(c) Presence of properly installed thermostatic air cleaner assembly with hot air duct from the exhaust manifold in place.

(d) Presence of an operational air pump and its properly connected components; for example, is the belt on and does air pump pulley rotate when engine is started?

(e) Presence of a properly connected positive crankcase ventilation system.

(2) Failing the tampering inspection shall be considered the same as failing the emission test. Vehicles failing the tampering inspection shall not be granted a waiver of compliance until the tampered items are repaired or replaced.

TRANS 131.06 EVIDENCE OF INSPECTION COMPLIANCE. (1) Evidence of inspection compliance shall consist of:

(a) A vehicle inspection report indicating either "passed" or on which the department's waiver surveillance investigator has indicated "waived"; or

(b) An entry on the department's data records indicating the vehicle license number, vehicle identification number, test serial number, and the notation "passed" or "waived".

TRANS 131.07 VOLUNTARY INSPECTIONS. (1) The contractor shall inspect any nonexempt vehicle that is kept in a county not subject to the requirements of this chapter and which is presented for inspection at an inspection station provided:

(a) Each vehicle presented is accompanied by a current Wisconsin vehicle license renewal notice, and

(b) The vehicle is not prohibited from testing pursuant to s. TRANS 131.03(8).

(2) The voluntary presentation of a vehicle for inspection in accord with sub. (1) shall not impose any mandatory requirement upon a vehicle owner to comply with requirements of this chapter.

(3) A vehicle owner shall not be entitled to a voluntary inspection more frequently than once during any twelve month period.

TRANS 131.08 LETTER OF TEMPORARY EXEMPTION FROM TEST REQUIREMENTS. (1)

When a vehicle subject to the emission inspection requirements of this chapter will not be available for an inspection due to the vehicle's absence or inoperativeness, or the owner's or lessee's absence or incapacity, during the 90 day period prior to the license expiration date, the owner or lessee may request of the department a letter of temporary exemption from the requirements of this chapter.

(2) The department shall provide an application form on which the vehicle owner or lessee shall identify the vehicle involved, provide the reason for requesting a letter of temporary exemption, certify that the vehicle will not be available for emissions inspection during the 90 day period prior to the license expiration date, and state the date when the vehicle will again be operated within a Wisconsin county subject to the emission inspection requirements of this chapter.

(3) Upon approval of the application by the department, a letter of temporary exemption shall be issued to the vehicle owner or lessee. Such issuance shall allow the owner or lessee to proceed with vehicle registration renewal. As a condition of granting the letter of temporary exemption the department

may require that the vehicle be inspected within 30 days of when the applicant indicates that the vehicle will again be operated within a Wisconsin county subject to the emission inspection requirements of this chapter.

(4) A letter of temporary exemption shall not be valid longer than the period of registration renewal.

NOTE: MVD form 2472, Letter of Temporary Exemption from Emission Test Requirements.

TRANS 131.09 AUDITS OF INSPECTION FACILITIES. (1) Representatives of the department shall conduct audits of testing equipment, procedures and records as follows:

(a) Contractor operated facilities shall be audited on an unscheduled basis, normally not less than monthly.

(b) Fleet station facilities shall be audited on an unscheduled basis, normally not less than quarterly.

(2) Scheduled audits of both types of facilities may be performed at any time.

TRANS 131.10 EQUIPMENT CALIBRATION PROCEDURES, EXHAUST GAS ANALYZER SPECIFICATIONS. (1) All equipment utilized for emission inspections shall be calibrated and maintained according to the manufacturer's specifications or as superceded by contract between the department and the contractor.

(2) The contractor's NDIR exhaust gas analyzers shall comply with the following specifications. Concentrations shall be measured by volume.

(a) Analyzers shall have accuracy according to the following:

1. HC: ± 12 ppm from 0 to 400 ppm, ± 30 ppm from 401 to 1000 ppm, and ± 60 ppm from 1001 to 2000 ppm (measured as hexane).

2. CO: $\pm 0.06\%$ from 0 to 2%, $\pm 0.15\%$ from 2.01 to 5%, and $\pm 0.3\%$ from 5.01 to 10%.

3. CO₂: $\pm 0.9\%$ from 4 to 10%, and $\pm 0.5\%$ from 10.1 to 14%.

(b) Response time of the analyzers shall be not more than 15 seconds to 95% of the final reading.

(c) Analyzer drift (up-scale and down-scale zero and span wander):

1. The zero drift shall not exceed $\pm 0.1\%$ CO and ± 15 ppm HC (measured using hexane gas) during a one-hour period.

2. The span drift shall not exceed $\pm 0.1\%$ CO and ± 15 ppm HC (measured using hexane gas) during a one-hour period when sampling approximately 2% CO and 400 ppm HC (measured using hexane gas).

(d) Calibration: The analyzer shall have the capability of being calibrated electronically and/or by gas.

(e) Flow restriction indicator: The analyzer shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with a visual and/or audible warning that sample flow is not within operating requirements.

(f) Interference effects: Sampling the following concentrations of non-interest gases shall not cause the HC reading to change by more than ± 10 ppm: 15% CO₂ in N₂, 10% CO in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO reading to change by more than $\pm 0.05\%$: 15% CO₂ in N₂, 1600 ppm HC in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

(g) Repeatability: The repeatability of the exhaust EMS used shall be within ± 10 ppm HC and $\pm 0.05\%$ CO during five successive measurements of the same sample when sampling 320 ppm HC (measured using hexane gas) and 1.6% CO.

(h) Sensitivity: The analyzer sensitivity shall be 10 ppm HC and .05% CO in the range up to 2% CO and 400 ppm HC (measured using hexane gas).

(i) Temperature and humidity operating range: The EMS shall be capable of meeting all specifications from ten (10) to ninety (90) percent relative humidity and 5°C to 27°C temperature.

(j) Range of Measurement: The analyzer shall have a range of 0-2000 ppm HC (measured using hexane gas), 0 to 10% CO, and 0 to 15% CO₂.

TRANS 131.11 FLEET INSPECTION STATION PERMITS. (1) GENERAL REQUIREMENTS.

Any owner or lessee of at least fifteen vehicles subject to the emissions inspection requirements of this chapter and who maintains and repairs these vehicles on a regular basis may apply to the department for a permit to establish a fleet inspection station. The department shall not issue a fleet inspection station permit unless an inspection by the department indicates that the applicant maintains and operates an established facility which meets the following requirements:

(a) The applicant shall provide a building or a portion thereof devoted principally to maintaining or repairing the fleet's motor vehicles on a regular basis. Such a facility shall be of sufficient space to conduct maintenance or repair of at least one fleet motor vehicle.

(b) The applicant shall have an NDIR HC and CO emission analyzer that meets the analyzer accuracy specifications of s. TRANS 131.10(2)(a). NDIR emission analyzer calibration equipment and routine maintenance items shall also be available.

(c) The applicant shall have available, and maintain in good working condition, the tools and equipment necessary for the adjustment, repair, and tuneup of vehicles within the applicant's fleet.

NOTE: MVD form 2473, Fleet Station Inspection Permit.

(2) PERMIT REQUIREMENTS. Each permit issued by the department shall be subject to the provisions of sub. (1) and the following:

(a) A fleet inspection station shall inspect and certify compliance for only those vehicles leased or owned by the fleet owner.

(b) Permits shall expire two years from date of issuance and are non-transferable.

(c) A permit shall only be applicable to the fleet's inspection facility located at the address shown on the fleet inspection station permit.

(d) Changes in name or address of permittee shall be promptly reported to the department.

(e) A fleet owner whose station permit has expired or has been revoked shall cease the activity requiring a permit and return all unused vehicle inspection report forms to the department.

(f) A mechanic who meets the educational or proficiency requirements of s. TRANS 131.12(3) shall be employed to conduct all required inspections.

(g) The department may require the applicant's mechanic or mechanics to demonstrate proficiency in the use, calibration and maintenance of the NDIR two gas analyzer.

(h) Inspection of fleet vehicles shall meet the requirements of s. TRANS 131.12.

(i) The department's representative may designate the reinspection of a fleet vehicle at a time convenient to the fleet owner and state inspector.

(j) The fleet owner shall withhold application for registration renewal on each inspected vehicle for at least 5 working days after the fleet owner has forwarded the original vehicle inspection report for that vehicle to the department under s. TRANS 131.12(5)(d).

TRANS 131.12 INSPECTION OF FLEET VEHICLES. (1) EQUIPMENT AND RECORDS.

All testing equipment and instrumentation shall be maintained in good working order. Periodic calibration and maintenance of testing equipment shall be performed as required by s. TRANS 131.14.

(a) A record of all calibrations and leak checks performed on each instrument shall be maintained by the fleet owner indicating the date and signature of the mechanic performing the calibration. These records shall be retained for a period of two years and shall be made available for review by the department.

(b) The fleet inspection station equipment, calibration gases, records, and premises may be subject to both scheduled and unscheduled checks for quality control and quality assurance by a department representative.

(2) INSPECTION FREQUENCY. All fleet vehicles for which a fleet inspection station permit has been issued shall be inspected within 90 days prior to renewal of annual registration or, for government vehicles, once each calendar year while the vehicles are part of the fleet.

(3) FLEET INSPECTION STATION INSPECTOR PROFICIENCY. Persons employed as mechanics by the holder of a fleet inspection station permit, and that are to conduct the compliance testing for HC and CO, shall be required to provide documentation to the department that they:

(a) Have completed a one year vocational degree program in automotive servicing, or a 2 year vocational or associate degree program in automotive mechanics, or equivalent, from an accredited Vocational, Technical and Adult Education institution, or

(b) Have completed course work in vehicle emissions control principles for automotive mechanics as offered by a Vocational, Technical and Adult Education school, or

(c) Are mechanics certified by the National Institute for Automotive Service Excellence, or

(d) Have received appropriate training in the utilization of the emission measuring equipment that the fleet station is equipped with, or

(e) Meet other equivalency requirements acceptable to the department.

(4) EMISSION INSPECTION PROCEDURE. (a) The exhaust emission inspection shall be conducted according to s. TRANS 131.03(6), except that the idle speed of each tested vehicle shall be adjusted to manufacturer's specifications if it deviates from the specified value by more than plus or minus 100 RPM.

(b) Pre-conditioning of the fleet vehicles with either the loaded mode or fast idle test is permissible, but not required.

(c) A visual check of the vehicle's exhaust system shall be made to insure that it is free from leakage or any other condition which could materially affect the validity of exhaust gas concentrations.

(5) VEHICLE INSPECTION REPORTS. Vehicle inspection reports (VIR), as supplied by the department, shall be issued and processed as follows by the fleet station:

(a) A vehicle inspection report shall be completed for each vehicle after it has passed the emission inspection. Vehicle identification data, the fleet station identification number, and the date of test shall be indicated on the report along with idle emission readings for HC and CO and such further information as the department may reasonably require to enable it to determine compliance with this chapter.

(b) Voided or unusable inspection reports shall be returned to the department for replacement.

(c) Only the fleet inspection station mechanic(s) may sign a vehicle inspection report, except that in the case of a fleet inspection station permit

holder who secures the services of the contractor to perform the emissions testing, the contractor's employee's name or code may be mechanically imprinted on the inspection reports.

(d) A legible copy of each completed inspection report shall be retained at the fleet inspection station where the inspection is conducted for a minimum of 24 months after inspection. The original completed report shall be forwarded to the Department.

(e) The fleet owner is responsible for the security and accountability of the vehicle inspection report forms.

(6) INSPECTION OF NDIR ANALYZERS. (a) A fleet inspection station emission analyzer shall not be used for an official emissions inspection if it cannot identify the department's surveillance gases within the tolerances specified in s. TRANS 131.10(2), or if there is a leak in the sampling systems or the calibration port, or if the sample handling system is restricted.

(b) A fleet station may lease or borrow an emission analyzer for temporary use while the station's approved analyzer is being repaired provided that a department representative has approved its use.

TRANS 131.13 TERMINATION OF FLEET INSPECTION STATION PERMITS. (1) The department may terminate a fleet inspection station permit issued under s. 110.20(14), Stats., and this chapter if the permittee:

(a) Violates any provision of this chapter.

(b) Has misrepresented a material fact in obtaining a permit.

(c) Fails to make and keep proper records showing vehicles tested, fails to submit the records to the department, or to make such records available to the department.

TRANS 131.14 MAINTENANCE AND CALIBRATION OF FLEET INSPECTION EQUIPMENT.

(1) All equipment utilized for the emission inspections shall be calibrated and maintained according to the manufacturer's specifications and recommendations in the absence of appropriate calibration and maintenance procedures in this section.

(2) Emission analyzer equipment utilized by a fleet emission inspection station shall use the following calibration and maintenance procedures, unless the instrument manufacturer's procedures are more restrictive.

(a) Exhaust analyzers shall be warmed up for at least thirty minutes prior to performing any test or equipment calibration, span or zero checks.

(b) If, during a test, the sampling flow restriction indicator becomes activated, the test shall be stopped and restarted after the necessary repairs or adjustments to the analyzer have been completed.

(c) The exhaust gas analyzers shall have been spanned and adjusted, if necessary, using gas traceable to National Bureau of Standards $\pm 2\%$ within one week of the emission test. These span gases shall have concentrations within -50% to +100% of 1.2% CO and 220 ppm HC.

(d) The exhaust gas analyzers shall be zeroed and spanned prior to each test. An electrical span check is acceptable.

(e) The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within thirty days prior to testing.

(4) A multipoint calibration shall be performed before the analyzer is used for certification testing following replacement of optical or electrical components that could cause a variation in the analyzer reading.

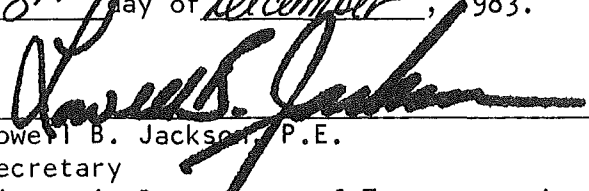
TRANS 131.15 NOTIFICATION OF INSPECTION REQUIREMENTS. As part of the notification process for vehicle registration renewal under s. 341.08(4m),

Stats., the department will include notification to vehicle owners whose vehicles are or may be subject to the emission test requirements of this chapter.

(End).

The rules contained in this order shall take effect upon publication as provided in s. 227.026(1)(intro), Stats.

Signed at Madison, Wisconsin this
8th day of December, 1983.



Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of Transportation

FISCAL ESTIMATE

AD-MBA-23 (Rev. 11/82)

LRB or Bill No./Adm. Rule No.

TRANS 131

Amendment No. if Applicable

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject

Motor Vehicle Emission Inspection and Maintenance Program

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Increase Existing Revenues
- Decrease Existing Appropriation
- Decrease Existing Revenues
- Create New Appropriation

- Increase Costs -- May Be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

20.395(5)(hq) and (hr)

Assumptions Used in Arriving at Fiscal Estimate

Conclusion: THE PROPOSED RULE HAS NO FISCAL IMPACT INDEPENDENT OF THE STATUTE UPON WHICH IT IS BASED.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

David K. Kussow 6-9147
Dept. of Transportation

Authorized Signature/Telephone No.

Maureen A. Hlavacek
Maureen A. Hlavacek 6-5884

Date

12-9-83

INSTRUCTIONS: This screening worksheet is to be filled out completely by the program bureau initiating any administrative rule before submission to the Secretary for approval to proceed with public hearing. A copy of the proposed rule must be attached to this environmental assessment along with all supporting information required to adequately complete the assessment. Attach additional sheets if necessary.

Bureau
Veh Reg & Lic
Rule Number
TRANS 131
Date
February 10, 1982

1. Rule number and title: TRANS 131 MOTOR VEHICLE INSPECTION PROGRAM (MVIP)
2. Existing administrative code(s), manual code(s) and other directives and/or publications this proposed rule would replace: None - this is a new rule.
3. Statutory authority (to complete):
 - A. To adopt the rule: ss.110.06(1) and 110.20(9).
 - B. Statute(s) being interpreted by the rule: ss.110.20 and 110.21
4. Description:
 - A. Purpose of proposed rule: Establishes the department's policies and procedures relating to the establishment of the motor vehicle emission inspection and maintenance (I/M) program in the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties.
 - B. Provide a brief summary of the policies contained in the proposed rule: The major purpose of the MVIP is to identify grossly polluting vehicles in the most urbanized area of the State and require them to be repaired with as little inconvenience and cost to the public as possible. By controlling the release of carbon monoxide and hydrocarbons into the atmosphere through an efficiently operated MVIP, primary ambient air quality standards can be obtained and maintained. This is necessary to protect the public health and welfare from the harmful effects of air pollution.

The emissions tests will be performed at contractor operated, centralized inspection facilities incorporating a high volume, multi-lane design. Tailpipe emissions will be tested in idle and loaded mode (with some exceptions) with the use of dynamometers and exhaust gas analyzers. Carbon monoxide, hydrocarbon and carbon dioxide (to serve as a proxy for an exhaust dilution test) readings will be registered on infra-red gas analyzers. Computers will provide pass/fail results based on the idle test and diagnostics for cars tested in the loaded mode. The stringency (failure rate) established for the program is 20 percent for pre-1981 vehicles and 5-10 percent for post-1980 vehicles. Enforcement is linked to vehicle registration. DOT will coordinate public education and consumer information aspects of the program.

A waiver of compliance, valid for one year may be issued if the cost of repairs and adjustments necessary to bring the vehicle into compliance with the standards exceeds \$55 or if the failed vehicle is more than 10 years old prior to inspection. The vehicle owner must show satisfactory evidence that a low-emission adjustment has been performed within 90 days prior to registration to be granted this waiver. If the owner has spent \$55 or more to bring the vehicle into compliance and it still does not pass the test, a waiver of compliance may be granted without a low emissions adjustment.

- C. Provide a brief summary of procedures, applicability and other aspects of the proposed rule: Automobiles and light duty trucks licensed at a gross vehicle weight of 8000 pounds or less and usually kept in counties certified as requiring I/M must be inspected at public inspection stations or in fleet inspection programs. Among vehicles exempted from inspection are those more than 15 years old, agricultural vehicles which are normally exempted from state registration, diesel fueled vehicles, new motor vehicles not previously registered in any state, mopeds and motorcycles. Inspections must take place annually within 90 days prior to registration renewal. State, federal and municipal vehicles in the affected area that do not require annual registration must have annual inspections. Pass/fail decisions will be based on the idle mode test, although a loaded mode inspection will be performed if the vehicle is suitable for it and the owner does not refuse it.

Vehicles that have failed the inspection must return to any inspection station within the State within 30 days for a retest. A repair report form, distributed at the time of the initial test, must be completed by the person performing the repairs and returned to the inspection station with the driver. A visual tampering check may take place at the time of the retest.

The DOT will compile and maintain records of maintenance and repairs pertinent to the MVIP and evaluate these. They may also delegate registration renewal functions and fuel efficiency testing to the contractor.

- D. Identify as specifically as possible those governmental units, industries, groups and other parties that would be affected by this rule: Any person or entity listed as the registered owner on a nonexempt vehicle's title will be affected by this rule in that the underlying statutory legislation requires said vehicle to comply with the emission testing requirements of ss.110.20 prior to being eligible for registration renewal. Some exceptions to these requirements exist under ss.144.42(5), (i.e., vehicles more than 15 years old, registered at a gross weight exceeding 8000 pounds, powered by diesel fuel, mopeds and motorcycles). Additional minor numbers of vehicles may be exempted under administrative rules to be promulgated by the DNR under that agency's rulemaking authority. Federal government vehicles meeting the above requirements will also be required to be tested.
5. If a specific physical and/or biological setting would be directly impacted by the proposed rule, briefly describe the type and extent of the impacted area. Given the nature of the inspection/maintenance program and the facilities required for its operation it has been assumed by the department that these vehicle inspection facilities would be located in the urbanized and semi-urbanized areas of the six-county area. Such locations would probably range from those in the heavily urbanized, highly developed commercial and industrial areas in the larger communities to much less densely developed areas near the northern and western edges of the area.

These, as yet to be proposed sites, would require the normal municipal support services, such as the availability of sanitary sewer and water supply facilities, and police and fire protection services. Additionally, suitable ingress and egress to the existing highway network would be required. Similarly, proper commercial zoning is a prerequisite to individual facility construction.

Based upon the above, and the department's presumption that the contractor may have alternative sites located, and that the contractor does not want to attain a poor image in the eyes of the local residents, the department believes that it will be unlikely that wetlands, parklands and/or historic sites will be encroached upon or affected by this construction. Likewise, some present farmlands within one or more existing municipal

boundaries may be converted to this commercial usage; indeed proposed land-use maps may already indicate these kinds of land use changes taking place.

The contractor would not be expected to disclose the location of the selected parcels of land for construction of the inspection system until after a contract has been signed with the department. These individual sites will then be monitored by the department. If the potential exists for environmental impacts on any of the proposed sites, appropriate coordination with state agencies will occur. Coordination and mitigation will be the responsibility of the contractor.

6. Beneficial and adverse environmental impacts of the proposed rule:

A. Identify and briefly describe anticipated direct and indirect impacts on the physical and biological environment: The reduction in hydrocarbon and carbon monoxide emissions attributable to the MVIP is expected to help reduce both the maximum number of violations of the oxidant and carbon monoxide standards and the maximum levels to which people and their property are exposed. Damage to susceptible plants (alfalfa) may be reduced. No damage to animals from oxidants has been demonstrated in Wisconsin.

B. Identify and briefly describe anticipated direct and indirect economic impacts on the following: (or attach a copy of administrative rule, fiscal estimate and fiscal estimate worksheet)

- | | | |
|---|---|--|
| 1) Cost of local government operations: |) | |
| 2) Impact on state and local economies: |) | See attached administrative rule, fiscal estimate and fiscal estimate worksheet. |
| 3) Financial impact on individuals: |) | |

C. Identify and briefly describe anticipated direct and indirect impacts on the social and cultural environments of the parties affected by the proposed rule: Reduced peak oxidant and carbon monoxide levels and fewer standards violations will reduce the threat to the health of the most susceptible members of the population posed by current violations of the primary standards. Air pollution frequently causes headaches, lung and eye irritations, visual problems, fatigue and impaired judgement in the general population. As air pollution affects the cleanliness and visibility in an area, cleaner air will enhance the health of a region and have a beneficial psychological impact.

Plants exhibit a high sensitivity to ozone and high concentrations of ozone can deteriorate rubber and other materials.

D. Identify and briefly describe anticipated direct and indirect impacts on availability and use of energy (section 1.12, Wis. Stats.): Assuming each vehicle that is inspected makes a round-trip from home to the inspection site, it is estimated that a maximum of over 400,000 gallons of motor fuel would be consumed.^{1/} Conservative estimates of annual fuel savings as a result of the MVIP suggest that in excess of two million gallons of motor fuel could be saved in 1987.^{2/} Note that it is likely, however, that many trips to the inspection stations will be made in conjunction with another trip, i.e., to or from work or shopping, thus reducing this estimated gallonage.

Estimates of potential energy savings which may be possible from energy-related tests (engine operating efficiency, tire pressure and wheel alignment) which could be added to the MVIP range from 16 to 29 million gallons of motor fuel annually.^{3/} It is presently unclear, however, how long the effects of maintenance performed as a result of these latter tests lasts (e.g., tires lose pressure over time).

Additionally, some energy will be expended in the construction and installation of the facilities and their associated equipment. Energy will also be used for the heating, cooling and lighting of the MVIP facilities.

It seems reasonable to conclude, therefore, that, the MVIP will conserve in excess of one million gallons of motor fuel, and that more fuel savings can be realized if one or more of the energy-related tests are included in the MVIP.

7. Identify which of the impacts indicated above are adverse impacts that cannot be avoided if the proposed rule is implemented: Some impacts resulting from this project will occur regardless of mitigation measures, although in some cases the severity will be reduced. These impacts are normally attendant to any human use of the land and include visual and physical alterations of the site, particularly during the construction and erection of a new building. During the construction phase of the project, traffic congestion from the construction vehicles, plus some noise and dust disruption, will occur.

After construction of the building is completed, operation of the inspection station will mean an increase in the number of motor vehicles in the immediate vicinity of the various sites. This increase in the number of motor vehicles may have a potential impact on traffic congestion in the area.

Another unavoidable impact of this project will be the cost to motorists. These costs include the normal operating cost of driving to and from the inspection facility, the cost of repairing deficient vehicle components, if such work is needed, and the payment of a portion of the motor fuel tax for each gallon of fuel purchased to help support the MVIP.

8. Identify irreversible and irretrievable commitments of resources required or implied if the proposed rule is implemented: Irreversible changes related to the construction and implementation of this project include the loss of some open space, and the expenditure and consumption of natural mineral resources and energy in the construction of the proposed facility. The loss of open space may be considered significant to some people; the utilization of this land for the MVIP, however, should be consistent with land use planning processes of various local governments, that being the use of that open space for either commercial, industrial, or other related uses.
9. Identify and briefly describe and discuss the environmental impacts of alternatives to the proposed rule, including the following:
 - A. Not implementing the proposed rule (do nothing): The direct effect of not implementing the proposed rule would require another state agency (Natural Resources) to examine other available control strategies for hydrocarbon emissions. DNR may then have to implement tighter controls on hydrocarbon emissions from other sources, especially stationary sources.
 - B. Legislative modification of existing statutes to accomplish the objective of the proposed rule: Legislative modifications to the existing statutes may change the program emphasis (e.g., from a centralized, contractor operated program to a decentralized, private garage program) requiring quite a different set of administrative rules.

- C. Modify the proposed rule (describe major changes that could be made in the rule to satisfy known or obvious concerns of interested parties and the impacts that would result): Short of eliminating the MVIP, and prior to the rules hearing, there are no known or obvious concerns regarding the proposed administrative rule.
- D. Other alternatives: Other alternatives to attaining and maintaining the ambient air standards are within the province of the Department of Natural Resources. See response to 9A, above.
10. Evaluation: Discuss each category using additional sheets or pertinent information if necessary. Specifically identify those factors which may distinguish the proposed rule as a major action significantly affecting the quality of the human environment.
- A. Secondary Effects: To what extent would the proposed rule result in other events or actions which may significantly affect the environment? No secondary effects have been identified, if the proposed rule were adopted, which would result in an event or action that may significantly affect the environment. Actual site construction and operation could be considered a secondary impact that would be caused by adoption of the rule. This may affect persons in adjacent areas.
- B. New Environmental Effects: To what extent would the proposed rule result in new physical, biological or socio-economic impacts? Physical and biological effects of the proposed MVIP are discussed under questions 5 and 6A. Economic impacts not previously discussed include the employment of approximately 130 contractor personnel and the positive effect on the local tax base as a result of the MVIP and its facilities. In addition, the repair costs associated with the inability to pass the initial emission test may have a socio-economic impact on some segments of the population. The maximum repair cost limit has been set at \$55 by statute.
- C. Geographically Scarce Resources: To what extent would the proposed rule affect existing environmental features that are scarce, either locally or statewide? No geographically scarce resources (other than dollars) either locally or statewide, will be affected with the adoption of this rule.
- D. Precedent: To what extent would the proposed rule establish a new precedent affecting future policy decisions? The rule does not set any precedents; it does detail various aspects of the MVIP and eliminates the necessity of establishing every administrative aspect of the program by legislation.
- E. Controversy: What reaction has been received or anticipated from the public or affected parties on the proposed rule or the objective of the proposed rule? There has been little controversy on the proposed rule. However, the objective of the proposed rule (e.g., implementation of a statutory mandate) is expected to be controversial, as was the debate surrounding the adoption of the enabling legislation.

Part of the controversy revolves around the appropriate role of federal and state governments in formulating and implementing public policy (e.g., Are federally imposed economic and regulatory mandates appropriate?, Should the federal government have given the respective States voluntary initiatives and economic incentives?, and Should a healthier environment be put above cost-benefit considerations? to name but a few).

The department intends to fulfill its statutory mandate under ss.110.20 by implementing the MVIP.

- F. Consistency with Plans: To what extent is the proposed rule consistent or inconsistent with local, state or national long-range plans or policies? The MVIP, which this rule will help to set into motion, is consistent

with the State Implementation Plan (SIP) and the Clean Air Act as amended in 1977, both of which call for the eventual attainment and maintenance of ambient air quality standards.

The MVIP is but one part of a broad set of recommendations for implementation contained in "A Regional Air Quality Attainment and Maintenance Plan for Southeastern Wisconsin: 2000", completed by the Southeastern Wisconsin Regional Planning Commission in June of 1980.

- G. Exercise of Discretion: The law(s) which authorize or are interpreted by this rule will provide for varying degrees of discretion to be used by the Department in formulating the specific policies and procedures contained in the rule. In some cases the Department is bound by or limited to federal rules or regulations dealing with the same issue. To what extent is the proposed rule limited by Wisconsin or federal statutes or regulations? The Department of Natural Resources has "certified" to the department those six counties (Kenosha, Milwaukee,

Ozaukee, Racine, Washington, and Waukesha) in which the program is to operate.

Permissive authority within the enabling legislation, will allow the department to provide fuel-efficiency testing and in-lane registration renewal if these services prove to be beneficial to the consumer and can be achieved at a reasonable cost.

- H. Other: Identify and describe other factors which relate to the effects of the proposed rule on the quality of the human environment: Not only will the MVIP rule help to attain and maintain the ambient air standards, but it will also encourage less tampering and less fuel switching. The MVIP may also encourage motorists to maintain their vehicles in better condition which may translate the potential fuel economy benefits, increased vehicle reliability and longer vehicle life.

REFERENCES

1. "Recommended Locations for Motor Vehicle Inspection and Emission Test Facilities in the Southeastern Wisconsin Region." Community Assistance Planning Report No. 40, Southeastern Wisconsin Regional Planning Commission, Milwaukee, WI, October 1980, Table 12, p. 31.
2. "Wisconsin Automobile Inspection/Maintenance Program." Bureau of Air Management, Department of Natural Resources, Madison, WI, November 1979, p. 4.
3. John Stolzenberg. "Energy-Related Tests Which Could Be Added to the Motor Vehicle Air Pollution Inspection and Maintenance Program." Briefing Outline for the Subcommittee on Transportation of the Legislative Council's Special Committee on Energy Conservation, Madison, WI, November 17, 1980, pp. 1-6.

NAMES OF AGENCIES, GROUPS AND INDIVIDUALS CONTACTED REGARDING THE PROPOSED RULE

Include DOT personnel and title

Date ----- Contact ----- Comments -----

RECOMMENDATION

EIS not required.

The foregoing analysis of the expected impacts of proposed TRANS 131, Wis. Admin. Code, Motor Vehicle Inspection Program (MVIP) is of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. In my opinion therefore, an environmental impact statement is not required prior to final action by the Department to adopt this rule.

Refer to Office of the Secretary (must include the evaluator's recommendation)

Major and significant action: Prepare EIS

Additional factors, if any, affecting the evaluator's recommendation.

Signature of Evaluator	Date
<i>Edwin J. Hammer</i>	2/4/82

Accepted by Program Bureau Director	Date
<i>Carl J. Jansen</i>	2-4-82

Approved As in Compliance With WEPA by WISDOT WEPA Coordinator	Date
<i>Robert B. Baker</i>	2-9-82

WISCONSIN LEGISLATIVE COUNCIL

RULES CLEARINGHOUSE

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BONNIE REESE
EXECUTIVE SECRETARY

March 26, 1982

CLEARINGHOUSE RULE 82-44

COMMENTS

[NOTE: All citations to "Manual" in the comments below are to the manual entitled Administrative Rule Procedures, prepared by the Revisor of Statutes Bureau and the Legislative Council, dated March 1981.]

1. Statutory Authority

Proposed s. Trans 131.03 establishes an effective date of March 1984 for the emissions testing provisions called for in this chapter of the Administrative Code. Though the department explains why it feels this date is necessary in the analysis accompanying the proposed order, this effective date is contrary to the January 1, 1983 effective date set forth in s. 110.20 (2) (b), Stats.

2. Form, Style and Placement in Administrative Code

Several of the problems of form and style noted in these comments recur throughout the proposed rule. In these cases, the comments indicate the general nature of the problem and include illustrative examples from the proposed rule.

a. Chapter citations. Chapters of existing rules promulgated by the Department of Transportation (DOT) are referenced as "Trans." Clearinghouse Rule 82-44 consistently refers to the proposed chapter as "TRANS" 131. The department should make the citations in the proposed rule and existing rules consistent.

b. Use of "may" versus "shall." The text of the proposed rule in prohibitions misuses "shall" when "may" should be used. The Manual in s. 1.01 (2) states that, when prohibiting an action, for example, the phrase

WISCONSIN LEGISLATIVE COUNCIL

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FORM 2

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CLEARINGHOUSE REPORT
TO AGENCY

RECEIVED

MAR 2 1984

Revision of Statutes
Bureau

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.029, STATS., AS CREATED BY CH. 34, LAWS OF 1979. 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 82-44

AN ORDER to create ch. Trans 131, relating to the motor vehicle inspection program.

Submitted by DEPARTMENT OF TRANSPORTATION.

2-26-82. Received by Legislative Council.

3-26-82. Report sent to Agency.

RNS:JES:kja;kjh

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

(Pursuant to s. 227.029, Stats.)

1. REVIEW OF STATUTORY AUTHORITY [s. 227.029 (2) (a)]
 - a. Rules appear to be within the agency's statutory authority
 - b. Rules appear to be unsupported by statutory authority, either in whole or in part
 - c. Comment attached yes no

2. REVIEW OF RULES FOR FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.029 (2) (c)]
 - a. Rules satisfactory
 - b. Rules unsatisfactory
 - c. Comment attached yes no

3. REVIEW OF RULES FOR CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.029 (2) (d)]
 - a. Conflict or duplication not noted
 - b. Conflict or duplication noted
 - c. Comment attached yes no

4. REVIEW OF RULES FOR ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.029 (2) (e)]
 - a. References appear to be adequate
 - b. References appear to be inadequate
 - c. Comment attached yes no

5. REVIEW OF LANGUAGE OF RULES FOR CLARITY, GRAMMAR, PUNCTUATION AND PLAINNESS [s. 227.029 (2) (f)]
 - a. Rules satisfactory
 - b. Rules unsatisfactory
 - c. Comment attached yes no

6. REVIEW OF RULES FOR POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.029 (2) (g)]
 - a. No problems noted
 - b. Problems noted
 - c. Comment attached yes no

"no person may" be used rather than "no person shall." Examples of this misuse include ss. Trans 131.06 (1) (e), 131.07 (4) and 131.11 (2) (intro.).

c. Sex-neutral language. As indicated in s. 1.01 (3), Manual, rules should be drafted with terminology that is sex-neutral. This was not done in s. Trans 131.10 (3) (f) 2.

d. Capitalization. The recommendation of the Manual in s. 1.04, that lower case letters be used was not followed in (1) the relating clause of the proposed order; (2) the identification of the EGR abbreviation in s. Trans 131.05 (40) (b); and (3) a number of references to "state," such as in s. Trans 131.10 (3) (c) 2.

e. Use of parentheses. Section 1.01 (6), Manual, recommends that parentheses not be used in a rule. However, parenthetical material appears throughout the text of the proposed order. See, for example, ss. Trans 131.07 (2), 131.09 (2) (c) and 131.10 (3) (b) 5.

f. Use of slashed alternatives. The Manual in s. 1.01 (9) recommends that slashed alternatives not be used in drafting administrative rules to avoid vagueness. Slashes have been used, for example, in ss. Trans 131.09 (2) (e), 131.10 (2) (a) 10 and 131.11 (4).

g. Reference to effective date of the rule. Section Trans 131.03 states that the emissions testing provisions of this chapter "will become effective with those nonexempt vehicles whose registration renewal expires beginning in March 1984." The effective date clause at the end of the proposed rule states that this rule shall take effect upon publication. The department should clarify which is the correct effective date.

h. Definitions. Substantive provisions should never be incorporated into a definition [s. 1.01 (7) (b), Manual]. The definitions of "proof of compliance" and "waiver" in s. Trans 131.05 (29) and (38), respectively, contain substantive provisions. Literal application of these definitions could lead to confusion in the interpretation of the rule.

i. Repetition of statutory language. Several definitions and other provisions in the proposed rule repeat statutory provisions. Section 227.024 (1) (h), Stats., prohibits unnecessary repetition of statutory language, but permits reference to statutory language "in order to effectively convey the meaning of a rule interpreting that language." Contrary to the requirement of this statute, the department does not indicate which portion of the rule is statutory and which is the department's amplification of the statute. The department may wish to consider using notes to repeat statutory language following a

cross-reference to the statutory provision. Examples of this problem occur in ss. Trans 131.05 (26), 131.10 (5) (b) 2 and 131.11 (1) to (3).

j. Division of the rule into numbered parts. Section 227.024 (1) (e), Stats., requires that a rule be divided into parts based upon the use of the decimal system. The department should clarify if the second and third sentences in s. Trans 131.10 (3) (c) 1 are part of subd. 1 or components of unspecified subparagraphs. As the rule is now drafted, one cannot determine which is the intended format.

k. Use of subparagraphs. The Manual in s. 1.03 (5) recommends that further division beyond the subdivision level be avoided whenever possible. As such, the department should consider rewriting provisions including s. Trans 131.10 (2) (a) 18 a to d to avoid the use of subparagraphs.

l. References to other provisions. In a number of instances, the proposed rule references other provisions in a manner contrary to the accepted procedures set forth in s. 1.07, Manual. For example, the cross-reference in s. Trans 131.14 (2) should be to "sub. (1)" and not "subs. (1)." "Stats." should not be underlined in the effective date clause. The reference in s. Trans 131.10 (2) (b) 1 should be to "par. (a) 1 to 18."

The department should also review the proposed rule to ensure that adequate cross-references are provided to specify clearly the described regulation. For example, the reference to the vehicle inspection report in s. Trans 131.12 (6) (d) (intro.) would be strengthened if it contained a cross-reference to the contents of this report under s. Trans 131.10 (2).

m. Reference to forms and notes. Where a rule requires a new or revised form, it should include a reference to the form in a "note" to the rule, s. 227.024 (f), Stats. This was not done in a number of instances; for example, s. Trans 131.10 (3) (d) 2.

n. Incorporation of standards by reference. For an agency to incorporate a technical standard by reference, the rule containing this incorporation is required under s. 227.025, Stats., to state how the standard may be obtained and that the books and pamphlets containing the standard are on file at the offices of the agency, the Secretary of State and the Revisor of Statutes. In at least two instances in the proposed rule, ss. Trans 131.12 (1) (c) and 131.14 (2), this procedure was not followed.

o. Use of consecutively numbered lists. Conventional drafting practice calls for items in a list of consecutively numbered provisions

joined by a conjunction to use punctuation in the list which results in the list reading as one sentence. Thus, for example, in s. Trans 131.10 (5) (a), the subdivisions should be ended with a comma and only one "or" is needed at the end of the second to the last item in the list. In this example, subd. 2 would end as follows: "s. Trans 131.06, or." In the alternative, no "or" is needed since the introductory clause uses "one of the following."

Improper use of conjunctions is also confusing in s. Trans 131.10 (3) (b). Does the "or" at the end of subd. 4 b in this paragraph mean that subds. 1 to 4 are an alternative to subds. 5 to 8, or that subd. 4 is an alternative to subd. 5?

4. Adequacy of References to Related Statutes, Rules and Forms

Proposed s. Trans 131.06 (1) (b) contains a general reference to rules promulgated by the Department of Natural Resources (DNR). The department may wish to consider clarifying this reference by stating in a note that the DNR has not yet promulgated any of the rules in question. Furthermore, after the DNR does promulgate a rule relating to the inspection and maintenance program, the department should change this general cross-reference to a specific one.

5. Clarity, Grammar, Punctuation and Plainness

Many of the problems of clarity, grammar, punctuation and plainness noted in these comments reoccur throughout the proposed rule. These comments indicate the general nature of the problem and include examples from the proposed rule. The entire proposed rule should be examined and redrafted to eliminate all problems similar to those specifically described and identified below.

a. Use of present tense and active voice. The Manual in s. 1.01 (1) exhorts a rule drafter to express ideas and concepts positively using present tense and the active voice. This was not done in a number of instances in the proposed rule and the clarity of it suffers accordingly. Examples where this occurs include: ss. Trans 131.07 (7) (intro.), (8) (intro.), (9) (b) and (11) to (14), 131.08 (2), 131.12 (2) (a) and (g).

b. Redundant or unnecessary words, phrases and sentences. A number of words, phrases or sentences are used in the proposed rule which the department should review to determine if they are necessary to convey the plain meaning of the text. Examples where this occurs include:

(1) Stating that the inspection program shall apply to nonexempt vehicles in those counties "as certified pursuant to s. 110.20 (5) (a), Stats." [s. Trans 131.06 (1) (a)] and also specifically listing the counties where the program is required [s. Trans 131.06 (2)].

(2) Using "as certified pursuant to" rather than a less awkward phrase such as "identified under" in s. Trans 131.06 (1) (a).

(3) Using "as promulgated pursuant to" rather than "under" in s. Trans 131.07 (1).

(4) Using "in accord with" rather than "under" in s. Trans 131.07 (3).

(5) Including "as used in this chapter" in the definition of "vehicle" in s. Trans 131.05 (35).

(6) Inserting "and" at the end of subs. 1 to 3 in s. Trans 131.10 (2) (c).

(7) Referring unnecessarily to an exemption as not being a legal requirement in s. Trans 131.10 (3) (c) 1. [The first sentence in this subdivision could be shortened to, for example, "Vehicles failing the inspection need not be repaired by a person employed as a mechanic."]

c. Provisions which are not clear. The department should review the proposed rule to revise convoluted sentence structure, ambiguous sentences or phrases and other requirements which are not clear. Examples of these problems include:

(1) Labeling s. Trans 131.02 as a "policy" rather than a "purpose" statement.

(2) Not specifying how concentrations will be measured; that is on a weight or volume basis. See, for example, ss. Trans 131.07 (4) and 131.14 (1).

(3) Requiring an "inspection station," defined to be either a building or a mobile unit, to make a judgment such as when a loaded mode test may be omitted in s. Trans 131.07 (7) (intro.). [Perhaps the department means for this decision to be made by an emissions inspector.]

(4) Establishing conflicting requirements for the repairs which must be made by persons other than mechanics in s. Trans 131.10 (3) (c) 1. Which takes precedence: following the "standard repair list" or diagnosing and adjusting as necessary the "idle mixture setting and spark

timing setting" when the latter two appears to be a subset of the standard repair list?

(5) Not specifying if persons following the "standard repair list" in s. Trans 131.11 (4) need only comply with half of the list in some situations. For example, if a vehicle failed an emissions inspection due to excess hydrocarbon emissions, shall the owner also follow the standard repair list for carbon monoxide adjustments or repairs?

(6) Omitting criteria for granting a waiver from the list of criteria in s. Trans 131.10 (3) (b) when sub. (3) (a) specifies that the granting of a waiver "shall be based on the waiver criteria." Paragraphs (a) and (b) May be interpreted to mean that all criteria for granting a waiver are given in par. (b). However, other criteria are set forth elsewhere in the rule such as in par. (f) in this subsection.

(7) Clarifying how a waiver granted under s. Trans 131.10 (3) relates to registration renewal under s. Trans 131.11 (2).

(8) Clarifying in s. Trans 131.11 (2) (b) what it means for a repair cost limit to "apply."

d. Terms needing definition. A number of terms appear in the proposed rule which the department may wish to either define or explain in the text to assist the reader in understanding how the department will interpret the term. Examples of such phrases include:

(1) "Response curve" in s. Trans 131.05 (1).

(2) "Gasohol" in s. Trans 131.06 (1) (d). [Some individuals define gasohol to be a mixture of 90% unleaded gasoline and 10% ethyl alcohol.]

(3) "CO₂," "N₂," "NO" and "O₂" in s. Trans 131.14 (2) (f).

(4) "HC, as hexane" in s. Trans 131.07 (3).

(5) "Dynamometer road load curve" in s. Trans 131.07 (3).

(6) "Exhaust gas" in s. Trans 131.07 (4). Are "exhaust emissions," a defined term, meant to be used in this subsection?

(7) "Dynamometer idle roll" in s. Trans 131.07 (6) (c).

(8) "Driving wheel" in s. Trans 131.07 (7) (a).

(9) "Dynamometer loading table" in s. Trans 131.07 (8) (b).

(10) "Accepted source" in s. Trans 131.09 (6).

(11) "LDV, LDT1, LDT2" in s. Trans 131.10 (2) (a) 5.

(12) "Emission control system performance warranty short test" in s. Trans 131.10 (2) (a) 18 b.

e. Punctuation, Spelling and Grammar. Specific examples of problems with punctuation, spelling and grammar which the department should review include the following:

(1) Inserting the comma in "March, 1984" in s. Trans 131.03. It is more appropriate to use "March 1984."

(2) Improperly spelling "ad hoc" in ss. Trans 131.05 (39) and 131.10 (3) (d) 1.

(3) Making "emission" singular in s. Trans 131.07 (1), (3) and (12).

(4) Inserting a comma after "equipment" in s. Trans 131.07 (7) (a).

(5) Omitting the hyphen in "four wheel" in s. Trans 131.07 (8) (c) after the hyphen was included in the definition of "constant four wheel drive vehicle" in s. Trans 131.05 (2).

f. Exempt and nonexempt vehicles. It appears from the definition section that vehicles are being divided into two categories--exempt and nonexempt. If this is the case, one of the those terms should be clearly defined and the other term should be defined by reference to the first definition. For example, if "exempt vehicles" is defined, the definition of "nonexempt vehicles" should read as follows:

(26) "Nonexempt vehicles" means all vehicles other than exempt vehicles.

Additionally, the definition of "exempt vehicles" is unnecessarily verbose. The phrases "the provisions of," "legislative direction at" and ", and as promulgated by administrative rule thereunder" should all be deleted. Also, in that definition, the first "rule" should be changed to "chapter."

6. Potential Conflicts with, and Comparability to, Relating Federal Regulations

Section 110.20 (9) (a), Stats., directs that the department to specify procedures for the inspection of vehicles which are capable of "being correlated with the federal test procedures established under s. 7525 of the federal act." The U.S. Environmental Protection Agency (EPA) has promulgated a regulation which specifies tests suitable for a motor vehicle emissions and inspection maintenance program which also correlate with the federal test procedures identified above. These test procedures are set forth in 40 C.F.R. ss. 85.2201 to 85.2218. [These regulations were published in 45 Fed. Reg. 34802 (May 22, 1980).] In general, the idle test prescribed in proposed ch. Trans 131 corresponds to the idle test set forth in this federal regulation. However, ch. Trans 131 does not contain the specific idle test sequence set forth in 40 C.F.R. s. 85.2212. Thus, the test procedure in ch. Trans 131 could be interpreted as not entirely correlated with the federal test procedures.

In addition to the federal regulation cited above, the test procedures and instrument calibration requirements set forth in ch. Trans 131 are, according to the department contact on this rule, also based on guidelines developed by the EPA. These guidelines do not have the force of law, though they may represent de facto federal law. The EPA assumes that these guidelines are the "presumptive norms" for state air pollution programs which will be implemented under the Clean Air Act, as amended. The proposed state standards set forth in ch. Trans 131 may vary in places from the EPA guidelines.

SECTION III

PROCEDURAL ANALYSIS REQUIRED BY S. 227.018(3), STATS.

(A) Statement of Need

Chapter 274, Laws of 1979 created a motor vehicle emission inspection and maintenance program, with subsequent amendments in Chapter 20, Laws of 1981 and in 1983 Wisconsin Act 27. It is necessary to codify into rule the policies, procedures and statutory interpretations necessary to implement this program.

(B) Findings of Fact

The federal government mandated a motor vehicle emission inspection program for major metropolitan areas of the United States where vehicle emissions are a major source of air pollution and the carbon monoxide or ozone National Ambient Air Quality Standards cannot be attained by the end of 1982. Partial enabling legislation for this program became effective in Wisconsin in May 1980, and in July 1981 the start-up funds for the program were approved. In July 1983, legislation authorizing postponement of the start-up date from January 1, 1983 to April 2, 1984 was enacted.

An interagency task force was formed to provide technical advice to the state. The Southeastern Wisconsin Regional Planning Commission served as the lead local agency responsible for coordinating preparation of the state implementation plan (SIP) in its respective area of jurisdiction. Overall management was provided by the state departments of natural resources and transportation. To assist the state in formulating its state implementation plan, the Region V office of the US Environmental Protection Agency contracted with GCA/Technology Division, an environmental consulting and

research organization, to perform a feasibility study of the program options which might serve as the framework for the development of an I/M program in Wisconsin. The GCA evaluated six programs: (1) A centralized, contractor operated network, utilizing loaded mode testing and incorporating safety and noise inspections;

(2) A centralized, contractor operated network, utilizing loaded mode testing only;

(3) A centralized, contractor operated network, utilizing idle mode testing only;

(4) A centralized, state operated network, utilizing loaded mode testing and incorporating safety and noise inspections;

(5) A centralized, state operated network, utilizing idle mode testing only; and

(6) A decentralized program using private garages to perform idle mode testing.

GCA analyzed the costs, benefits, network and personnel requirements, and equipment and facilities required for each option. In addition, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) prepared an extensive regional air quality attainment and maintenance plan for the seven counties of southeastern Wisconsin identifying sources of air pollution and assessing possible means for regulating emissions from these sources.

While the state implementation plan was being formulated, a legislative committee headed by Representative Mary Lou Munts began working with representatives of the interagency task force to draft legislation for the I/M program. It was introduced in the fall of 1979 by the Assembly Committee for Environmental Resources as Assembly Bill 500 and was enacted as Chapter 274, Laws of 1979. However, it was passed without a funding mechanism.

Subsequently, the legislature debated funding the program through a user's fee or by state revenues from either the transportation fund or general fund, or by using a combination of these alternatives. In July 1981, the legislature granted startup funds for I/M using the transportation fund. Additional funding from the Transportation Fund was provided in the 1983 budget bill (1983 Wisconsin Act 27) to cover both contractor payments and state administrative costs for fiscal years 1984 and 1985.

Presently 27 states and the District of Columbia are required by the U.S. Environmental Protection Agency (EPA) to establish an I/M program. Similar programs are now operating in 15 states and the District of Columbia. Nine other states are making "good faith" efforts and are "well along" towards implementing testing programs in the near future.

In planning an emission inspection program for Wisconsin, the several options for the program as studied by GCA were reviewed in detail. In making its choice, the state evaluated the initial capital investment, annual costs, vehicle owner's convenience, consumer protection aspects, and the start-up time of each of the alternatives.

Studies showed that although the decentralized system had the lowest start-up costs, offered the public the possibility of one-stop inspection and maintenance, and minimized travel and waiting times, it also had the most significant disadvantages. The lack of separation of inspection and repair functions raised the potential for conflicts of interest. Decentralization would also reduce the emission inspection efficiency of the program; make effective state monitoring of inspectors and instruments difficult and time consuming; and lead to higher state administrative costs.

It was recognized that labor costs in private facilities are generally higher because: emission inspectors are usually trained mechanics;

inspectors and equipment are usually less efficiently utilized; and lack of automation increases vehicle inspection time. Also, loaded mode testing capabilities are generally not available because of the high cost of dynamometers. In addition, a California study had indicated that a centralized system was providing ten times greater emission reductions than was a private garage system, and that this was probably due to the fact that emission related defects are more efficiently and reliably identified with the use of highly automated central inspection facilities.

It was concluded that a centralized system was by far the best organizational option and that a contractor operated, centralized program was more advantageous than a state operated one. The contractor could provide all program effort except that associated with administrative oversight, and thus the state would minimize the risk of increasing long-term fixed costs due to retirements and pensions associated with the hiring of a significant number of new employees.

The legislature decided to incorporate a loaded mode test as part of the emission inspection process since it would be of considerable value in providing diagnostic information for vehicles which failed to pass the required idle mode test; would assist in preconditioning a vehicle before the idle test; would allow for the option of testing for emissions of nitrogen oxides at a later date should it become necessary to do so; and would provide superior results in detecting high pollutant emitting, post-1981, vehicles.

(C) Modifications Made as a Result of Testimony Received

The notice of hearing and proposed rule were published in the Wisconsin Administrative Register's of February 28 and March 15, 1982. Notification

and date of hearing was sent to over 400 public officials, organizations and private citizens.

Modifications were made as a result of testimony received, plus several additions and deletions were also made following the refinement of program details and the execution of a contract (Wis. MVIP contract, dated December 10, 1982) with Hamilton Test Systems to operate the program.

1. Trans 131.01, Purpose and Scope, was rewritten to include statutory authority and applicability.

2. Trans 131.02 -- previously numbered 131.05. A number of changes have been made in the definitions section:

a. The definition of "cruise mode" was deleted within the rule as it was duplicative of "loaded mode".

b. The definition of "exempt vehicles" was changed to indicate that it includes all vehicles other than "nonexempt vehicles".

c. The definition of "field calibration gas" was retitled "surveillance gas" and the wording was revised to better reflect the intent of the revised title.

d. The definition of "letter of exemption" was retitled "letter of temporary exemption" and the definition was revised to clarify its meaning.

e. The definition of "loaded mode test" was revised to fit the Wis. MVIP contract definition.

f. The definition of "model year" was revised to include a homemade vehicle along with a reconstructed vehicle.

g. The definition of "proof of compliance" was deleted and, instead, the term "evidence of inspection compliance" is used and defined in Trans 131.06.

h. The definition of "standards" was changed to "emission standards" and the statutory reference was changed to the Wis. Adm. Code.

i. The definition of "waiver" was changed to read "waiver of inspection" and rewritten to better describe its purpose and use.

j. The following definitions have been eliminated from the rule as no use is made of the terms:

- 1) "Department representative".
- 2) "Electric powered vehicle".
- 3) "Inspection sticker".
- 4) "Vehicle curb weight".

k. Definitions were added for:

- 1) "Drive wheels".
- 2) "Emission test".
- 3) "Fast idle test".
- 4) "Gasohol".
- 5) "Homemade vehicle".
- 6) "New vehicle".
- 7) "Tamper".
- 8) "Truck".
- 9) "Van".
- 10) "Voluntary inspection".
- 11) "CO₂".
- 12) "N₂".
- 13) "NO".
- 14) "NO₂".

3. Trans 131.03 -- previously Trans 131.06, Trans 131.07 and Trans 131.10(2). This section has been rewritten to provide a clearer understand-

ing and more logical ordering of the inspection and reinspection processes. In addition, new vehicles are exempted from the requirements of this rule for up to 90 days following the vehicle's initial Wisconsin registration (Trans 131.03(1)(b)).

At Trans 131.03(1)(e), the term "model year" is further clarified and an example is provided in the form of a note.

The subsection on document requirements, Trans 131.03(5) -- previously Trans 131.07(2) -- has been expanded to better serve the needs of the motorist and the program itself. All but one of the forms will be completed by the department and furnished to the vehicle owner. The one exception is the MVD 2016 form, which will be obtainable at the inspection stations and can be filled out in pen or pencil by the motorist. Little use of this form is anticipated. It is expected that the vast majority of vehicle owners (well over 95%) will utilize their license renewal notice as their entry document to the test station.

A "fast idle test" may be performed in lieu of the "loaded mode test" under certain prescribed conditions. This is an addition to the originally proposed rule. It provides some pre-conditioning and diagnostic capabilities that would otherwise be unavailable to the motorist if the "loaded mode test" cannot be provided for reasons attributable to the motorist or vehicle, or because of mechanical or electrical malfunction of the dynamometer.

At Trans 131.06(6)(b)4 and 5, the sampling of exhaust emissions has been modified slightly so as to clarify that the intent of the test is to coincide with the federal test procedures established under s. 7525 of the federal clean air act. Those test procedures are set forth in 40 CFR ss. 85.2201 to 85.2218.

All references to reinspections taking place within 30 calendar days of the initial inspection -- previously at Trans 131.06(4)(a) -- have been deleted as the vehicle owner's actions are controlled by the requirement to renew vehicle registration prior to license expiration. The department has allowed, at Trans 131.03(7)(d), for a limit of two reinspections for vehicles that have failed their initial annual inspection. This number of reinspections will provide ample opportunity for most owners to have their vehicles repaired and brought into compliance with the emission standards. If a vehicle is unable to pass reinspection, the temporary waiver process may be utilized.

It was noted at the public hearing that the requirements for the exhaust gas dilution check (CO₂) required the opening of the vehicles' hood to determine if the vehicle was equipped with an air injection system. To avoid this time consuming activity, Trans 131.03(8)(a) has been revised to specify only one carbon dioxide dilution level which is applicable to all vehicles including those with air injection systems. Additionally, clarification of the test reporting process has been added, noting that failure to achieve the minimum CO₂ level shall result in an invalid test and that no vehicle inspection report (VIR) shall be printed. If a VIR were printed, the hydrocarbon and carbon monoxide values indicated would be incorrect because of the CO₂ dilution problem.

Trans 131.03(9) -- previously Trans 131.07(11) -- now addresses both "homemade" vehicles and "reconstructed" vehicles. Formerly only "reconstructed" vehicles were addressed.

A subsection, Trans 131.03(11), has been added for "trucks and vans" to clearly identify the standards to which these vehicles shall be tested.

Finally, subsection Trans 131.03(12) -- previously Trans 131.10(2) --, concerning the vehicle inspection report (VIR) and a supplement for failed vehicles has been revised to include only those items contained within the Wis. MVIP contract.

4. Trans 131.04 -- previously Trans 131.10(3) -- has been rewritten to eliminate the confusion noted by the legislative council and to have all of the "waiver criteria" shown in a single subsection.

Additionally, clarification suggested by the legislative council as to how a waiver granted under the above provisions relates to registration renewal is contained in Trans 131.06.

5. Trans 131.05 -- previously Trans 131.09 -- has been rewritten to include the 5 highest priority items frequently tampered with and to eliminate extraneous verbiage in the original draft.

6. Trans 131.06 -- previously Trans 131.10 -- has been rewritten and shortened to reflect the final program details relating to evidence of inspection compliance. All references to the "stamping" of documents and "inspection stickers" for government vehicles contained within the original draft have been deleted as the reporting and storage of test results in a computerized departmental data base has eliminated the need for "stamping" and "stickers".

7. Trans 131.07, on voluntary inspections, has been added to permit the voluntary testing of vehicles customarily kept outside the 6 county I/M test area. (Reference: s. 110.20(7), Wis. Stats.)

8. Trans 131.08 -- previously Trans 131.10(4) -- has been rewritten to reflect the final program details of the letter of temporary exemption from test requirements.

9. Trans 131.09 was added to correct an oversight in the previous draft which did not contain departmental audit requirements of the con-

tractor. This same section also incorporates the audit requirements for fleet stations, which was previously located at Trans 131.12(3)(b).

10. Trans 131.10 -- previously Trans 131.14 and Trans 131.15 -- has been rewritten to reflect Wis. MVIP contract provisions (or manufacturer calibration and maintenance specifications in the case of fleet inspection stations). This revised section also requires that fleet inspection stations utilize exhaust emission analyzers meeting the same accuracy specifications as those used in the contractor operated test stations. This latter change will insure that all tested vehicles have complied with an equally stringent application of the emission standards.

11. Trans 131.11 -- previously Trans 131.12(1) and (2) -- has been revised to present fleet inspection station permit requirements. Aside from the requirement to obtain exhaust emission analyzers meeting the same accuracy specifications that the contractor's analyzers are required to meet, a minimum proficiency or educational requirement for the fleet station mechanic working with the exhaust emission analyzers has been added. And, instead of calling for a listing of available equipment, a general statement calling only for the tools and equipment necessary to work on vehicles within the applicant's fleet was inserted.

12. Trans 131.12 -- previously Trans 131.12 (3), (4), (5), (6) and (9) -- has been rewritten and consolidated to contain all requirements pertaining to the inspection of fleet vehicles. In addition, a subsection has been added detailing minimum proficiency or educational requirements for the fleet inspection station inspectors or mechanics.

13. Trans 131.13 -- previously Trans 131.12(7) -- has been clarified by using the word "terminate" instead of "suspend, cancel or revoke".

14. Trans 131.14 -- previously Trans 131.15 -- has been revised to address only fleet inspection station analyzers, as the maintenance and

calibration of the contractor's analyzers is detailed in the Wis. MVIP contract. The gas and electronic spanning requirements were revised to coincide with the requirements of 40 CFR ss. 85.2217. In addition, there will be a separate "calibration surveillance agreement" between the contractor and the department detailing specific procedures that will have to be followed in these matters. It should be noted that the instrumentation and procedures for calibration and maintenance of the contractor's equipment meets or exceeds the requirements of 40 CFR ss. 85.2211 to 85.2218.

15. Trans 131.15 -- previously Trans 131.18 -- has been rewritten to emphasize that the emission inspection notification process will occur in conjunction with the vehicle registration renewal notification process.

16. The following portions of the original draft of Trans 131 have been deleted for the reasons indicated:

a. Trans 131.08 Fuel Efficiency Testing. The department received quotations on alternative fuel efficiency tests from each of the vendors submitting proposals. Prices ranged from \$0.45 to \$0.81 per test, which would have resulted in added program costs ranging from \$540,000 to \$972,000 annually based upon 1.2 million vehicle tests each year (including retests). The department determined this cost was excessive in terms of value received and subsequently eliminated fuel efficiency testing from the scope of the testing program.

b. Trans 131.10(5) Inspection Sticker (for government vehicles). Subsequent to the initial draft of this subsection, it was determined to report daily vehicle test results to a computerized data base which could be utilized to make comparisons with department records of vehicles required to be tested. Since the recognition of a vehicle's test status could be identified through computerized means, and thus appropriate action taken with

those that did not comply, the need for an inspection sticker was eliminated. (Note: The department will be recommending the introduction of legislation which would permit the suspension of vehicle registration for government vehicles having non expiring plates and which do not comply with the emission test requirements of s. 110.20, Wis. Stats.)

c. Paragraph Trans 131.11(2)(c) and subsection Trans 131.11(4) relating to a standard repair list, have been entirely deleted, thus eliminating conflicting requirements noted by the legislative council. In addition, the elimination of the "standard repair list" negates the need for periodically revising such a list due to frequent technological changes in the production of new vehicles.

d. Trans 131.14, Inspection Stations Acting as Fleet Emission Inspection Stations, has been deleted in its entirety as the department now believes this to be a highly impractical option in view of the fact that a user fee will not be charged vehicle owners.

e. Trans 131.16 Maintenance and Repair Records, and Trans 131.19 Evaluations and Analysis, have been deleted in their entirety. Although the department will be accomplishing the functions noted in the deleted material, many other data analyses will also be made. The results of data analysis will be utilized in reporting summaries of the program achievements to interested consumer groups, elected officials, etc.

f. Trans 131.17, Registration Renewal; Delegation of Registration Functions, has been deleted because of the high cost of conducting in lane vehicle registration by the contractor. However, the Wis. MVIP contract reserves the department's right to require the contractor to conduct on-site vehicle registration at a later date. This could range from a pilot test program at one facility to complete on-site registration at all lanes of the

network should it become economically feasible to do so. At that time, revisions to the administrative code would have to occur.

17. One commentor suggested that the inspection program be (conducted) on an "every five year basis" instead of an annual basis ... "unless ambient air tests for CO and HC prove that more frequent testing is necessary". Department response: Current legislation directs that an "annual inspection" be accomplished (s. 110.20(6), Stats.).

18. The following comments were offered by Hamilton Test Systems:

a. "It is suggested that the VIR's (Vehicle Inspection Reports) used in the Contractor and fleet stations be designed with a distinctly different format to eliminate any possibility of confusion with respect to where and by whom the vehicle was inspected."

Department response: The department anticipates using an identical form. The uniqueness in automated printing format, as required on the contractor prepared report, will clearly distinguish it from one completed by a fleet station.

b. "It is not clear who will enforce the reinspection provisions. It is assumed that since enforcement of the program is a State responsibility, the provisions of this paragraph will be enforced by the State and not the Contractor."

Department response: This is clarified in Trans 131.04 by use of the term "department's waiver surveillance investigator". Similar language is also contained within the Wis. MVIP contract.

c. "The reinspection provisions do not limit the number of reinspections a vehicle owner is entitled to. A situation could develop whereby a vehicle owner could have his vehicle reinspected as many times as he chose, inasmuch as it is free. This raises a further question regarding payment of the Contractor. Will he be paid for initial tests or total tests?"

Department response: A limit of 3 inspections (1 initial and 2 re-inspections) have been placed on both vehicle owners and the contractor. If an owner is unable to secure satisfactory repairs or adjustments to a vehicle by the third inspection, the vehicle may be taken to the department's waiver surveillance inspector located at each facility for a waiver determination. Assuming that the motorist can meet the requirements of Trans 131.04 at this time, a waiver will be granted.

Similarly, the contractor will only be able to receive payment for testing a vehicle up to a maximum of three tests per registration period. DOT audits of daily and monthly test records will insure that this is enforced.

d. "To comply with this requirement (carbon dioxide dilution limits), it will be necessary for the Contractor's personnel to open the hoods of the vehicles and check whether the vehicle is equipped with an air injection system. Such a procedure will significantly impact the throughput and cost of the programs as well as introducing a host of other problems. Further, it was our understanding that opening of hoods was not considered as a part of the Contractor's operations."

Department response: Additional contact with other states operating similar I/M programs indicated that it was not cost effective to raise a vehicle's hood while in a test lane to look for the presence of an air injection system. The typical solution was to slightly lower the CO₂ dilution limit from 5% to 4%, thus eliminating the air injection problem while still identifying vehicles with severe exhaust dilution problems and requiring their repair prior to retesting.

e. "A special stamping device will be required and the VIN will have to be written in or manually entered through some device in the stamped area

of the registration certificate. The devices and functions required will impact both the throughput and cost of the program."

Department response: The requirement for stamping the registration documents have been deleted. (See below)

f. "Other states with I/M programs use a tear-off portion of the VIR as a compliance certificate, which then accompanies the registration certificate. This tear-off portion contains all of the information required by this compliance paragraph and it is printed by the computer as a part of the total VIR. It is suggested that this concept be given consideration in lieu of the stamping procedure."

Department response: After further study, the department determined that both the "stamping" of a document and a "tear-off" form segment could be eliminated through the submission of a daily vehicle test tape from the contractor to the department. This simple procedure will effectively transmit compliance data for use in the department's computer.

g. "If vehicle registration is conducted by the inspection stations, then a very simple procedure of transmitting the compliance message for a vehicle to the State's computer might be considered."

Department response: We concur. See preceding comment.

h. "The standard practice in other I/M programs is not to provide a printed VIR to an aborted vehicle (test), or (for) a (vehicle) test terminated prior to completion of the test. Therefore, it is suggested that the words "**valid-not valid**" be deleted (from the VIR) with provisions elsewhere that the Contractor maintain a record of aborted vehicles, or tests terminated prior to completion."

Department response: The contract documents, the vehicle inspection report, and the daily and monthly test reporting tapes have all incorporated this suggestion.

i. "Entry of a name (of the Contractor's inspector) on the VIR can impact throughput and cost of the program, particularly in a high-volume centralized inspection facility. It is suggested that an employee code number be considered on the VIR. This is the procedure used in other I/M programs."

Department response: The department concurs that the suggested employee code entry as used in other centralized inspection programs is satisfactory and will implement the recommendation.

j. "Since tampering inspection is an enforcement function, it is assumed that a State surveillance inspector would be performing the tampering inspection. If this is a correct assumption, then the only responsibility of the Contractor would be to design the VIR with a space for entering the required tampering information by the State inspector, probably on the back side of the form."

Department response: This assumption and vendor responsibilities were (and still are) correct. The tampering inspection function will be conducted by the department's waiver surveillance investigator in accord with requirements specified in Trans 131.04.

k. "The (analyzer) accuracy requirements specified cover only a portion of the total range of analyzer operations. The State may wish to specify the accuracy requirements over the total range of the capabilities of the analyzers."

Department response: In recognition of the wide range of emission standards promulgated by the Department of Natural Resources under NR 154.17(3), Wis. Adm. Code, the analyzer accuracy requirements have been revised. These requirements now reflect the 1980 requirements of California's Bureau of Automotive Repair and are commonly referred to as BAR-80 specifi-

cations for hydrocarbon and carbon monoxide exhaust emission analyzers. There are presently no such specifications for carbon dioxide analyzers.

l. "While the main paragraph -- previously Trans 131.15, Testing Equipment Maintenance and Calibration -- contains the language **"unless alternative procedures have been approved by the department"**, subparagraphs (1) through (6) are quite specific in terms of the requirements being considered by the State. Also, these are the type of requirements generally associated with low-volume, manual analyzers used in normal garage work and are not applicable to the high-volume, heavy-duty, automated analyzers used in centralized facilities. It is, therefore, suggested that this paragraph be reworded with emphasis on language that a Contractor must demonstrate achievement of the accuracy and repeatability requirements of (previous) Trans 131.14, in order to obtain approval for alternate procedures from the department."

Department response: As noted previously, all exhaust emission analyzers used by either the contractor or the fleet inspection stations must meet the BAR-80 accuracy specifications. Maintenance and calibration requirements, as contained in proposed Trans 131.10(1) shall be according to the manufacturer's specifications, or in the case of the Contractor, to the more stringent calibration requirements of the Wis. MVIP contract.

m. "While the broad aspects of the registration renewal functions -- previously Trans 131.17 -- are described in subparagraphs (1) and (2), there is insufficient information to develop even a preliminary estimate of the magnitude of the effort required and its impact on throughput and costs.

Therefore, it is assumed that a great deal of detailed information on these functions will be presented in the RFP. If not, it should be."

Department response: It was presented in detail in the RFP. This function has since been eliminated from the program for reasons previously mentioned.

19. The following comments were offered by the Wisconsin Department of Natural Resources:

a. "The Department of Natural Resources notes that (previous) Chapter Trans 131, Wis. Adm. Code makes no provisions for voluntary inspections of vehicles as required under s. 110.20(7), Stats. The Department of Natural Resources suggests provisions for such voluntary inspections be incorporated in Chapter Trans 131, Wis. Adm. Code and that motor vehicles inspected under s. 110.20(7), Stats., also receive a tampering inspection in addition to the emission test. The tampering inspection will aid in ensuring that the basic goal of the program, air pollution reduction, will be attained."

Department response: Voluntary inspections have been incorporated into Trans 131.07 as required under s. 110.20(7), Stats.

Trans 131.05 has been written to permit a tampering inspection whenever a waiver of compliance is requested. The department believes that this application of a tampering inspection is necessary to promote accomplishment of the program's goal of air pollution reduction within the six counties certified to the department under s. 110.20(5)(a). Tampering inspections of vehicles submitted for voluntary testing (ie. vehicles not customerly kept within the six county I/M area) would not serve to accomplish this goal. Thus no tampering inspection of them is provided for in this rule.

b. "The Department of Natural Resources also recommends modifications of (previous) Trans 131.07, Wis. Adm. Code, to read: "While emissions from all gasoline fueled internal combustion engines should normally not exceed any loaded mode emission guidelines for hydrocarbons and carbon monoxide,

the loaded mode guidelines are for diagnostic and advisory information only." The Department (of Natural Resources) staff believes that use of the term "any" rather than the term "the" would be more appropriate since the Department of Natural Resources will not promulgate loaded mode emission limitations under s. 144.42(2), Stats."

Department response: All references to loaded mode emission guidelines have been eliminated to avoid any confusion. The only emission standards now mentioned in proposed Trans 131 are those for the idle emission standard as promulgated by the DNR under s. NR 154.17(3).