

Minnesota Attorney General: Administrative Rules Proceedings

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SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : August 31, 1989

TO : ANN M. SEHARAY
Special Assistant Attorney General
520 Lafayette Rd., Suite 200, St. Paul 55101

FROM : MARTHA J. CASSERLY MJC 08/31/89
Special Assistant Attorney General
515 Transportation Bldg., St. Paul 55155

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Rule Relating To Motor Vehicle Inspection and Testing Program

The above-referenced rule has been approved as to its legality by the Attorney General on August 31, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:bbl

cc: William Brown, Chief Judge
Office of Administrative Hearings

Maryanne Hruby, Exec. Dir.
Legislative Commission to Review
Administrative Rules

RULE REVIEW CHECKLIST

File No. 1621

Docket No. 05-0609, 0701

DATE RECEIVED 8-17-89 ~~8-26-89~~

ADOPTED W/O HEARING ✓

REVIEW DATE 8-28-89

EMERGENCY RULE _____

DUE DATE 8-31-89

2 copies to Revisor: 8-18-89

REVISOR APPROVED yes 8-20-89

APPROVED 8-31-89 - mjc

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

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yes Rule as adopted (4 copies) ✓

~~yes~~ Notice to Solicit Outside Information/Opinion (if applicable)
11-28-88 Date published in State Register
yes Comments

no ~~Petition for Adoption of a Rule (if applicable)~~

yes Board's Authorizing Resolution
4-25-89 Date adopted

yes Proposed Rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
116.62(2) Statutory Authority
yes Small Business Statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness ✓ (if applicable)
yes Small Business Statement
yes Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
5-17-89 Date (30)/25 days before adoption
no Notice attached
no Copy of rule or summary attached

✓ Publication in State Register
5-22-89 Date (30)/25 days before adoption

_____ 180-day deadline from:
? Effective date of law requiring rule (14.12) (both rules)
5-21-89 yes end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

yes Resolution Adopting
7-29-89 Date adopted

yes Findings of Fact, Conclusions & Order Adopting ✓
7-25-89 Date signed

yes Written requests, submissions or comments

yes Declaration of attorney ✓
Ann M. Seha Name of SAAG representing agency

yes Notice of Submission to Atty. Gen. (if applicable)

yes Aff. of Mailing Notice to Atty. Gen. (if applicable)

Pollution Control Agency

Adopted Permanent Rules Relating to Motor Vehicle Inspection and Testing Program

Rules as Adopted

7005.5010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in part 7005.0100 apply to the terms used in parts 7005.5010 to 7005.5105, unless the terms are defined in this part.

Subp. 2. **Agency representative.** "Agency representative" means an agency employee or contractor designated by the commissioner to conduct inspections and tests, gather information, and perform other activities related to vehicle inspection and testing.

Subp. 3. **Calibration gas.** "Calibration gas" means a gas or gas mixture of known concentration that is used to establish the response curve of an emission analyzer.

Subp. 4. **Certificate of compliance.** "Certificate of compliance" means a serially numbered inspection report marked "passed" indicating a motor vehicle complies with the requirements of parts 7005.5010 to 7005.5105.

Subp. 5. **Certificate of waiver.** "Certificate of waiver" means a serially numbered inspection report marked "waived" indicating that a motor vehicle complies with the requirements of part 7005.5055.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 7. **Constant four-wheel drive.** "Constant four-wheel drive" means four-wheel drive that cannot be converted to two-wheel drive except by removing one of the vehicle's drive shafts.

Subp. 8. **Contractor.** "Contractor" means a person, business firm, partnership, or corporation with whom the agency has a contract that provides for the operation of one or more

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inspection stations.

Subp. 9. **Customarily domiciled.** "Customarily domiciled" means that a vehicle, although registered to an owner residing in the metropolitan area, is kept outside the metropolitan area for a minimum of 11 months each calendar year and is not generally used for transportation within the metropolitan area.

Subp. 10. **Dealer.** "Dealer" has the meaning given in Minnesota Statutes, section 168.27.

Subp. 11. **Department.** "Department" means the Department of Public Safety.

Subp. 12. **Drive wheels.** "Drive wheels" means the pair of wheels that propel a vehicle.

Subp. 13. **Emission control equipment inspection.** "Emission control equipment inspection" means the inspection of the emission control equipment conducted by the waiver surveillance inspector under part 7005.5060.

Subp. 14. **Emission inspector.** "Emission inspector" means the individual who performs the vehicular inspection for the contractor.

Subp. 15. **Exhaust emissions.** "Exhaust emissions" means substances emitted into the atmosphere from the tailpipe of a motor vehicle.

Subp. 16. **Field audit gas.** "Field audit gas" means a gas with assigned concentrations that is required to check the accuracy of emission analyzers and calibration gas used by inspection stations, fleet inspection stations, and vehicular repair facilities.

Subp. 17. **Fleet inspection station.** "Fleet inspection station" means a facility for the inspection of motor vehicle fleets operated under a permit issued by the agency under part 7005.5080.

Subp. 18. **Fleet owner.** "Fleet owner" means an owner of at least 50 subject vehicles, or two or more persons each owning 25 or more subject vehicles.

Subp. 19. **Fleet vehicle.** "Fleet vehicle" means a subject motor vehicle owned by a person holding a fleet inspection

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station permit.

Subp. 20. **Idle mode test.** "Idle mode test" means an exhaust emission test conducted with the vehicle at idle.

Subp. 21. **Inspection report.** "Inspection report" means a document issued by an inspection station or fleet inspection station that indicates the vehicle has been inspected in accordance with parts 7005.5010 to 7005.5105.

Subp. 22. **Inspection station.** "Inspection station" means a facility for motor vehicle inspection operated under contract with the agency.

Subp. 23. **Letter of annual exemption.** "Letter of annual exemption" means a letter issued by the commissioner for the annual exemption of a vehicle from the state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 24. **Letter of temporary extension.** "Letter of temporary extension" means a letter issued by the commissioner for the extension of the time period for a vehicle to meet state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 25. **Loaded mode.** "Loaded mode" means operation of a vehicle at approximately 30 miles per hour on the chassis dynamometer as prescribed in part 7005.5030, subpart 6.

Subp. 26. **Low emission adjustment.** "Low emission adjustment" means diagnostic or repair procedures that are likely to reduce carbon monoxide or hydrocarbon emissions and are included on a list established by the commissioner under part 7005.5065, subpart 4.

Subp. 27. **Metropolitan area.** "Metropolitan area" has the meaning given in Minnesota Statutes, section 473.121.

Subp. 28. **Model year.** "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer. If the manufacturer does not designate a production period, "model year" means the calendar year.

Subp. 29. **Motor vehicle or vehicle.** "Motor vehicle" or "vehicle" means a passenger automobile, station wagon, pickup truck, or van, as defined in Minnesota Statutes, section

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168.011, licensed for use on the public streets and highways or a passenger automobile, station wagon, pickup truck, or van exempt from registration or fees under Minnesota Statutes, section 168.012, subdivision 1, or 437.448.

Subp. 30. **Nonfleet vehicle.** "Nonfleet vehicle" means any subject vehicle except for a subject vehicle owned by a person holding a fleet inspection station permit.

Subp. 31. **Owner.** "Owner" means "registered owner" as defined in Minnesota Statutes, section 168.011, subdivision 5a.

Subp. 32. **Registrar.** "Registrar" means the registrar or deputy registrar of motor vehicles under Minnesota Statutes, section 168.33.

Subp. 33. **Rescue vehicles.** "Rescue vehicles" means vehicles that are used for rescue operations.

Subp. 34. **Span gas.** "Span gas" means a gas of known concentration that is used routinely to set the output level of an emission analyzer.

Subp. 35. **Subject vehicle.** "Subject vehicle" means a non-tax-exempt motor vehicle registered to an owner residing in the metropolitan area or a tax-exempt motor vehicle customarily domiciled in the metropolitan area except:

A. a motor vehicle manufactured before the 1976 model year;

B. a motor vehicle with an engine manufactured for a model year before 1976;

C. a motor vehicle registered as classic, pioneer, collector, or street rod under Minnesota Statutes, section 168.10;

D. a motor vehicle powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen;

E. a motor vehicle powered solely by a diesel cycle engine; and

F. fire apparatus, ambulances, and rescue vehicles.

Subp. 36. **Tampering inspection.** "Tampering inspection" means the inspection of the catalytic converter, fuel inlet restrictor, and the gas cap conducted by the emission inspector

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under part 7005.5025.

Subp. 37. **Tax-exempt.** "Tax-exempt" means exempt from license fees under Minnesota Statutes, section 168.012, subdivision 1, or 473.448.

Subp. 38. **Waiver.** "Waiver" means the act of excusing a motor vehicle from complying with part 7005.5050, subpart 2.

Subp. 39. **Waiver surveillance inspector.** "Waiver surveillance inspector" means the agency employee or contractor charged with performing the emission control equipment inspection and approving or disapproving applications for certificates of waiver.

7005.5015 INSPECTION REQUIREMENT.

Subpart 1. **General.** In accordance with Minnesota Statutes, sections 116.60 to 116.65, and parts 7005.5010 to 7005.5105, subject vehicles shall be inspected annually at an inspection station or a fleet inspection station.

Subp. 2. **Inspection requirement.** Subject vehicles shall be inspected according to the following schedule:

A. for non-tax-exempt subject vehicles, the inspection must be completed at an inspection station or fleet inspection station as a prerequisite to registration renewal within 90 days before expiration of current registration; or

B. for tax-exempt subject vehicles, the inspection shall be completed annually:

(1) at an inspection station during the months of January and February; or

(2) at a fleet inspection station at a time designated by the owner and approved by the commissioner.

Subp. 3. **Reinspections.** Subject vehicles exceeding the maximum allowable emission concentrations or failing the tampering inspection during the vehicle's inspection are entitled to reinspection under part 7005.5035.

7005.5020 DESCRIPTION OF INSPECTION AND DOCUMENTS REQUIRED.

Subpart 1. **Location and components of inspection.** Except as provided in part 7005.5035, item D, an inspection shall

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consist of a tampering inspection and an exhaust emission test. The inspection and testing shall be performed at an inspection station or fleet inspection station.

Subp. 2. **Document requirements.** Each vehicle that is inspected at an inspection station must be accompanied by one of the following documents that identifies the vehicle by make, model year, vehicle identification number, license plate number, and registered owner's name and address: a current Minnesota registration renewal notice, a current Minnesota registration card, or a Minnesota certificate of title.

7005.5025 TAMPERING INSPECTION.

Each subject vehicle shall be visually inspected for and shall be required to have an unvented fuel cap, a fuel inlet restrictor, and a catalytic converter if the vehicle was equipped with these items at the time of manufacture. If an unvented fuel cap is not in place, the tampering inspection shall continue and the owner shall be advised to replace the unvented fuel cap. If the fuel inlet restrictor or catalytic converter is not in place or is damaged, the vehicle shall fail the tampering inspection, except as provided in items C and D.

A. If the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. Fuel inlet restrictors shall be replaced with original manufacturer's equipment or equivalent. Catalytic converters shall be replaced with original manufacturer's equipment or new after-market equipment ~~certified~~ <u>that meets the emission reduction requirements and criteria established</u> by the United States Environmental Protection Agency.

B. In a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and

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continue with the tampering inspection. The contractor may not bill the agency for an inspection upon the owner's or operator's return visit to continue the tampering inspection.

C. If the vehicle owner provides to the waiver surveillance inspector a release letter concerning the vehicle from the United States Environmental Protection Agency addressed to the United States Customs Service granting the vehicle exemption from conformity with federal emission requirements, the vehicle shall pass the tampering inspection.

D. If the vehicle owner presents satisfactory evidence and signs an affidavit certifying to the waiver surveillance inspector that the vehicle is a show car used primarily for transportation to and from and in exhibitions of show cars, and that the vehicle is not generally used for transportation, the vehicle shall pass the tampering inspection.

7005.5030 EXHAUST EMISSION TEST.

Subpart 1. **Procedure.** The exhaust emission testing procedure shall consist of the following procedure performed in accordance with Code of Federal Regulations, title 40, section 85.2212, as amended:

A. the vehicle shall be tested in idle mode with the transmission in neutral;

B. the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories off;

C. the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

D. vehicles with multiple exhaust pipes may be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the later case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 2. **Exhaust emissions to be tested.** The emission test for subject vehicles shall consist of sampling the exhaust

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emissions from the vehicle tail pipe or tail pipes and measuring the concentrations of hydrocarbon as hexane, carbon monoxide, and carbon dioxide. Exhaust emission concentrations shall be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first.

Subp. 3. **Exhaust emission standards.** A motor vehicle that is subject to inspection under part 7005.5015 and Minnesota Statutes, sections 116.60 to 116.65, must not emit carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, when measured in an inspection conducted under parts 7005.5010 to 7005.5105. A subject vehicle that emits carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, shall fail the emission test. Table 1 is effective through December 31, 1992. Table 2 is effective beginning January 1, 1993.

TABLE 1

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE UNTIL DECEMBER 31, 1992

Model Year	Maximum Allowable Emission Concentrations Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	6.0
1978-1979	400	4.0
1980	275	2.5
1981 and later	220	1.2

TABLE 2

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE JANUARY 1, 1993

Model Year	Maximum Allowable Emission Concentrations Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	5.5
1978-1979	400	3.5
1980	275	2.0
1981 and later	220	1.2

Subp. 4. **Grounds for prohibition of inspection.** Items A to C constitute grounds for the emission inspector to prohibit the inspection in part 7005.5020 and the entrance of the vehicle into the testing lanes:

A. the vehicle is carrying explosives or other

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hazardous material not used as fuel for the vehicle;

B. gasoline, oil, or other fluid leaks are apparent and constitute a safety hazard; or

C. the vehicle is being towed or is towing a trailer.

Subp. 5. **Grounds for prohibiting or invalidating the exhaust emission test.** Items A and B constitute grounds for the emission inspector to invalidate the exhaust emission test results and refuse to continue with the test until the conditions are corrected:

A. the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the emission inspector; ~~and~~ or

B. the measured carbon dioxide concentration is less than four percent by volume.

Subp. 6. **Loaded mode preconditioning after failing exhaust emission test.** If the vehicle fails the exhaust emission test, the vehicle shall be preconditioned on the chassis dynamometer and the procedures and diagnostic testing shall be conducted in accordance with items A and B. After preconditioning, the vehicle shall be tested at idle according to subparts 1 to 3.

A. The loaded mode preconditioning and diagnostic analysis consist of positioning the vehicle driving wheels on a chassis dynamometer, placing an emission sampling probe into the tailpipe, and analyzing the collected exhaust sample. The analysis for hydrocarbon as hexane and carbon monoxide is for diagnostic information only.

B. Vehicles shall be tested in the following manner:

(1) vehicles shall be run in drive for automatic transmissions and third gear for manual transmissions;

(2) during the loaded mode, the vehicle's engine shall be run at a constant throttle position to maintain the cruising speed for at least 30 seconds;

(3) the vehicle speed of 30 plus or minus two miles per hour as measured from the dynamometer idle roll shall be used for all loaded conditions to provide appropriate

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diagnostic information for vehicles that fail the emission test;

(4) the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories turned off;

(5) the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

(6) vehicles with multiple exhaust pipes shall be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the latter case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 7. **Grounds for omitting loaded mode preconditioning.** The following constitute grounds for the emission inspector to omit the loaded mode preconditioning on a vehicle:

A. the vehicle has a driving wheel with a tire having less than 2/32 inch of tread or with metal protuberances or with obviously low tire pressure, as determined by superficial visual inspection; or

B. any other condition that in the opinion of the vehicle emission inspector precludes the use of loaded mode preconditioning for reasons of health and safety or damage, or both, to personnel, facilities, equipment, or the vehicle.

Subp. 8. **When loaded mode preconditioning shall be omitted.** Loaded mode preconditioning shall be omitted if:

A. the person presenting the vehicle for inspection refuses loaded mode preconditioning;

B. the vehicle is unable to attain the speed specified in subpart 6, item B, subitem (3);

C. the vehicle is equipped with constant four-wheel drive;

D. the vehicle is driven by a person who, because of physical incapacity, is unable to yield the driver's seat to the emission inspector; or

E. the vehicle is driven by a person who refuses to yield the driver's seat to the emission inspector.

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Subp. 9. **Alternate preconditioning.** A vehicle for which loaded mode preconditioning is omitted under subpart 7 or 8 shall be preconditioned by completing items A to D.

A. the vehicle's transmission shall be placed in neutral;

B. the vehicle's engine speed shall be increased to 2,500 plus or minus 300 revolutions per minute as measured by a tachometer;

C. the speed in item B shall be maintained for at least 30 seconds; and

D. the vehicle engine speed shall be returned to idle.

After preconditioning, the vehicle shall be tested at idle as described in subparts 1 to 3.

Subp. 10. **Reconstructed vehicles.** All reconstructed subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine shall be classified by the model year and manufacturer's make of the exchanged engine. Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

7005.5035 REINSPECTIONS.

Vehicles that fail the inspection under parts 7005.5020 to 7005.5030 shall be allowed reinspection after repair or adjustment of the vehicle.

A. A vehicle failing the inspection may be reinspected at any inspection station after the vehicle has been repaired under part 7005.5050.

B. The vehicle shall be accompanied by its previous

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inspection reports and repair information. The repair information must be completed by the person performing the repairs and shall be indicated in the space provided on the inspection report form.

C. The reinspection must take place within 30 consecutive calendar days after the initial inspection, unless the owner presents satisfactory evidence that the repairs and adjustments that were performed on the vehicle and the reinspection could not have been completed within 30 days.

D. The vehicle presented for reinspection shall be inspected only for the ~~items which~~ portions of the test that were failed as indicated on the vehicle's previous inspection report form. If the owner or operator does not provide a copy of the inspection report forms as required in item B, then both a tampering inspection and exhaust emission test shall be conducted.

E. A vehicle shall be eligible for no more than two reinspections unless the owner pays an additional fee under part 7005.5105, subpart 2.

F. If the vehicle passes the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5040 and certificate of compliance under part 7005.5045. The certificate of compliance and the inspection report may be combined into a single form.

G. If the vehicle cannot pass the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5050 indicating noncompliance. The owner may then be eligible to apply for a certificate of waiver under part 7005.5055. If the owner requests a certificate of waiver, the waiver surveillance inspector shall review the request and shall approve or deny the request in accordance with part 7005.5055.

7005.5040 VEHICLE INSPECTION REPORT.

Subpart 1. **Required items.** The owner or operator of each vehicle inspected shall be provided with a vehicle inspection report at the time of each inspection. The vehicle inspection

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report shall be a design approved by the commissioner and shall provide space for the following information:

A. license plate number;

B. vehicle identification number;

C. model year of vehicle;

D. model year of engine;

E. make of vehicle;

F. vehicle type;

G. odometer reading, in thousands of miles;

H. maximum allowable exhaust emission concentrations;

I. exhaust emission measurements of hydrocarbon as hexane, carbon monoxide, and carbon dioxide;

J. statement of pass/fail or valid/not valid, or waiver and the reasons, if applicable;

K. inspection/reinspection number for subject vehicle;

L. date and time of inspection;

M. serial number of report;

N. inspection station number, lane, inspector, and analyzer number;

O. reason for test termination before completion of test;

P. description of the low emission adjustment that is likely to reduce a vehicle's carbon monoxide and hydrocarbon emissions;

Q. tampering inspection and results;

R. for a failed vehicle:

(1) serial number of the previous test reports;

(2) for a post-1980 model year vehicle, certification that the test was performed in accordance with the emission control system performance warranty short test;

(3) for a nonfleet vehicle, the printed name or identification number of an individual who either performed the test or has actual knowledge of the performance of the test, or for a fleet vehicle, the signature of the individual who performed the test; and

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(4) diagnostic information, as appropriate;

S. itemization of the repairs performed (repair actions or parts replacement may be coded);

T. cost of the emission-related repairs, or estimated cost of the emission-related repairs required if the repairs exceed the maximum specified repair cost, and cost of the low emission adjustment;

U. analyzer serial or identification number, if used by the individual performing the repairs;

V. idle exhaust emission concentrations of hydrocarbon as hexane and carbon monoxide, if an analyzer is used when making repairs;

W. complete name, address, telephone number, and federal identification number or social security number of the business or person making the repairs; and

X. date and signature of the person making the repairs.

Subp. 2. **Responsibility for completion of form.** The contractor shall be responsible for the completion of subpart 1, items A to R, for all nonfleet vehicles. The person performing the repairs or making the cost estimates shall be responsible for completion of subpart 1, items S to X.

Subp. 3. **Inspection report supplement.** The owner or operator of each vehicle failing the initial inspection shall receive an inspection report supplement, approved by the commissioner, containing:

A. the repair cost limit for emission-related repairs;

B. a description of low emission adjustment list;

C. the probable causes of noncompliance if diagnostic information is provided; and

D. instructions for waiver applications if failure of reinspection has occurred.

7005.5045 CERTIFICATE OF COMPLIANCE.

A certificate of compliance must be issued by an inspection

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station or fleet inspection station to a subject vehicle that passes the tampering inspection and exhaust emission test.

The certificate of compliance shall be presented to the owner by personnel employed by the inspection station, fleet inspection station, or by the waiver surveillance inspector, as appropriate, upon receipt of the final vehicle inspection report indicating that the vehicle is in compliance with parts 7005.5010 to 7005.5105. The certificate of compliance shall be of a design approved by the department and the commissioner and shall contain, at a minimum, the date of the test and the vehicle identification number to uniquely identify the vehicle. The owner shall present the certificate of compliance to the department when making application for registration renewal.

7005.5050 VEHICLE NONCOMPLIANCE AND REPAIR.

Subpart 1. **Tampering inspection.** If the subject vehicle fails the tampering inspection or reinspection under part 7005.5025 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

A subject vehicle that fails its tampering inspection shall not be eligible to have its registration renewed unless:

A. the owner replaces or repairs the fuel inlet restrictor or replaces the catalytic converter under part 7005.5025;

B. the person completing the repairs has properly completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the inspection report form; and

D. the vehicle passes the tampering reinspection.

Subp. 2. **Exhaust emission test.** If the subject vehicle fails the exhaust emission test or retest under part 7005.5030 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

A subject vehicle that fails its exhaust emission test shall not be eligible to have its registration renewed until

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items A to D have been completed or a certificate of waiver has been issued under part 7005.5055:

A. the owner repairs or adjusts the vehicle to reduce carbon monoxide and hydrocarbon as hexane emissions in accordance with the inspection report form and its supplement under part 7005.5040;

B. the person completing the repairs has completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the vehicle inspection report form; and

D. the vehicle passes the exhaust emission retest.

7005.5055 CERTIFICATE OF WAIVER.

Subpart 1. **Eligibility.** A vehicle, including a fleet vehicle, that has failed its initial exhaust emission test and at least one exhaust emission retest is eligible for a waiver, valid for no longer than the annual registration period, if it meets the following criteria:

A. the vehicle has failed to meet the appropriate standards of compliance for hydrocarbon as hexane or carbon monoxide emissions on its initial test and at least one exhaust emission retest after repair of the vehicle;

B. for post-1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than five years, the vehicle owner presents a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work;

C. the owner or a mechanic has diagnosed and attempted to repair the vehicle to pass reinspection, including interrogation of appropriate on board diagnostic systems;

D. except as provided in item E, the owner presents satisfactory evidence to the waiver surveillance inspector that a low emission adjustment, as described in part 7005.5065, subpart 4, as appropriate according to the exhaust emission test results, has been performed on the vehicle after the initial exhaust emission test and within 90 days before renewal of

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registration;

E. the owner presents satisfactory evidence to the waiver surveillance inspector that either of the following exceeds the repair cost limit under part 7005.5065, as modified by part 7005.5055, subpart 2, item B:

(1) the actual cost of the low emission adjustment as appropriate to the exhaust emission test results on the inspection report form; or

(2) the actual cost under subitem (1) plus the actual or estimated cost of additional repairs or adjustments necessary to bring the vehicle into compliance with exhaust emission standards;

F. the owner complies with evidence requirements under part 7005.5065;

G. the person performing the repairs or preparing the estimate completes all parts of the repair portion of the vehicle inspection report form and signs the report form; and

H. the vehicle passes the tampering inspection under part 7005.5025 or 7005.5035, if applicable, and emission control equipment inspection under part 7005.5060.

Subp. 2. **Waivers following repairs by persons other than mechanics.**

A. In cases in which a person other than a mechanic, including an owner, attempts to repair a vehicle, the person must take the actions listed on the low emission adjustment list, as appropriate according to the exhaust emission test results, and attempt to diagnose and perform other repairs necessary to bring the vehicle into compliance as if the vehicle were being presented for repair to a mechanic.

B. In cases where a person other than a mechanic attempts repair or in cases where there is no charge for the labor of vehicle repair, the repair cost limit of part 7005.5065 must be reduced solely by the expenditure for emission-related parts including parts on the low emission adjustment list. The owner shall comply with evidence requirements under part 7005.5065.

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Subp. 3. **Waiver documentation review.** The waiver surveillance inspector's duties in reviewing waiver requests consist of the provisions in items A to E.

A. To deny the issuance of a waiver to a vehicle unable to pass the emission control equipment inspection required by part 7005.5060.

B. To determine whether the vehicle should qualify for warranty repairs under applicable federal law. If so, the waiver surveillance inspector shall determine whether the owner has a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work. The agency shall distribute and require the use of a standard form for this purpose. The statement shall be signed and dated by the new car dealership after the vehicle failed its initial inspection and shall identify the vehicle and the dealership. If the owner has a statement conforming to these requirements, it shall be delivered to the waiver surveillance inspector who shall proceed with the remainder of the waiver duties described in items C to E. If the owner does not have a statement conforming to these requirements, no waiver shall be issued.

C. To verify that the repair and waiver documentation presented by the owner is properly completed and that the documents indicate that the waiver criteria have been met. The inspector shall also verify that the repair facility name and location are legible.

D. To issue a certificate of waiver if all waiver criteria have been met.

E. If a waiver has been requested but not all criteria have been met, explain to the owner what criteria are not satisfied and how they may be met. The agency shall provide printed explanations of the waiver process and criteria that the inspector will distribute to owners who are denied a waiver.

Subp. 4. **Form of certificate of waiver.** The owner of a vehicle granted a waiver shall receive a certificate of waiver, which shall be proof of compliance with part 7005.5055. Each

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valid certificate of waiver shall contain, at a minimum, the date of the test and the vehicle identification number to uniquely identify the vehicle.

The certificate of waiver and the vehicle inspection report printed by an automated emission testing system may be combined into a single form. The owner shall present the certificate of waiver to the department when making application for registration renewal.

Subp. 5. **Waiver due to technical difficulties.** The waiver surveillance inspector shall issue a waiver for a vehicle that cannot be subjected to the inspection required by parts 7005.5010 to 7005.5105 because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, of the vehicle. A copy of the waiver shall be retained for the agency's use.

A vehicle that, in the opinion of a mechanic employed by a fleet station, cannot be inspected because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, or because of limitations of the fleet station's inspection equipment, shall be referred to the waiver surveillance inspector. The waiver surveillance inspector shall indicate concurrence on that vehicle's inspection report by signature if the inspector concurs that a waiver due to technical difficulties should be issued for the vehicle. The fleet station mechanic shall then issue a certificate of waiver. A copy of the waiver shall be returned for the agency's use.

Subp. 6. **Thirty-day waiver.** The waiver surveillance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30-day period, the commissioner shall ~~send a notice requesting registration cancellation to the department~~ request the department not to renew the owner's registration unless the vehicle has been issued a certificate of compliance or

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certificate of waiver prior to registration renewal.

7005.5060 EMISSION CONTROL EQUIPMENT INSPECTION AS A CONDITION OF WAIVER.

Subpart 1. **Emission control equipment inspection.** If a certificate of waiver is requested under part 7005.5055, the vehicle shall be checked by the waiver surveillance inspector for obvious tampering with the emission control equipment. The waiver surveillance inspector shall visually inspect for obvious tampering, removal, or disassembly of parts. At a minimum, the waiver surveillance inspector shall check if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in control of air pollution in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 2. **Failure of emission control equipment inspection.** Except for vehicles described in part 7005.5025, item C or D, the vehicle shall fail the emission control equipment inspection if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in the control of air pollution in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 3. **Repair or replacement.** The owner shall repair or replace any elements of the factory-installed motor vehicle pollution control system that are not in place as identified in subpart 1 unless the vehicle is a vehicle described in part 7005.5025, item C or D.

Subp. 4. **Tampering dispute.** In a tampering dispute, the vehicle owner or operator may elect to leave the inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the inspection. The contractor must not bill

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the agency for an emission control equipment inspection upon the owner's or operator's return visit.

7005.5065 REPAIR COST LIMIT AND LOW EMISSION ADJUSTMENT.

Subpart 1. **Cost limit.** The repair cost limit is $75 for vehicles of model years before 1981 and $200 for vehicles of 1981 and later model years.

Subp. 2. **Exclusions.** In determining the costs of repairs and adjustments included in the repair cost limit, the following costs shall be excluded:

A. costs covered by a warranty; and/or

B. costs necessary to repair or replace any emission control part or parts that have been removed, dismantled, or rendered inoperative in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 3. **Evidence of repair cost.** Except as provided in part 7005.5055, subpart 2, item B, the cost of repair or estimate of the cost of repair under this part is eligible to be credited to the repair cost limit when applying for a waiver if the owner presents to the waiver surveillance inspector a legible and itemized receipt for parts replaced and labor, provided that the costs relate to the emission control system. The receipt must have a legible date and the date must be within 90 days before registration expiration and after the vehicle failed its initial inspection. The waiver surveillance inspector shall be responsible for examining receipts for such items and determining which costs are eligible to be credited toward the repair costs limit. The eligible total cost shall be indicated on the vehicle inspection report form.

Subp. 4. **Low emission adjustment.** The commissioner shall establish a list of diagnostic and repair procedures that are likely to reduce a vehicle's carbon monoxide and hydrocarbon exhaust emissions. The commissioner shall modify the list to reflect changes in motor vehicle technology.

7005.5070 LETTER OF TEMPORARY EXTENSION AND LETTER OF ANNUAL EXEMPTION.

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Subpart 1. **Letter of temporary extension.**

A. If a subject vehicle requiring registration renewal will not be available, due to the vehicle's absence or storage, or the owner's absence or illness, for an inspection within the state during the 90-day period before the registration renewal, the owner may apply in writing to the commissioner for a letter of temporary extension.

B. The owner shall provide the reason for requesting a letter of temporary extension, certify that the vehicle will not be available for inspection during the 90-day period before the registration renewal, and state when the vehicle will be operated again within the metropolitan area. The owner shall sign the application and certify that the information contained in the application is correct.

C. Upon approval of the application by the commissioner, a letter of temporary extension shall be issued to the vehicle owner. The letter shall allow the owner to proceed with vehicle registration renewal.

D. An owner of a vehicle who has received a letter of temporary extension shall have the vehicle inspected:

(1) during the 90-day period preceding the registration renewal date;

(2) by an inspection station outside Minnesota which, in the judgment of the commissioner, performs inspections equivalent to those established in parts 7005.5010 to 7005.5105; or

(3) within 30 days of again operating the vehicle within the metropolitan area.

E. The owner shall complete and sign the affidavit portion of the letter of temporary extension and submit it to the registrar when making application for registration renewal. A letter of temporary extension is valid for no longer than the annual registration period. The registrar shall forward all extension affidavits to the agency within ten days after the end of the calendar month in which the affidavits are received.

F. If the owner who has received a letter of

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temporary extension has the vehicle inspected at an inspection station outside of Minnesota, the owner shall submit evidence of the inspection to the commissioner within 30 days of commencement of the operation of the vehicle in the metropolitan area.

G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall ~~request the department to revoke the owner's registration~~ notify the department of such noncompliance and shall request the department not to renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration or renewal.

H. If the owner fails to comply with items D to F, the owner of the subject vehicle shall not be eligible to receive a letter of temporary extension for the next annual registration period.

I. If a dispute arises regarding whether the owner has complied with items D to F, the owner may elect to present evidence of compliance. ~~The owner shall provide evidence~~ to the commissioner within 30 days of notification from the commissioner that the ~~owner's registration has been revoked~~ owner has failed to comply with items D to F. The commissioner shall review the evidence. The commissioner shall approve or disapprove the application for the letter of temporary extension.

Subp. 2. **Letter of annual exemption.**

A. An owner whose subject vehicle is customarily domiciled outside of the metropolitan area may apply in writing to the commissioner for a letter of annual exemption.

B. The owner shall complete and sign the affidavit portion of the letter of annual exemption and present it to the registrar when making application for registration renewal. A letter of annual exemption shall not be valid for longer than the annual registration period.

7005.5075 EVIDENCE OF MEETING STATE INSPECTION REQUIREMENTS.

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Either of the documents listed in items A and B shall be accepted by the department, the agency, and the registrar as evidence that a subject vehicle is in compliance with the requirements of parts 7005.5010 to 7005.5105, unless there is reason to believe that it is a false document:

A. a certificate of compliance or certificate of waiver issued by an inspection station or fleet inspection station; or

B. a letter of annual exemption, as provided in part 7005.5070.

7005.5080 FLEET INSPECTION STATION PERMITS, PROCEDURES, AND INSPECTION.

Subpart 1. **Permit application.** A registered owner of a fleet of 50 or more subject vehicles may apply to the agency for a permit to establish a fleet inspection station. Two or more persons each owning 25 or more subject vehicles may apply jointly for a fleet inspection station permit. The agency must not issue a fleet inspection station permit unless the agency finds that the applicant maintains an established facility that meets the requirements in items A to C.

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

B. At a minimum, the applicant shall own or lease the following equipment and maintain it in good working condition:

(1) ignition timing light with timing advance tester;

(2) ignition-operated tachometer;

(3) dwell meter;

(4) positive crankcase ventilation tester; and

(5) tools necessary for the installation, adjustment, repair, or replacement of items in the low emission adjustment list.

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C. The applicant shall either:

(1) obtain a hydrocarbon, as hexane, and carbon monoxide emission analyzer that meets or exceeds the equipment specifications for performance warranty short tests in Code of Federal Regulations, title 40, section 85.2215, as amended, and employ a mechanic to conduct the required inspections; or

(2) enter into an agreement with the agency's inspection and maintenance contractor to have the required inspection performed. Only the equipment required to test and repair the types of vehicles in the fleet inventory will be required in the fleet station. The commissioner shall maintain a list of analyzers that the commissioner finds will perform in a manner that produces accurate test results.

Subp. 2. **Permits.**

A. Before the initial application for a fleet inspection station permit is approved, an application fee must be paid to the agency as provided in part 7005.5105 and an inspection of the premises shall be made by the agency.

B. A fleet inspection station permit shall expire one year from the date of issuance.

C. A permitted fleet inspection station shall not inspect or certify vehicles unless the vehicles are owned by the fleet owner.

D. An application for renewal of a fleet inspection station permit must be submitted to the agency at least 45 days before permit expiration.

E. A fleet inspection station permit is only applicable to the fleet's inspection facility located at the address shown on the fleet station permit. If a fleet owner wishes to have a permit for inspection facilities at more than one address, separate permits must be obtained for each facility.

F. A fleet inspection station permit issued by the agency is not transferable.

G. If a permittee desires to change the name or address on a permit and the changes do not involve a change of ownership, the permittee shall return the permit to the agency

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for cancellation and submit an application form for a new permit to the agency, along with an application fee as provided in part 7005.5105. The agency shall cancel the returned permit and issue a new permit.

H. A fleet inspection station whose permit has been revoked, suspended, or has expired shall immediately cease the activity requiring a permit.

I. In the event of loss, destruction, or mutilation of the permit, the permittee may obtain a duplicate upon furnishing satisfactory proof of the fact. A fleet inspection station that loses a fleet station permit issued by the agency and finds the original after obtaining a duplicate shall immediately surrender the original permit to the agency.

J. A fleet inspection station that does not employ a mechanic to conduct the inspections shall immediately cease to operate as a fleet inspection station. The permittee shall immediately notify the agency if it has ceased to employ a mechanic and that it has ceased to operate as a fleet station.

K. When a fleet inspection station permit is surrendered, suspended, or revoked, all unused vehicle inspection report forms must be returned to the agency.

L. Surrender, suspension, or revocation of a permit shall not prevent the agency from carrying out investigative or enforcement actions against the permittee for violations of state statutes, rules, or conditions of the permit.

Subp. 3. **Equipment and records.**

A. All testing equipment and instrumentation must be maintained in good condition. Periodic calibration and maintenance of testing equipment must be accomplished under performance short test specifications in Code of Federal Regulations, title 40, section 85.2217, as amended. Recommendations by the commissioner for calibration and intervals between calibration shall be a condition of the fleet inspection station permit and shall supersede all other conflicting recommendations.

B. A record of calibrations performed on each

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instrument shall be maintained by the fleet inspection station, indicating the date and signature of the technician performing the calibration.

C. The fleet inspection station equipment, span gases, records, and premises shall be subject to scheduled and unscheduled checks for accuracy and condition by an agency representative.

D. The applicant or permittee shall provide information relevant to the operation of the fleet inspection station to the agency if requested by the commissioner.

Subp. 4. **Inspection frequency.** All fleet vehicles for which a fleet inspection station permit has been issued shall be inspected by the fleet station mechanic according to the schedule in part 7005.5015.

Subp. 5. **Test procedure.** The tampering inspection and exhaust emission test shall be conducted on fleet vehicles by a fleet inspection station mechanic under parts 7005.5015 to 7005.5030 with the exception of part 7005.5030, subpart 6. If the fleet vehicle fails the exhaust emission test, the vehicle shall be preconditioned according to either the procedure in part 7005.5030, subpart 6, or if the fleet inspection station does not have a dynamometer, the procedure in part 7005.5030, subpart 9. 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 75 revolutions per minute.

Subp. 6. **Vehicle inspection reports.** Inspection reports must be issued and processed by the fleet inspection station according to items A to H.

A. A vehicle inspection report shall be completed, marked "passed," and issued for each vehicle passing the inspection.

B. Vehicle inspection reports that are incorrect shall have corrections authenticated and initialed by the mechanic conducting the inspection. Voided or unusable reports and certificates shall be returned to the agency.

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C. Only the fleet station mechanic may sign a fleet vehicle inspection report, except in the case of a fleet station permit holder who secures the services of the agency's inspection and maintenance contractor to perform the inspection.

D. Upon completion of the tampering inspection, exhaust emission test, and the vehicle inspection report, the original copy of each completed fleet vehicle inspection report must be forwarded to the agency within two weeks of completion of the inspection.

E. A legible copy of each completed vehicle inspection report must be retained by the fleet station conducting the inspection for a minimum period of 24 months after inspection.

F. The completed vehicle inspection report marked "passed" or "waived" shall be accepted as evidence that the vehicle is a fleet-inspected vehicle and has met the requirements of parts 7005.5010 to 7005.5105 if the vehicle registration has not expired.

G. Vehicle inspection report forms shall be obtained from the agency for a fee specified in part 7005.5105. If the number of vehicles to be inspected by the fleet inspection station is reduced after receipt of the report forms and before their use, the excess report forms shall be returned to the agency or used in later years.

H. The fleet inspection station permittee is responsible for the security and accountability of the vehicle inspection report forms. If the vehicle inspection report forms are lost or stolen, the fleet station operator shall notify the agency in writing within 24 hours of discovery of the loss and indicate the number of report forms and the serial number of the report forms. Refusal or failure to report lost report forms are grounds for revoking a fleet station permit.

Subp. 7. **Fleet audit.** Upon request of the commissioner, a fleet inspection station permittee shall submit vehicles designated by the commissioner numbering five percent of the fleet or five motor vehicles annually, whichever is greater, but

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no more than 25 vehicles, for inspection at inspection stations operated by the contractor.

Subp. 8. **Analyzer inspections.** A fleet station emission analyzer shall not be used for an exhaust emission test under part 7005.5030 if it does not register the agency's field audit gases within the tolerances prescribed in part 7005.5090, if there is a leak in the sampling system or the calibration port, or if the sample handling system is restricted. An agency representative shall tag a fleet inspection station's emission analyzer upon a determination that the analyzer does not meet the requirements of this subpart. The analyzer must not be used for testing until the tag is removed by an agency representative. The analyzer failure tag must be affixed to the analyzer in a manner so that the tag cannot be removed without breaking a seal or mutilating the tag. The tag must contain the following information, at a minimum:

A. a brief statement that the analyzer does not meet agency operating requirements for exhaust emission test purposes;

B. the reason for tagging;

C. the values of the agency's field audit gases used and the analyzer readings obtained;

D. the date of the agency's inspection; and

E. the signature of the agency representative tagging the analyzer.

A fleet inspection station may lease or borrow an emission analyzer for temporary use while the station's approved analyzer is being repaired, provided that an agency representative has approved its use.

7005.5085 INSPECTION STATIONS ACTING AS FLEET INSPECTION STATIONS.

A. Inspection stations may provide inspection services to a holder of a fleet inspection station permit under a separate agreement between the inspection station contractor and the holder of a fleet inspection station permit.

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B. The agency may not be billed for inspection fees for a fleet vehicle inspected under an agreement between the contractor and the holder of a fleet inspection station permit.

C. Vehicle inspection reports must be filled out at the time of inspection by an inspection station operating as a fleet inspection station in the same manner required for nonfleet vehicles.

D. The holder of the fleet inspection station permit is responsible for maintaining records and reports required by part 7005.5080.

7005.5090 EXHAUST GAS ANALYZER SPECIFICATIONS.

Exhaust gas analyzers used at inspection stations and fleet inspection stations must comply with the specifications in items A to J.

A. Analyzer accuracy: the hydrocarbon analyzer must have an accuracy of plus or minus 15 parts per million at 200 to 220 parts per million concentration hydrocarbon as hexane; the carbon monoxide analyzer must have an accuracy of plus or minus 0.10 percent carbon monoxide from 1.0 percent to 1.2 percent concentration; and the carbon dioxide analyzer must have an accuracy of plus or minus 0.5 percent carbon dioxide from 5.0 percent to ten percent concentration.

B. Response time: response time of the analyzers must be 15 seconds to 95 percent of the final reading.

C. Analyzer drift: analyzer drift (up-scale and down-scale zero and span wander) must not exceed plus or minus 0.1 percent carbon monoxide, plus or minus 15 parts per million hydrocarbon as hexane, and plus or minus 0.5 percent carbon dioxide on the lowest range capable of reading 1.0 percent carbon monoxide, 200 parts per million hydrocarbon as hexane, or five percent carbon dioxide during a one-hour period.

D. Calibration: the analyzer must have the capability of being calibrated electronically or by gas.

E. Flow restriction indicator: the analyzer must be operated within manufacturer's specifications for sample flow.

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The sampling system must be equipped with a visual and audible warning that sample flow is not within operating requirements.

F. Interference effects: sampling the following concentrations of interfering gases must not cause the hydrocarbon as hexane reading to change plus or minus ten parts per million: 15 percent carbon dioxide in nitrogen, ten percent carbon monoxide in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

Sampling the following concentrations of interfering gases must not cause the carbon monoxide reading to change plus or minus 0.05 percent: 15 percent carbon dioxide in nitrogen, 1,600 parts per million hydrocarbon in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

Sampling the following concentrations of interfering gases must not cause the carbon dioxide reading to change plus or minus 0.5 percent: 1,600 parts per million hydrocarbon in nitrogen, ten percent carbon monoxide in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

G. Repeatability: the repeatability of the exhaust analyzers used must be within plus or minus ten parts per million hydrocarbon as hexane; plus or minus 0.05 percent carbon monoxide; and plus or minus 0.2 percent carbon dioxide during five successive measurements of the same sample.

H. Sensitivity: the analyzer sensitivity must be ten parts per million hydrocarbon as hexane, 0.05 percent carbon monoxide, and 0.2 percent carbon dioxide.

I. Temperature and humidity operating range: the analyzer must be capable of meeting all specifications from zero to 85 percent relative humidity and temperature of 35 to 110 degrees Fahrenheit.

J. Range of measurement: the analyzer must have a range of zero to 2,000 parts per million hydrocarbon as hexane, zero to ten percent carbon monoxide, and zero to at least ten

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percent carbon dioxide.

7005.5095 TEST EQUIPMENT CALIBRATION.

Calibration procedures at least as stringent as those required for the federal warranty short test in Code of Federal Regulations, title 40, section 85.2217, as amended, shall be performed on test equipment by the inspection station contractor and fleet inspection stations. In addition, the procedures in items A to E shall be performed by all inspection and fleet inspection stations, unless an alternative equivalent procedure has been approved by the commissioner. In the absence of appropriate procedures, all equipment shall be calibrated and maintained according to manufacturer's specifications.

A. Exhaust analyzers shall be warmed up for at least 30 minutes before performing a 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 to the analyzer have been completed.

C. The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last 30 days.

D. A multipoint calibration shall be performed before the analyzer is used for certification testing following replacement of an optical or electrical component that can cause a variation in the analyzer reading.

E. Complete records shall be kept for maintenance, repair, and calibration of all testing equipment.

7005.5100 PUBLIC NOTIFICATION.

A. The department shall notify each registered owner of a motor vehicle required to be inspected under parts 7005.5010 to 7005.5105 before the time of each annual registration renewal that the vehicle will be required to satisfy the requirements of parts 7005.5015 to 7005.5030. The agency shall also attempt to notify all nonregistered tax-exempt

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vehicle owners of the requirements of inspection.

B. The agency or the contractor shall establish a system to respond to inquiries from members of the public regarding the compliance status of a subject vehicle under the program including last inspection date, whether a certificate of compliance or certificate of waiver has been issued, and the reason for waiver.

7005.5105 INSPECTION FEES.

Subpart 1. **Inspection fee.** Beginning with the effective date of parts 7005.5010 to 7005.5105, the fee for inspection at an inspection station must not exceed $10. The fee must be paid to the registrar for subject vehicles at the time of reregistration. After that, the commissioner shall annually establish the inspection fee at an amount of up to $10. The fee shall be established by October 1 for later years, and 30 days' notice shall be given to the registrar of changes in the fee.

Deputy registrars shall report to the department letters of extension along with registrations made and inspection fees collected in the same manner required for registrations under Minnesota Statutes, section 168.33, subdivision 2.

Subp. 2. **Reinspections; elective inspections.**

A. The inspection fee shall entitle an owner to an initial inspection and two reinspections. The commissioner shall establish a fee for each third and subsequent reinspection. The fee must not be more than $10 and shall be paid to the commissioner by the owner.

B. Elective inspections not required by parts 7005.5010 to 7005.5105 shall be allowed only upon approval of the commissioner. The commissioner shall establish a fee for each elective inspection. The fee must not be more than $10 and must be paid to the commissioner by the owner.

Subp. 3. **Fleet inspection stations.**

A. The fee due upon initial application for a permit for a fleet inspection station as required in part 7005.5080, subpart 2, shall be $200.

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B. The fee due upon application for permit renewals shall be $100.

C. The agency shall charge a fee of $1.50 for each inspection report form requested under part 7005.5080, subpart 6, item G.

Subp. 4. **Use of funds.** Fees collected under this part must be deposited in the vehicle emission inspection account under Minnesota Statutes, section 116.65. Fees collected by deputy registrars are subject to deposit requirements in Minnesota Statutes, section 168.33, subdivision 2.

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Joan Anderson Growe
Secretary of State

1:45 PM

APPROVED AS TO FORM AND LEGALITY.

August 31 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

GORDON-DARBY

RECEIVED
SEP 14 1988
Minnesota Pollution Control Agency
Division of Air Quality

September 9, 1988

J. Michael Valentine
520 LaFayette Road
St. Paul, Minnesota 55155

Dear Mr. Valentine:

This letter is in response to your letter of July 28, 1988 requesting information and opinions to a list of questions. Our feedback is as follows:

1. The two options which are most apparent are reading fault codes from the ECM and non-intrusive functional tests of the emissions control systems. Fault codes can be recovered and are most useful in vehicle repair as opposed to vehicle testing. The question becomes what do you do with the codes? Do you fail an otherwise passing vehicle because of a fault code? We can and will technically accommodate what you want in the program, but we do not recommend fault code retrieval. Non-intrusive functional tests of the emissions control systems is a noble idea that no one has determined how to make work yet. There are numerous problems with its implementation. This is something that California has been working on but not resolved. I suggest you contact Larry Sherwood for more information. Frankly, you can have a excellent I/M program without any of the above discussed options.

2. This is a much debated question. Our position is that a dynamometer test may identify more failures, but takes longer (approximately 30-45 seconds), costs more (approximately 50 cents), is more dangerous to testing personnel and motorists, and usually requires the motorist to get out of the vehicle so an employee can operate the vehicle during the test.

3. Being more stringent than 207B requirements will put customers in a position of possibly failing and having no warranty protection and perhaps no way to remedy the situation. We would not recommend this. We are prepared to supply a great deal of emissions scores data if you need it. This data release would be confidential and subject to approvals. Please contact us if you are interested.

4. They can be tested for opacity (smoke), although very few fail if not under load. This is usually a political issue in that diesels are perceived as dirty and to not test them (even if they all pass) would be inequitable.

5. A wide variety of components can be checked for tampering. Time and cost estimates depend on the component list. Generally, the non-underhood items (fuel inlet restrictor, catalytic converter presence, plumtesmo test) can be efficiently inspected at minimal cost. The underhood inspecting is time consuming, costly, requires significant training, and has potential liability for vehicle damage. We would recommend the non-underhood inspection for newer vehicles (post 1984 or some reasonable cutoff date).

6. This is certainly possible. We grant many of the waivers in the Louisville program based on established criteria. The advantages include fewer state employees, efficient use of personnel, flexibility of private enterprise. The disadvantage is a potential appearance that the state has relinquished to much control.

7. Fees for "officially licensed" vehicles and for payable reinspections can be made at the time of the test. Special "charge" arrangements could be made for larger

municipalities. Fee collection and handling for these tasks are not financially significant. The best enforcement mechanism for government vehicles is bad press - this is a tough but true statement (we have been in this situation).

8. We believe that an efficient data system can be devised as we have done before. However, we are unable to get sufficient information from DPS at this time to be definitive.

9. There are equipment problems which we can address. Extra care must be taken so that vehicles are properly warmed up prior to testing.

10. A strong, positive PR campaign is very valuable. The contractor, at your discretion, can do the PR program. The contractor should be involved to some degree.

11. Many states have found this to be good practice. Its benefit varies depending upon the vehicle.

12. The contractor can be responsible for fleet data collection, auditing, and coordinating. This works quite well. There are many options, most of which work well, regarding contracting for fleet test. In Louisville, we are required to contract for fleet inspections. In Illinois, there are good, small, and local companies which have made it their business to conduct fleet inspections.

13. Startup can be assured by incentives for timeframes and penalties for being late. The fee for inspection structure should allow for fair compensation for the contractor and flexibility for variations in vehicle counts and changes in scope of work.

14. The standard procedure is to conduct inspections based on vehicle age. Substituting a 1972 engine in a 1988 vehicle would be considered tampering. Engine age is virtually impossible to verify.

The answers presented here are brief given the complexibility of the questions. We suggest a phone conference or personal meeting to more completely discuss the issues. We would be glad to come to Minnesota. If we can be of further assistance, please contact me.

Sincerely yours,

S. Jay Gordon, Jr.
PRESIDENT

SJG/ds

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October 10, 1988

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3 1988
Minnesota Pollution Control Agency
Division of Air Quality

Mr. David Thorton, Chief
Air Analysis and Program Development Section
Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

Dear David:

Hamilton Test Systems is pleased to have the opportunity to comment on the rough draft of the Minnesota Rules and Regulations for the Vehicle Emissions Inspection and Maintenance program. Our comments and suggestions are based on considerable experience in the conduct of Centralized Emission Inspection Programs.

Sincerely,

HAMILTON TEST SYSTEMS, INC.

J. Tom Binder
Marketing Representative

JTB:tfr

attachment

Comments - Mr. D. Thornton
October 10, 1988

Page 2, Subparagraph 12 D and E: These paragraphs delete diesel engines and vehicles powered by natural gas and propane from testing.

Hamilton Test Systems believe that light duty diesel vehicles should be included in the program for reasons indicated in our response to PCA's July 28, 1988 letter. It is also our experience that vehicles that have been improperly converted to natural gas and propane can emit HC and CO at levels exceeding federal standards.

Hamilton Test Systems recommends that you include diesel vehicles in the program and at a minimum have propane and natural gas vehicles inspected when converted.

Page 3, Subparagraph 16: Strike "50 mph and 30 mph". The loaded mode operation at 30 mph is adequate for preconditioning (and test) of vehicles. 50 mph operation will consume an additional 30 seconds of lane position time and add an unnecessary hazard for vehicles with worn tires etc. If single curve (water brake) dynamometers are used, the load can be varied by varying the speeds, i.e. load is normally varied by engine size. If eddy-current dynamometers are used, the load in Hp can be varied at 30 mph to meet the needs for conditioning various vehicles. A more appropriate definition of "cruise mode" might help the loaded driving condition at a predetermined speed that is simulated on a chassis dynamometer."

Page 4, Subparagraph 27: Strike "at 50 mph and 30 mph". Insert "simulating driving conditions at approximately 25-30 mph, for the purposes of preconditioning the vehicle and providing diagnostic information to the vehicle driver" after "chassis dynamometer". See discussion above.

Page 4, Subparagraph 30: Insert "a certificate" after "means". This helps clarify the specific document for proof of compliance.

Page 6, Subparagraph 2, A: Strike "90" insert "180". This would allow flexibility for those who leave Minnesota for the winter months to have their vehicle tested before they leave the state.

Page 7, A. Tampering Inspection: Insert a period (.) after "restrictor" and insert "If this equipment has been" before "removed" in this also insert "and/or restrictor" after "convertor" in the next sentence. Editorial clarification.

Page 8, C.: Insert the name of the documents or refer to previous or post citations.

Page 8, D.: Insert a period (.) after "(CO_2)" and delete the remaining sentence. Editorial clarification.

Page 9, E. 6th line: Insert "7%" after "than" and delete the rest of the sentence. This avoids an underhood inspection and the concomitant increase in cost.

Page 9, F. 4th line: Delete "two operating points on the dynamometer road load curve," this is an editorial clarification in that a point at steady state idle is not an operating point.

Page 10, G, 5a: Strike sentence and insert "All vehicles shall be run in drive for automatic transmission and 3rd gear for manual transmissions." This language is taken directly from the Federal Register 207 (b) requirements.

Page 10 G, 5c: Insert a period (.) after "neutral" and strike the rest of the sentence. As per the Federal Register.

Page 10, (6) 3rd line: Insert "In the latter case," and make "The" "the". In the same sentence delete "testing mode" and insert "tailpipe". This has the effect of clarifying the second sampling technique referenced in the previous sentence.

Page 13, D. 2nd sentence: It is unclear who shall do the tampering reinspection; State or contractor. Also there is some confusion in our minds as to if a computer generated Vehicle Inspection Report will meet the criteria of being stamped.

Page 14, 7005.5050, B: Delete the sentence. It may be illegal in Minnesota to stamp the title.

Page 15, 15.C.: Insert "or identification number" after "printed name". This avoids abuse of employees by those failing the test.

Page 19, D. 2: The wording is unclear as to purpose or intent.

Page 33, G: Insert "10" after "shall be within $\pm$".

Page 37: Insert section "D." to read "The Agency may contract with the Contractor for public information services related to the program." While this is inferred in some of the previous section it is never stated clearly.

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November 8, 1988

Mr. David Thornton
Chief, Air Analysis Section
Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

Dear David:

The letter attempts to discuss in some detail problems associated with construction and the regulatory scheme used in Wisconsin to assure a timely start-up. You may find it of use in your scheduling. Our construction people have put together the attached time schedule that shows the steps necessary to acquire, construct and operate the inspection network in a best case, worst case and normal case scenario. There are eight (8) incremental steps with the largest variables being site selection/option, planning and zoning, and construction.

Site Selection/Option - Acquisition of real estate can be difficult in MVI programs. Once analysis on vehicle data is completed, parcels are identified for potential inclusion in the network. If possible, options are taken on the land. Once the contract is awarded, negotiations can begin for the purchase of the parcel. Complications can arise when the parcel is sold before contract award, negotiations for sale of the parcel is protracted or negotiations fall through. Four (4) months in the worst case scenario.

Planning and Zoning - Reaction to inspection stations by various communities can run the gamut from wild eyed enthusiasm to recalcitrant NIMBY (Not In My Backyard). This community judgement is reflected in the zoning process which can take as long as 6 to 7 months to complete in the worst case scenario.

Construction - Construction can take as little as 3 to 4 months in the best case. Bad weather, labor problems, materials delays and slow building inspections can all combine to make construction last 5 to 6 months.

Cold weather also poses some unique problems in terms of timing. The construction "season" generally lasts from spring to fall due to ground freezing. Ground must be broken before the ground freezes. While it is possible to work on the buildings during the cold weather if the shell (walls) is complete, costs will increase. Finally, it is my understanding that asphalt plants close during the coldest winter months. This can cause delays in the final stages of construction.

Regulations of Construction Activities

The Wisconsin rules and regulations are silent on construction schedules and regulation. The RFP under the Contract Requirements section mandated that each contract proposal include a detailed schedule for the accomplishment of each critical task. The section went on to say penalties shall be paid by the contractor to the department for each month that the full network is not operational after April 2, 1984.

Wisconsin used a number of checks on construction activities including:

- Monthly progress reports during design and implementation phase. The reports outlined activities, actual or anticipated delays, problems, differences of interpretation and the resolution of any past problems.

- Detailed schedules on each aspect of design and construction.

- A contractor established and maintained quality assurance program to insure compliance with the contract.

- Inspection during construction by state departmental representatives and by the contractor with written documentation.

One of the most critical factors in establishing the credibility of any I/M program with the public is an accurate start up date. The time allotted for construction must be long enough to allow for some of the problems that typically slow down the design and implementation phase of the I/M program. I encourage you to allow a realistic schedule for construction activities and carefully think out the regulatory scheme for enforcing that schedule.

Sincerely,

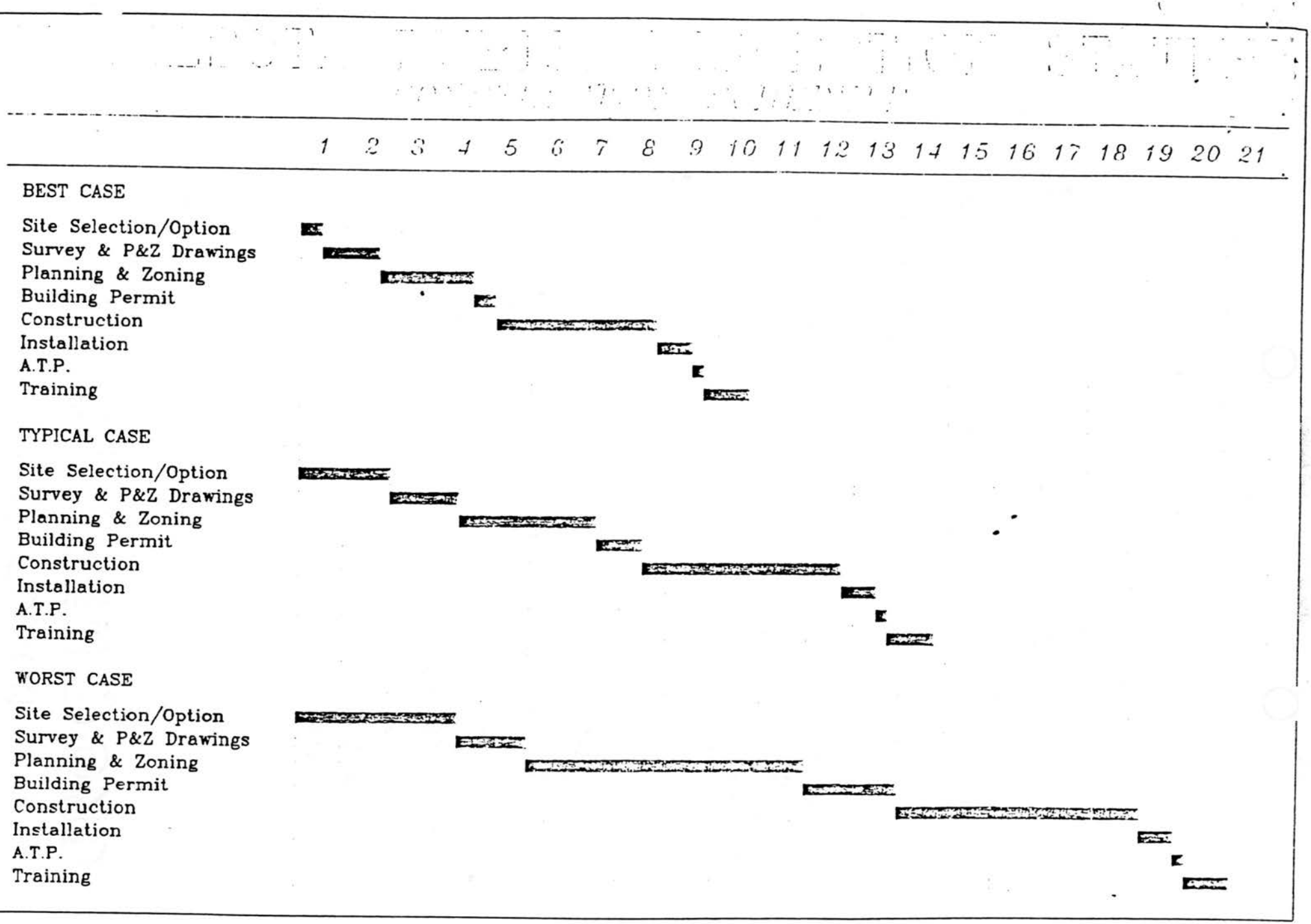
HAMILTON TEST SYSTEMS, INC.

J. Tom Binder
Senior Marketing Representative

JTB:tfr

enclosure

P.S. We view some of this information as proprietary and would appreciate your internal use only.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BEST CASE
Site Selection/Option
Survey & P&Z Drawings
Planning & Zoning
Building Permit
Construction
Installation
A.T.P.
Training
TYPICAL CASE
Site Selection/Option
Survey & P&Z Drawings
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Survey & P&Z Drawings
Planning & Zoning
Building Permit
Construction
Installation
A.T.P.
Training

GORDON-DARBY

November 16, 1988

RECEIVED

1988

David Thornton
Program Administrator
Minnesota Pollution Control Agency
520 LaFayette Road North
St. Paul, MN 55155

Dear Dave,

We would like to take this opportunity to respond to the first draft of rules for the Vehicle Emission Inspection Program in Minnesota. Before I get into those comments, however, I would like to clear up what I feel may have been erroneous information that was given to the Technical Advisory Committee Thursday, November 10, 1988.

(1) We believe it would be unwise to count on inspecting vehicles in two minutes on a dynamometer especially in inclement weather. On snowy days in the Wisconsin Program it has been observed that inspections may run from 4-7 minutes.

(2) We believe it would be a serious mistake to calculate the total number of inspection lanes or stations needed for the program based on each lane processing 40,000 - 50,000 vehicles per year. Gordon-Darby feels this would be an under designed inspection network and could cause long waits for Minnesota motorists. We believe the network should be based on a lane throughput of approximately 30,000 vehicles per lane per year.

the public to test? If so, shouldn't they have that entire time to come into compliance regardless of where they are in the testing process?

Page 7, Sec. 7005.5030 (a)

It is our recommendation that when a motorist fails the tampering inspection (initial inspection) that they be made aware that a tailpipe test will be conducted on the vehicle when it is returned for reinspection. A vehicle operator could have the tampered items repaired, only to return for reinspection and fail the tailpipe test. This could cause some P.R. problems for the program, when the public is caught up in making numerous trips between the inspection station and a repair facility (called the ping-pong effect).

Page 8, Sec. 7005.5030 (E)

A vehicle with a leaky exhaust system should be rejected not failed. The vehicle did not actually fail the emissions inspection. A leaking exhaust system makes it impossible to get accurate readings.

Page 9, Sec. 7005.5030 (E)

The Contractor will not know whether the vehicle does or does not have an air pump. We suggest setting the CO-CO2 average at either 6-1/2 or 7-1/2% not both. We have also found that a few vehicles without exhaust leaks will not generate an average concentration of 6-1/2 - 7-1/2% CO-CO2. We suggest that a manually initiated computer over-ride be allowed for these vehicles. Of course, a visual check for exhaust system leaks should precede this over-ride procedure.

Page 12, Sec. 7005.5030 (L-M)

As per our discussion at the T.A.C. meeting, it is virtually impossible to distinguish the model year of an engine. We recommend that vehicles be inspected according to the make and model year of the chassis. All registration information is also tracked by chassis.

Is a 1984 vehicle with a 1978 engine installed in it considered a tampered vehicle? If a vehicle must be inspected by engine year, we suggest it be referred to the waiver surveillance inspector.

Page 14, Sec. 7005.5050 (A-B)

From comments at the T.A.C. meeting it is not desirable to stamp registration notices or titles. It would probably be sufficient for the motorist to carry the inspection certificate or a portion of the certificate to the registrar to exhibit compliance.

Page 15, Sec. 7005.5060 (13)

What is the information that is wanted here? Each inspection can be reported by station, lane, inspector, and analyzer number. We suggest deleting the words "inspection number by."

Page 15, Sec. 7005.5060 (c)

It is not desirable for an inspectors name to appear on documents that are widely dispersed to the public. We suggest an inspector number for each inspector. This will meet EPA requirements.

Page 16, Sec. 7005.5060 (20)

In the Louisville program repair facilities are also tracked by federal I.D. numbers. All businesses who employ more than one person have an F.E.I.D. number. These numbers are unique. For businesses with one employee the individual's social security number is used. We suggest this be added to the information supplied on the repair form.

Page 34, Sec. 7005.5140 (c)

ADD: A single point gas calibration should be conducted each hour of inspection station operation on analyzers in use. An electronic calibration should be conducted before each inspection.

We thank you for this opportunity to comment. Gordon-Darby would be glad to attend any meetings you think appropriate for us to attend. We would be happy to answer questions or provide further information, if requested. Thanks again.

Best wishes,

Mike Kennedy
I/M PROJECTS DIRECTOR

MK/ds

DEC

November 18, 1988

RECEIVED
Minnesota Pollution Control Agency
Division of Air Quality

Ms. Barbara Jackson
Minnesota Pollution Control Agency
Supervisor Mobile Sources Unit
Division of Air Quality
520 Lafayette Road
St. Paul, Minnesota 55155

Dear Ms. Jackson:

It was a pleasure talking with you last week in regards to the newly passed automobile pollution act. I appreciated your invitation to represent "gray" market car owners who imported automobiles prior to law enactment, and who met at the time of importation Federal and State requirements, but I will be out of town on business December 8. You indicated that you would present any materials I might provide and report back to me on how the information was received.

While living overseas in Belgium for 3 years as an employee of 3M Company, I purchased a 1979 Lotus Esprit automobile which I imported into the State of Minnesota upon my return in full compliance of Federal and State E.P.A. and Department of Transportation regulations.

As the car was at time of importation in full compliance, I am requesting that this automobile and all others in this "gray" market classification be specifically exempted from inspection as they are obviously exempted from the law (for sure if imported prior to the laws enactment). Not to specifically exempt this classification will mean unnecessary expense for the car owners, additional paperwork and non-productive time for both the car owner and the state and generally a waste of time for all, as these automobiles met all regulations in place prior to enactment.

I have attached per your request, for your committees use, the United States Environmental Protection Agency, Automotive Imports-Fact Sheet, applicable at the time my Lotus was imported, December 1985. Please make reference to page 4, 3.0 One Time Exceptions and page 5, 3.1 Five Year Personal Use Exception.

Frankly, I cannot envision my request not being honored as again, this automobile met all regulations in place at the time of importation. As the Act per Subd. 5 (Certificate of Waiver) limits repair costs to $75.00 for cars manufactured prior to 1981 and modification to this Lotus would cost $2,000 plus it seems obsurb to require any inspection. Such automobiles are known at the time of importation not to meet requirements and therefore have been exempted by law by the Federal E.P.A.

I have been a bit repitious above, but want to insure all understand and appreciate the fact that cars such as my Lotus met all laws and requirements at the time of importation and therefore should be exempted from any inspection of emissions as it is known that they will be outside the E.P.A. requirements.

Again, thanks for presenting this information. I will call you upon my return.

Sincerely,

Anthony E. Sultan

Anthony E. Sultan
18450 Maple Ridge Road
Wayzata, Minnesota 55391

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Home 476-4853

AES:kf

Enc.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

NOV 18 1988

REPLY TO THE ATTENTION OF:

J. David Thornton, Chief
Program Development and Air Analysis Section
Division of Air Quality
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

RECEIVED
NOV 2 c 1988
Minnesota Pollution Control Agency
Division of Air Quality

Dear Mr. Thornton:

Enclosed are the U.S. Environmental Protection Agency's comments on Minnesota's draft Motor Vehicle Inspection and Maintenance (I/M) program regulations. In addition to a review by Region V, the draft regulations were reviewed by the Office of Mobile Sources' Motor Vehicle Emissions Laboratory (MVEL) and Field Operations and Support Division.

While we understand the regulations provided to us were in rough draft, as a general comment, the regulations can be tightened in a number of places. We will be glad to do another review of your final draft regulations. For your information and use, we are enclosing a copy of the regulations used in the State of Wisconsin's I/M program. These regulations provide a good model and we believe you may find them very useful.

The MVEL is currently preparing a response to technical questions contained in your July 28, 1988, letter. Your I/M regulations should be revised taking into consideration the information contained in this response, once it is received.

If you have any questions, please contact Jay Bortzer at (312) 886-1430, or Marlon Thompson at (312) 886-6063, of my staff.

Sincerely yours,

Steve Rothblatt, Chief
Air and Radiation Branch

Enclosures

November 16, 1988
U.S. Environmental Protection Agency Comments
Minnesota Vehicle Inspection and Maintenance Regulations

Section 7005.5010 Definitions:

Subp. 11 Registrar: It is unclear whether the word "registered" is the appropriate word to be used in this section.

Subp. 12 Subject Vehicle: The regulations should be more specific in regard to vehicles whose engine has been switched. A different engine put into a vehicle must meet the requirements for the chassis configuration, not the engine age. In our response to your July 28, 1988, letter, this subject will be addressed in more detail. The information contained in the response should be reviewed and appropriate changes made to the regulation.

Subp. 21 Field Calibration Gas: It is recommended that the terminology "audit gas" be used to make it clearly distinguishable from calibration gas as defined in Subp 13.

This subpart should read, "...a gas with assigned concentrations that is required to check the accuracy of emissions analyzers and the calibration gas used by inspection stations and vehicular repair facilities."

Subp. 27 Loaded Mode Test: Subp. 16 defines cruise mode the same as loaded mode test. Why use two different terms?

Subp. 28 Model Year: The State may want to consider defining reconstructed vehicle as opposed to only referencing MS 168A.01, if possible.

Subp. 30 Proof of Compliance: "Proof of Compliance" seems to duplicate Subp, 3, "Certification of Compliance."

Subp. 37 Waiver surveillance inspector: It is unclear what is meant by an "ad hoc tampering inspection." The terminology "ad hoc" should be eliminated.

Section 7005.5020 Requirement For Inspections:

Subp. 2 A and B: It is unclear why a distinction is being made between "non-tax exempt subject vehicles" and "tax exempt vehicles."

Subp. 3.A: Change "...within 30 consecutive calendar days of the initial inspection" to "...within 30 consecutive calendar days after the initial inspection."

Section 7005.5030 Emissions and Tampering Inspection:

Subp. A Tampering Inspection: It is strongly recommended that Minnesota perform both an emissions and tamper inspection on each vehicle, whether or not the vehicle fails one or the other test.

The State is urged to consider establishing a Plumbtesmo test. If this provision is included in the regulation, the regulation should specify that the catalytic converter must be replaced if the vehicle fails the Plumbtesmo test. The catalytic converter should also be replaced if the fuel tank restrictor test is failed.

As a note, it is not possible to repair a catalytic converter. This terminology should be deleted.

Subp. B Emissions standards:

The following emission standards are recommended:

			Effective 1/1/93	
Model Year	HC PPM	CO%	HC PPM	CO%
1976-77	600	5.0	600	4.0
1978-79	400	4.0	400	3.0
1980	275	2.5	275	2.0
1981.and Later	220	1.2	220	1.2

The State should specify which speed and load combination will be used on the various vehicles to be tested. The speed/load test conditions should be based on the engine size. Particular attention should be paid to the fact that today's smaller vehicles may be tested at inappropriately high loads. The U.S. Environmental Protection Agency is preparing a proposed rulemaking to amend the Motor Vehicle Emissions Control System Performance Warranty for short tests to allow the following tests:

Engine Size (Cylinders)	Roll Speed (MPH)	Nominal Loading (HP)
4 or less	22-25	2.8 - 4.1
5-6	29-32	6.4 - 8.4
7 or more	32-35	8.4 - 10.8

Subp. C Document requirements: This subpart should provide a specific list of documents.

Subp. E Carbon dioxide dilution: This subpart should be rewritten to read: "The vehicle emission test shall be failed if the vehicle exhaust system leaks and/or causes a dilution to the exhaust gas indicating CO2 concentrations to be less than 5%. The sum of the CO and CO2 concentrations recorded for the idle speed reading from an exhaust outlet shall not be less than 7 1/2% for vehicles without air injection systems, and not less than 6 1/2% for vehicles with air injection systems.

Subp. F Dynamometer loadings: The last clause of this provision should read: "one point at low cruise and one at steady state idle."

Subp. G (4) Emission testing procedure: This provision should be rewritten to read, "The test shall be conducted first at low cruise and then at idle mode."

Subp. H (1) When loaded test may be omitted: Instead of, "...of any other condition", this section should read, "...or any other condition."

Subp. I (1) When loaded test shall be omitted: It is unclear why a person should be given the option to refuse the loaded mode inspection.

Section 7005.5040 Tampering Inspection:

This section should specifically state that the catalytic converter and fuel inlet restrictor will be checked. We also urge the State to consider a Plumbtesmo check. It should be specifically stated that the catalytic convertor must be replaced if the vehicle fails any of these tests.

(1) The words, "...may be checked" should be changed to "...will be checked."

(1)(A)(1) This provision should read, "Any obvious loose, cracked, or deteriorated hoses in any of the emission control systems."

Section 7005.5060 Vehicle Inspection Report:

The vehicle inspection report should also have space to record the following information: model year of engine and information on the engine where engine switching has occurred.

In item 17 the maximum repair cost should be specified.

(22)(B)(3) and (4):

It is suggested that Item 3 be worded, "Instructions for waiver applications if failure of reinspection occurs, and,"

It is suggested that item 4 precede item 3.

Section 7005.5070 Waiver of Emission Coverage:

This section is somewhat redundant with Section 7005.5090.

It is strongly recommended that waivers not be given to people who do their own repairs on vehicles. Allowing "self-repairs" will add significantly to the waiver rate. Experience has shown that the State will experience twice as many waivers by allowing these types of waivers.

(A) (1) Criteria. A vehicle shall be granted a waiver if:

This provision should read, "...at lease one reinspection after repair."

(A) (4) Criteria. A vehicle shall be granted a waiver if:

The window for repairs is too extreme. This needs to be tightened up. It is strongly recommended that only repairs that take place after the initial inspection be acceptable for a waiver. The approach currently outlined might encourage people to get "repairs" prior to the initial test. This could waste money, since most vehicles will pass the test and it could cause clean vehicles to have worse emissions. Studies by USEPA shows that mechanics typically cause an increase in emissions if they are presented clean cars to repair.

(B) Low emission adjustment: This provision should read, "...CO and/or HC...."

(D) (2): This provisions provides that the State shall distribute a standard form to be used in conjunction with waiver/warranty determinations but that the use of the form is not required. The State should consider requiring that the form be used.

Section 7005.5080 Letter of Exemption:

This section seems to imply that under certain circumstances a subject vehicle can obtain a letter of exemption without obtaining a test. This should be changed.

Section 7005.5090 Repair Cost Limit, Low Emissions Adjustment and Emission Related Repairs:

We strongly discourage the use of a low emission tune-up requirement for waiver purposes. USEPA believes mechanics are better left using their judgement about how to diagnose and repair vehicles. A mechanic training program would help to ensure the quality and adequacy of repairs. The use of a check list and repair form to indicate which repairs were performed is worthwhile, especially for evaluating waiver efforts.

These issues will be addressed in more detail in USEPA's response to your July 28, 1988, letter.

Section 7005.5100 Fleet Station Permits, Procedures and Inspection:

The analyzer requirement for fleets should be at least BAR 80 but it is recommended that a BAR 84 analyzer be required. The BAR 84 analyzer will ensure that quality control procedures have been performed and will print out test results with an automatic pass/fail determination.

Subp. 2.Permits E:

This provision should also specify that the fleet owner can only conduct tests on the company's vehicles.

Section 7005.5120 Exhaust Gas Analyzer Specifications:

This section requires the use of the Section 207(b) analyzer specifications, which are weaker than the current industry standard (i.e. BAR 80 and BAR 84). It is recommended that at a minimum Minnesota adopt the BAR 84 specifications. The State should also consider the use of barometers as part of the emission test equipment to adjust calibration.

Section 7005.5130 Equipment Calibration:

2.0 The calibration requirements for the central lanes should be much tighter than the short test requirement. It is recommended that multiple calibrations and leak checks be performed each day and periodic multi-point calibrations be performed at least monthly.

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LAURIE P. HUUSKO
JAMES C. WICKA
MICHAEL D. PEDERSON
PAUL W. ANDERSON
ROBERT M. MURPHY
[illegible]RLA J. BUTZ

December 5, 1988

RECEIVED
DEC 06 1988
Minnesota Pollution Control Agency
Division of Air Quality

Ms. Barbara Jackson
Pollution Control Agency
520 Lafayette Avenue
St. Paul, MN 55155

Re: Motor Vehicle Inspection and Testing Rules and Regulations

Dear Ms. Jackson:

The Minnesota Deputy Registrars Association (MDRA) requests that draft rule 7005.5160 be deleted from the final proposed rules. As we discussed on the telephone, this rule, if adopted, would permit an emission inspection contractor to provide the same services 175 deputy registrars now are authorized to provide under Minnesota Statutes, Section 168.33.

It is my understanding that the draft rules were taken from Wisconsin's emission inspection rules. The Wisconsin licensing system is different than Minnesota's. In Minnesota there are private individuals and public offices such as cities and counties that are appointed to provide license registration and renewal services to the public. Draft rule 7005.5160 would have a negative impact on the current system which has operated efficiently for several decades.

As lobbyist for MDRA, I will be happy to work with you and the Technical Committee to arrive at rules which deputy registrars can effectively implement in order to assure a smooth motor vehicle inspection operation in Minnesota. I will be at the December 8 Technical Committee meeting to answer any questions you or any of the committee members may want to ask.

Sincerely,

Robert G. Renner, Jr.

cc: MDRA Board of Directors

UNITED TECHNOLOGIES CONTROL SYSTEMS

Hamilton Test Systems, Inc.

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January 3, 1989

Ms. Barbara Jackson
Director, Motor Vehicle Inspection Program
Pollution Control Agency
520 Lafayette Drive North
St. Paul, Minnesota 55155

RECEIVED
JAN 09 1989
Minnesota Pollution Control Agency
Division of Air Quality

Dear Barb,

Please find our written comments covering the topics discussed at your last Technical Advisory Committe (TAC) meeting. These comments speak to the subject areas of the test procedure, tampering, test report and vehicle fleet. Where practically possible we have suggested specific language in the draft rules and regulations to accomplish these comments in the subject area. These comments are consistent with our August 25, 1988 letter to Michael Valentine on the 14 questions and our October 10, 1988 letter to David Thornton on the first edition of the rules and regulations.

Subject Area:	Test Procedure
Draft Rules:	Page 1; 7005.5010 Definitions Subparagraph 7, Cruise Mode.
Cross Reference:	Page 3; Subparagraph 21, Loaded Mode Test. Page 9; Subparagraph F, Dynamometer Loadings.
Current Language:	"Cruise Mode" means the loaded driving conditions at 50 MPH and 30 MPH that are simulated on a chassis dynamometer.
Suggested Change:	"Cruise Mode" means the loaded driving conditions at a predetermined speed or horsepower that is simulated on a chassis dynamometer.

Implications: The loaded mode operation at 30 MPH is adequate for preconditioning (and test) of vehicles. The 50 MPH operation will consume an additional 30 seconds of lane position time and add an unnecessary hazard for vehicles with worn tires. This change allows the test to be defined, in conjunction with the loaded mode change suggested below, as low cruise which is consistent with the test procedure as outlined on page 9; 7005.5030 Emissions and Tampering Inspection; F. Dynamometer Loadings.

Draft Rules:	Page 3; Subparagraph 21, Loaded Mode Test.
Cross reference:	Page 1; Subparagraph 7, Cruise Mode. Page 9; Subparagraph F, Dynamometer Loadings.
Current Language:	"Loaded mode test" means an exhaust emissions test conducted at 50 MPH and 30 MPH on the chassis dynamometer as prescribed in this chapter.
Suggested Change:	"Loaded mode test" means an exhaust emissions test conducted at approximately 25 to 35 MPH at a specified horsepower on the chassis dynamometer as prescribed in this chapter.

Implications: See discussion above. This change defines the test as low cruise which is consistent with the test procedure as outlined on page 9; 7005.5030 Emissions and Tampering Inspection; Subparagraph F. Dynamometer loadings.

Subject Area: Tampering Inspection
Draft Rules: Page 7; 7005.5030 Emission and Tampering Inspection
Subparagraph A. Tampering Inspection
Current Language: Each subject vehicle shall be visually inspected for the presence of a catalytic convertor and fuel tank restrictor. If the restrictor or convertor are removed or seriously damaged, the vehicle shall fail the initial inspection and no emissions test results shall be reported to the driver. The driver shall be instructed to replace or repair the covertor, before reinspection, and warned of state and federal regulations regarding emission system tampering.
Suggested Changes: Each subject vehicle shall be visually inspected for the presence of a catalytic convertor, fuel tank inlet restrictor and a firmly seated unvented gas cap. If the inlet restrictor, convertor or gas cap are removed damaged, as determined by the inspection, the vehicle shall fail the initial inspection and no emission test results shall be reported to the driver. The driver shall be instructed to replace or repair the convertor (and restrictor when applicable) and/or gas cap before reinspection, and advised of state and federal regulations regarding emissions system tampering.

Implications: The suggested changes to this section have the effect of adding the unvented fuel cap check. It also removes a subjective term (seriously) and replaces it with a phrase that will allow objectivity (as determined by the inspection) when the PCA and the contractor specify the tests to be used in the tampering check.

Subject Area: Test Procedure
Draft Rules: Page 8; 7005.5030 Emissions and Tampering Inspection
Subparagraph E. Carbon dioxide diluton.
Current language: The vehicle emission test shall be failed if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the exhaust gas analyzer. CO_2 shall not be less than 5%, and the sum of the CO and CO_2 concentrations recorded for the idle speed reading from an exhaust outlet shall not be less than 7 1/2% for vehicles without air injection systems, and not less than 6 1/2% for vehicles with air injection systems.

Subject Area: Vehicle Fleet
Draft Rules: Page 5; 7005.5010 Definitions
Subparagraph 33 Subject Vehicle D.
Current Language: A motor vehicle powered soley by electricity, natural gas, propane, liquified petroleum, or other fuel as approved by the Director;
Suggested Changes: A motor vehicle powered soley by electricity or other fuel as approved by the Director;

Implications: Vehicles that are converted from gasoline to other fuels can increase the amount of hydrocarbons emitted especially if the conversion is done incorrectly. The suggested change removes these vehicles from the exempt category.

Subject Area: Waiver of Compliance
Draft Rules: Page 17; 7005.5070 Waiver of Compliance
Subparagraph A.2.
Current Language: For all post - 1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than 5 years, the vehicle operator presents a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work.
Suggested Changes: For all post - 1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than 5 years, the vehicle operator presents a signed statement from a manufacturer's approved repair facility stating that the vehicle is not eligible for emission control system warranty work.

Implications: This suggested change makes the language consistent with the Federal Register (CFR. 8512214) Short Test Warranty.

Sincerely,

HAMILTON TEST SYSTEMS, INC.

J. Tom Binder
Senior Marketing Representative

JTB:tfr

UNITED TECHNOLOGIES HAMILTON TEST SYSTEMS

2202 North Forbes Blvd.
Tucson, Arizona 85745
602/620-4000
Telecopier: 602/624-4923
Telex: 666420 HAMILTON TUC

February 22, 1989

Ms. Barbara Jackson
Director, Mobile Sources Unit
Pollution Control Agency
520 Lafayette Drive North
St. Paul, Minnesota 55155

Dear Barb:

Please find below our written comments concerning the recent draft version of the Rules and Regulations. The positive impact of the Technical Advisory Committe (TAC) is reflected in this version of the rules and the TAC should be commended.

Where practically possible we have suggested specific language to accomplish the goals in subject areas as well as provide the rationale. These comments are consistent with previous correspondence.

Subject Area: 7005.5010 Definitions

Location:	Page 2; Subparagraph 9. Customarily Domiciled.
Current Language:	"Customarily domiciled means that a vehicle is domiciled outside the seven county metropolitan area for a minimum of <> months each calendar year.
Suggested Language:	"Customarily domiciled means the location in which a vehicle is domiciled for more than six (6) months of each calendar year.
Rationale:	The legislative intent of this phrase was to accomodate those vehicles that are kept out of the metropolitan area for a major part of the year. The suggested language defines that time frame as half of the year.

Subject Area: 7005.5020 Requirement for Inspections

Location:	Page 7; Subparagraph 2. When inspection required; B. for tax exempt subject vehicles.
Current Language:	the inspection shall be completed annually 1) at an inspection station during the months of December or January.
Suggested Language:	the inspection shall be completed annually 1) at an inspection station during the months of January or February.

Rationale: The rules as written would involve double the work load in December with no vehicles tested in February. An efficient design of the network would be very difficult. This could result in long delays in December or under utilized facilities the other eleven (11) months of the year.

Subject Area: 7005.5030 Tampering Inspection and Emission Testing

Location: Page 9; (1) Tampering Inspection; C.
Current Langauage: In a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area to seek proof of non-tampering and return to the same inspection facility with documentation within 20 days and continue with the tampering inspection. Such returns shall not cause the contractor to bill the agency for an exhaust emission test.
Suggested Language: In a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area to seek proof of non-tampering and return to the same inspection facility with documentation within twenty (20) days and continue with the tampering inspection.
Rationale: The last line is not necessary since it is made clear in section 7005.5180 that the state is billed for $10/vehicle/year for emission testing.

Subject Area: 7005.5030 Tampering Inspection and Emission Testing

Location: Page 13, G.2.C.
Current Language: the vehicle speed of 30 + 5 miles per hour as measured from the dynamometer idle roll shall be used for all loaded conditions to provide diagnostic information for vehicles that fail the emission test as appropriate.
Suggested Language: the vehicle speed of 30 + 2 miles per hour as measured from the dynamometer idle roll shall be used for all loaded conditions to provide diagnostic information for vehicles that fail the emission test as appropriate.
Rationale: Lowering the variance of $\pm$ 5 mph to $\pm$ 2 mph would provide for a more accurate test. The goal of

the loaded portion of the test is to hold the engine at a constant throttle setting. A ten (10) mile per hour window could cause varying (and potentially inaccurate) emission readings.

Subject Area: 7005.5050 Vehicle Inspection Report

Location:	Page 17; A.8.
Cross Reference:	7005.5020; Page 7; Subparagraph 3 7005.5030; Page 11, Table 1 Heading Page 12, Table 2 Heading
Current Language:	Maximum emission concentrations
Suggested Language:	Maximum allowable emission concentrations
Rationale:	An important technical point in that you are measuring the amount of emissions as allowed under the current program standards.

Subject Area: 7005.5030 Tampering Inspection and Emission Testing

Location:	I. When loaded mode preconditioning shall be omitted.
Current Language:	None
Suggested Language:	In lieu of loaded mode an alternate form of engine preconditioning shall be performed when the loaded mode is infeasible.

Subject Area: 7005.5050 Vehicle Inspection Report

Location:	Page 19; 24.
Current Language:	24. tampering inspection and results
Suggested Language:	18. tampering inspection and results
Rationale:	The paragraph B. immediately following calls for the repair industry to fill out the tampering inspection. By changing the number you allow for the contractor to perform the test which should lead to more consistent results.

Subject Area: 7005.5130 Fleet Station Permits

Location:	Page 35; Subparagraph 4. Inspection Frequency.
Current Language:	All fleet vehicles, for which a fleet inspection station permit has been issued, shall be inspected by an agency representative at least once within each twelve (12) month period.

Suggested Language: All fleet vehicles, for which a fleet inspection station permit has been issued, shall be inspected by a fleet station mechanic at least once within each twelve (12) month period.

Rationale: The number of fleet vehicle may be so large that it would be difficult to allot the number of personnel for the state to inspect every car. The fleet mechanic should do the inspection on an annual basis.

Subject Area: 7005.5150 Exhaust Gas Analyzer Specifications

Location: Page 40; K.
Current Language: none
Suggested Language: Barometric Pressure Compensation: Exhaust gas analyzers shall include compensation and correction for variations in atmospheric barometric pressure which would otherwise cause accuracy and drift errors in excess of those specified in items A and C above.

Rationale: The variance of the barometric pressure by as little as an inch can cause analyzers to become out of calibration and possibly give inaccurate readings. Accounting for barometric pressure should give more integrity to the test.

Sincerely,

HAMILTON TEST SYSTEMS, INC.

J. Tom Binder
Senior Marketing Representative

JTB:tfr

pc: S. Petersen
E. Sampson

BJ

RECEIVED
MAR 02 1989
Minnesota Pollution Control Agency
Division of Air Quality

DEPARTMENT OF PUBLIC SAFETY

STATE OF MINNESOTA
OFFICE MEMORANDUM

TO : J. David Thorton
MPCA

DATE: February 28, 1989

FROM : Michael P. Ryan,
Title and Reg Manager

PHONE: 296-2497

SUBJECT: Proposed Rules for Inspection and Maintenance

My Department has requested that I put the concerns in writing to you pertaining to the last draft of the proposed rules.

Section 7005.5110 A (5)
The last sentence, " The registrar shall forward all extension affidavits to the agency within 30 days." The department would like that changed to state clearly that the registrar must only submit such to you every 30 days. The same is true of the same section B (2).

Section 7005.5110 A (7)
The Department does not want to get into revoking registrations. I know you and I and Church spoke about this and the revocation was more of a threat than a reality but the Department does not wish to have it mentioned in the formal rules.

Section 7005.5170 A
The department wishes to point out that there is no fiscal statement attached to such notification and that there will be an expected cost every year for such notification.

I don't think these requests will cause too many problems with the exception of the revocation. If you have any questions please feel free to contact me. Thank you.

State Board of Investment

Notice of Meeting

The State Board of Investment will meet on Wednesday, December 7, 1988 at 8:30 a.m. in Room 15, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, December 6, 1988 at 2:00 p.m. in Conference Room "A", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will conduct a general meeting at 9:00 a.m. on Friday, December 9, 1988. The meeting will be held at the Capitol Holiday Inn, Sibley Room A & B, second floor.

Minnesota Pollution Control

Division of Air Quality

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Emission Testing of Motor Vehicles in Metropolitan Area

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing emission testing of vehicles registered in the metropolitan area. The adoption of the rule is authorized by *1988 Minnesota Laws* Ch. 661 (to be codified as *Minnesota Statutes* §§ 116.60-.65), which requires the Agency to annually inspect motor vehicle emission control equipment and conduct emission testing on vehicles registered in the metropolitan area.

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Barbara Jackson
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: (612) 296-7212

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will accepted until January 20, 1989. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is adopted.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Hazardous Waste Division
Tanks and Spills Section

Outside Opinion Sought Regarding Development of Rules for Underground Storage Tank Management

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of adopting rules applicable to owners and operators of underground storage tanks (UST) in the state. The MPCA intends to base the rule on technical standards and corrective action requirements for USTs published by the U.S. Environmental Protection Agency as Part 280 of Title 40 of the *Code of Federal Regulations* in the *Federal Register* September 23, 1988. Authorization for MPCA to adopt UST rules is provided by *Minnesota Statutes* §§ 116.49 (1986).

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 25th day of April, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached proposed Inspection and Maintenance rules, Minnesota Rules, parts 7005.5010 to 7005.5105, to all persons who have registered their names with the Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required by Minnesota Statutes, Section 14.07, subd. 2 (1988).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules, to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of April, 1989.

Gerald L. Willet

Gerald L. Willet
Commissioner

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Motor Vehicle Inspection

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7005

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Proposed Permanent Rules Relating to Motor Vehicle Inspection and Testing Program

Rules as Proposed (all new material)

7005.5010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in part 7005.0100 apply to the terms used in parts 7005.5010 to 7005.5105, unless the terms are defined in this part.

Subp. 2. **Agency representative.** "Agency representative" means an agency employee or contractor designated by the commissioner to conduct inspections and tests, gather information, and perform other activities related to vehicle inspection and testing.

Subp. 3. **Calibration gas.** "Calibration gas" means a gas or gas mixture of known concentration that is used to establish the response curve of an emission analyzer.

Subp. 4. **Certificate of compliance.** "Certificate of compliance" means a serially numbered inspection report marked "passed" indicating a motor vehicle complies with the requirements of parts 7005.5010 to 7005.5105.

Subp. 5. **Certificate of waiver.** "Certificate of waiver" means a serially numbered inspection report marked "waived" indicating that a motor vehicle complies with the requirements of part 7005.5055.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 7. **Constant four-wheel drive.** "Constant four-wheel drive" means four-wheel drive that cannot be converted to two-wheel drive except by removing one of the vehicle's drive shafts.

Subp. 8. **Contractor.** "Contractor" means a person, business firm, partnership, or corporation with whom the agency has a contract that provides for the operation of one or more

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inspection stations.

Subp. 9. **Customarily domiciled.** "Customarily domiciled" means that a vehicle, although registered to an owner residing in the metropolitan area, is kept outside the metropolitan area for a minimum of 11 months each calendar year and is not generally used for transportation within the metropolitan area.

Subp. 10. **Dealer.** "Dealer" has the meaning given in Minnesota Statutes, section 168.27.

Subp. 11. **Department.** "Department" means the Department of Public Safety.

Subp. 12. **Drive wheels.** "Drive wheels" means the pair of wheels that propel a vehicle.

Subp. 13. **Emission control equipment inspection.** "Emission control equipment inspection" means the inspection of the emission control equipment conducted by the waiver surveillance inspector under part 7005.5060.

Subp. 14. **Emission inspector.** "Emission inspector" means the individual who performs the vehicular inspection for the contractor.

Subp. 15. **Exhaust emissions.** "Exhaust emissions" means substances emitted into the atmosphere from the tailpipe of a motor vehicle.

Subp. 16. **Field audit gas.** "Field audit gas" means a gas with assigned concentrations that is required to check the accuracy of emission analyzers and calibration gas used by inspection stations, fleet inspection stations, and vehicular repair facilities.

Subp. 17. **Fleet inspection station.** "Fleet inspection station" means a facility for the inspection of motor vehicle fleets operated under a permit issued by the agency under part 7005.5080.

Subp. 18. **Fleet owner.** "Fleet owner" means an owner of at least 50 subject vehicles, or two or more persons each owning 25 or more subject vehicles.

Subp. 19. **Fleet vehicle.** "Fleet vehicle" means a subject motor vehicle owned by a person holding a fleet inspection

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station permit.

Subp. 20. **Idle mode test.** "Idle mode test" means an exhaust emission test conducted with the vehicle at idle.

Subp. 21. **Inspection report.** "Inspection report" means a document issued by an inspection station or fleet inspection station that indicates the vehicle has been inspected in accordance with parts 7005.5010 to 7005.5105.

Subp. 22. **Inspection station.** "Inspection station" means a facility for motor vehicle inspection operated under contract with the agency.

Subp. 23. **Letter of annual exemption.** "Letter of annual exemption" means a letter issued by the commissioner for the annual exemption of a vehicle from the state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 24. **Letter of temporary extension.** "Letter of temporary extension" means a letter issued by the commissioner for the extension of the time period for a vehicle to meet state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 25. **Loaded mode.** "Loaded mode" means operation of a vehicle at approximately 30 miles per hour on the chassis dynamometer as prescribed in part 7005.5030, subpart 6.

Subp. 26. **Low emission adjustment.** "Low emission adjustment" means diagnostic or repair procedures that are likely to reduce carbon monoxide or hydrocarbon emissions and are included on a list established by the commissioner under part 7005.5065, subpart 4.

Subp. 27. **Metropolitan area.** "Metropolitan area" has the meaning given in Minnesota Statutes, section 473.121.

Subp. 28. **Model year.** "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer. If the manufacturer does not designate a production period, "model year" means the calendar year.

Subp. 29. **Motor vehicle or vehicle.** "Motor vehicle" or "vehicle" means a passenger automobile, station wagon, pickup truck, or van, as defined in Minnesota Statutes, section

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168.011, licensed for use on the public streets and highways or a passenger automobile, station wagon, pickup truck, or van exempt from registration or fees under Minnesota Statutes, section 168.012, subdivision 1, or 437.448.

Subp. 30. **Nonfleet vehicle.** "Nonfleet vehicle" means any subject vehicle except for a subject vehicle owned by a person holding a fleet inspection station permit.

Subp. 31. **Owner.** "Owner" means "registered owner" as defined in Minnesota Statutes, section 168.011, subdivision 5a.

Subp. 32. **Registrar.** "Registrar" means the registrar or deputy registrar of motor vehicles under Minnesota Statutes, section 168.33.

Subp. 33. **Rescue vehicles.** "Rescue vehicles" means vehicles that are used for rescue operations.

Subp. 34. **Span gas.** "Span gas" means a gas of known concentration that is used routinely to set the output level of an emission analyzer.

Subp. 35. **Subject vehicle.** "Subject vehicle" means a non-tax-exempt motor vehicle registered to an owner residing in the metropolitan area or a tax-exempt motor vehicle customarily domiciled in the metropolitan area except:

A. a motor vehicle manufactured before the 1976 model year;

B. a motor vehicle with an engine manufactured for a model year before 1976;

C. a motor vehicle registered as classic, pioneer, collector, or street rod under Minnesota Statutes, section 168.10;

D. a motor vehicle powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen;

E. a motor vehicle powered solely by a diesel cycle engine; and

F. fire apparatus, ambulances, and rescue vehicles.

Subp. 36. **Tampering inspection.** "Tampering inspection" means the inspection of the catalytic converter, fuel inlet restrictor, and the gas cap conducted by the emission inspector

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under part 7005.5025.

Subp. 37. **Tax-exempt.** "Tax-exempt" means exempt from license fees under Minnesota Statutes, section 168.012, subdivision 1, or 473.448.

Subp. 38. **Waiver.** "Waiver" means the act of excusing a motor vehicle from complying with part 7005.5050, subpart 2.

Subp. 39. **Waiver surveillance inspector.** "Waiver surveillance inspector" means the agency employee or contractor charged with performing the emission control equipment inspection and approving or disapproving applications for certificates of waiver.

7005.5015 INSPECTION REQUIREMENT.

Subpart 1. **General.** In accordance with Minnesota Statutes, sections 116.60 to 116.65, and parts 7005.5010 to 7005.5105, subject vehicles shall be inspected annually at an inspection station or a fleet inspection station.

Subp. 2. **Inspection requirement.** Subject vehicles shall be inspected according to the following schedule:

A. for non-tax-exempt subject vehicles, the inspection must be completed at an inspection station or fleet inspection station as a prerequisite to registration renewal within 90 days before expiration of current registration; or

B. for tax-exempt subject vehicles, the inspection shall be completed annually:

(1) at an inspection station during the months of January and February; or

(2) at a fleet inspection station at a time designated by the owner and approved by the commissioner.

Subp. 3. **Reinspections.** Subject vehicles exceeding the maximum allowable emission concentrations or failing the tampering inspection during the vehicle's inspection are entitled to reinspection under part 7005.5035.

7005.5020 DESCRIPTION OF INSPECTION AND DOCUMENTS REQUIRED.

Subpart 1. **Location and components of inspection.** Except as provided in part 7005.5035, item D, an inspection shall

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consist of a tampering inspection and an exhaust emission test. The inspection and testing shall be performed at an inspection station or fleet inspection station.

Subp. 2. **Document requirements.** Each vehicle that is inspected at an inspection station must be accompanied by one of the following documents that identifies the vehicle by make, model year, vehicle identification number, license plate number, and registered owner's name and address: a current Minnesota registration renewal notice, a current Minnesota registration card, or a Minnesota certificate of title.

7005.5025 TAMPERING INSPECTION.

Each subject vehicle shall be visually inspected for and shall be required to have an unvented fuel cap, a fuel inlet restrictor, and a catalytic converter if the vehicle was equipped with these items at the time of manufacture. If an unvented fuel cap is not in place, the tampering inspection shall continue and the owner shall be advised to replace the unvented fuel cap. If the fuel inlet restrictor or catalytic converter is not in place or is damaged, the vehicle shall fail the tampering inspection, except as provided in items C and D.

A. If the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. Fuel inlet restrictors shall be replaced with original manufacturer's equipment or equivalent. Catalytic converters shall be replaced with original manufacturer's equipment or new after-market equipment certified by the United States Environmental Protection Agency.

B. In a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the tampering inspection. The contractor may not

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bill the agency for an inspection upon the owner's or operator's return visit to continue the tampering inspection.

C. If the vehicle owner provides to the waiver surveillance inspector a release letter concerning the vehicle from the United States Environmental Protection Agency addressed to the United States Customs Service granting the vehicle exemption from conformity with federal emission requirements, the vehicle shall pass the tampering inspection.

D. If the vehicle owner presents satisfactory evidence and signs an affidavit certifying to the waiver surveillance inspector that the vehicle is a show car used primarily for transportation to and from and in exhibitions of show cars, and that the vehicle is not generally used for transportation, the vehicle shall pass the tampering inspection.

7005.5030 EXHAUST EMISSION TEST.

Subpart 1. **Procedure.** The exhaust emission testing procedure shall consist of the following procedure performed in accordance with Code of Federal Regulations, title 40, section 85.2212, as amended:

A. the vehicle shall be tested in idle mode with the transmission in neutral;

B. the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories off;

C. the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

D. vehicles with multiple exhaust pipes may be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the later case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 2. **Exhaust emissions to be tested.** The emission test for subject vehicles shall consist of sampling the exhaust emissions from the vehicle tail pipe or tail pipes and measuring

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the concentrations of hydrocarbon as hexane, carbon monoxide, and carbon dioxide. Exhaust emission concentrations shall be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first.

Subp. 3. **Exhaust emission standards.** A motor vehicle that is subject to inspection under part 7005.5015 and Minnesota Statutes, sections 116.60 to 116.65, must not emit carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, when measured in an inspection conducted under parts 7005.5010 to 7005.5105. A subject vehicle that emits carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, shall fail the emission test. Table 1 is effective through December 31, 1992. Table 2 is effective beginning January 1, 1993.

TABLE 1

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE UNTIL DECEMBER 31, 1992

Model Year	Maximum Allowable Emission Concentrations	
	Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	6.0
1978-1979	400	4.0
1980	275	2.5
1981 and later	220	1.2

TABLE 2

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE JANUARY 1, 1993

Model Year	Maximum Allowable Emission Concentrations	
	Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	5.5
1978-1979	400	3.5
1980	275	2.0
1981 and later	220	1.2

Subp. 4. **Grounds for prohibition of inspection.** Items A to C constitute grounds for the emission inspector to prohibit the inspection in part 7005.5020 and the entrance of the vehicle into the testing lanes:

A. the vehicle is carrying explosives or other hazardous material not used as fuel for the vehicle;

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B. gasoline, oil, or other fluid leaks are apparent and constitute a safety hazard; or

C. the vehicle is being towed or is towing a trailer.

Subp. 5. **Grounds for prohibiting or invalidating the exhaust emission test.** Items A and B constitute grounds for the emission inspector to invalidate the exhaust emission test results and refuse to continue with the test until the conditions are corrected:

A. the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the emission inspector; and

B. the measured carbon dioxide concentration is less than four percent by volume.

Subp. 6. **Loaded mode preconditioning after failing exhaust emission test.** If the vehicle fails the exhaust emission test, the vehicle shall be preconditioned on the chassis dynamometer and the procedures and diagnostic testing shall be conducted in accordance with items A and B. After preconditioning, the vehicle shall be tested at idle according to subparts 1 to 3.

A. The loaded mode preconditioning and diagnostic analysis consist of positioning the vehicle driving wheels on a chassis dynamometer, placing an emission sampling probe into the tailpipe, and analyzing the collected exhaust sample. The analysis for hydrocarbon as hexane and carbon monoxide is for diagnostic information only.

B. Vehicles shall be tested in the following manner:

(1) vehicles shall be run in drive for automatic transmissions and third gear for manual transmissions;

(2) during the loaded mode, the vehicle's engine shall be run at a constant throttle position to maintain the cruising speed for at least 30 seconds;

(3) the vehicle speed of 30 plus or minus two miles per hour as measured from the dynamometer idle roll shall be used for all loaded conditions to provide appropriate diagnostic information for vehicles that fail the emission test;

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(4) the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories turned off;

(5) the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

(6) vehicles with multiple exhaust pipes shall be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the latter case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 7. **Grounds for omitting loaded mode preconditioning.** The following constitute grounds for the emission inspector to omit the loaded mode preconditioning on a vehicle:

A. the vehicle has a driving wheel with a tire having less than 2/32 inch of tread or with metal protuberances or with obviously low tire pressure, as determined by superficial visual inspection; or

B. any other condition that in the opinion of the vehicle emission inspector precludes the use of loaded mode preconditioning for reasons of health and safety or damage, or both, to personnel, facilities, equipment, or the vehicle.

Subp. 8. **When loaded mode preconditioning shall be omitted.** Loaded mode preconditioning shall be omitted if:

A. the person presenting the vehicle for inspection refuses loaded mode preconditioning;

B. the vehicle is unable to attain the speed specified in subpart 6, item B, subitem (3);

C. the vehicle is equipped with constant four-wheel drive;

D. the vehicle is driven by a person who, because of physical incapacity, is unable to yield the driver's seat to the emission inspector; or

E. the vehicle is driven by a person who refuses to yield the driver's seat to the emission inspector.

Subp. 9. **Alternate preconditioning.** A vehicle for which

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loaded mode preconditioning is omitted under subpart 7 or 8 shall be preconditioned by completing items A to D.

A. the vehicle's transmission shall be placed in neutral;

B. the vehicle's engine speed shall be increased to 2,500 plus or minus 300 revolutions per minute as measured by a tachometer;

C. the speed in item B shall be maintained for at least 30 seconds; and

D. the vehicle engine speed shall be returned to idle.

After preconditioning, the vehicle shall be tested at idle as described in subparts 1 to 3.

Subp. 10. **Reconstructed vehicles.** All reconstructed subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine shall be classified by the model year and manufacturer's make of the exchanged engine. Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

7005.5035 REINSPECTIONS.

Vehicles that fail the inspection under parts 7005.5020 to 7005.5030 shall be allowed reinspection after repair or adjustment of the vehicle.

A. A vehicle failing the inspection may be reinspected at any inspection station after the vehicle has been repaired under part 7005.5050.

B. The vehicle shall be accompanied by its previous inspection reports and repair information. The repair

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information must be completed by the person performing the repairs and shall be indicated in the space provided on the inspection report form.

C. The reinspection must take place within 30 consecutive calendar days after the initial inspection, unless the owner presents satisfactory evidence that the repairs and adjustments that were performed on the vehicle and the reinspection could not have been completed within 30 days.

D. The vehicle presented for reinspection shall be inspected only for the items which were failed as indicated on the vehicle's previous inspection report form. If the owner or operator does not provide a copy of the inspection report forms as required in item B, then both a tampering inspection and exhaust emission test shall be conducted.

E. A vehicle shall be eligible for no more than two reinspections unless the owner pays an additional fee under part 7005.5105, subpart 2.

F. If the vehicle passes the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5040 and certificate of compliance under part 7005.5045. The certificate of compliance and the inspection report may be combined into a single form.

G. If the vehicle cannot pass the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5050 indicating noncompliance. The owner may then be eligible to apply for a certificate of waiver under part 7005.5055. If the owner requests a certificate of waiver, the waiver surveillance inspector shall review the request and shall approve or deny the request in accordance with part 7005.5055.

7005.5040 VEHICLE INSPECTION REPORT.

Subpart 1. **Required items.** The owner or operator of each vehicle inspected shall be provided with a vehicle inspection report at the time of each inspection. The vehicle inspection report shall be a design approved by the commissioner and shall provide space for the following information:

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A. license plate number;

B. vehicle identification number;

C. model year of vehicle;

D. model year of engine;

E. make of vehicle;

F. vehicle type;

G. odometer reading, in thousands of miles;

H. maximum allowable exhaust emission concentrations;

I. exhaust emission measurements of hydrocarbon as hexane, carbon monoxide, and carbon dioxide;

J. statement of pass/fail or valid/not valid, or waiver and the reasons, if applicable;

K. inspection/reinspection number for subject vehicle;

L. date and time of inspection;

M. serial number of report;

N. inspection station number, lane, inspector, and analyzer number;

O. reason for test termination before completion of test;

P. description of the low emission adjustment that is likely to reduce a vehicle's carbon monoxide and hydrocarbon emissions;

Q. tampering inspection and results;

R. for a failed vehicle:

(1) serial number of the previous test reports;

(2) for a post-1980 model year vehicle, certification that the test was performed in accordance with the emission control system performance warranty short test;

(3) for a nonfleet vehicle, the printed name or identification number of an individual who either performed the test or has actual knowledge of the performance of the test, or for a fleet vehicle, the signature of the individual who performed the test; and

(4) diagnostic information, as appropriate;

S. itemization of the repairs performed (repair

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actions or parts replacement may be coded);

T. cost of the emission-related repairs, or estimated cost of the emission-related repairs required if the repairs exceed the maximum specified repair cost, and cost of the low emission adjustment;

U. analyzer serial or identification number, if used by the individual performing the repairs;

V. idle exhaust emission concentrations of hydrocarbon as hexane and carbon monoxide, if an analyzer is used when making repairs;

W. complete name, address, telephone number, and federal identification number or social security number of the business or person making the repairs; and

X. date and signature of the person making the repairs.

Subp. 2. **Responsibility for completion of form.** The contractor shall be responsible for the completion of subpart 1, items A to R, for all nonfleet vehicles. The person performing the repairs or making the cost estimates shall be responsible for completion of subpart 1, items S to X.

Subp. 3. **Inspection report supplement.** The owner or operator of each vehicle failing the initial inspection shall receive an inspection report supplement, approved by the commissioner, containing:

A. the repair cost limit for emission-related repairs;

B. a description of low emission adjustment list;

C. the probable causes of noncompliance if diagnostic information is provided; and

D. instructions for waiver applications if failure of reinspection has occurred.

7005.5045 CERTIFICATE OF COMPLIANCE.

A certificate of compliance must be issued by an inspection station or fleet inspection station to a subject vehicle that passes the tampering inspection and exhaust emission test.

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The certificate of compliance shall be presented to the owner by personnel employed by the inspection station, fleet inspection station, or by the waiver surveillance inspector, as appropriate, upon receipt of the final vehicle inspection report indicating that the vehicle is in compliance with parts 7005.5010 to 7005.5105. The certificate of compliance shall be of a design approved by the department and the commissioner and shall contain, at a minimum, the date of the test and the vehicle identification number to uniquely identify the vehicle. The owner shall present the certificate of compliance to the department when making application for registration renewal.

7005.5050 VEHICLE NONCOMPLIANCE AND REPAIR.

Subpart 1. **Tampering inspection.** If the subject vehicle fails the tampering inspection or reinspection under part 7005.5025 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

A subject vehicle that fails its tampering inspection shall not be eligible to have its registration renewed unless:

A. the owner replaces or repairs the fuel inlet restrictor or replaces the catalytic converter under part 7005.5025;

B. the person completing the repairs has properly completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the inspection report form; and

D. the vehicle passes the tampering reinspection.

Subp. 2. **Exhaust emission test.** If the subject vehicle fails the exhaust emission test or retest under part 7005.5030 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

A subject vehicle that fails its exhaust emission test shall not be eligible to have its registration renewed until items A to D have been completed or a certificate of waiver has been issued under part 7005.5055:

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A. the owner repairs or adjusts the vehicle to reduce carbon monoxide and hydrocarbon as hexane emissions in accordance with the inspection report form and its supplement under part 7005.5040;

B. the person completing the repairs has completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the vehicle inspection report form; and

D. the vehicle passes the exhaust emission retest.

7005.5055 CERTIFICATE OF WAIVER.

Subpart 1. **Eligibility.** A vehicle, including a fleet vehicle, that has failed its initial exhaust emission test and at least one exhaust emission retest is eligible for a waiver, valid for no longer than the annual registration period, if it meets the following criteria:

A. the vehicle has failed to meet the appropriate standards of compliance for hydrocarbon as hexane or carbon monoxide emissions on its initial test and at least one exhaust emission retest after repair of the vehicle;

B. for post-1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than five years, the vehicle owner presents a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work;

C. the owner or a mechanic has diagnosed and attempted to repair the vehicle to pass reinspection, including interrogation of appropriate on board diagnostic systems;

D. except as provided in item E, the owner presents satisfactory evidence to the waiver surveillance inspector that a low emission adjustment, as described in part 7005.5065, subpart 4, as appropriate according to the exhaust emission test results, has been performed on the vehicle after the initial exhaust emission test and within 90 days before renewal of registration;

E. the owner presents satisfactory evidence to the

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waiver surveillance inspector that either of the following exceeds the repair cost limit under part 7005.5065, as modified by part 7005.5055, subpart 2, item B:

(1) the actual cost of the low emission adjustment as appropriate to the exhaust emission test results on the inspection report form; or

(2) the actual cost under subitem (1) plus the actual or estimated cost of additional repairs or adjustments necessary to bring the vehicle into compliance with exhaust emission standards;

F. the owner complies with evidence requirements under part 7005.5065;

G. the person performing the repairs or preparing the estimate completes all parts of the repair portion of the vehicle inspection report form and signs the report form; and

H. the vehicle passes the tampering inspection under part 7005.5025 or 7005.5035, if applicable, and emission control equipment inspection under part 7005.5060.

Subp. 2. Waivers following repairs by persons other than mechanics.

A. In cases in which a person other than a mechanic, including an owner, attempts to repair a vehicle, the person must take the actions listed on the low emission adjustment list, as appropriate according to the exhaust emission test results, and attempt to diagnose and perform other repairs necessary to bring the vehicle into compliance as if the vehicle were being presented for repair to a mechanic.

B. In cases where a person other than a mechanic attempts repair or in cases where there is no charge for the labor of vehicle repair, the repair cost limit of part 7005.5065 must be reduced solely by the expenditure for emission-related parts including parts on the low emission adjustment list. The owner shall comply with evidence requirements under part 7005.5065.

Subp. 3. Waiver documentation review. The waiver surveillance inspector's duties in reviewing waiver requests

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consist of the provisions in items A to E.

A. To deny the issuance of a waiver to a vehicle unable to pass the emission control equipment inspection required by part 7005.5060.

B. To determine whether the vehicle should qualify for warranty repairs under applicable federal law. If so, the waiver surveillance inspector shall determine whether the owner has a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work. The agency shall distribute and require the use of a standard form for this purpose. The statement shall be signed and dated by the new car dealership after the vehicle failed its initial inspection and shall identify the vehicle and the dealership. If the owner has a statement conforming to these requirements, it shall be delivered to the waiver surveillance inspector who shall proceed with the remainder of the waiver duties described in items C to E. If the owner does not have a statement conforming to these requirements, no waiver shall be issued.

C. To verify that the repair and waiver documentation presented by the owner is properly completed and that the documents indicate that the waiver criteria have been met. The inspector shall also verify that the repair facility name and location are legible.

D. To issue a certificate of waiver if all waiver criteria have been met.

E. If a waiver has been requested but not all criteria have been met, explain to the owner what criteria are not satisfied and how they may be met. The agency shall provide printed explanations of the waiver process and criteria that the inspector will distribute to owners who are denied a waiver.

Subp. 4. **Form of certificate of waiver.** The owner of a vehicle granted a waiver shall receive a certificate of waiver, which shall be proof of compliance with part 7005.5055. Each valid certificate of waiver shall contain, at a minimum, the date of the test and the vehicle identification number to

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uniquely identify the vehicle.

The certificate of waiver and the vehicle inspection report printed by an automated emission testing system may be combined into a single form. The owner shall present the certificate of waiver to the department when making application for registration renewal.

Subp. 5. **Waiver due to technical difficulties.** The waiver surveillance inspector shall issue a waiver for a vehicle that cannot be subjected to the inspection required by parts 7005.5010 to 7005.5105 because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, of the vehicle. A copy of the waiver shall be retained for the agency's use.

A vehicle that, in the opinion of a mechanic employed by a fleet station, cannot be inspected because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, or because of limitations of the fleet station's inspection equipment, shall be referred to the waiver surveillance inspector. The waiver surveillance inspector shall indicate concurrence on that vehicle's inspection report by signature if the inspector concurs that a waiver due to technical difficulties should be issued for the vehicle. The fleet station mechanic shall then issue a certificate of waiver. A copy of the waiver shall be returned for the agency's use.

Subp. 6. **Thirty-day waiver.** The waiver surveillance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30-day period, the commissioner shall send a notice requesting registration cancellation to the department.

7005.5060 EMISSION CONTROL EQUIPMENT INSPECTION AS A CONDITION OF WAIVER.

Subpart 1. **Emission control equipment inspection.** If a

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certificate of waiver is requested under part 7005.5055, the vehicle shall be checked by the waiver surveillance inspector for obvious tampering with the emission control equipment. The waiver surveillance inspector shall visually inspect for obvious tampering, removal, or disassembly of parts. At a minimum, the waiver surveillance inspector shall check if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in control of air pollution in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 2. **Failure of emission control equipment inspection.** Except for vehicles described in part 7005.5025, item C or D, the vehicle shall fail the emission control equipment inspection if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in the control of air pollution in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 3. **Repair or replacement.** The owner shall repair or replace any elements of the factory-installed motor vehicle pollution control system that are not in place as identified in subpart 1 unless the vehicle is a vehicle described in part 7005.5025, item C or D.

Subp. 4. **Tampering dispute.** In a tampering dispute, the vehicle owner or operator may elect to leave the inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the inspection. The contractor must not bill the agency for an emission control equipment inspection upon the owner's or operator's return visit.

7005.5065 REPAIR COST LIMIT AND LOW EMISSION ADJUSTMENT.

Subpart 1. **Cost limit.** The repair cost limit is $75 for

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vehicles of model years before 1981 and $200 for vehicles of 1981 and later model years.

Subp. 2. **Exclusions.** In determining the costs of repairs and adjustments included in the repair cost limit, the following costs shall be excluded:

A. costs covered by a warranty; and/or

B. costs necessary to repair or replace any emission control part or parts that have been removed, dismantled, or rendered inoperative in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 3. **Evidence of repair cost.** Except as provided in part 7005.5055, subpart 2, item B, the cost of repair or estimate of the cost of repair under this part is eligible to be credited to the repair cost limit when applying for a waiver if the owner presents to the waiver surveillance inspector a legible and itemized receipt for parts replaced and labor, provided that the costs relate to the emission control system. The receipt must have a legible date and the date must be within 90 days before registration expiration and after the vehicle failed its initial inspection. The waiver surveillance inspector shall be responsible for examining receipts for such items and determining which costs are eligible to be credited toward the repair costs limit. The eligible total cost shall be indicated on the vehicle inspection report form.

Subp. 4. **Low emission adjustment.** The commissioner shall establish a list of diagnostic and repair procedures that are likely to reduce a vehicle's carbon monoxide and hydrocarbon exhaust emissions. The commissioner shall modify the list to reflect changes in motor vehicle technology.

7005.5070 LETTER OF TEMPORARY EXTENSION AND LETTER OF ANNUAL EXEMPTION.

Subpart 1. **Letter of temporary extension.**

A. If a subject vehicle requiring registration renewal will not be available, due to the vehicle's absence or storage, or the owner's absence or illness, for an inspection

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within the state during the 90-day period before the registration renewal, the owner may apply in writing to the commissioner for a letter of temporary extension.

B. The owner shall provide the reason for requesting a letter of temporary extension, certify that the vehicle will not be available for inspection during the 90-day period before the registration renewal, and state when the vehicle will be operated again within the metropolitan area. The owner shall sign the application and certify that the information contained in the application is correct.

C. Upon approval of the application by the commissioner, a letter of temporary extension shall be issued to the vehicle owner. The letter shall allow the owner to proceed with vehicle registration renewal.

D. An owner of a vehicle who has received a letter of temporary extension shall have the vehicle inspected:

(1) during the 90-day period preceding the registration renewal date;

(2) by an inspection station outside Minnesota which, in the judgment of the commissioner, performs inspections equivalent to those established in parts 7005.5010 to 7005.5105; or

(3) within 30 days of again operating the vehicle within the metropolitan area.

E. The owner shall complete and sign the affidavit portion of the letter of temporary extension and submit it to the registrar when making application for registration renewal. A letter of temporary extension is valid for no longer than the annual registration period. The registrar shall forward all extension affidavits to the agency within ten days after the end of the calendar month in which the affidavits are received.

F. If the owner who has received a letter of temporary extension has the vehicle inspected at an inspection station outside of Minnesota, the owner shall submit evidence of the inspection to the commissioner within 30 days of commencement of the operation of the vehicle in the metropolitan

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area.

G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall request the department to revoke the owner's registration.

H. If the owner fails to comply with items D to F, the owner of the subject vehicle shall not be eligible to receive a letter of temporary extension for the next annual registration period.

I. If a dispute arises regarding whether the owner has complied with items D to F, the owner may elect to present evidence of compliance. The owner shall provide evidence to the commissioner within 30 days of notification that the owner's registration has been revoked. The commissioner shall review the evidence. The commissioner shall approve or disapprove the application for the letter of temporary extension.

Subp. 2. **Letter of annual exemption.**

A. An owner whose subject vehicle is customarily domiciled outside of the metropolitan area may apply in writing to the commissioner for a letter of annual exemption.

B. The owner shall complete and sign the affidavit portion of the letter of annual exemption and present it to the registrar when making application for registration renewal. A letter of annual exemption shall not be valid for longer than the annual registration period.

7005.5075 EVIDENCE OF MEETING STATE INSPECTION REQUIREMENTS.

Either of the documents listed in items A and B shall be accepted by the department, the agency, and the registrar as evidence that a subject vehicle is in compliance with the requirements of parts 7005.5010 to 7005.5105, unless there is reason to believe that it is a false document:

A. a certificate of compliance or certificate of waiver issued by an inspection station or fleet inspection station; or

B. a letter of annual exemption, as provided in part 7005.5070.

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7005.5080 FLEET INSPECTION STATION PERMITS, PROCEDURES, AND INSPECTION.

Subpart 1. **Permit application.** A registered owner of a fleet of 50 or more subject vehicles may apply to the agency for a permit to establish a fleet inspection station. Two or more persons each owning 25 or more subject vehicles may apply jointly for a fleet inspection station permit. The agency must not issue a fleet inspection station permit unless the agency finds that the applicant maintains an established facility that meets the requirements in items A to C.

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

B. At a minimum, the applicant shall own or lease the following equipment and maintain it in good working condition:

(1) ignition timing light with timing advance tester;

(2) ignition-operated tachometer;

(3) dwell meter;

(4) positive crankcase ventilation tester; and

(5) tools necessary for the installation, adjustment, repair, or replacement of items in the low emission adjustment list.

C. The applicant shall either:

(1) obtain a hydrocarbon, as hexane, and carbon monoxide emission analyzer that meets or exceeds the equipment specifications for performance warranty short tests in Code of Federal Regulations, title 40, section 85.2215, as amended, and employ a mechanic to conduct the required inspections; or

(2) enter into an agreement with the agency's inspection and maintenance contractor to have the required inspection performed. Only the equipment required to test and repair the types of vehicles in the fleet inventory will be

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required in the fleet station. The commissioner shall maintain a list of analyzers that the commissioner finds will perform in a manner that produces accurate test results.

Subp. 2. Permits.

A. Before the initial application for a fleet inspection station permit is approved, an application fee must be paid to the agency as provided in part 7005.5105 and an inspection of the premises shall be made by the agency.

B. A fleet inspection station permit shall expire one year from the date of issuance.

C. A permitted fleet inspection station shall not inspect or certify vehicles unless the vehicles are owned by the fleet owner.

D. An application for renewal of a fleet inspection station permit must be submitted to the agency at least 45 days before permit expiration.

E. A fleet inspection station permit is only applicable to the fleet's inspection facility located at the address shown on the fleet station permit. If a fleet owner wishes to have a permit for inspection facilities at more than one address, separate permits must be obtained for each facility.

F. A fleet inspection station permit issued by the agency is not transferable.

G. If a permittee desires to change the name or address on a permit and the changes do not involve a change of ownership, the permittee shall return the permit to the agency for cancellation and submit an application form for a new permit to the agency, along with an application fee as provided in part 7005.5105. The agency shall cancel the returned permit and issue a new permit.

H. A fleet inspection station whose permit has been revoked, suspended, or has expired shall immediately cease the activity requiring a permit.

I. In the event of loss, destruction, or mutilation of the permit, the permittee may obtain a duplicate upon furnishing satisfactory proof of the fact. A fleet inspection

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station that loses a fleet station permit issued by the agency and finds the original after obtaining a duplicate shall immediately surrender the original permit to the agency.

J. A fleet inspection station that does not employ a mechanic to conduct the inspections shall immediately cease to operate as a fleet inspection station. The permittee shall immediately notify the agency if it has ceased to employ a mechanic and that it has ceased to operate as a fleet station.

K. When a fleet inspection station permit is surrendered, suspended, or revoked, all unused vehicle inspection report forms must be returned to the agency.

L. Surrender, suspension, or revocation of a permit shall not prevent the agency from carrying out investigative or enforcement actions against the permittee for violations of state statutes, rules, or conditions of the permit.

Subp. 3. **Equipment and records.**

A. All testing equipment and instrumentation must be maintained in good condition. Periodic calibration and maintenance of testing equipment must be accomplished under performance short test specifications in Code of Federal Regulations, title 40, section 85.2217, as amended. Recommendations by the commissioner for calibration and intervals between calibration shall be a condition of the fleet inspection station permit and shall supersede all other conflicting recommendations.

B. A record of calibrations performed on each instrument shall be maintained by the fleet inspection station, indicating the date and signature of the technician performing the calibration.

C. The fleet inspection station equipment, span gases, records, and premises shall be subject to scheduled and unscheduled checks for accuracy and condition by an agency representative.

D. The applicant or permittee shall provide information relevant to the operation of the fleet inspection station to the agency if requested by the commissioner.

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Subp. 4. **Inspection frequency.** All fleet vehicles for which a fleet inspection station permit has been issued shall be inspected by the fleet station mechanic according to the schedule in part 7005.5015.

Subp. 5. **Test procedure.** The tampering inspection and exhaust emission test shall be conducted on fleet vehicles by a fleet inspection station mechanic under parts 7005.5015 to 7005.5030 with the exception of part 7005.5030, subpart 6. If the fleet vehicle fails the exhaust emission test, the vehicle shall be preconditioned according to either the procedure in part 7005.5030, subpart 6, or if the fleet inspection station does not have a dynamometer, the procedure in part 7005.5030, subpart 9. 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 75 revolutions per minute.

Subp. 6. **Vehicle inspection reports.** Inspection reports must be issued and processed by the fleet inspection station according to items A to H.

A. A vehicle inspection report shall be completed, marked "passed," and issued for each vehicle passing the inspection.

B. Vehicle inspection reports that are incorrect shall have corrections authenticated and initialed by the mechanic conducting the inspection. Voided or unusable reports and certificates shall be returned to the agency.

C. Only the fleet station mechanic may sign a fleet vehicle inspection report, except in the case of a fleet station permit holder who secures the services of the agency's inspection and maintenance contractor to perform the inspection.

D. Upon completion of the tampering inspection, exhaust emission test, and the vehicle inspection report, the original copy of each completed fleet vehicle inspection report must be forwarded to the agency within two weeks of completion of the inspection.

E. A legible copy of each completed vehicle

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inspection report must be retained by the fleet station conducting the inspection for a minimum period of 24 months after inspection.

F. The completed vehicle inspection report marked "passed" or "waived" shall be accepted as evidence that the vehicle is a fleet-inspected vehicle and has met the requirements of parts 7005.5010 to 7005.5105 if the vehicle registration has not expired.

G. Vehicle inspection report forms shall be obtained from the agency for a fee specified in part 7005.5105. If the number of vehicles to be inspected by the fleet inspection station is reduced after receipt of the report forms and before their use, the excess report forms shall be returned to the agency or used in later years.

H. The fleet inspection station permittee is responsible for the security and accountability of the vehicle inspection report forms. If the vehicle inspection report forms are lost or stolen, the fleet station operator shall notify the agency in writing within 24 hours of discovery of the loss and indicate the number of report forms and the serial number of the report forms. Refusal or failure to report lost report forms are grounds for revoking a fleet station permit.

Subp. 7. **Fleet audit.** Upon request of the commissioner, a fleet inspection station permittee shall submit vehicles designated by the commissioner numbering five percent of the fleet or five motor vehicles annually, whichever is greater, but no more than 25 vehicles, for inspection at inspection stations operated by the contractor.

Subp. 8. **Analyzer inspections.** A fleet station emission analyzer shall not be used for an exhaust emission test under part 7005.5030 if it does not register the agency's field audit gases within the tolerances prescribed in part 7005.5090, if there is a leak in the sampling system or the calibration port, or if the sample handling system is restricted. An agency representative shall tag a fleet inspection station's emission analyzer upon a determination that the analyzer does not meet

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the requirements of this subpart. The analyzer must not be used for testing until the tag is removed by an agency representative. The analyzer failure tag must be affixed to the analyzer in a manner so that the tag cannot be removed without breaking a seal or mutilating the tag. The tag must contain the following information, at a minimum:

A. a brief statement that the analyzer does not meet agency operating requirements for exhaust emission test purposes;

B. the reason for tagging;

C. the values of the agency's field audit gases used and the analyzer readings obtained;

D. the date of the agency's inspection; and

E. the signature of the agency representative tagging the analyzer.

A fleet inspection station may lease or borrow an emission analyzer for temporary use while the station's approved analyzer is being repaired, provided that an agency representative has approved its use.

7005.5085 INSPECTION STATIONS ACTING AS FLEET INSPECTION STATIONS.

A. Inspection stations may provide inspection services to a holder of a fleet inspection station permit under a separate agreement between the inspection station contractor and the holder of a fleet inspection station permit.

B. The agency may not be billed for inspection fees for a fleet vehicle inspected under an agreement between the contractor and the holder of a fleet inspection station permit.

C. Vehicle inspection reports must be filled out at the time of inspection by an inspection station operating as a fleet inspection station in the same manner required for nonfleet vehicles.

D. The holder of the fleet inspection station permit is responsible for maintaining records and reports required by part 7005.5080.

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7005.5090 EXHAUST GAS ANALYZER SPECIFICATIONS.

Exhaust gas analyzers used at inspection stations and fleet inspection stations must comply with the specifications in items A to J.

A. Analyzer accuracy: the hydrocarbon analyzer must have an accuracy of plus or minus 15 parts per million at 200 to 220 parts per million concentration hydrocarbon as hexane; the carbon monoxide analyzer must have an accuracy of plus or minus 0.10 percent carbon monoxide from 1.0 percent to 1.2 percent concentration; and the carbon dioxide analyzer must have an accuracy of plus or minus 0.5 percent carbon dioxide from 5.0 percent to ten percent concentration.

B. Response time: response time of the analyzers must be 15 seconds to 95 percent of the final reading.

C. Analyzer drift: analyzer drift (up-scale and down-scale zero and span wander) must not exceed plus or minus 0.1 percent carbon monoxide, plus or minus 15 parts per million hydrocarbon as hexane, and plus or minus 0.5 percent carbon dioxide on the lowest range capable of reading 1.0 percent carbon monoxide, 200 parts per million hydrocarbon as hexane, or five percent carbon dioxide during a one-hour period.

D. Calibration: the analyzer must have the capability of being calibrated electronically or by gas.

E. Flow restriction indicator: the analyzer must be operated within manufacturer's specifications for sample flow. The sampling system must be equipped with a visual and audible warning that sample flow is not within operating requirements.

F. Interference effects: sampling the following concentrations of interfering gases must not cause the hydrocarbon as hexane reading to change plus or minus ten parts per million: 15 percent carbon dioxide in nitrogen, ten percent carbon monoxide in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

Sampling the following concentrations of interfering gases

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must not cause the carbon monoxide reading to change plus or minus 0.05 percent: 15 percent carbon dioxide in nitrogen, 1,600 parts per million hydrocarbon in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

Sampling the following concentrations of interfering gases must not cause the carbon dioxide reading to change plus or minus 0.5 percent: 1,600 parts per million hydrocarbon in nitrogen, ten percent carbon monoxide in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air.

G. Repeatability: the repeatability of the exhaust analyzers used must be within plus or minus ten parts per million hydrocarbon as hexane; plus or minus 0.05 percent carbon monoxide; and plus or minus 0.2 percent carbon dioxide during five successive measurements of the same sample.

H. Sensitivity: the analyzer sensitivity must be ten parts per million hydrocarbon as hexane, 0.05 percent carbon monoxide, and 0.2 percent carbon dioxide.

I. Temperature and humidity operating range: the analyzer must be capable of meeting all specifications from zero to 85 percent relative humidity and temperature of 35 to 110 degrees Fahrenheit.

J. Range of measurement: the analyzer must have a range of zero to 2,000 parts per million hydrocarbon as hexane, zero to ten percent carbon monoxide, and zero to at least ten percent carbon dioxide.

7005.5095 TEST EQUIPMENT CALIBRATION.

Calibration procedures at least as stringent as those required for the federal warranty short test in Code of Federal Regulations, title 40, section 85.2217, as amended, shall be performed on test equipment by the inspection station contractor and fleet inspection stations. In addition, the procedures in items A to E shall be performed by all inspection and fleet inspection stations, unless an alternative equivalent procedure

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has been approved by the commissioner. In the absence of appropriate procedures, all equipment shall be calibrated and maintained according to manufacturer's specifications.

A. Exhaust analyzers shall be warmed up for at least 30 minutes before performing a 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 to the analyzer have been completed.

C. The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last 30 days.

D. A multipoint calibration shall be performed before the analyzer is used for certification testing following replacement of an optical or electrical component that can cause a variation in the analyzer reading.

E. Complete records shall be kept for maintenance, repair, and calibration of all testing equipment.

7005.5100 PUBLIC NOTIFICATION.

A. The department shall notify each registered owner of a motor vehicle required to be inspected under parts 7005.5010 to 7005.5105 before the time of each annual registration renewal that the vehicle will be required to satisfy the requirements of parts 7005.5015 to 7005.5030. The agency shall also attempt to notify all nonregistered tax-exempt vehicle owners of the requirements of inspection.

B. The agency or the contractor shall establish a system to respond to inquiries from members of the public regarding the compliance status of a subject vehicle under the program including last inspection date, whether a certificate of compliance or certificate of waiver has been issued, and the reason for waiver.

7005.5105 INSPECTION FEES.

Subpart 1. **Inspection fee.** Beginning with the effective

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date of parts 7005.5010 to 7005.5105, the fee for inspection at an inspection station must not exceed $10. The fee must be paid to the registrar for subject vehicles at the time of reregistration. After that, the commissioner shall annually establish the inspection fee at an amount of up to $10. The fee shall be established by October 1 for later years, and 30 days' notice shall be given to the registrar of changes in the fee.

Deputy registrars shall report to the department letters of extension along with registrations made and inspection fees collected in the same manner required for registrations under Minnesota Statutes, section 168.33, subdivision 2.

Subp. 2. **Reinspections; elective inspections.**

A. The inspection fee shall entitle an owner to an initial inspection and two reinspections. The commissioner shall establish a fee for each third and subsequent reinspection. The fee must not be more than $10 and shall be paid to the commissioner by the owner.

B. Elective inspections not required by parts 7005.5010 to 7005.5105 shall be allowed only upon approval of the commissioner. The commissioner shall establish a fee for each elective inspection. The fee must not be more than $10 and must be paid to the commissioner by the owner.

Subp. 3. **Fleet inspection stations.**

A. The fee due upon initial application for a permit for a fleet inspection station as required in part 7005.5080, subpart 2, shall be $200.

B. The fee due upon application for permit renewals shall be $100.

C. The agency shall charge a fee of $1.50 for each inspection report form requested under part 7005.5080, subpart 6, item G.

Subp. 4. **Use of funds.** Fees collected under this part must be deposited in the vehicle emission inspection account under Minnesota Statutes, section 116.65. Fees collected by deputy registrars are subject to deposit requirements in Minnesota Statutes, section 168.33, subdivision 2.

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/ Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat., sections 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in Minn. Stat., section 116.62, subd. 2 (1988).

All persons have until 4:30 p.m. on June 21, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat., sections 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Mr. David Kelso
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 297-5488

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted, will implement a motor vehicle inspection/maintenance program required by Minn. Stat., sections 116.60 to 116.65 (1988) for the Twin Cities metropolitan area. The program requires that subject motor vehicles comply with certain emission and testing standards set forth in the rules. A fee not to exceed $10.00 (established by Minn. Stat., section 116.64) will be assessed for the inspection, and repairs could be required to attain compliance. The purpose of the rule is to bring the metropolitan area into compliance with the national ambient air quality standard for carbon monoxide. One free copy of the rules is available upon request from David Kelso at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from David Kelso upon request.

You are hereby advised, pursuant to Minn. Stat., section 14.115 (1988),

"Small business considerations in rulemaking," that the proposed rules will not adversely affect small businesses. The Agency in proposing the rule considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant emissions from vehicles owned by small businesses have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. The proposed rules are not expected to have a significant impact on small businesses because the inspection fee is low (no more than $10 per vehicle). The proposed rules will most likely affect certain small businesses in a positive manner. Because of the repairs required for those vehicles that fail the inspection, the inspection/Maintenance program will provide more business for small businesses involved in automotive repair and the sale of automotive parts.

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You are hereby advised, pursuant to Minn. Stat., section 14.11 (1988), "Special Notice of Rulemaking," that the proposed rule will require the expenditure of public money by local public bodies in the metropolitan area. The Agency has estimated the total annual cost for state, county and city vehicles to comply with the rule to be approximately $281,870. This estimate is based on the number of state, county and city tax-exempt motor vehicles in the seven county metropolitan area, and therefore overstates the estimate of expenditures by local public bodies because it includes vehicles owned by the state in the calculation. Based on Department of Public Safety figures, 16,828 state, county and city tax-exempt motor vehicles are in the seven county metropolitan area. The inspection fee per vehicle charged under the rules may not exceed $10, Minn. Stat., section 116.64, subd. 1 (1988), so the cost to inspect these vehicles annually is $168,280 or less. The repair cost was calculated based on data from Wisconsin's experience with a similar motor vehicle inspection and maintenance program. In Wisconsin, 15% of the motor vehicles failed the emissions test and the average repair cost per vehicle was less than $45. Using these figures, the Agency estimated the annual cost to repair state, county and city vehicles in the metropolitan area to be approximately $113,590.

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If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to David Kelso at the above address.

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Dated: 5/9/89

Gerald L. Willet

GERALD L. WILLET
Commissioner

ATTACHMENT 2

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the matter of the Proposed Motor Vehicle Inspection/Maintenance Rules 7005.5010 to 7005.5105.

STATEMENT OF NEED AND REASONABLENESS

Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

I. INTRODUCTION

The Minnesota Pollution Control Agency (Agency) was authorized and directed by the 1988 Minnesota Legislature to adopt rules establishing a motor vehicle Inspection/Maintenance Program for the Twin Cities seven county metropolitan area. 1988 Minn. Laws ch. 661 require the Agency to adopt standards and criteria governing the testing and inspection of motor vehicles for air pollution emissions. The proposed rules limit the amount of carbon monoxide and hydrocarbons that may be emitted into the atmosphere from automobiles and pickup trucks with a carrying capacity of less than or equal to three-quarter ton. These standards vary depending on the model year of the vehicle. The proposed rules establish the requirements and procedures for inspection of these vehicles for compliance with these emission limits. The proposed rules also establish standards and procedures for the issuance of permits for fleet inspection stations.

The Agency staff formed a Technical Advisory Committee (TAC) to aid in the formulation of the draft rules. The TAC consisted of representatives from the Department of Public Safety, State Patrol, Metropolitan Council, the automotive industry, rental car agencies, American Automobile Association, automotive experts, hobbyists and the American Lung Association. Seven meetings, open to the public, were held from October of 1988 to February of 1989. At these meetings, Inspection/Maintenance issues were discussed and several recommendations were made by the TAC regarding the proposed rules.

On November 28, 1988 the Agency published a Notice of Intent to Solicit Outside Opinion on the draft rule. The Agency Air Quality Committee has been informed, at the January and February committee meetings, of the progress on the draft rule.

Upon approval from the Agency Board, the proposed rule and a Notice of Intent to Solicit Outside Opinion will be published in the State Register. The notice will also be mailed to approximately two hundred interested persons whose names are maintained on a mailing list by the Agency. This list includes governmental officials, industry representatives, citizens and organizations which have expressed an interest in the Inspection/Maintenance Rules.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency's statutory authority to adopt the rules is set forth in Minn. Stat., section 116.62 (1988), which provides:

Subd. 1. Establishment. The Agency shall establish and administer a program to test and inspect, for air pollution emissions, the motor vehicles that are subject to the requirements of Minn. Stat., section 116.61.

Subd.2. Criteria and standards.(a) The Agency shall adopt rules for the program under chapter 14 establishing standards and criteria governing the testing and inspection of motor vehicles for air pollution emissions.

(b) The rules must specify maximum pollutant emission levels for motor vehicles, giving consideration to the levels of emissions necessary to achieve applicable Federal and State air quality standards. The standards may be different for different model years, sizes and types of motor vehicles.

(c) The rules must establish testing procedures and standards for test equipment used for inspection. The test procedures or procedures producing comparable results must be available to the automobile pollution equipment repair industry. The test equipment used for the inspection or comparable equipment must be available to the repair industry on the open market.

(d) The rules must establish standards and procedures for the issuance of licenses for fleet inspection stations.

(e) The rules must establish standards and procedures for the issuance of certificates of compliance and waiver.

Under this statute, the Agency has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat., sections 14.14, subd. 2 and 14.23 (1988) require an Agency to make an affirmative presentation of facts establishing the need for and the reasonableness of the proposed rules. In general terms, this means that the Agency must set forth the reasons for proposing rules and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Agency is a proper one. The need for the rules is discussed below.

The need for these rules arises from the following sources:

1. The need for compliance in Minnesota with National and State Ambient Air Quality Standards for carbon monoxide and ozone. These standards have been established by the U.S. Environmental Protection Agency (EPA) in 40 C.F.R. part 50; and Minn. Rules parts 7005.0010 to 7005.0117.

2. The need to comply with the requirements in Minn. Stat., sections 116.60 to 116.65 (1988).

A. Compliance with National Ambient Air Quality Standards for Carbon Monoxide and Ozone.

EPA has adopted National Ambient Air Quality Standards (NAAQS) for carbon monoxide 1/ and ozone, based upon the levels at which those pollutants may be present in the atmosphere without causing damage to public health or welfare. The federal carbon monoxide eight-hour standard is an average of no more than nine parts per million over an eight-hour period; the one-hour standard is an average of no more than thirty five parts per million (40 C.F.R. part 50, subsection C). The State carbon monoxide eight-hour standard is an average of no more than nine parts per million over an eight-hour period; the one-hour standard is an average of no more than thirty parts per million (Minn. rules, part 7005.0080). The ozone standard is a one-hour average of 120 parts per billion. Hydrocarbon emissions are a precursor to ozone formation in the atmosphere.

1/ Carbon monoxide is a pollutant which, in high enough concentrations, poses a danger to public health and the environment. Its effects are due to its ability to combine with hemoglobin. Since it is the hemoglobin that must carry oxygen throughout the body, high carbon monoxide levels lead to hemoglobin cells carrying carbon monoxide rather than oxygen and results in oxygen starvation to the body. This can be especially serious for people whose respiratory systems are already damaged. It is also especially true for fetuses, those who are suffering from heart disease, anemia (low hemoglobin levels), lung disease and those who have constriction of arteries to the brain. People breathing high concentration of carbon monoxide may experience a slowing of responses, including reduced vigilance, visual perception, manual dexterity, reduced ability to perform complex tasks, reduced birth weight and greater risk of death at birth for newborn babies. This information was provided by the EPA.

Motor vehicles are a source of carbon monoxide. Although EPA regulates the amount of carbon monoxide emissions new motor vehicles may emit (40 C.F.R. part 85, subpart W), gasoline powered motor vehicles still make a significant contribution to ambient carbon monoxide levels in urban areas. Passenger vehicles and light duty trucks are estimated to contribute more than 65 percent of the carbon monoxide emissions for the Twin Cities area. This percentage is thought by EPA to be conservative (personal communication, EPA, Ann Arbor, Michigan).

When the Agency began monitoring ambient air quality, several areas in the State were in violation of ambient carbon monoxide standards: St. Paul, Minneapolis, Duluth, Rochester and St. Cloud. Plans were developed to address the carbon monoxide problem in those cities. Those plans included strategies to improve traffic flow and thus prevent concentrations of automobile emissions in one place. All of the measures required in the plans for the Twin Cities metropolitan area have been or soon will be implemented. For example, many streets in downtown St. Paul and Minneapolis were made into one-way pairs, traffic lights were better timed, and intersections, bus stops and turn lanes were improved to help move traffic along. Finally, public transit plans were improved to help reduce the number of vehicles on certain routes.

These improvements successfully reduced carbon monoxide levels at the monitored "hot spot" intersections. However, EPA has investigated the situation in Minnesota and has concluded that in the Twin Cities metropolitan area, violations of carbon monoxide standards are not limited to one or two hot spots but involve a much wider area. If the Twin Cities metropolitan area does not attain compliance with carbon monoxide standards, the EPA has the authority

A. Reasonableness of the Rules as a Whole

The Agency approached the need to adopt rules for an Inspection/Maintenance program in the Twin Cities metropolitan area by closely examining its rulemaking authority set forth in Minn. Stat, section 116.62 (1988). Subdivision 2 of the statute requires that the rules establish:

(a) standards and criteria for testing and inspection of motor vehicles for air pollution emissions;

(b) maximum pollutant emissions for motor vehicles;

(c) testing procedures and standards for test equipment;

(d) standards and procedures for issuance of licenses for fleet inspection stations; and

(e) standards and procedures for fleet inspection rules.

The Agency has addressed all of these requirements in the proposed rules and has, in addition, drafted the rules to be consistent with program requirements specified in Minn. Stat., sections 116.60 to 116.65 (1988). This approach to addressing the need for an Inspection/Maintenance program in the Twin Cities metropolitan area is therefore reasonable.

B. Reasonableness of Individual Rules.

The following discussion addresses the specific provisions of the proposed rules.

Part 7005.5010, Definitions

This proposed rule sets forth 39 definitions of words or phrases used within the rules. These definitions are discussed below.

Subpart 1. Scope. This subpart states that the definitions in part 7005.0100 of the Air Quality Rules apply to the terms used in parts 7005.5010 to 7005.5105, unless the terms are defined in this part. Because the proposed rules are a part of the Air Quality Rules, it is reasonable to use the same definitions as those used in other parts of the Air Quality program in order to achieve consistency within the air quality program.

Subp. 2. Agency representative. "Agency representative" is defined in the proposed rule as an Agency employee or contractor designated by the Commissioner to conduct inspections and tests, gather information and perform other activities related to vehicle inspection and testing. It is reasonable to define this term in order to identify the person or persons who will be authorized to act on behalf of the Agency in the Inspection/Maintenance program.

Subp. 3. Calibration gas. The proposed rule defines "calibration gas" as a gas or gas mixture of known concentration that is used to establish the response curve of an emission analyzer. It is reasonable to define this term to assure that instrumentation is calibrated with gases of known quality so that accurate test results will be obtained.

Subp. 4. Certificate of compliance. "Certificate of compliance" is defined as a serially numbered inspection report marked "passed" indicating that a motor vehicle complies with the requirements of parts 7005.5010 to 7005.5105. It is reasonable to define this term because the substantive requirements of the rule provide that the vehicle's owner must be provided with written documentation that the vehicle has passed inspection and received a certificate of compliance.

Subp. 5. Certificate of waiver. "Certificate of waiver" is defined as a serially numbered inspection report marked "waived" indicating that a motor vehicle complies with the requirements of part 7005.5055. It is reasonable to define this term because the substantive requirements of the rule provide that the vehicle's owner be provided with written documentation that the vehicle has met the requirements of the waiver and received a certificate of waiver.

Subp. 6. Commissioner. "Commissioner" is defined as the Commissioner of the Minnesota Pollution Control Agency. It is reasonable to define this term because the legislature has changed the title of the Agency's chief executive office from "Director" to "Commissioner." See 1987 Minn. Laws ch. 186, section 15.

Subp. 7. Constant four-wheel drive vehicle. "Constant four-wheel drive vehicle" is defined as any four-wheel drive vehicle which cannot be converted to two-wheel drive except by removing one of the vehicle's drive shafts. It is reasonable to define this term in order to clarify what a four-wheel drive vehicle is because four-wheel drive vehicles are not able to

be preconditioned on a chassis dynamometer and would be preconditioned using an alternate method.

Subp. 8. Contractor. The proposed rule defines "contractor" as a person, business firm, partnership or corporation with whom the Agency has a contract that provides for the operation of one or more inspection stations. It is reasonable to define this term because contractors will be conducting inspections under supervision of the Agency.

Subp. 9. Customarily domiciled. The term "customarily domiciled", which is used in the rules with respect to motor vehicles, means a vehicle, although registered to an owner residing in the metropolitan area, is kept outside the seven county metropolitan area for a minimum of 11 months each calendar year and not generally used for transportation within the metropolitan area. It is reasonable to define this term because a vehicle that is "customarily domiciled" outside the seven county metropolitan area may be eligible for an annual exemption. This is necessary to distinguish which vehicles are to be inspected. It is reasonable to select 11 months as the time period because a motor vehicle kept in a place for the great majority of the year is considered by most people to be "domiciled" there.

Subp. 10. Dealer. The proposed rules states "dealer" has the same meaning given in Minnesota Statutes, section 168.27. It is reasonable to define this term by reference to statute because the reference establishes the definition.

Subp. 11. Department. "Department" means the Department of Public Safety. It is reasonable to define this term in order to identify the Department of Public Safety in a shorthand manner. The Department of Public Safety is responsible for all vehicle registrations. Vehicle registrations will be utilized in the application of this rule.

Subp. 12. Drive wheels. The term "drive wheels" is defined as the pair of wheels that propel a vehicle. It is reasonable to define this term in order to establish which wheels will be placed on the chassis dynamometer.

Subp. 13. Emission control equipment inspection. "Emission control equipment inspection" is defined as the inspection of the emission control equipment conducted by the waiver surveillance inspector as described in part 7005.5060. It is reasonable to define this term to distinguish which inspection the waiver surveillance inspector will be conducting. The definition distinguishes the term from another similar term, "tampering inspection" as used, for example, in part 7005.5025.

Subp. 14. Emission inspector. The proposed rule defines "emission inspector" as the individual who performs the vehicular exhaust emission test and inspection for the contractor. It is reasonable to define this term in order to establish who specifically will be conducting the inspections of subject vehicles.

Subp. 15. Exhaust emissions. "Exhaust emissions" is defined as substances emitted into the atmosphere from the tailpipe of a motor vehicle. It

is reasonable to define this term to establish what emissions are to be tested. The exhaust emission test will be conducted on the gases from the tailpipe.

Subp. 16. Field audit gas. The proposed rules define "field audit gas" as a gas with assigned concentrations that is required to check the accuracy of an emission analyzer and the calibration gas used by inspection stations, fleet inspection stations and vehicular repair facilities. It is reasonable to define this term because the field audit gas will be used in a quality assurance check on emission analyzers. It is necessary and reasonable to verify the accuracy of emission analyzers to assure correct exhaust emission test results.

Subp. 17. Fleet inspection station. "Fleet inspection station" is defined as a facility for the inspection of motor vehicle fleets operated under a permit issued by the Agency under part 7005.5080. It is reasonable to define this term because Minn. Stat., section 116.62, subd. 4 authorizes the inspection of fleet vehicles at permitted fleet inspection stations.

Subp. 18. Fleet owner. "Fleet owner" is defined as any owner of at least 50 subject vehicles, or two or more persons each owning 25 or more subject vehicles. It is reasonable to define this term to clarify who a fleet owner is. The definition is reasonable because it is consistent with Minn. Stat., section 116.62. subd. 4(b) as the number of vehicles constituting a fleet.

Subp. 19. Fleet vehicle. "Fleet vehicle" is defined as a subject motor vehicle owned by a person holding a fleet inspection station permit. It

is reasonable to define this term to clarify that a fleet vehicle must be owned by the fleet permittee in order to be tested at the fleet inspection station.

Subp. 20. Idle mode test. The proposed rule defines "idle mode test" as an exhaust emission test conducted with the vehicle at idle. It is reasonable to define this term because the exhaust emission test will be conducted while the vehicle is at idle.

Subp. 21. Inspection report. "Inspection report" is defined as a document issued by an inspection station or fleet inspection station that indicates the vehicle has been inspected in accordance with parts 7005.5010 to 7005.5105. It is reasonable to define this term because elsewhere in the rules it is required that the vehicle owner be provided with written documentation of the result of the inspection.

Subp. 22. Inspection station. The proposed rule defines "inspection station" as a facility for motor vehicle inspection operated under contract with the Agency. It is reasonable to define this term to clarify where vehicles will be inspected.

Subp. 23. Letter of annual exemption. "Letter of annual exemption" is defined as a letter issued by the Commissioner for the annual exemption of a vehicle from the State vehicle inspection requirements as prescribed in part 7005.5070. It is reasonable to define this term because the rules contain a provision allowing an exemption from testing to be obtained in certain cases. The letter serves as verification of the exemption.

Subp. 24. Letter of temporary extension. "Letter of temporary extension" is defined as a letter issued by the Commissioner for the extension of the time period for a vehicle to meet State vehicle inspection requirements as prescribed in part 7005.5070. It is reasonable to define this term because the rules allow some vehicles that are outside the seven county metropolitan area or are unavailable when inspection is required, to obtain a temporary extension. For example, vehicles that require inspection during the winter months but are being stored during these months could receive a letter of temporary extension and be tested when they are no longer being stored. The letter serves as verification of the temporary extension.

Subp. 25. Loaded mode. The proposed rule defines "loaded mode" as operation of a vehicle at approximately 30 miles per hour on the chassis dynamometer as prescribed in part 7005.5030, subp. 6. It is reasonable to define this term to distinguish a loaded mode condition from an idle condition. Preconditioning of a vehicle subject to this rule may be conducted under loaded mode conditions on a chassis dynamometer, whereas exhaust emission testing is conducted with the vehicle at idle.

Subp. 26. Low emission adjustment. "Low emission adjustment" is defined as diagnostic or repair procedures which are likely to improve carbon monoxide and/or hydrocarbon emissions and are included on a list established by the Commissioner, under part 7005.5065, subp. 4. It is reasonable to define this term because elsewhere in the rules the Commissioner is required to establish a list of diagnostic or repair procedures, referred to as the low emission adjustment, which must be performed in order to obtain a certificate of waiver.

Subp. 27. Metropolitan area. In the proposed rules the term "metropolitan area" has the meaning given in Minn. Stat., section 473.121. It is reasonable to define this term by reference as the definition is commonly used throughout Minnesota. This rule applies to vehicles registered in the seven county metropolitan area.

Subp. 28. Model year. "Model year" is defined as the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer. If the manufacturer does not designate a production period, the term "model year" is defined as the calendar year. It is reasonable to define this term because model year is the basis for determining the motor vehicles subject to inspection. Vehicles with a model year older than 1976 are not subject to inspection under this rule as required by statute.

Subp. 29. Motor vehicle or vehicle. "Motor vehicle" or "vehicle" is defined as a passenger automobile, station wagon, pickup truck, or van, as defined in Minn. Stat., section 168.011, licensed for use on the public streets and highways; or a passenger automobile, station wagon, pickup truck or van exempt from registration or fees under Minn. Stat., section 168.012, subd. 1 or 437.448. The first clause of this definition is reasonable because it is consistent with Minn. Stat., section 116.60, subd. 7 (1988). The second clause of the definition is reasonable because it is consistent with the inspection requirements of Minn. Stat., section 116.61, subd. 1 (1988).

Subp. 30. Nonfleet vehicle. "Nonfleet vehicle" is defined as any subject vehicle (as defined in subp. 35) except for a subject vehicle owned by

a person holding a fleet inspection station permit. It is reasonable to define this term to clarify that vehicles that are not fleet vehicles are subject to inspection under this rule by the Agency's contractor and not by a fleet owner.

Subp. 31. Owner. "Owner" is defined as "registered owner" as defined in Minn. Stat., section 168.011, subd. 5a. It is reasonable to define this term by reference to ensure consistency with an existing definition.

Subp. 32. Registrar. "Registrar" is defined as the registrar or deputy registrar of motor vehicles under Minn. Stat., section 168.33. It is reasonable to define this term by reference in order to clarify who is responsible for the registration of vehicles.

Subp. 33. Rescue vehicles. "Rescue vehicles" is defined as vehicles that are used for rescue operations. It is reasonable to define this term to identify one type of vehicle that is not subject to inspection under the rules.

Subp. 34. Span gas. "Span gas" is defined as a gas of known concentration that is used routinely to set the output level of an emission analyzer. It is reasonable to define this term because elsewhere in the rules span gases are required to be used to check emission analyzers for accuracy of operational performance.

Subp. 35. Subject vehicle. The proposed rule defines "subject vehicle" as a nontax-exempt motor vehicle registered to an owner residing in the metropolitan area or a tax-exempt motor vehicle in the metropolitan area except:

A. a motor vehicle manufactured before the 1976 model year;

B. a motor vehicle with an engine manufactured for a model year before 1976;

C. a motor vehicle registered as classic, pioneer, collector, or street rod under Minn. Stat., section 168.10;

D. a motor vehicle powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen;

E. a motor vehicle powered solely by a diesel cycle engine; and

F. fire apparatus, ambulances and rescue vehicles.

It is reasonable to define subject vehicle to establish which vehicles are subject to inspection and testing.

Items A to C of the proposed rule states that the definition of subject vehicle does not include motor vehicles manufactured before the 1976 model year; vehicles with an engine manufactured before 1976; or a vehicle registered as classic, pioneer, collector or street rod. It is reasonable that the definition of subject vehicle does not include vehicles older than 1976, vehicles with engines older than 1976, and vehicles registered as classic, pioneer, collector or street rod because these vehicles are generally more than 20 years old, or are specially built to resemble old vehicles, do not have the pollution control equipment found on more modern cars, such as catalytic

converters, and are allowed to burn leaded gasoline. The Agency believes that only a small number of vehicles will qualify for this exemption. These clauses are also reasonable because they are consistent with Minn. Stat., section 116.61, subd. 2 (1988).

Item D of the proposed rule states that the definition of subject vehicle does not include vehicles powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen. Item E of the rule states that the definition of subject vehicle does not include motor vehicles powered solely by diesel cycle engines. As discussed previously, gasoline powered motor vehicles are estimated to contribute more than 65 percent of the carbon monoxide emissions for the Twin Cities' area. It is reasonable that the definition of subject vehicle does not include vehicles powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen because motor vehicles powered solely by these sources of fuel do not contribute significant amounts of carbon monoxide compared to gasoline powered vehicles. EPA estimates that these vehicles contribute less than one percent of the carbon monoxide emissions for the Twin Cities area (personal communication, EPA, Ann Arbor, Michigan, April 1989). The Agency believes that there are very few of these vehicles in the metropolitan area.

Item F of the proposed rule states that the definition of subject vehicle does not include fire apparatus, ambulances and rescue vehicles. It is reasonable that the definition of subject vehicle not include fire apparatus, ambulances and rescue vehicles because this clause is consistent with Minn. Stat., section 116.61, subd. 2 (1988). The statute states that any class of motor vehicle is exempted if the vehicles are inappropriate for inspection.

These vehicles are inappropriate for inspection because these vehicles are needed to ensure the health and safety of the public. Removal of these vehicles from service may adversely affect emergency and rescue operations particularly in the more rural areas of the metropolitan area. Staff believes that these vehicles do not contribute a significant amount of carbon monoxide to the metropolitan area. The Agency believes that there are only a few of these vehicles in the metropolitan area.

Subp. 36. Tampering inspection. "Tampering inspection" is defined as the inspection of the catalytic converter, fuel inlet restrictor and the gas cap conducted by the emission inspector under part 7005.5025. It is reasonable to define this term to distinguish it from the term "emission control equipment inspection", which is conducted by a waiver surveillance inspector.

Subp. 37. Tax-exempt. "Tax exempt" is defined as exempt from license fees under Minn. Stat., section 168.012, subd. 1, or Minn. Stat., section 473.448. It is reasonable to define this term by reference to ensure consistency with an existing definition. Tax-exempt motor vehicles are subject to inspection.

Subp. 38. Waiver. "Waiver" is defined as the act of excusing a motor vehicle from complying with part 7005.5050, subp. 2. It is reasonable to define this term because a waiver may be granted under specific conditions of this rule.

Subp. 39. Waiver surveillance inspector. The proposed rule defines "waiver surveillance inspector" as the Agency employee or contractor charged

with performing the emission control equipment inspection, and approving or disapproving applications for certificates of waiver. It is reasonable to define this term to establish what a waiver surveillance inspector does and that the inspector is an Agency employee or contractor.

Part 7005.5015, Inspection Requirement.

Subpart 1 of the proposed rule establishes the basic requirement that subject vehicles must be inspected annually at an inspection station or a fleet inspection station in accordance with Minn. Stat., sections 116.60 to 116.65 and these rules. This rule is reasonable because it is consistent with the inspection requirements established in Minn. Stat., section 116.61, subd. 1 (1988).

Subpart 2 establishes a schedule for the timing of inspections depending upon the type of inspection station at which the vehicles are to be inspected (inspection station or a fleet inspection station). Nontax-exempt subject vehicles are required to be inspected within 90 days before expiration of current registration at an inspection station or fleet inspection station and tax-exempt vehicles will be inspected during the months of January and February if the inspection is done at an inspection station. If the inspection of a tax-exempt vehicle is done at a fleet inspection station, the owner may designate and the Commissioner may approve a different schedule for the inspection.

It is reasonable to include a schedule for inspections. The schedule included in subpart 2 is consistent with the Department of Public Safety's

schedule for registration of nontax-exempt vehicles. With the exception of the months of January and February, the re-registration of nontax-exempt vehicles is scheduled on a monthly basis according to the first initial of the owner's last name. Requiring nontax-exempt vehicles to be inspected within the 90 days prior to registration renewal is consistent with requirements for inspection in Minn. Stat., section 116.61, subd. 1 (b), and provides a convenience for owners and is therefore reasonable.

It is reasonable to inspect tax-exempt vehicles at an inspection station during the two months of the year when there will be fewer nontax-exempt motor vehicles that will need to be inspected at the inspection station. It is also necessary and reasonable to allow tax-exempt fleet vehicles to be inspected annually at the fleet inspection station at times other than January and February, as designated by the owner and approved by the Commissioner, to accommodate the operation requirements of the tax-exempt fleets.

Subpart 3 of the proposed rule allows subject vehicles that have failed the tampering inspection or an exhaust emission test to be reinspected under the conditions of part 7005.5035. It is reasonable to allow an owner to have his or her vehicle reinspected if the vehicle has not passed the inspection because, if the owner has taken the corrective actions necessary as a result of the inspection, it is fair to give the owner another opportunity to pass the inspection.

Part 7005.5020, Description of Inspection and Documents Required.

Subpart 1 states that, except as provided in part 7005.5035, item D, the inspection shall consist of a tampering inspection and an exhaust emission test. The inspection is required to be performed at an inspection station or fleet inspection station. The exception in the rule relates to reinspections, in which only those areas that failed the previous inspection will be inspected. It is reasonable for an inspection to include a tampering inspection because the items are necessary components of a vehicle's emission control system (Minn. Rules part 7005.1190 and the Clean Air Act, as amended). It is reasonable to include an emission test because the emission test determines whether a vehicle meets the applicable exhaust emission standards. It is reasonable to require that the inspection be conducted at an inspection station or fleet inspection station because these are the facilities which the Agency has determined to have the proper equipment and qualified personnel to conduct the inspection.

Subpart 2 requires each vehicle that is inspected at an inspection station to be accompanied by one of the following documents that identifies the vehicle by make, model year, vehicle identification number, license plate number, and registered owner's name and address: a current Minnesota registration renewal notice, a current Minnesota registration card, or a Minnesota certificate of title.

Subpart 2 is reasonable because it specifies which documents contain adequate information (vehicle's make, model year, vehicle identification number, license plate number, and registered owner's name and address) to

uniquely identify the vehicle. This is necessary so a record can be established and maintained for each vehicle. It is also reasonable to require one of these documents to be presented at the time of inspection so the inspector can verify that the appropriate vehicle is being inspected and as a protection to the owner of the vehicle.

Part 7005.5025, Tampering Inspection.

This part states that a visual inspection shall be conducted for the unvented fuel cap, a fuel inlet restrictor and a catalytic converter if the vehicle was equipped with these items at the time of manufacture. If an unvented cap is not in place, the tampering inspection continues and the owner will be advised to replace the fuel cap. If the fuel inlet restrictor or catalytic converter is not in place or is damaged, the vehicle shall fail the tampering inspection, except as provided in item C and D, and the owner must replace the fuel inlet restrictor and the catalytic converter.

Requiring a visual inspection for the presence of a fuel inlet restrictor and a catalytic converter is necessary and reasonable because these items are major components of a vehicle's emission control system. For the same reason, it is reasonable to fail the vehicle if these items are not in place or are damaged (Minn. Rules part 7005.1190 and the Clean Air Act, as amended). Otherwise, a vehicle will be allowed back on the street without important pollutant controls in place.

It is reasonable to require a visual inspection of the unvented fuel cap. The unvented fuel cap prevents the release of hydrocarbons into the

atmosphere which in turn reduces ozone and toxic air pollutants. The unvented fuel cap, however, is not critical to the functioning of the catalytic converter or the fuel inlet restrictor and has little or no effect on carbon monoxide emissions. It is therefore necessary and reasonable to inspect for the presence of the unvented fuel cap but allow the tampering inspection to continue if the unvented fuel cap is missing, so long as the owner is then notified that the unvented fuel cap should be replaced.

Item A states that if the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. This is reasonable because a catalytic converter is necessary to reduce carbon monoxide and hydrocarbon emissions. This is also reasonable because Minn. Stats., section 325E.0951 and Minnesota Rules, part 7005.1190 require that vehicles be equipped with catalytic converters. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. It is reasonable to require replacement of the catalytic converter if the fuel inlet restrictor is missing or damaged because it is likely that the vehicle has been fueled with leaded gas, which results in a non-functional catalytic converter. The rule requires that fuel inlet restrictors must be replaced with original manufacturer's equipment or equivalent. Catalytic converters must be replaced with either original manufacture's equipment or new after-market equipment that is certified by the EPA. This is reasonable to guarantee that the replacement catalytic converter will function properly.

Item B states that in a dispute over tampering, the owner or operator may elect to leave the tampering inspection area and seek proof of nontampering

and return to the same inspection station, with documentation, within 20 days and continue with the tampering inspection. The continuation of the inspection under this item shall not be billed to the Agency. This is reasonable because it allows the owner or operator an opportunity, within a reasonable time period, to provide information or documentation that the vehicle has not been tampered with (i.e., the vehicle was not originally equipped by the manufacturer with the emission control device in question). If the owner or operator can provide satisfactory evidence that tampering has not occurred, the inspector will complete the tampering inspection. This rule also provides that continued tampering inspections shall not be billed to the Agency. Because the tampering inspection has not been concluded until the owner or operator has had the opportunity to resolve a dispute, it is reasonable for the Agency not to be billed until the tampering inspection is complete.

Item C states that if the vehicle owner provides to the waiver surveillance inspector a release letter from the EPA addressed to the U.S. Customs Service granting the vehicle exemption from federal emission requirements, the vehicle shall pass the tampering inspection. It is reasonable to allow these vehicles to pass the tampering inspection because of equity and conformance to federal policy. The Agency believes that there are very few of these vehicles in the metropolitan area.

Item D states that if the vehicle owner presents satisfactory evidence and signs an affidavit certifying to the waiver surveillance inspector that the vehicle is a show car and that the vehicle is not generally used for transportation, the vehicle shall pass the tampering inspection. Show cars are considered to be cars used for show purposes or exhibitions and not generally

used for transportation. This item is reasonable because it provides a mechanism for those cars that are not generally used for transportation, and therefore which are not contributing emissions to the metropolitan area, to be excluded from the tampering inspection. The Agency believes that there are few of these vehicles in the metropolitan area that would be subject to this rule (personal communication, Minnesota Street Machine Association, April 1989).

Part 7005.5030, Exhaust Emission Test.

Subpart 1 states that exhaust emission testing shall be conducted in accordance with 40 C.F.R. section 85.2212, as amended. The test will be conducted with the vehicle at idle and the transmission in neutral, the engine running at normal operating temperature with all accessories off, and with the vehicle positioned nearly level. If a vehicle has multiple exhaust pipes, the exhaust pipes may be tested simultaneously and the results averaged for each pollutant.

Requiring testing to be conducted in accordance with the C.F.R. is reasonable because this test procedure is accepted and approved by the EPA after extensive testing of emissions from a wide variety of motor vehicles, and in consideration of federal motor vehicle emission standards. A test at idle was selected as the appropriate test because it is approved by the EPA, is effective in obtaining accurate test results, and will make the testing process convenient for the public.

It is reasonable to test multiple exhaust pipes simultaneously and average the results for each pollutant because that will give an accurate analysis of the exhaust emissions from the vehicle.

Subpart 2 states that the exhaust emission test consists of sampling the exhaust emission from the tailpipe and measuring the concentration of hydrocarbon as hexane, carbon monoxide and carbon dioxide. Exhaust emission concentrations must be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Hydrocarbons and carbon monoxide are air pollutants emitted from motor vehicles and regulated by this rule. The intent of the Inspection/Maintenance program is to reduce the amount of carbon monoxide and hydrocarbons emitted into the atmosphere from automobiles. Therefore, it is reasonable to test for the concentrations of these gases.

It is also reasonable to measure these gases after the exhaust flow has stabilized, or at the end of 30 seconds, in order to provide accurate test results. Measuring the gases earlier than that could result in inaccurate test results because the catalytic converter would not be warmed up.

Although carbon dioxide is not a pollutant regulated by this rule, the required measurement of carbon dioxide concentration is used to indicate any exhaust system leakage. Leakage in excess of 4% carbon dioxide by volume will dilute the concentration of gases being tested and will invalidate the exhaust emission test results. Therefore, to obtain a valid exhaust emission test result it is necessary to measure the concentration of carbon dioxide.

Subpart 3 establishes the maximum allowable concentrations of hydrocarbons as hexane and carbon monoxide from the exhaust emission system. Table 1 is in effect until December 31, 1992 and Table 2 will take effect on January 1, 1993. Hydrocarbons are measured as hexane (40 C.F.R. part 85, subp. W).

Table 1

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE UNTIL DECEMBER 31, 1992

Model Year	Maximum Allowable Emission Concentrations	
	Hydrocarbons as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-77	600	6.0
1978-79	400	4.0
1980	275	2.5
1981 and later	220	1.2

Table 2

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS
EFFECTIVE JANUARY 1, 1993

Model Year	Maximum Allowable Emission Concentrations	
	Hydrocarbons as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-77	600	5.5
1978-79	400	3.5
1980	275	2.0
1981 and later	220	1.2

The maximum allowable emission concentrations contained in Tables 1 and 2 are reasonable because they have been set at levels that the Agency believes

will result in a reduction in the amount of carbon monoxide and hydrocarbons emitted into the atmosphere by motor vehicles. The allowable emission standards for 1981 and later model year vehicles are the same as the standards set by EPA regulations in 40 C.F.R. part 85, subpart W. The standards for 1980 and earlier motor vehicles were based on a review of the maximum emission levels for motor vehicles set forth in rules adopted by other States (refer to Table 3) and were based on the EPA's recommendations. It is reasonable to base the maximum allowable standards for hydrocarbons as hexane and carbon monoxide on the concentrations published in rules adopted by other States and EPA recommendations because it has been their experience that the standards adopted in other States are appropriate to reducing the level of carbon monoxide and hydrocarbons emitted by motor vehicles and to attain compliance with National Ambient Air Quality Standards for carbon monoxide and maintain compliance with ozone National Ambient Air Quality Standards in metropolitan areas.

Table 3

COMPARISON OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS IN OTHER STATES 2/

	Model Year	Hydrocarbons (parts per million)	Carbon Monoxide (percent of exhaust)
Maryland			
	1977	500	6.0
	1978	430	5.5
	1979	400	4.0
	1980	220	1.7
	1981 and later	220	1.2
Chicago, Illinois			
	1975-1977	700	7.0
	1978-1979	600	6.0
	1980	300	3.0
	1981 and later	220	1.2
Milwaukee, Wisconsin			
	1975-1977	450	5.5
	1978	350	4.0
	1979	275	3.0
	1980	250	2.0
	1981 and later	220	1.2

2/ source, EPA, Ann Arbor, Michigan.

As discussed in the Statement of Need, reductions in the concentrations of these pollutants are needed in order to attain compliance with National Ambient Air Quality Standards for carbon monoxide and to maintain compliance with ozone National Ambient Air Quality Standards in the metropolitan area. These maximum emission concentrations are consistent with the EPA's policy and recommendations for carbon monoxide and hydrocarbon reduction goals for the metropolitan area and are therefore reasonable.

The maximum allowable emission concentrations for carbon monoxide and hydrocarbons are more stringent for newer vehicles and less stringent for older vehicles. This is to reflect newer emission control technology for newer vehicles. By using these maximum allowable concentrations, the Agency believes that vehicles properly tuned will pass the inspection. The Agency also

believes that approximately 20% of the vehicles will not pass the inspection (personal communication, EPA, Ann Arbor, Michigan, March 1989). Therefore these maximum allowable concentrations are necessary and reasonable because the majority of vehicles will pass the inspection and the gross polluters will not pass the inspection and will be required to be repaired.

Subpart 4 states the grounds for an inspector to refuse to perform the exhaust emission test and to refuse entry of a vehicle into the inspection lane: the vehicle is carrying explosives or other hazardous material not used as fuel for the vehicle; there are apparent gasoline, oil, or other fluid leaks that constitute a safety hazard; or the vehicle is being towed or is towing a trailer. This is reasonable in order to provide a safe working environment for the inspector and those present at the inspection stations.

Subpart 5 states the grounds for an inspector to invalidate the exhaust emission test results until the following conditions are corrected: the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the station's vehicle emission inspector; or the measured carbon dioxide concentration is less than four percent by volume. This subpart is reasonable because it assures valid emission tests. Emission tests conducted without correction of those conditions cannot produce accurate results.

Subpart 6 requires a vehicle that has failed its exhaust emission test at idle to be preconditioned (warmed up) on a chassis dynamometer, to undergo a diagnostic analysis, and to be tested again at idle. Preconditioning and diagnostic analysis are accomplished by positioning the vehicle's driving

wheels on the dynamometer; inserting the analyzer probe in the tailpipe; bringing the vehicle speed up to approximately 30 miles per hour while in drive for an automatic transmission and third gear for manual transmissions; maintaining that speed for at least 30 seconds; and taking an exhaust sample to analyze for diagnostic purposes. Vehicles with multiple exhaust pipes must be tested either by simultaneous sampling of all tailpipes or by sampling each tailpipe and then averaging the test results. After the diagnostics are taken and the vehicle is preconditioned, the vehicle must be nearly level and running at normal temperature with all accessories off and running at constant idle. The vehicle shall then be tested at idle.

This procedure is reasonable, based on EPA and other State's experiences, because it allows a vehicle another chance to pass the emission test by being preconditioned and tested again if that vehicle fails the exhaust emission test. Some vehicles may fail the exhaust emission test if the catalytic converter has not been adequately warmed up, or preconditioned. The preconditioning will bring the catalytic converter up to its normal operating temperature and therefore, allow the exhaust emission test to be conducted under normal operating conditions.

Subpart 7 states the grounds for the inspector to omit the loaded mode preconditioning on the chassis dynamometer: the vehicle has a driving wheel with less than 2/32 inch of tread or has metal protuberances or has low tire pressure or has any other condition that may be a hazard to personnel, facilities, equipment, or the vehicle. This is reasonable because it provides for a safe work environment for the inspector and others present at the inspection station and prevents potential damage to the vehicle being tested.

Subpart 8 states that a vehicle shall not be preconditioned on the chassis dynamometer if the vehicle operator refuses the loaded mode preconditioning, the vehicle is unable to obtain the 30 miles per hour, the vehicle is equipped with constant four-wheel drive, the vehicle operator is physically unable to yield the driver's seat to the inspector or if the vehicle operator refuses to yield the driver's seat to the inspector. This subpart is reasonable because it allows the loaded mode preconditioning to be omitted when the vehicle is not suitable for preconditioning on a dynamometer (e.g., four-wheel drive), or when the vehicle is old or in need of repair and cannot attain the required speed, or when the operator is physically unable or unwilling to yield the driver's seat. It is necessary for a trained operator to operate a front-wheel drive vehicle on a dynamometer for safety reasons.

Subpart 9 states that vehicles unable to be preconditioned on a chassis dynamometer shall be preconditioned by completing the following: the vehicle's transmission shall be placed in neutral; the vehicle's speed be increased to 2500 revolutions per minute plus or minus 300 revolutions per minute as measured by a tachometer which shall be maintained for at least 30 seconds; and then return the vehicle's engine speed to idle. The emission inspector then conducts an exhaust emission test after the vehicle has been preconditioned. This part is reasonable because it gives vehicles that are not able to be preconditioned on a chassis dynamometer another chance to pass the emission test by providing an alternative preconditioning method.

Subpart 10 states that a reconstructed vehicle shall be tested using the standards applicable to the year of manufacture of the engine installed in the vehicle. A reconstructed vehicle is a vehicle that has been built from

wheels on the dynamometer; inserting the analyzer probe in the tailpipe; bringing the vehicle speed up to approximately 30 miles per hour while in drive for an automatic transmission and third gear for manual transmissions; maintaining that speed for at least 30 seconds; and taking an exhaust sample to analyze for diagnostic purposes. Vehicles with multiple exhaust pipes must be tested either by simultaneous sampling of all tailpipes or by sampling each tailpipe and then averaging the test results. After the diagnostics are taken and the vehicle is preconditioned, the vehicle must be nearly level and running at normal temperature with all accessories off and running at constant idle. The vehicle shall then be tested at idle.

This procedure is reasonable, based on EPA and other State's experiences, because it allows a vehicle another chance to pass the emission test by being preconditioned and tested again if that vehicle fails the exhaust emission test. Some vehicles may fail the exhaust emission test if the catalytic converter has not been adequately warmed up, or preconditioned. The preconditioning will bring the catalytic converter up to its normal operating temperature and therefore, allow the exhaust emission test to be conducted under normal operating conditions.

Subpart 7 states the grounds for the inspector to omit the loaded mode preconditioning on the chassis dynamometer: the vehicle has a driving wheel with less than 2/32 inch of tread or has metal protuberances or has low tire pressure or has any other condition that may be a hazard to personnel, facilities, equipment, or the vehicle. This is reasonable because it provides for a safe work environment for the inspector and others present at the inspection station and prevents potential damage to the vehicle being tested.

Subpart 8 states that a vehicle shall not be preconditioned on the chassis dynamometer if the vehicle operator refuses the loaded mode preconditioning, the vehicle is unable to obtain the 30 miles per hour, the vehicle is equipped with constant four-wheel drive, the vehicle operator is physically unable to yield the driver's seat to the inspector or if the vehicle operator refuses to yield the driver's seat to the inspector. This subpart is reasonable because it allows the loaded mode preconditioning to be omitted when the vehicle is not suitable for preconditioning on a dynamometer (e.g., four-wheel drive), or when the vehicle is old or in need of repair and cannot attain the required speed, or when the operator is physically unable or unwilling to yield the driver's seat. It is necessary for a trained operator to operate a front-wheel drive vehicle on a dynamometer for safety reasons.

Subpart 9 states that vehicles unable to be preconditioned on a chassis dynamometer shall be preconditioned by completing the following: the vehicle's transmission shall be placed in neutral; the vehicle's speed be increased to 2500 revolutions per minute plus or minus 300 revolutions per minute as measured by a tachometer which shall be maintained for at least 30 seconds; and then return the vehicle's engine speed to idle. The emission inspector then conducts an exhaust emission test after the vehicle has been preconditioned. This part is reasonable because it gives vehicles that are not able to be preconditioned on a chassis dynamometer another chance to pass the emission test by providing an alternative preconditioning method.

Subpart 10 states that a reconstructed vehicle shall be tested using the standards applicable to the year of manufacture of the engine installed in the vehicle. A reconstructed vehicle is a vehicle that has been built from

wheels on the dynamometer; inserting the analyzer probe in the tailpipe; bringing the vehicle speed up to approximately 30 miles per hour while in drive for an automatic transmission and third gear for manual transmissions; maintaining that speed for at least 30 seconds; and taking an exhaust sample to analyze for diagnostic purposes. Vehicles with multiple exhaust pipes must be tested either by simultaneous sampling of all tailpipes or by sampling each tailpipe and then averaging the test results. After the diagnostics are taken and the vehicle is preconditioned, the vehicle must be nearly level and running at normal temperature with all accessories off and running at constant idle. The vehicle shall then be tested at idle.

This procedure is reasonable, based on EPA and other State's experiences, because it allows a vehicle another chance to pass the emission test by being preconditioned and tested again if that vehicle fails the exhaust emission test. Some vehicles may fail the exhaust emission test if the catalytic converter has not been adequately warmed up, or preconditioned. The preconditioning will bring the catalytic converter up to its normal operating temperature and therefore, allow the exhaust emission test to be conducted under normal operating conditions.

Subpart 7 states the grounds for the inspector to omit the loaded mode preconditioning on the chassis dynamometer: the vehicle has a driving wheel with less than 2/32 inch of tread or has metal protuberances or has low tire pressure or has any other condition that may be a hazard to personnel, facilities, equipment, or the vehicle. This is reasonable because it provides for a safe work environment for the inspector and others present at the inspection station and prevents potential damage to the vehicle being tested.

Subpart 8 states that a vehicle shall not be preconditioned on the chassis dynamometer if the vehicle operator refuses the loaded mode preconditioning, the vehicle is unable to obtain the 30 miles per hour, the vehicle is equipped with constant four-wheel drive, the vehicle operator is physically unable to yield the driver's seat to the inspector or if the vehicle operator refuses to yield the driver's seat to the inspector. This subpart is reasonable because it allows the loaded mode preconditioning to be omitted when the vehicle is not suitable for preconditioning on a dynamometer (e.g., four-wheel drive), or when the vehicle is old or in need of repair and cannot attain the required speed, or when the operator is physically unable or unwilling to yield the driver's seat. It is necessary for a trained operator to operate a front-wheel drive vehicle on a dynamometer for safety reasons.

Subpart 9 states that vehicles unable to be preconditioned on a chassis dynamometer shall be preconditioned by completing the following: the vehicle's transmission shall be placed in neutral; the vehicle's speed be increased to 2500 revolutions per minute plus or minus 300 revolutions per minute as measured by a tachometer which shall be maintained for at least 30 seconds; and then return the vehicle's engine speed to idle. The emission inspector then conducts an exhaust emission test after the vehicle has been preconditioned. This part is reasonable because it gives vehicles that are not able to be preconditioned on a chassis dynamometer another chance to pass the emission test by providing an alternative preconditioning method.

Subpart 10 states that a reconstructed vehicle shall be tested using the standards applicable to the year of manufacture of the engine installed in the vehicle. A reconstructed vehicle is a vehicle that has been built from

several components and may not be recognizable by any particular model year. The engine, however, does have an identifiable date of manufacture. Therefore, it is reasonable to use the engine date of manufacture to identify the appropriate emission standard. It would not be reasonable to expect an engine to perform better than its design.

Subpart 11 states that if a vehicle has an exchanged engine, the vehicle shall be classified by the model year and the manufacturer's make of the exchanged engine.

This rule is reasonable because it allows for a vehicle to be tested to emission standards that are appropriate for the age of the engine in that vehicle. It is reasonable for a vehicle to be tested to the emission standards for the age of the engine because the emission standards are appropriate for the model year in which the engine was manufactured and the pollution control equipment for that engine age. 3/

Part 7005.5035, Reinspections.

This part allows a vehicle that has failed an inspection to be reinspected provided the vehicle has been repaired or adjusted according to the vehicle inspection report. It is reasonable to give the owner of a vehicle that has failed the inspection the opportunity to be reinspected and pass the tampering inspection and/or exhaust emission test if the owner has gone to the trouble and expense of repairing the vehicle.

Items A, B and C state that vehicles may be reinspected at any inspection station and must be accompanied by the previous inspection report and repair information. Information on repairs made to the vehicle subsequent to inspection must be completed by the person performing the repairs on the repair portion of the inspection report form. In addition, the reinspection must take place within 30 days after the inspection, unless the owner presents satisfactory evidence that the repairs, adjustments or the reinspection could not have been made within 30 days.

It is reasonable to allow the owner to have the reinspection conducted at any inspection station because any of the inspection stations is qualified to perform a reinspection. In order to demonstrate the vehicle has been repaired or adjusted, it is reasonable to require the owner to supply repair information at the time of reinspection. The repair information will be used to collect data on repairs in order to better serve the public. In addition, the repair information will be used by the waiver surveillance inspector if the owner is applying for a waiver. It is reasonable to require the person performing the repairs to complete the repair information in order to insure that the repair information will be accurate. It is reasonable to require the reinspection to be done within 30 days of initial inspection unless the owner can show that this was not able to be done because it insures that the owner

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This subpart acknowledges that engine switching is done by the public and provides a means of classifying a motor vehicle for purposes of the inspection and maintenance required by parts 7005.5010 to 7005.5105, but does not relieve the owner of a motor vehicle from the requirements of Minn. Stat., section 325E.0951 or Minn. Rules part 7005.1190, which prohibit, in part, removing, altering, or otherwise rendering inoperative any air pollution control system on a motor vehicle.

will make repairs that are appropriate to the results of the tampering inspection and/or exhaust emission test in a timely fashion. If the repairs were not able to be done within 30 days, it is reasonable to allow the owner additional time to make the repairs to pass the reinspection.

Item D states that a vehicle shall be reinspected only for those items that were failed, as indicated on the previous inspection report form, during an inspection. This is reasonable because narrowing the scope of the reinspection will keep the cost of the inspection down and better serve the public. Item D also provides that if the owner or operator does not provide a copy of the previous inspection report forms, the vehicle must be given a full inspection. This is reasonable because if the owner or operator does not provide a copy of the previous inspection report form, the Agency will not have a record that the repairs made were appropriate to the results of the previous tampering inspection or exhaust emission test, and will need to conduct a full inspection to assure compliance.

Item E states that the vehicle shall be eligible for no more than two reinspections unless the owner pays an additional fee. It is reasonable because the services of the inspection stations cost the State money. In order for the State to cover the cost of the Inspection/Maintenance program additional fees must be collected if a vehicle owner causes the State to incur the cost of several additional inspections. Two reinspections should be adequate for most owners to have necessary repairs made.

Item F states that if the vehicle passes the reinspection, a vehicle inspection report shall be issued indicating that the vehicle has passed

reinspection and a certificate of compliance shall be issued. The certificate of compliance may be combined with the vehicle inspection report form.

It is necessary and reasonable to issue an inspection report indicating that the vehicle has passed reinspection and a certificate of compliance in order to provide written documentation that the vehicle has passed the required inspection. It is reasonable to combine the certificate of compliance with the vehicle inspection report because a consolidated form will be more convenient both for the inspection station and the vehicle owner.

Item G states that if a vehicle cannot pass the reinspection, a vehicle inspection report indicating noncompliance shall be issued. The owner may be eligible to apply for a certificate of waiver. If the owner requests a certificate of waiver, the waiver surveillance inspector must approve or deny the waiver request in accordance with part 7005.5055. Item G is reasonable because it provides an opportunity for an owner to complete the inspection requirements, through the waiver process, if the vehicle cannot pass inspection even after it has been repaired.

Part 7005.5040, Vehicle Inspection Report

Subpart 1 describes the information to be included in the Commissioner approved vehicle inspection report form, which is supplied by the contractor to the owner or operator at the time of each inspection. Space for the following must be provided on the report: license plate number; vehicle identification number (VIN); model year of vehicle; model year of engine; make of vehicle; vehicle type; odometer reading (in thousands of miles); maximum allowable

exhaust emission concentrations; exhaust emission measurements for hydrocarbons as hexane, carbon monoxide and carbon dioxide; statement of pass-fail, valid-not valid, or waiver and reasons therefore, if applicable; inspection/reinspection number for subject vehicle; date and time of inspection; serial number of report; inspection station number, lane, inspector, and analyzer number; the reason for test termination before completion of test, if appropriate; a description of the low emission adjustments which are likely to reduce hydrocarbon and/or carbon monoxide emissions; and description and results of the tampering inspection.

Space specific to failed vehicles must also be provided on the vehicle inspection report as follows: serial number of previous test reports; warranty short test certification for post-1980 model year vehicles, if applicable; for a nonfleet vehicle, the name or identification number of the individual who either performed the test or has actual knowledge of the test (in the case of a fleet vehicle, the signature of the individual who performed the test); and diagnostic information as appropriate.

Space must also be provided, in case repairs were performed, for the following information: itemization of the repairs performed; cost of the emission related repairs or estimated cost of the emission related repairs, if the repairs exceed the maximum specified repair cost; cost of the low emission adjustment; analyzer serial or identification number (if used by the individual performing the repairs); idle exhaust emission concentrations of hydrocarbons as hexane, and carbon monoxide (if an analyzer is used when making repairs); complete name, address, telephone number, and federal identification number or

social security number of the business or person making the repairs; and date and signature of person performing the repairs.

The information contained on the vehicle inspection report is necessary in order to establish a complete record of the tampering inspection and exhaust emission test results for that vehicle. It is reasonable to require this complete information in order to inform both the vehicle owner and the Agency of the results of the inspection and the basis for the inspector's conclusions. In addition, the vehicle inspection report will provide the owner of a vehicle that has failed the tampering inspection or the exhaust emission test with diagnostic information and a list of emission or emission related parts that may have contributed to the vehicle's inability to pass the inspection or the test. The owner or mechanic may use this information as a guide for repairs. Space is also provided on the form for the owner or mechanic to itemize all repairs and repair costs (or estimated cost, if applicable). It is reasonable to include cost of repairs on the vehicle inspection report form because the waiver surveillance inspector needs this information to determine whether a vehicle should receive a waiver because the cost of repair exceeds the appropriate repair cost limit.

Subpart 2 assigns to the contractor the responsibility for the completion of items A through R above for all nonfleet vehicles. The person performing the repairs or making the cost estimates is responsible for the completion of items S through X of the vehicle inspection report. It is reasonable to require the contractor to complete items A through R on the vehicle inspection report because those items are details specific to the tampering inspection or the exhaust emission test conducted by the contractor.

It is reasonable to require the owner or mechanic to complete items S through X because those items pertain to actions taken by the owner or mechanic after a vehicle has failed the tampering inspection or exhaust emission test.

Subpart 3 states that if a vehicle fails the inspection, the owner or operator will receive an inspection report supplement containing the repair cost limit for emission related repairs; a description of the low-emission adjustment list; the probable causes of noncompliance if diagnostic information is provided; and instructions for waiver applications if the vehicle has failed reinspection. Requiring an inspection report supplement to be provided to the owner or operator is reasonable because it provides the owner or operator with guidance on what to do when his or her vehicle fails the inspection and provides instruction on the waiver process.

Part 7005.5045, Certificate of Compliance.

This part states that a certificate of compliance must be issued by an inspection station or the fleet inspection station as appropriate, when a vehicle has passed the tampering inspection and exhaust emission test. In order to be issued a certificate of compliance, the owner or operator of the vehicle must present the vehicle inspection report indicating that the vehicle is in compliance with parts 7005.5010 to 7005.5105. The certificate shall be a design approved by the Department and the Commissioner and shall contain, at a minimum, the date of the test and the vehicle's identification number to uniquely identify the vehicle. The rule also requires the owner to present the certificate to the Department when making application for registration renewal.

It is reasonable to issue a certificate of compliance so the owner has written documentation, to be provided to the registrar when applying for vehicle registration renewal, that the vehicle has passed the inspection. It is also reasonable to include the vehicle's identification number and the date of the test to uniquely identify the vehicle to the Agency and the Department and to establish a history of the inspection in the event that a waiver is sought. It is reasonable for the design of the certificate of compliance to be approved by the Commissioner and the Department in order to insure compatibility between the two State agencies. It is reasonable to require the owner to present the certificate of compliance to the Department when renewing the vehicle registration so that the Department will have evidence that the vehicle has been inspected, is in compliance with these rules, and is eligible to have its registration renewed.

Part 7005.5050. Vehicle Noncompliance and Repair

Subpart 1 states that if a subject vehicle fails the tampering inspection or reinspection, the contractor shall issue an inspection report that indicates noncompliance. The failed vehicle shall not be eligible to have its registration renewed unless the owner replaces or repairs the fuel inlet restrictor and/or replaces the catalytic converter, as appropriate. In addition, the person making the repairs must complete and sign the repair portion of the vehicle inspection report form. Finally, the vehicle must pass the tampering reinspection.

This subpart is reasonable because it provides for evidence to the owner that the vehicle has failed the tampering inspection and describes the

requirements to pass a reinspection. It is reasonable to make a vehicle ineligible to have its registration renewed until it passes the tampering inspection because this requirement is consistent with Minn. Stat., section 116.61 subd. 1 (c). The statute states that the registration of a vehicle may not be renewed unless the vehicle has been inspected and received a certificate of compliance or certificate of waiver. It is reasonable to require the person making the repairs complete and sign the repair portion of the vehicle inspection report in order to verify that the repairs have been completed.

Subpart 2 states that if a subject vehicle fails the exhaust emission test or retest, the contractor shall issue an inspection report that indicates noncompliance. The failed vehicle shall not be eligible to have its registration renewed until items A through D have been completed or a certificate of waiver has been issued under part 7005.5055. Under items A through D, the owner must make the repairs or adjustments to the vehicle in accordance with the inspection report or its supplement, have the person making the repairs complete and sign the repair portion of the vehicle inspection report form and the vehicle must pass the exhaust emission retest.

This subpart is reasonable because it provides for evidence to the owner that the vehicle has failed the exhaust emission test and describes the requirements to pass a retest. It is reasonable to make a vehicle ineligible to have its registration renewed until it either passes the emission inspection or receives a waiver because, as discussed previously, this requirement is consistent with Minn. Stat., section 116.61 subd. 1 (c). It is reasonable to require the person making the repairs complete and sign the repair portion of

the vehicle inspection report form in order to verify that the repairs have been completed.

Part 7005.5055, Certificate of Waiver.

Subpart 1 states that each vehicle, including a fleet vehicle, which has failed its initial exhaust emission test and at least one exhaust emission retest is eligible for a certificate of waiver if it meets the criteria listed below. The certificate of waiver shall be valid for no longer than the annual registration period. Subpart 1 is reasonable because provisions for waivers are required to be an element of the Inspection/Maintenance program by Minn. Stat., section 116.62. subd. 5 (1988). It is reasonable to require a vehicle to fail the initial inspection and at least one exhaust emission retest in order to be eligible for a waiver because the reinspection will allow the owner to determine whether repairs made, as appropriate according to the results of the inspection, were effective and whether the vehicle will pass inspection. It is in the State's best interest to determine whether repairs made are effective and to have as many vehicles pass the inspection as possible. It is reasonable to limit the validity of the certificate of waiver to the period of annual registration in order for the Agency to assure that the vehicle will be annually inspected as required by Minn. Stat., section 116.61, subd. 1 (1988). The criteria for a waiver are listed in items A through H. These criteria are discussed below.

Item A provides that the vehicle has failed to meet the appropriate standards of compliance for hydrocarbon as hexane or carbon monoxide emissions on its initial test and at least one retest after repair of the vehicle. As

discussed above, it is reasonable to limit the waiver to vehicles that have failed the initial emission test and at least one retest because it's in the State's best interest to give the owner an additional opportunity to pass the inspection before granting a waiver from the exhaust emission test.

Item B provides that for all post-1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than five years, the vehicle owner must provide a signed statement from an appropriate new car dealer that the vehicle is not eligible for emission control system warranty work. It is reasonable to make a vehicle ineligible for a waiver if the needed repairs could be done at no cost to the owner because the State's interest is in seeing that as many vehicles as possible will be repaired. If the owner is eligible for warranty repairs, the owner should be required to have those repairs done by the car dealership. This is not costly to the owner but will help improve air quality.

Item C provides that the owner or mechanic has diagnosed and attempted to repair the vehicle to pass reinspection, including interrogation of appropriate onboard diagnostic systems. This is reasonable to make a vehicle ineligible for a waiver unless repairs have at least been attempted, or otherwise some vehicle owners may choose to ask for a waiver instead of getting the vehicle repaired. This is contrary to the intest of the Inspection/Maintenance program and would be unfair to owners who comply in good faith.

Item D provides that, except as provided in item E, the owner presents satisfactory evidence to the waiver surveillance inspector that a low emission

adjustment, as appropriate according to the exhaust emission test results, has been performed on the vehicle after the initial exhaust emission test and within 90 days before renewal of registration. It is reasonable to make a vehicle ineligible for a waiver unless a low emission adjustment has been made because low emission adjustments will be low-cost, easy-to-make repairs that will improve the vehicle's emissions without unduly burdening the vehicle owner. Requiring these minimal repairs will have a beneficial effect on air quality even though full repairs will not be required if the vehicle owner obtains a waiver. It is reasonable to require low emission adjustments to be made within 90 days before renewal of registration because it gives the vehicle owner a reasonable amount of time to complete one of the items needed to obtain a certificate of waiver and meet the requirements of Minn. Stat., section 116.61, subds. 1 (b) and 1 (c). The statute requires that inspections take place within 90 days before re-registration and that registration may not be renewed unless the owner has obtained a certificate of compliance or a certificate of waiver. Examples of items that other States include on a low emission adjustment list for carbon monoxide failure are the air filter, choke, and thermostatic air cleaner. Examples of items that other States include on a low emission adjustment list for hydrocarbon failure are vacuum hoses, spark plugs and distributor. As discussed below, item E provides an exception to the low emission adjustment.

Item E provides that the owner must present satisfactory evidence to the waiver surveillance inspector that either of the following exceeds the repair cost limit: (1) the actual cost of the low emission adjustment as appropriate to the emission test results on the inspection report form; or (2) the requirements of item E. (1) plus the actual or estimated cost of additional

repairs or adjustments necessary to bring the vehicle into compliance with the maximum allowable emission standards. This item is reasonable because it is consistent with the requirements of Minn. Stat., section 116.62, subd. 5 (a) (2), which requires that a vehicle be eligible for a waiver if the repair cost limit will be exceeded.

Item F provides that the owner must comply with evidence requirements under part 7005.5065. The evidence requirements include legible and itemized receipts. This item is reasonable because legible and itemized receipts will serve as written evidence to the waiver surveillance inspector of the cost of repairs. The waiver surveillance inspector will use the information to judge whether or not a waiver should be granted.

Item G provides that the person performing the repairs or preparing the estimate must complete all parts of the repair portion of the vehicle inspection report form and sign it. This is reasonable because it provides the waiver surveillance inspector with evidence that the repair cost information is accurate. This information needs to be accurate so that the waiver surveillance inspector can use this information to judge whether the owner shall receive a certificate of waiver.

Item H states that the vehicle must pass the tampering inspection under parts 7005.5025 or 7005.5035, and the emission control equipment inspection under part 7005.5060. The reasonableness of requiring a vehicle to pass the tampering inspection in order to be eligible to have its registration renewed has been discussed previously; the same considerations make this provision reasonable with respect to eligibility for a certificate of waiver, since

issuance of a certificate of waiver makes a vehicle eligible for renewal of its registration. It is reasonable to require the vehicle to pass the emission control equipment inspection because it assures that the vehicle's pollution control equipment is in place and in operating condition. While the legislature has set a repair cost limit, it has specifically excluded from the repair cost limit "costs necessary to repair or replace any emission control equipment that has been removed, dismantled, tampered with, misfueled, or otherwise rendered inoperative." Minn. Stat., section 116.62, subd. 5 (b) (1988).

Subpart 2 discusses waivers following repairs by persons other than mechanics. Item A provides that when a person other than a mechanic (including the owner) attempts to repair a vehicle, that person must take the actions indicated on the low emission adjustment list as are appropriate to the exhaust emission test results and attempt to diagnose and perform repairs necessary to bring the vehicle into compliance just as he or she would if the vehicle were repaired by a mechanic. Item B provides that when a person other than a mechanic attempts repair or where there is no charge for the labor, the repair cost limits of $75 and $200 shall be reduced solely by the expenditure for emission related repairs and parts including those parts listed on the low emission adjustment list. The owner must provide legible and itemized receipts for parts replaced provided those costs relate to the emission control system.

It is reasonable to allow self repairs so the owner of a vehicle that has failed the inspection can make the repairs without the added expense of a mechanic. Subpart 2 is reasonable because it offers a choice for the owner of a vehicle that has failed the inspection to make self repairs or have a

mechanic make repairs. It is reasonable to only take the cost of parts into account in determining whether the repair cost limit has been exceeded because there has been no cost incurred by the person making self repairs except the cost of the parts.

Subpart 3 describes the duties of the waiver surveillance inspector in reviewing waiver requests. The inspector has the duties set forth in items A through E.

Item A provides that the waiver surveillance inspector shall deny the issuance of a waiver to a vehicle unable to pass the emission control equipment inspection. This is reasonable because under part 7000.5055, subp. 1, item H, a vehicle is ineligible to receive a waiver if it fails to pass the emission control equipment inspection.

Item B provides that the waiver surveillance inspector shall determine whether the vehicle should qualify for warranty repairs under applicable federal law. If so, the waiver surveillance inspector shall determine whether the owner has a signed statement from an appropriate new car dealership (the manufacturer's authorized repair facility) stating that the vehicle is not eligible for emission control system warranty work. The Agency is required to distribute and require the use of a standard form for this purpose. The statement must be dated after the vehicle failed its initial inspection and must identify the vehicle and the dealership. If the owner has such a statement, the inspector will continue with the waiver process. If the owner does not have a statement, no waiver shall be issued.

This item is reasonable because it requires the waiver surveillance inspector to check for one of the items needed by the vehicle owner to prove that the vehicle is eligible for a waiver in that it meets the criterion established in subp. 1, item B. It is reasonable for the Agency to develop a standardized form to be used for this evidence because the existence of such a form will promote consistency of reporting techniques and will be convenient for both the public and the car dealerships. It is reasonable to require the statement to be signed and dated subsequent to the date the vehicle failed its initial inspection to determine whether items that may have contributed to the vehicle failing the inspection are covered by any warranty. It is reasonable for the waiver surveillance inspector to deny a waiver to an owner who does not have a signed statement from the new car dealership because it is in the State's interest to have as many vehicles as possible repaired. If the repairs are covered by the warranty, it is not unduly burdensome to require the owner to go to the new car dealership for authorized warranty repairs.

Item C provides that the waiver surveillance inspector shall verify that the repair and waiver documentation presented by the owner is properly completed and that the documents indicate that the waiver criteria have been met. The inspector shall also verify that the repair facility name and location are legible. This is reasonable because it assures that certificates of waiver are issued only where the owner has presented proper evidence of eligibility for and completion of requirements for obtaining a waiver.

Item D provides that the waiver surveillance inspector shall issue a certificate of waiver if all waiver criteria have been met. It is reasonable to issue a certificate of waiver to serve as evidence that all conditions of

waiver have been met. The certificate of waiver serves as evidence to the registrar that the vehicle's registration may be renewed.

Item E provides that if all criteria have not been met, the inspector shall explain to the owner what criteria are not satisfied, how the criteria may be met, and provide the owner with a printed explanation of the waiver process and waiver criteria. It is reasonable for the inspector to present information to help the owner understand the criteria to be met and steps necessary to obtain a certificate of waiver because this will help the owner correct any problems so that the vehicle may be registered by the Department.

Subpart 4 states that the owner of a vehicle granted a waiver shall receive a certificate of waiver, which will be proof that the vehicle has met the requirements of the Inspection/Maintenance rules. Each certificate must contain, at a minimum, the date of the test and the vehicle's identification number. The certificate of waiver and the vehicle inspection report may be combined into a single form. The owner shall present the certificate of waiver to the Department when making application for registration renewal.

This item is reasonable because the certificate provides evidence to the registrar that a certificate of waiver has been granted. It is also reasonable to require the certificate to contain the date of the test and the vehicle's identification number in order to uniquely identify the vehicle and document the test date. It is reasonable to combine a certificate of waiver and the vehicle inspection report form because a combined form will reduce the cost of the program and make it more convenient for the public.

Subpart 5 allows the waiver surveillance inspector to issue a waiver for any vehicle that cannot be inspected because of technical difficulties inherent in the manufacturer's design or construction of the vehicle. A copy of the waiver shall be retained for the Agency's use. Subpart 5 also states that any fleet vehicle that, in the opinion of a mechanic employed by a fleet station, cannot be inspected because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering or because of limitations of the fleet station's inspection equipment, shall be referred to the waiver surveillance inspector. The waiver surveillance inspector shall sign the vehicle inspection report if he or she concurs that a waiver should be issued for the vehicle. The fleet mechanic will then issue a certificate of waiver.

Subpart 5 is necessary in order to accommodate special cases in which there are technical reasons why a vehicle cannot pass an exhaust emission test. It is also reasonable to require the concurrence of the waiver surveillance inspector for the fleet station mechanic to issue a certificate of waiver in order to assure consistency and fairness between vehicles inspected at public inspection stations and those inspected at fleet inspection stations.

Subpart 6 states that the waiver surveillance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the vehicle's registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30 day period, the Commissioner shall send a notice requesting the Department to cancel the vehicle's registration. This item is reasonable because it provides additional time for repair and reinspection of the vehicle. It is further

reasonable because it is consistent with Minn. Stat., section 116.62, subd 5 (d) (1988), which authorizes the Agency to grant temporary certificates of waiver. It is reasonable for the Commissioner to request the Department to cancel the vehicle's registration if the owner fails to comply with the conditions of the temporary waiver because it is consistent with Minn. Stat., section 116.61, subd. 1 (c), which states that a vehicle's registration may not be renewed unless the owner has received a (valid) certificate of waiver.

Part 7005.5060, Emission Control Equipment Inspection as a Condition of Waiver.

Subpart 1 states that if a certificate of waiver is requested, the vehicle shall undergo an emission control equipment inspection conducted by the waiver surveillance inspector. The inspection is designed to allow the detection of visual or obvious tampering and allows for no removal or disassembly of parts. At a minimum the inspector will check whether or not any elements of the factory installed pollution control system are missing, modified, altered, or damaged in such a manner as to decrease the vehicle's efficiency or effectiveness in the control of air pollution in violation of part 7005.1190 or Minn. Stat., section 325E.0951.

This subpart is reasonable because it assures that a vehicle, for which a certificate of waiver from exhaust emission testing has been requested, has original, factory-installed emission control equipment that is in place and effective. In enacting Minn. Stat., section 116.62, subd. 5 (b), the legislature has evidenced its intention that needed air pollution control equipment repairs would not be excused nor a certificate of waiver granted if the repair was necessary to repair or replace "any emission control equipment

that has been removed, dismantled, tampered with, misfueled, or otherwise rendered inoperative in violation of Minn. Stat., section 325E.0951." It is reasonable to reference Minn. Rule 7005.1190 in this rule because it is the Agency's anti-tampering rule and thus is relevant to this part. It is reasonable to have a waiver surveillance inspector conduct the emission control equipment inspection because the waiver surveillance inspector has the authority to grant waivers.

Subpart 2 states that, except for vehicles described in part 7005.5025, items C or D (relating to gray-market vehicles and show cars) if any of the vehicle's factory installed pollution control equipment is not in place or has been modified, altered or damaged in such a manner to decrease its efficiency or effectiveness in the control of air pollution the vehicle shall fail the emission control equipment inspection. Subpart 2 is reasonable because, as discussed above, the legislature has expressed its intention in Minn. Stat., section 116.62, subd. 5 (b) that tampered vehicles cannot be registered until the tampering has been remedied. It is reasonable to reference Minn. Stat., section 325E.0951 and Minn. Rules part 7005.1190 in the rule because this statute and rule provide standards to determine when tampering has occurred.

Subpart 3 states, except for vehicles described in part 7005.5025, items C or D (relating to gray-market vehicles and show cars), an owner must repair or replace applicable elements of the factory installed emission control system if the owner has failed the emission control equipment inspection. Subpart 3 is reasonable and necessary to assure that vehicles that have failed the emission control equipment inspection will have the original, factory-installed pollution control equipment in place before a waiver will be

granted from the exhaust emission test. At a minimum, a vehicle must be brought into compliance with its original factory-installed pollution control requirements, unless the owner provides documentation that it is a gray-market vehicle or a show car. As previously discussed, the legislature has expressed its intention in Minn. Stat., section 116.62, subd. 5 (b) that tampered vehicles must be repaired.

Subpart 4 allows a vehicle owner or operator to leave the inspection area to seek proof that the vehicle has not been tampered with. The owner or operator must return to the same inspection station, with documentation within 20 days, and continue with the emission control equipment inspection. The contractor shall not bill the Agency for this return visit. This subpart is reasonable because it allows the owner or operator to provide documentation showing that the vehicle has not been tampered with. Subpart 4 also allows an adequate time period, 20 days, to provide the documentation of non-tampering. It is reasonable that the contractor should not bill the Agency for the return visit because the vehicle owner or operator has not completed the inspection but is continuing with it. Therefore, additional charges should not be made.

Part 7005.5065, Repair Cost Limit and Low Emission Adjustment.

Subpart 1 states that the repair cost limit is $75 for vehicles of model years before 1981 and $200 for vehicles of 1981 and later model years. As stated in part 7005.5055, subp. 1, item E, the cost limits are applicable as a condition of waiver and only those costs associated with emission related repairs, with the exception of tampered items, will be credited towards the

cost limit. This subpart is reasonable because it sets forth the repair cost limits as required in Minn. Stat., section 116.62, subp. 5 (c) (1988).

Subpart 2 excludes certain costs when determining the cost of repairs and adjustments applied to the repair cost limit. Excluded are the costs covered by warranty and costs to repair or replace any emission control part or parts which have been removed, dismantled or rendered inoperative in violation of part 7005.1190 or Minn. Stat., section 325E.0951. It is reasonable to exclude these costs because these costs are excluded from the repair cost limit by Minn. Stat., section 116.62, subd. 5 (b) (1988). It is reasonable to include references to Minn. Rules part 7005.1190 and Minn. Stat., section 325E.0951 because these authorities provide the standards to determine when tampering has occurred.

Subpart 3 states that, except as provided in part 7005.5055, subp. 2, item B, the cost of repair or estimate of the cost of repair is eligible to be credited to the repair cost limit when applying for a waiver if the owner presents, to the waiver surveillance inspector, a legible and itemized receipt for parts replaced and labor, provided that the costs relate to the emission control system. The receipt must have a legible date and the date must be after the vehicle failed its initial inspection and within 90 days prior to the vehicle's registration expiration. The waiver surveillance inspector shall be responsible for examining receipts for such items and determining which costs are eligible to be credited towards the repair cost limit. The eligible total cost must be contained on the vehicle inspection report form.

It is reasonable to require the owner to present evidence of repair costs that are eligible to be considered towards the repair cost limit because without this evidence the waiver surveillance inspector cannot determine whether the cost of repairs will exceed the repair cost limit. It is reasonable to require that the receipt be dated after the vehicle failed its initial inspection and within 90 days prior to the vehicle's registration expiration because this insures that repairs or adjustments made are appropriate to the results of the inspection. The owner or operator should not obtain credit for repairs made prior to the inspection because those costs were not associated with the vehicle failing the inspection and therefore should not be credited towards the repair cost limit as a condition of waiver. It is appropriate for the waiver surveillance inspector to review documentation because the waiver surveillance inspector has the authority to grant waivers. It is reasonable to require that the eligible total cost be indicated on the vehicle inspection form so there is written documentation that the waiver surveillance inspector can use in determining whether a certificate of waiver should be granted.

Subpart 4 states that the Commissioner shall establish a list of diagnostic and repair procedures that are likely to reduce a vehicle's carbon monoxide and hydrocarbon exhaust emissions. This list shall be called the low emission adjustment list and will be updated periodically by the Commissioner to reflect changes in motor vehicle technology. The purpose of the low emission adjustment list is to determine those low cost, easy to make repairs that will be required to be done as a condition to obtain a certificate of waiver under part 7005.5055, subp. 1, item D. As discussed previously, examples of items that other States include on a low emission adjustment list

for carbon monoxide failure are the air filter, choke, and thermostatic air cleaner. Examples of items that other States include on a low emission adjustment list for hydrocarbon failure are vacuum hoses, spark plugs and distributor.

It is reasonable to have a low emission adjustment list in order to offer guidance to the vehicle owner or operator on the probable reasons the vehicle failed the exhaust emission test. It is reasonable to provide the owner or operator with guidance on the repairs likely to improve the vehicle's emissions. It is also reasonable to periodically update the low emission adjustment list in order to remain current with changes in the automotive repair industry.

Part 7005.5070, Letter of Temporary Extension and Letter of Annual Exemption.

Subpart 1 of this part pertains to the letter of temporary extension and consists of items A to I.

Item A states that if a subject vehicle will not be available for inspection due to the vehicle's absence or storage, or the owner's absence or illness, during the 90 day period prior to the vehicle's registration renewal date the owner may apply in writing to the Commissioner for a letter of temporary extension. This item is reasonable because it provides a mechanism for an owner, who is ill or absent or whose vehicle is absent or stored, to meet the requirements of this rule and obtain registration renewal for the vehicle. Also, so long as the vehicle is not being operated in the metropolitan area, it is not contributing air emissions in the area. With a

letter of temporary extension, the owner may renew the vehicle's registration but must have the vehicle inspected when the owner is present again or the vehicle is used again in the seven county metropolitan area. The Commissioner is the appropriate person to which an owner may apply for a letter of temporary extension because the Commissioner represents the responsible governmental unit (the Agency) with the authority to issue a letter of temporary extension.

Item B states that the owner shall provide the reason for requesting a letter of temporary extension, certify that the vehicle will not be available for inspection during the 90 day period prior to registration renewal, and state when the vehicle will be operated again within the seven county metropolitan area. The owner shall sign the application and certify that the information contained in the application is correct. Item B is necessary because it tells the owner what type of information and documentation is necessary in order to apply for a letter of temporary extension. The owner's signature is required in order for the Agency to authenticate the application. It is reasonable to require this information so the Commissioner can verify that the automobile will not be operated in the area and that the owner has a valid excuse for not seeking an inspection in the originally required time period.

Item C states that upon approval of the application by the Commissioner, a letter of temporary extension shall be issued to the vehicle owner. The letter shall allow the owner to proceed with vehicle registration renewal prior to vehicle inspection. It is reasonable for the Commissioner to issue a letter of temporary extension to serve as the owner's evidence to the

Department that the owner may proceed with registration renewal for the vehicle.

Item D gives the owner three options once the owner has received a letter of temporary extension. The owner may have the vehicle inspected within the metropolitan area within 90 days prior to the vehicle's registration renewal date; the owner may have the vehicle inspected by an inspection station outside Minnesota that in the judgment of the Commissioner performs inspections equivalent to those required by these rules; or the owner may have the vehicle inspected within 30 days of when the vehicle is again operated within the metropolitan area. This item is reasonable because it gives the owner flexibility by providing three options for fulfilling the inspection requirements.

Item E directs the owner to complete and sign the affidavit portion of the letter of temporary extension and submit it to the registrar when making application for registration renewal. A letter of temporary extension shall be valid for no longer than the annual registration period. The registrar shall forward all affidavits to the Agency within 10 days after the end of the calendar month in which the affidavits are received.

It is reasonable to require the owner to authenticate, by signature, the information in the application for the letter of temporary extension in order to assure that the information is accurate. It is reasonable to limit the validity of the letter of extension to the period of annual registration in order for the Agency to assure that the vehicle will be inspected annually as required by Minn. Stat., section 116.61, subd. 1 (1988). It is reasonable for

the registrar to forward all affidavits of extension to the Agency so the Agency has a record of registrations renewed pursuant to extensions issued by the Commissioner.

Item F states that if the owner of a vehicle who has received a letter of temporary extension has the vehicle inspected at an inspection station outside of Minnesota, then the owner shall submit evidence of such inspection to the Commissioner within 30 days of commencement of the operation of the vehicle in the seven county metropolitan area. This item is reasonable because it allows the Commissioner to verify that the owner has implemented one of the inspection options allowed by part 7005.5070, subp. 1, item D. This item is also reasonable because it provides an adequate time period, 30 days, for an owner to notify the Commissioner that his or her vehicle has been inspected and tested in another State.

Item G states that if the owner of a vehicle fails to comply with items D through F as discussed above, the Agency shall request the Department to revoke the owner's registration. It is reasonable to establish a sanction for failure to comply with the inspection requirements specified in Minn. Stat., sections 116.60 to 116.65 and these rules to serve as incentive for the holder of a letter of extension to get the vehicle inspected. In addition, Minn. Stat., section 116.61, subd. 1 (c) (1988) states that registration may not be renewed unless the vehicle has been inspected and received a certificate of compliance or certificate of waiver.

Item H states that if the owner fails to comply with items D through F, then the owner shall not be eligible to receive another letter of temporary

extension for the next annual registration period. This provision is necessary in order to ensure that the owner has the vehicle inspected and obtains a certificate of compliance or certificate of waiver. Elimination of eligibility for a letter of temporary extension establishes a reasonable penalty for failure to have a subject vehicle inspected and may reduce any potential misuse of the extension process.

Item I provides a mechanism by which the owner may dispute the revocation of his or her vehicle registration because of the owner's failure to comply with items D through F. Evidence may be presented within 30 days to the Commissioner who has the authority to approve or disapprove a letter of temporary extension. This is reasonable because it establishes a process by which the owner can gather evidence to reconcile a dispute within a reasonable time period after registration revocation.

Subpart 2 states that an owner whose vehicle is customarily domiciled outside of the metropolitan area may apply in writing to the Commissioner for a letter of annual exemption from vehicle inspection. Subpart 2 also states that an owner must complete and sign the affidavit portion of the letter of annual exemption and present it to the registrar when making application for registration renewal. The letter shall be valid for no longer than the annual registration period.

This item is reasonable because it acknowledges that an owner may register a vehicle in the metropolitan area, but customarily domicile the vehicle outside the seven county metropolitan area. If a vehicle is not operated in the metropolitan area, it is not contributing emissions to the

metropolitan area. Therefore, it is reasonable that an owner residing in the metropolitan area, but keeping and using a vehicle outside the area, not be required to transport the vehicle to the metropolitan area for the sole purpose of having the vehicle inspected. The Commissioner is the appropriate person to which an owner may apply for a letter of annual exemption because the Commissioner represents the responsible governmental unit (the Agency) with the authority to issue a letter of annual exemption. It is reasonable to require the owner to authenticate the application, by signature, in order to assure that the application for a letter of annual exemption does not contain false information.

Part 7005.5075, Evidence of Meeting State Inspection Requirements.

This part states that a certificate of compliance or certificate of waiver issued by an inspection station or a fleet inspection station or a letter of annual exemption issued by the Commissioner will be accepted by the Department, the Agency and the registrar as evidence that a subject vehicle has successfully complied with the requirements of the Inspection/Maintenance rules, unless there is reason to believe that these documents are false documents. The certificate of compliance, certificate of waiver, or letter of annual exemption are the written documents that demonstrate that a vehicle has either passed the inspection or has been waived or exempted from those requirements. Therefore, it is reasonable that the Department, the Agency and the registrar accept them as such. This is also reasonable so the registrar will know that a vehicle is eligible to have its registration renewed.

Part 7005.5080, Fleet Inspection Station Permits, Procedures and Inspections.

Subpart 1 states that a fleet owner with 50 or more subject vehicles may apply to the Agency for a permit to establish a fleet inspection station. Two or more fleet owners each owning 25 or more subject vehicles may also apply jointly for a fleet inspection station permit. Fleet owners commonly have many vehicles registered to them which could require inspection within a short period of time. It is reasonable to allow, through a permit process, fleet owners to establish their own inspection station in order for them to inspect a large number of fleet vehicles within a short period of time. It is anticipated this would decrease the amount of time that a fleet vehicle would be out of service. This portion of the proposed rule is reasonable because it is consistent with Minn. Stat., section 116.62, subd. 4 (1988).

The rule allows the Agency to issue a fleet inspection station permit only if it finds that the applicant meets the requirements of items A to C.

Item A states that applicants must provide a facility with a building or portion of a building devoted principally to maintaining or repairing the fleet's vehicles on a regular basis. The facility must be of sufficient space to conduct maintenance or repair of at least one fleet motor vehicle. This is reasonable because the applicant should be capable of repairing fleet vehicles that have failed either the tampering inspection or the exhaust emission test in order to assume the additional responsibility of self inspection and testing.

Item B states that at a minimum, applicants must own or lease and maintain in good working condition an ignition timing light with a timing advance tester, ignition operated tachometer, dwell meter, positive crankcase ventilation tester and tools necessary to complete the low emission adjustment requirements. Without these basic tools or test devices, the applicant would be unable to provide self inspection and testing. Therefore, it is reasonable to require the applicant to have these items.

Item C states that the applicant must obtain an emission analyzer to measure hydrocarbons as hexane, and carbon monoxide that meets or exceeds the analyzer specifications in 40 C.F.R. section 85.2215 as amended and employ a mechanic or enters into an agreement with the Agency's contractor to have the required inspection and tests performed. Only the equipment required to inspect and repair the types of vehicles in the fleet inventory are required in the fleet station. The rule requires the Commissioner to maintain a list of acceptable analyzers.

Under the proposed Inspection/Maintenance contract, the Agency's contractor will be required to obtain an emissions analyzer that meets the requirements of 40 C.F.R. section 85.2215 as amended. It is reasonable to also require the applicant to obtain the same type of analyzer. This will insure that all exhaust emission tests will be conducted with similar analyzers producing similar results. It is reasonable to require the Commissioner to maintain a list of acceptable analyzers because such a list will make it easy for applicants to quickly determine what types of analyzers will fulfill the requirements of 40 C.F.R. section 85.2215.

It is reasonable for the proposed rule to allow applicants to choose between employing their own mechanics or contract with the Agency's contractor to conduct inspections. Fleet permittees may have specific circumstances where they are unable to self inspect, as in the case of equipment failure. The fleet permittee could also find it economically beneficial to enter into a contract with the Agency's contractor to inspect the fleet vehicles. The proposed rule accommodates these needs.

Subpart 2, items A through L set forth the requirements that must be met for the Agency to issue a permit to a fleet owner.

Item A states that an application fee of $200 must be paid to the Agency and an inspection of the premises shall be made by the Agency. Fleet inspection licensing fees are required by Minn. Stat., section 116.62, subd. 4 (1988). A fee is necessary to pay for the Agency's anticipated expenses for processing and issuing the permit, to track compliance of the permit and to provide quality assurance audits of both analyzers and inspected vehicles. The fee is reasonable because fleet inspection stations will not be paying for inspections on a per vehicle basis as the general public. It is reasonable to require an Agency inspection of the premises so the Agency can determine that the fleet inspection station will be providing reliable inspections and that the fleet inspection station is meeting the permit conditions.

The amount of the fee may underestimate the Agency's cost for these functions because the number of fleet inspection stations is unknown. It may become necessary to change the permit fee, through the rulemaking process, once the number of fleet inspection stations and the Agency's costs are known.

Item B states that a fleet inspection station permit shall expire after one year. It is reasonable to have the permit expire after one year so the Agency can reassess the fleet owner's performance of its obligations under the permit. Corrections, if necessary, can then be made and the permit reissued if all the permit conditions have been met.

Item C states that a fleet inspection station shall only inspect vehicles that are owned by the fleet station permittee. The intent of the fleet station permit is to allow fleet station permittees to test fleet vehicles at their convenience and not to offer testing services to other vehicle owners. Therefore, it is reasonable to allow a permitted fleet inspection station to test only their vehicles. The proposed rule is reasonable because it is consistent with Minn. Stat., section 116.62, subd. 4 (d) (1988).

Item D states that the permit renewal application must be submitted to the Agency at least 45 days before the permit expires. This requirement is necessary and reasonable in order to allow the Agency adequate time to process the renewal application and issue the new permit.

Item E states that the permit shall only be applicable to the fleet's inspection facility located at the address shown on the permit. If a fleet owner wishes to inspect vehicles at more than one address, separate permits must be obtained. This requirement is reasonable so the Agency knows the location of each fleet inspection station conducting the inspection in order to periodically inspect each location.

Item F states that a permit is not transferable. This is reasonable so the Agency is assured that each fleet station permittee issued a permit by the Agency for the operation of a fleet inspection station is meeting the requirements of that permit and that the Agency can maintain up-to-date and accurate records.

Item G states that if a permittee desires to change the name or address on a permit and the changes do not involve a change of ownership, the permit shall be returned to the Agency. The Agency shall cancel the permit, require a new application, application fee and issue a new permit. This requirement is reasonable so the Agency can maintain up-to-date and accurate records and that the permit for a fleet inspection station contains accurate information. It is reasonable to require payment of another application fee because the Agency will incur a cost to process and issue the new permit.

Item H states that if a permit has been revoked, suspended, or has expired, the fleet inspection station shall immediately stop all activities requiring a permit. This requirement is reasonable and necessary to avoid inspections being performed without authority or approval from the Agency.

Item I states that if a permit is lost, destroyed or mutilated the permittee may obtain a duplicate, after showing proof of the fact, from the Agency. If the original permit is recovered at a later date, it must be surrendered to the Agency. This is reasonable because the permittee will then always have in its possession a valid permit authorizing the facility to perform inspections. To avoid confusion and duplication, it is reasonable to

require the return of any original permits recovered after a duplicate has been issued.

Item J states that if a fleet inspection station does not employ a mechanic it shall immediately stop operating as a fleet inspection station and notify the Agency. It is reasonable to require the fleet inspection station to immediately cease operating as a fleet inspection station if it loses its mechanic because the mechanic is the person who performs the inspection and without the mechanic, the fleet inspection station would not be operating under the conditions of the permit. It is reasonable to require the fleet inspection station to notify the Agency so the Agency can maintain up-to-date and accurate records.

Item K states that when a fleet inspection station permit is surrendered, suspended or revoked, all unused vehicle inspection report forms must be returned to the Agency. This is reasonable because the facility that surrenders its permit or has its permit suspended or revoked would not have the authority to issue inspection report forms. In addition, it would decrease the likelihood that unused forms will be lost or misused.

Item L states that surrender, suspension or revocation of a permit shall not prevent the Agency from carrying out investigative or enforcement actions against the permittee for violations of State statutes, rules, or conditions of the permit. This is reasonable to protect the Agency against operation of a fleet inspection facility in violation of these rules and/or the permit, and to allow the Agency to investigate any alleged violation of these rules and/or the permit.

Subpart 3, items A through D sets forth the requirements for equipment and record keeping.

Item A states that all test equipment and instrumentation must be maintained in good condition. Calibration and maintenance shall be performed in accordance with the 40 C.F.R. section 85.2217 as amended. Recommendations by the Commissioner for calibration and intervals between calibration shall be a condition of a fleet inspection station permit and shall supersede all conflicting recommendations.

This requirement is necessary so all test equipment and instrumentation will be properly maintained and in good working order. It is reasonable to require calibration and maintenance to be conducted consistent with EPA regulations in the C.F.R. as amended in order to insure that instrumentation is operating properly and will produce reliable test results.

Item B states that a record of calibrations performed on each instrument shall be maintained by the fleet inspection station. The record must include the date and signature of the technician performing the calibration. This requirement is reasonable in order to provide documentation that each analyzer has been calibrated and is producing accurate test results. The signature of the person performing the calibration authenticates this process and allows the Agency to check the calibration record of an analyzer if necessary.

Item C states that the fleet inspection station equipment, span gases, records, and premises shall be subject to scheduled and unscheduled checks for

accuracy and condition by an Agency representative. This requirement is necessary and reasonable so the Agency can check that all conditions of the permit are being met and the fleet inspection station is providing accurate test results consistent with the permit conditions.

Item D states that the applicant or permittee shall provide information relevant to the operation of the fleet inspection station to the Agency if requested by the Commissioner. It is reasonable to have this requirement so the Agency can obtain any additional information that would be needed to process a permit application or judge compliance with an existing permit and these rules.

Subpart 4 requires fleet vehicles to be inspected by the fleet station mechanic according to the schedule in part 7005.5015. That proposed rule provides that if the fleet vehicle is nontax-exempt, it shall be inspected within 90 days prior to the vehicle's registration renewal. If the vehicle is tax-exempt, the vehicle shall be inspected at a time designated by the Commissioner. The schedule for tax-exempt vehicles is reasonable because these vehicles are not subject to registration renewal therefore, it is reasonable for the Commissioner to establish a separate schedule for inspections.

Subpart 5 states that the tampering inspection and exhaust emission test shall be conducted on fleet vehicles by a fleet inspection station mechanic under parts 7005.5015 to 7005.5030 with the exception of part 7005.5030, subp. 6. If the fleet vehicle fails the exhaust emission test, the vehicle shall be preconditioned according to part 7005.5030, subp. 6, or if the fleet inspection station does not have a dynamometer, part 7005.5030, subp. 9.

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 75 revolutions per minute. Subpart 5 is reasonable because it provides for the same tampering inspection and exhaust emission test for both fleet and non-fleet vehicles with the exception of preconditioning. Fleet inspection stations may not be equipped with a chassis dynamometer therefore, it is reasonable to establish an alternative preconditioning method that does not require the use of a chassis dynamometer. Because the alternative preconditioning method, under part 7005.5030, subp. 9, will adequately precondition a vehicle, the additional cost of a chassis dynamometer can be avoided. It is also reasonable for the fleet inspection station to adjust the idle to within manufacturer's specifications in order to insure that the inspection will be accurate.

Subpart 6, items A through H set forth the requirements for the vehicle inspection reports issued and processed by fleet inspection stations.

Item A states that a vehicle inspection report shall be completed, marked "passed" and issued for each vehicle passing the tampering inspection and the exhaust emission test. The vehicle inspection report serves as evidence that the vehicle has met the requirements of this rule and that the owner is eligible to renew the vehicle's registration. Therefore, it is reasonable to have an inspection report issued for vehicles inspected and tested by a fleet inspection station.

Item B states that corrections to vehicle inspection reports shall be authenticated and initialed by the mechanic conducting the inspection. The

voided or unusable reports and certificates shall be returned to the Agency. When corrections are necessary, it is reasonable to have those corrections authenticated by the mechanic to verify that the reports originally contained incorrect information but have been corrected. It is reasonable to require return of all reports and certificates because they are void and no longer usable, and return of the reports and certificates should eliminate the potential that they will be altered and misused.

Item C states that only the fleet station mechanic shall sign the vehicle inspection report except when the permittee is using the services of the Agency's contractor. When the fleet station mechanic performs the inspection, it is reasonable to require him or her to affirm that inspection of the fleet vehicle was completed in accordance with the rule.

Item D states that after completion of the tampering inspection, exhaust emission test and the vehicle inspection report, the original copy of the completed fleet vehicle inspection report shall be forwarded to the Agency within two weeks after completion of the inspection. This is reasonable so the Agency can maintain records on which fleet vehicles have completed the inspection. Two weeks is a reasonable time period for this requirement because it allows ample time for the fleet inspection station to provide the Agency with documentation.

Item E states that a legible copy of all completed vehicle inspection report forms shall be retained by the fleet station for at least 24 months. This requirement is necessary to provide a history for each fleet vehicle. Retention of this information will make it possible to reconstruct the history

of inspection of any fleet vehicle if necessary. Requiring retention of this information for two years is reasonable because it is not overly burdensome to the fleet inspection station permittees.

Item F states that the completed vehicle inspection report marked "passed" or "waived" shall be accepted as evidence that the vehicle is a fleet inspected vehicle and has met the requirements of this rule if the vehicle registration has not expired. This item is reasonable because it certifies that the vehicle has been subjected to the requirements of this rule and has passed the inspection, which consists of both the tampering inspection and the exhaust emission test. This evidence may then be used as part of an application to renew the vehicle's registration.

Item G states that the vehicle inspection report forms must be obtained from the Agency at a cost of $1.50 each. If there are excess forms, they may be used in later years or be returned to the Agency. The fee is reasonable so the Agency can recover the anticipated cost associated with issuing the vehicle inspection report forms.

Item H states that the fleet inspection station permittee is responsible for the security and accountability of the vehicle inspection report forms. If the reports are lost or stolen, the fleet inspection station permittee must notify the Agency of the number of reports lost and their serial numbers within 24 hours in writing. Failure to do this shall be grounds for revoking the fleet inspection station's permit. It is reasonable for the Agency to require that it be notified as soon as possible when vehicle inspection report forms are lost or stolen so the Agency may void the use of

those forms. Otherwise, there is a potential for misuse of the forms. It is reasonable for violation of this requirement to constitute grounds for revocation of a fleet inspection station permit so the Agency can minimize potential for misuse of the forms.

Subpart 7 states that upon the request of the Commissioner, a fleet inspection station permittee shall submit vehicles designated by the Commissioner numbering five percent of the fleet or five motor vehicles annually, whichever is greater, but no more than 25 vehicles, for inspection at inspection stations run by the contractor. It is reasonable to submit a representative number of fleet vehicles for inspection at the contractor's inspection station because it's in the State's interest to ensure that the fleet vehicles are being tested accurately and that the results are accurately reported to the Agency. This would be a quality assurance audit for fleet inspection stations. It is reasonable for the Commissioner to designate which fleet vehicles are to be subjected to this inspection in order to have a random sample of vehicles to be inspected.

Subpart 8 states that analyzers used by fleet inspection stations cannot be used for an exhaust emission test if it does not register the Agency's field audit gases within the tolerances prescribed in part 7005.5090, if there is a leak in the sampling system or the calibration port, or if the sampling handling system is restricted. This will be determined by a quality assurance audit conducted by the Agency. If the analyzer does not meet the requirements of this proposed rule, the Agency's representative shall hang a tag on the analyzer indicating that the analyzer is not to be used for testing.

The analyzer must not be used until the tag is removed by an Agency representative.

The tag must contain a brief statement that the analyzer does not meet the Agency's operating requirements for exhaust emission test purposes; why the analyzer was tagged; the values of the Agency's field audit gases and the analyzer readings obtained; date of the audit and the signature of the Agency representative who tagged the analyzer. The tag must be affixed to the analyzer in a manner so that the tag cannot be removed without breaking a seal or mutilating the tag.

This subpart is reasonable because it prevents a fleet inspection station from using analyzers that are not producing accurate and reliable test results. The quality assurance audit procedures contemplated by the proposed rule are reasonable because they will insure that analyzers are operating within specifications and will produce accurate test results. It is also reasonable for the Agency representative to hang a tag with the specific information discussed earlier on the analyzer so there is no question that the analyzer is not performing according to specifications and is not capable of producing accurate test results.

Part 7005.5085, Inspection Stations Acting as Fleet Inspection Stations.

Item A allows an inspection station operated by the Agency's contractor to provide inspection services to a holder of a fleet inspection station permit under a separate agreement between the contractor and the fleet inspection station. This is reasonable because it allows flexibility for a permitted

fleet inspection station to have its fleet vehicles inspected in the event that the fleet inspection station's equipment is damaged, or not operating according to specifications or as a matter of convenience.

Item B prohibits the contractor from billing the Agency for inspection services provided by the contractor to fleet inspection station permittees. Inspection fees paid for the inspection of fleet vehicles are paid by the fleet vehicle permittee directly to the contractor. This item is reasonable because the contractor is providing a service for the fleet vehicle permittee and not for the Agency.

Item C states that vehicle inspection reports shall be filled out at the time of inspection by an inspection station operating as a fleet inspection station in a manner similar to that required for nonfleet vehicles. This item is reasonable because it provides for the same accountability and documentation for fleet vehicles that are required for nonfleet vehicles. The same vehicle inspection report may then be used for both fleet and nonfleet vehicles.

Item D states that the holder of the fleet inspection station permit shall be responsible for maintaining the same records and reports as an inspection station serving nonfleet vehicles is required to maintain. This is reasonable in order to maintain consistent accountability and conformity between inspection stations and inspection stations acting as fleet inspection stations.

Part 7005.5090, Exhaust Gas Analyzer Specifications.

This part provides the specifications with which exhaust gas analyzers used at inspection stations and fleet inspection stations must comply. These specifications are based on 40 C.F.R. part 85 and the Bureau of Automotive Repair (BAR 84) requirements. The specifications contained in 40 C.F.R. part 85 are included in this part because these specifications are federal specifications for inspection and maintenance programs. The specifications contained in the Bureau of Automotive Repair (BAR 84) are included in this part because these specifications are federally approved specifications for inspection and maintenance programs.

Item A states that the hydrocarbon analyzer shall have an accuracy of plus or minus 15 parts per million at 200 to 220 parts per million concentration of hydrocarbons, measured as hexane; the carbon monoxide analyzer shall have an accuracy of plus or minus 0.10 percent carbon monoxide from 1.0 percent to 1.2 percent concentration; and the carbon dioxide analyzer shall have an accuracy of plus or minus 0.5 percent carbon dioxide from 5.0 percent to ten percent carbon dioxide concentration. These requirements are necessary and reasonable to assure that the results from the analyzer used for exhaust emission testing are accurate.

Item B states that the response time of the analyzer shall be 15 seconds to 95 percent of the final reading. The response time is the time the analyzer takes to reach 95 percent of the final reading. A 15 second response time is reasonable because it is consistent with the response time criteria contained in 40 C.F.R. section 85.2215 (b) (2), as amended.

Item C states that the analyzer drift (up-scale and down-scale zero and span wander) shall not exceed plus or minus 0.1 percent carbon monoxide, plus or minus 15 parts per million of hydrocarbons, measured as hexane, and plus or minus 0.5 percent carbon dioxide on the lowest range capable of reading 1.0 percent carbon monoxide, 200 parts per million hydrocarbons, measured as hexane or five percent carbon dioxide during a one-hour period. Analyzer drift demonstrates the stability of the analyzer while measuring a known concentration of gas over a one-hour period. These drift requirements are necessary and reasonable to assure that the analyzer is stable while operating and that accurate test results will be obtained.

Item D states that the analyzer shall have the capability of being calibrated electronically or by gas. In order to assure that analyzers can have their measuring ability checked or calibrated, it is reasonable to require analyzers to have this capability.

Item E states that the analyzer shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with a visual and audible warning when sample flow is not within operating requirements. Sample flow (rate) must be maintained by the analyzer in order to assure that the analyzer is operating properly. Therefore, it is reasonable to require that the manufacturer's specifications for flow be maintained by a visual and audible warning system.

Item F states that sampling the following concentrations of interfering gases shall not cause the hydrocarbon as hexane, reading to change plus or minus ten parts per million: 15 percent carbon dioxide in nitrogen, ten

percent carbon monoxide in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen, and three percent water vapor in air. Interfering gases may cause the analyzer to produce inaccurate results therefore, it is reasonable to test the effect of known concentrations of interfering gases and monitor the results. If the results are within the required specifications then the analyzer is considered to be free from the effects of interference. These specifications are necessary and reasonable because they will assure that the analyzer is operating free from interference and will produce accurate test results.

Item F also provides that sampling the following concentrations of interfering gases shall not cause the carbon monoxide reading to change plus or minus 0.05 percent: 15 percent carbon dioxide in nitrogen, 1,600 parts per million hydrocarbons in nitrogen, 3,000 parts per million nitrogen oxide in nitrogen, ten percent oxygen in nitrogen and three percent water vapor in air. Interfering gases may cause the analyzer to produce inaccurate results therefore, it is reasonable to test the effect of known concentrations of interfering gases and monitor the results. If the results are within the required specifications then the analyzer is considered to be free from interference gases. These specifications are necessary and reasonable because they will assure that the analyzer is operating free from interference and will produce accurate test results.

Item F also provides that sampling the following concentrations of interfering gases shall not cause the carbon dioxide reading to change plus or minus 0.5 percent: 1,600 parts per million hydrocarbons in nitrogen, ten percent carbon dioxide in nitrogen, 3,000 parts per million nitrogen oxide in

nitrogen, ten percent oxygen in nitrogen and three percent water vapor in air. Interfering gases may cause the analyzer to produce inaccurate results therefore, it is reasonable to test the effect of known concentrations of interfering gases and monitor the results. If the results are within the required specifications then the analyzer is considered to be free from interference gases. The specifications required are necessary and reasonable because they will assure that the analyzer is operating free from interference and will produce accurate test results.

Item G states that the repeatability of the exhaust analyzer shall be within plus or minus ten parts per million hydrocarbons as hexane; plus or minus 0.05 percent carbon monoxide; and plus or minus 0.2 percent carbon dioxide during five successive measurements of the same sample. Repeatability is necessary to assure that analyzer results are accurate.

Item H states that the analyzer sensitivity shall be ten parts per million hydrocarbon as hexane, 0.05 percent carbon monoxide and 0.2 percent carbon dioxide. Sensitivity is the degree of resolution that the analyzer is capable of producing. The degree of sensitivity in item H is necessary and reasonable because it will assure that the analyzer can test at an appropriate resolution in order to result in accurate testing.

Item I states that the analyzer shall be capable of meeting all specifications from zero to eighty-five percent relative humidity and 35 to 110 degrees Fahrenheit temperature. Because changing temperature and humidity conditions can change an analyzer's ability to measure accurately, it is

reasonable to require that analyzers have the capacity to accommodate these conditions.

Item J states that the analyzer shall have a range of zero to 2,000 parts per million hydrocarbons, as hexane, zero to ten percent carbon monoxide, and zero to at least ten percent carbon dioxide. These requirements are necessary to assure that the analyzer will be able to detect the entire range of concentrations of the gases that may be present in a vehicle's exhaust. Gases to be measured by the analyzer are expected to be within the ranges specified in item J.

Part 7005.5095, Test Equipment Calibration.

This part states that calibration procedures at least as stringent as those required for the federal warranty short test set forth in 40 C.F.R. section 85.2217, as amended, shall be performed on test equipment by the inspection station contractor and fleet inspection stations, unless an alternative equivalent procedure has been approved by the Commissioner. In the absence of appropriate procedures, all equipment shall be calibrated and maintained according to the manufacturer's specifications. This part is reasonable because it provides for the calibration of the emission analyzers to insure accurate emission measurements. The procedures contained in 40 C.F.R., section 85.2217 are included in this part because these procedures are federal standards for inspection and maintenance programs.

Item A states that exhaust analyzers shall be warmed up for at least 30 minutes prior to performing any test or equipment calibration, span or zero

checks. This item is reasonable because it insures that the exhaust analyzers have reached the appropriate operating temperature and have stabilized before being used.

Item B states that if, during an exhaust emission test, the sampling flow restriction indicator becomes activated, the test shall be stopped and restarted after the necessary repairs to the analyzer have been completed. Because maintaining constant sampling flow rate is critical to the proper operation of the analyzer, it is reasonable to stop testing if that flow rate has been disrupted. Once the analyzer flow rate has been restored to the proper value, testing may again continue.

Item C states that the exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last 30 hirty days. A multipoint calibration is a means of demonstrating that an analyzer will respond accurately over the dynamic range of the analyzer. It is reasonable to require multipoint calibration to assure that the analyzer is producing accurate data and therefore that the emission test is valid.

Item D states that a multipoint calibration shall be performed before the analyzer is used for testing following replacement of an optical or electrical component that can cause a variation in the analyzer reading. Replacement of these components may change the analyzer's calibration, therefore it is reasonable to perform a multipoint calibration after these components have been replaced to ensure that the analyzer is producing accurate results.

Item E states that complete records shall be kept for maintenance, repair and calibration of all testing equipment. The purpose of this item is to have adequate information available to the Agency on the accuracy of all testing equipment. It is reasonable to maintain this information so the Agency can verify the validity of all tests conducted on an analyzer.

Part 7005.5100, Public Notification.

Item A states that prior to registration renewal, the owner will be notified by the Department that the vehicle will be required to satisfy the requirements of the Inspection/Maintenance rules. The Agency shall attempt to notify the owners of nonregistered tax-exempt vehicles that inspection of these vehicles will be required. Item A is reasonable because it provides advanced notification to the owner that the vehicle must be inspected prior to registration renewal. It is also reasonable to require the Department to do the notification because the Department can incorporate the notification for inspection into the notification process for vehicle registration renewal. It is also reasonable that the Agency attempt to notify nonregistered tax-exempt vehicle owners because these vehicles are not registered by the Department and not a part of the Department's existing registration renewal process. These vehicles include State and local law enforcement vehicles that do not display numbered license plates.

Item B states that the Agency or the contractor shall establish a system to respond to inquiries from members of the public regarding the compliance status of a subject vehicle including its last inspection date, whether a certificate of compliance or certificate of waiver has been issued

and the reason for a certificate of waiver if issued. This item is reasonable because it provides a mechanism to keep the public informed and specifies who the public may contact for information regarding the status of a vehicle.

Part 7005.5105, Inspection Fees.

Subpart 1 states that, starting with the effective date of this rule, the fee for inspection at an inspection station shall be no more than $10.00 paid to the registrar for subject vehicles at the time of reregistration. Thereafter, the Commissioner shall annually establish the inspection fee at an amount not more than $10.00. This fee shall be established by October 1 for the subsequent year and 30 days notice shall be given to the registrar of changes in the fee. Deputy registrars are required to report to the Department letters of extension along with registrations made and inspection fees collected in the same manner it currently is required to report vehicle registration information.

Subpart 1 is reasonable because it establishes a fee for inspection that is projected to cover the administrative costs and costs to perform the inspection. The fee is consistent with inspection programs in other States and with the fee structure established in the State legislation authorizing the Inspection/Maintenance program (Minn. Stat., section 116.64, subd. 1 (1988). In order to keep the cost for inspections less than $10.00, but still provide sufficient funding to cover the expenses of the Agency and the Department, it is reasonable to annually reassess the fee structure and adjust the fees consistent with the $10.00 maximum specified in the legislation. Deputy registrars currently conduct vehicle registration and are required to report

registration information to the Department. Therefore, it is reasonable to require them to also report information, such as letters of extension, along with registrations made and inspection fees collected, because the Inspection/Maintenance documentation will now be part of the registration process.

Subpart 2 states that the fee will entitle the owner to an initial inspection and two reinspections. Additional reinspections that are necessary to meet the requirements of this rule will be available for a fee to be established by the Commissioner. Also, elective inspections not required by this rule shall be allowed with the approval of the Commissioner for a fee established by the Commissioner. All elective inspection fees shall be no more than $10.00. Subpart 2 is reasonable because it tells the owner the number of inspections he or she is entitled to for the fee paid. However, the owner is not limited to the initial inspection and two reinspections, but may pay for additional inspections if necessary. Owners whose vehicles are not subject to inspection may request to be inspected for a fee: elective inspections are subject to approval by the Commissioner. Because there will be costs associated with additional and elective inspection of vehicles, it is reasonable for the Agency to assess a fee. It is reasonable for the maximum cost to be no more than the $10.00 inspection fee which is set by Minn. Stat., section 116.64, subd. 1 (1988).

Subpart 3 establishes fees for fleet inspection stations. These fees will be $200 for the permit to operate as a fleet inspection station, $100 for each permit renewal and $1.50 for each vehicle inspection report form used by the fleet inspection station. The permit fees are reasonable because the fees

are necessary to meet the Agency's estimated costs to process and renew fleet inspection station permits. As discussed previously, the number of fleet vehicles is unknown and the Agency cannot project with certainty the cost to provide quality assurance and technical assistance to fleet inspection stations.

The $1.50 fee for vehicle inspection reports is also reasonable because the fee is necessary to meet the Agency's estimated cost to provide quality assurance and technical assistance to the fleet inspection stations as well as the cost to provide the forms. The $1.50 fee may underestimate the Agency's cost for these functions.

In setting the fee for inspection report forms, the Agency considered that about $1.00 would be collected at inspection stations for the general public to cover the Agency's cost to administer the program. The Agency added fifty cents to this amount to cover the additional cost of providing quality assurance and technical assistance to the fleet inspection stations. As the Agency gains experience in operating the proposed Inspection/Maintenance program, it may become necessary to change, through the rulemaking process, the fee for the inspection report forms once the number of fleet inspection stations becomes known.

Subpart 4 states that fees collected under this part shall be deposited to the Vehicle Emission Inspection Account. This subpart is reasonable because those revenues are required to be deposited in the Vehicle Emission Inspection Fund by Minn. Stat., section 116.65, subd. 2 (1988). The rule also provides that fees collected by deputy registrars will be subject to

deposit requirements in Minn. Stat., section 168.33, subd. 2. This is reasonable because it does not change the law already applicable to deputy registrars.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat., section 14.115, subd. 2 (1988) requires the Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In proposing the rule the Agency considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant emissions from vehicles owned by small business have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. The proposed rules are not expected to have a significant impact on small businesses because the inspection fee is low ($10 per vehicle). The proposed rule will most likely affect certain small businesses in a positive manner. Because of the repairs required for those vehicles that fail the inspection, the Inspection/Maintenance program will provide more business for small businesses involved in the automotive repair business. Also, no requirements were placed on the equipment necessary to repair vehicles which could have placed a financial burden on this type of small business.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat., section 116.07, subd. 6 (1988) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the Pollution Control Agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the rules governing the Inspection/Maintenance Program, the Agency has given due consideration to available information as to any economic impacts the proposed rule would have.

No significant adverse economic impacts are anticipated to result from the adoption of the proposed rule. Businesses and municipalities that own vehicles subject to this rule will be charged a fee of up to $10.00 per year to have their vehicles inspected at an inspection station. In the same manner, vehicles owned by the general public will also pay the same fee for inspection at an inspection station. However, some minor impacts which can be expected are discussed below.

Fleet vehicle owners (businesses, governments, and educational institutions that maintain a fleet of vehicles) may be inconvenienced if all or several of their vehicles are scheduled to be inspected within a short period of time. To make the Inspection/Maintenance program as convenient as possible, fleet vehicles may be self-inspected under the direction of the Agency. This will reduce the amount of time a fleet vehicle will be out of service and therefore reduce potential economic burdens resulting from the temporary loss of use of those vehicles.

There may be some beneficial economic impacts from the proposed rule. Vehicles that fail the inspection must be repaired before being reinspected. This may create additional business for automotive repair facilities. It is likely this would result in better gas mileage and longer vehicle life due to more frequent maintenance. In addition, some economic benefit will be gained

by the employment of people that a private contractor will hire to implement the Inspection/Maintenance program.

VII. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules, parts 7005.5010 to 7005.5105 are both needed and reasonable.

Dated: 4/19, 1989

Barbara Landey Sims
for Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/ Maintenance Program. Minn. Rules Parts 7005.5010 to 7005.5105.

AFFIDAVIT OF SENDING NOTICE AND PROPOSED RULES TO CHAIRS OF HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

David A. Kelso, being duly sworn says:

That on the 9th day of May, 1989, prior to submitting the Notice of Intent to Adopt Rules Without a Public Hearing to the State Register, I delivered a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules, along with the attached cover letters, to the chairs of the House Appropriations Committee and the Senate Finance Committee by hand delivery at 12:30 p.m.

David A. Kelso

Subscribed and sworn to before me this 9th day of May, 1989.

Cindy M. Callahan

Notary Public

Cindy M. Callahan
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 10-25-94

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

May 9, 1989

The Honorable Gene Merriam
Chair, Finance Committee
122 Capitol
St. Paul, Minnesota 55155

Dear Senator Merriam:

As part of the Administrative Procedures Process, I am forwarding a copy of the Agency's Notice of Intent to Adopt Rules Without Public Hearing and a copy of proposed Minn. Rules Parts 7005.5010 to 7005.5105. These proposed rules are to implement the motor vehicle Inspection/Maintenance program established by Minn. Stat. §§ 116.60 to 116.65 (1988). The proposed rules establish emission limitations for motor vehicles in the Twin Cities metropolitan area and provide for testing of motor vehicles to ensure compliance, as required by Minn. Stat. §§ 116.60-.65 (1988) (1988 Minn. Laws ch. 661, § 6). The rules establish an inspection fee, not to exceed $10, the limit established in Minn. Stat. § 116.64, subd. 1 (1988). Vehicles not in compliance with emission standards must be repaired; repair cost limits contained in the rule were established by statute to be $75 for vehicles manufactured before the 1981 model year, and $200 for vehicles manufactured in the 1981 model year and after. Minn. Stat. § 116.62, subd. 5(c) (1988).

Sincerely,

Gerald L. Willet
Commissioner

GLW:rml

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

May 9, 1989

The Honorable Glen Anderson
Chair, Appropriations Committee
Room 200, State Office Building
St Paul, Minnesota 55155

Dear Representative Anderson:

As part of the Administrative Procedures Process, I am forwarding a copy of the Agency's Notice of Intent to Adopt Rules Without Public Hearing and a copy of proposed Minn. Rules Parts 7005.5010 to 7005.5105. These proposed rules are to implement the motor vehicle Inspection/Maintenance program established by Minn. Stat. §§ 116.60 to 116.65 (1988). The proposed rules establish emission limitations for motor vehicles in the Twin Cities metropolitan area and provide for testing of motor vehicles to ensure compliance, as required by Minn. Stat. §§ 116.60-.65 (1988) (1988 Minn. Laws ch. 661, § 6). The rules establish an inspection fee, not to exceed $10, the limit established in Minn. Stat. § 116.64, subd. 1 (1988). Vehicles not in compliance with emission standards must be repaired; repair cost limits contained in the rule were established by statute to be $75 for vehicles manufactured before the 1981 model year, and $200 for vehicles manufactured in the 1981 model year and after. Minn. Stat. § 116.62, subd. 5(c) (1988).

Sincerely,

Gerald L. Willet
Commissioner

GLW:rml

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/ Maintenance Program. Minn. Rules Parts 7005.5010 to 7005.5105.

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ronald Lien, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat., sections 14.14, subd. 1a and 14.22 (1988) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 17 day of May, 1989.

That on the 17 day of May 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Ronald Lien

Subscribed and sworn to before me this 17 day of May 1989.

Patti K. Williams
Notary Public

PATTI K. WILLIAMS
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES MAY 23, 1990

D. preferred stocks and other stock senior to common stock, ~~ten~~ 15 percent;

E. investment companies, ten percent;

F. REITS, ten percent; and

G. investment contracts, ten percent.

Subp. 2. to 4. [Unchanged.]

2875.7100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Real estate investment trust (REIT).** "Real estate investment trust (REIT)" means ~~an unincorporated~~ a corporation, trust, or association ~~which intends to comply with sections 856, 857, and 858 of the Internal Revenue Code of 1954, as amended,~~ other than a real estate syndication, that is engaged primarily in investing in equity interests in real estate, including fee ownership and leasehold interests, or in loans secured by real estate or both.

Pollution Control Agency

Proposed Permanent Rules Relating to Motor Vehicle Inspection and Testing Program

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes*, section 116.62, subd. 2 (1988).

All persons have until 4:30 p.m. on June 21, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Mr. David Kelso
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 297-5488

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted, will implement a motor vehicle Inspection/Maintenance program required by *Minnesota Statutes*, sections 116.60 to 116.65 (1988) for the Twin Cities metropolitan area. The program requires that subject motor vehicles comply with certain emission and testing standards set forth in the rules. A fee not to exceed $10.00 (established by *Minnesota Statutes*, section 116.64) will be assessed for the inspection, and repairs could be required to attain compliance. The purpose of the rule is to bring the metropolitan area into compliance with the national ambient air quality standard for carbon monoxide. The proposed rules are published below. One free copy of the rules is available upon request from David Kelso at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from David Kelso upon request.

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will not adversely affect small businesses. The Agency in proposing the rule considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant

emissions from vehicles owned by small businesses have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. The proposed rules are not expected to have a significant impact on small businesses because the inspection fee is low (no more than $10 per vehicle). The proposed rules will most likely affect certain small businesses in a positive manner. Because of the repairs required for those vehicles that fail the inspection, the Inspection/Maintenance program will provide more business for small businesses involved in automotive repair and the sale of automotive parts.

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.11 (1988), "Special Notice of Rulemaking," that the proposed rule will require the expenditure of public money by local public bodies in the metropolitan area. The Agency has estimated the total annual cost for state, county and city vehicles to comply with the rule to be approximately $281,870. This estimate is based on the number of state, county and city tax-exempt motor vehicles in the seven county metropolitan area, and therefore overstates the estimate of expenditures by local public bodies because it includes vehicles owned by the state in the calculation. Based on Department of Public Safety figures, 16,828 state, county and city tax-exempt motor vehicles are in the seven county metropolitan area. The inspection fee per vehicle charged under the rules may not exceed $10, *Minnesota Statutes*, section 116.64, subd. 1 (1988), so the cost to inspect these vehicles annually is $168,280 or less. The repair cost was calculated based on data from Wisconsin's experience with a similar motor vehicle inspection and maintenance program. In Wisconsin, 15% of the motor vehicles failed the emissions test and the average repair cost per vehicle was less than $45. Using these figures, the Agency estimated the annual cost to repair state, county and city vehicles in the metropolitan area to be approximately $113,590.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to David Kelso at the above address.

Gerald L. Willet
Commissioner

Rules as Proposed (all new material)

7005.5010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in part 7005.0100 apply to the terms used in parts 7005.5010 to 7005.5105, unless the terms are defined in this part.

Subp. 2. **Agency representative.** "Agency representative" means an agency employee or contractor designated by the commissioner to conduct inspections and tests, gather information, and perform other activities related to vehicle inspection and testing.

Subp. 3. **Calibration gas.** "Calibration gas" means a gas or gas mixture of known concentration that is used to establish the response curve of an emission analyzer.

Subp. 4. **Certificate of compliance.** "Certificate of compliance" means a serially numbered inspection report marked "passed" indicating a motor vehicle complies with the requirements of parts 7005.5010 to 7005.5105.

Subp. 5. **Certificate of waiver.** "Certificate of waiver" means a serially numbered inspection report marked "waived" indicating that a motor vehicle complies with the requirements of part 7005.5055.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 7. **Constant four-wheel drive.** "Constant four-wheel drive" means four-wheel drive that cannot be converted to two-wheel drive except by removing one of the vehicle's drive shafts.

Subp. 8. **Contractor.** "Contractor" means a person, business firm, partnership, or corporation with whom the agency has a contract that provides for the operation of one or more inspection stations.

Subp. 9. **Customarily domiciled.** "Customarily domiciled" means that a vehicle, although registered to an owner residing in the metropolitan area, is kept outside the metropolitan area for a minimum of 11 months each calendar year and is not generally used for transportation within the metropolitan area.

Subp. 10. **Dealer.** "Dealer" has the meaning given in *Minnesota Statutes*, section 168.27.

Subp. 11. **Department.** "Department" means the Department of Public Safety.

Subp. 12. **Drive wheels.** "Drive wheels" means the pair of wheels that propel a vehicle.

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Subp. 13. **Emission control equipment inspection.** "Emission control equipment inspection" means the inspection of the emission control equipment conducted by the waiver surveillance inspector under part 7005.5060.

Subp. 14. **Emission inspector.** "Emission inspector" means the individual who performs the vehicular inspection for the contractor.

Subp. 15. **Exhaust emissions.** "Exhaust emissions" means substances emitted into the atmosphere from the tailpipe of a motor vehicle.

Subp. 16. **Field audit gas.** "Field audit gas" means a gas with assigned concentrations that is required to check the accuracy of emission analyzers and calibration gas used by inspection stations, fleet inspection stations, and vehicular repair facilities.

Subp. 17. **Fleet inspection station.** "Fleet inspection station" means a facility for the inspection of motor vehicle fleets operated under a permit issued by the agency under part 7005.5080.

Subp. 18. **Fleet owner.** "Fleet owner" means an owner of at least 50 subject vehicles, or two or more persons each owning 25 or more subject vehicles.

Subp. 19. **Fleet vehicle.** "Fleet vehicle" means a subject motor vehicle owned by a person holding a fleet inspection station permit.

Subp. 20. **Idle mode test.** "Idle mode test" means an exhaust emission test conducted with the vehicle at idle.

Subp. 21. **Inspection report.** "Inspection report" means a document issued by an inspection station or fleet inspection station that indicates the vehicle has been inspected in accordance with parts 7005.5010 to 7005.5105.

Subp. 22. **Inspection station.** "Inspection station" means a facility for motor vehicle inspection operated under contract with the agency.

Subp. 23. **Letter of annual exemption.** "Letter of annual exemption" means a letter issued by the commissioner for the annual exemption of a vehicle from the state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 24. **Letter of temporary extension.** "Letter of temporary extension" means a letter issued by the commissioner for the extension of the time period for a vehicle to meet state vehicle inspection requirements as prescribed in part 7005.5070.

Subp. 25. **Loaded mode.** "Loaded mode" means operation of a vehicle at approximately 30 miles per hour on the chassis dynamometer as prescribed in part 7005.5030, subpart 6.

Subp. 26. **Low emission adjustment.** "Low emission adjustment" means diagnostic or repair procedures that are likely to reduce carbon monoxide or hydrocarbon emissions and are included on a list established by the commissioner under part 7005.5065, subpart 4.

Subp. 27. **Metropolitan area.** "Metropolitan area" has the meaning given in *Minnesota Statutes,* section 473.121.

Subp. 28. **Model year.** "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer. If the manufacturer does not designate a production period, "model year" means the calendar year.

Subp. 29. **Motor vehicle or vehicle.** "Motor vehicle" or "vehicle" means a passenger automobile, station wagon, pickup truck, or van, as defined in *Minnesota Statutes,* section 168.011, licensed for use on the public streets and highways or a passenger automobile, station wagon, pickup truck, or van exempt from registration or fees under *Minnesota Statutes,* section 168.012, subdivision 1, or 437.448.

Subp. 30. **Nonfleet vehicle.** "Nonfleet vehicle" means any subject vehicle except for a subject vehicle owned by a person holding a fleet inspection station permit.

Subp. 31. **Owner.** "Owner" means "registered owner" as defined in *Minnesota Statutes,* section 168.011, subdivision 5a.

Subp. 32. **Registrar.** "Registrar" means the registrar or deputy registrar of motor vehicles under *Minnesota Statutes,* section 168.33.

Subp. 33. **Rescue vehicles.** "Rescue vehicles" means vehicles that are used for rescue operations.

Subp. 34. **Span gas.** "Span gas" means a gas of known concentration that is used routinely to set the output level of an emission analyzer.

Subp. 35. **Subject vehicle.** "Subject vehicle" means a non-tax-exempt motor vehicle registered to an owner residing in the metropolitan area or a tax-exempt motor vehicle customarily domiciled in the metropolitan area except:

A. a motor vehicle manufactured before the 1976 model year;

B. a motor vehicle with an engine manufactured for a model year before 1976;

C. a motor vehicle registered as classic, pioneer, collector, or street rod under *Minnesota Statutes,* section 168.10;

D. a motor vehicle powered solely by diesel fuel, electricity, natural gas, propane, pure alcohol, or hydrogen;

E. a motor vehicle powered solely by a diesel cycle engine; and

F. fire apparatus, ambulances, and rescue vehicles.

Subp. 36. **Tampering inspection.** "Tampering inspection" means the inspection of the catalytic converter, fuel inlet restrictor, and the gas cap conducted by the emission inspector under part 7005.5025.

Subp. 37. **Tax-exempt.** "Tax-exempt" means exempt from license fees under *Minnesota Statutes*, section 168.012, subdivision 1, or 473.448.

Subp. 38. **Waiver.** "Waiver" means the act of excusing a motor vehicle from complying with part 7005.5050, subpart 2.

Subp. 39. **Waiver surveillance inspector.** "Waiver surveillance inspector" means the agency employee or contractor charged with performing the emission control equipment inspection and approving or disapproving applications for certificates of waiver.

7005.5015 INSPECTION REQUIREMENT.

Subpart 1. **General.** In accordance with *Minnesota Statutes*, sections 116.60 to 116.65, and parts 7005.5010 to 7005.5105, subject vehicles shall be inspected annually at an inspection station or a fleet inspection station.

Subp. 2. **Inspection requirement.** Subject vehicles shall be inspected according to the following schedule:

A. for non-tax-exempt subject vehicles, the inspection must be completed at an inspection station or fleet inspection station as a prerequisite to registration renewal within 90 days before expiration of current registration; or

B. for tax-exempt subject vehicles, the inspection shall be completed annually:

(1) at an inspection station during the months of January and February; or

(2) at a fleet inspection station at a time designated by the owner and approved by the commissioner.

Subp. 3. **Reinspections.** Subject vehicles exceeding the maximum allowable emission concentrations or failing the tampering inspection during the vehicle's inspection are entitled to reinspection under part 7005.5035.

7005.5020 DESCRIPTION OF INSPECTION AND DOCUMENTS REQUIRED.

Subpart 1. **Location and components of inspection.** Except as provided in part 7005.5035, item D, an inspection shall consist of a tampering inspection and an exhaust emission test. The inspection and testing shall be performed at an inspection station or fleet inspection station.

Subp. 2. **Document requirements.** Each vehicle that is inspected at an inspection station must be accompanied by one of the following documents that identifies the vehicle by make, model year, vehicle identification number, license plate number, and registered owner's name and address: a current Minnesota registration renewal notice, a current Minnesota registration card, or a Minnesota certificate of title.

7005.5025 TAMPERING INSPECTION.

Each subject vehicle shall be visually inspected for and shall be required to have an unvented fuel cap, a fuel inlet restrictor, and a catalytic converter if the vehicle was equipped with these items at the time of manufacture. If an unvented fuel cap is not in place, the tampering inspection shall continue and the owner shall be advised to replace the unvented fuel cap. If the fuel inlet restrictor or catalytic converter is not in place or is damaged, the vehicle shall fail the tampering inspection, except as provided in items C and D.

A. If the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. Fuel inlet restrictors shall be replaced with original manufacturer's equipment or equivalent. Catalytic converters shall be replaced with original manufacturer's equipment or new after-market equipment certified by the United States Environmental Protection Agency.

B. In a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the tampering inspection. The contractor may not bill the agency for an inspection upon the owner's or operator's return visit to continue the tampering inspection.

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C. If the vehicle owner provides to the waiver surveillance inspector a release letter concerning the vehicle from the United States Environmental Protection Agency addressed to the United States Customs Service granting the vehicle exemption from conformity with federal emission requirements, the vehicle shall pass the tampering inspection.

D. If the vehicle owner presents satisfactory evidence and signs an affidavit certifying to the waiver surveillance inspector that the vehicle is a show car used primarily for transportation to and from and in exhibitions of show cars, and that the vehicle is not generally used for transportation, the vehicle shall pass the tampering inspection.

7005.5030 EXHAUST EMISSION TEST.

Subpart 1. **Procedure.** The exhaust emission testing procedure shall consist of the following procedure performed in accordance with Code of Federal Regulations, title 40, section 85.2212, as amended:

A. the vehicle shall be tested in idle mode with the transmission in neutral;

B. the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories off;

C. the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

D. vehicles with multiple exhaust pipes may be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the later case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 2. **Exhaust emissions to be tested.** The emission test for subject vehicles shall consist of sampling the exhaust emissions from the vehicle tail pipe or tail pipes and measuring the concentrations of hydrocarbon as hexane, carbon monoxide, and carbon dioxide. Exhaust emission concentrations shall be recorded after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first.

Subp. 3. **Exhaust emission standards.** A motor vehicle that is subject to inspection under part 7005.5015 and *Minnesota Statutes*, sections 116.60 to 116.65, must not emit carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, when measured in an inspection conducted under parts 7005.5010 to 7005.5105. A subject vehicle that emits carbon monoxide or hydrocarbon as hexane from the exhaust system in concentrations greater than those in Table 1 or 2, whichever is in effect, shall fail the emission test. Table 1 is effective through December 31, 1992. Table 2 is effective beginning January 1, 1993.

TABLE 1

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS EFFECTIVE UNTIL DECEMBER 31, 1992

Model Year	Maximum Allowable Emission Concentrations Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	6.0
1978-1979	400	4.0
1980	275	2.5
1981 and later	220	1.2

TABLE 2

TABLE OF MAXIMUM ALLOWABLE EMISSION CONCENTRATIONS EFFECTIVE JANUARY 1, 1993

Model Year	Maximum Allowable Emission Concentrations Hydrocarbon as hexane (parts per million of exhaust)	Carbon Monoxide (as a percent of exhaust)
1976-1977	600	5.5
1978-1979	400	3.5
1980	275	2.0
1981 and later	220	1.2

Subp. 4. **Grounds for prohibition of inspection.** Items A to C constitute grounds for the emission inspector to prohibit the inspection in part 7005.5020 and the entrance of the vehicle into the testing lanes:

A. the vehicle is carrying explosives or other hazardous material not used as fuel for the vehicle;

B. gasoline, oil, or other fluid leaks are apparent and constitute a safety hazard; or

C. the vehicle is being towed or is towing a trailer.

Subp. 5. **Grounds for prohibiting or invalidating the exhaust emission test.** Items A and B constitute grounds for the emission inspector to invalidate the exhaust emission test results and refuse to continue with the test until the conditions are corrected:

A. the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the emission inspector; and

B. the measured carbon dioxide concentration is less than four percent by volume.

Subp. 6. **Loaded mode preconditioning after failing exhaust emission test.** If the vehicle fails the exhaust emission test, the vehicle shall be preconditioned on the chassis dynamometer and the procedures and diagnostic testing shall be conducted in accordance with items A and B. After preconditioning, the vehicle shall be tested at idle according to subparts 1 to 3.

A. The loaded mode preconditioning and diagnostic analysis consist of positioning the vehicle driving wheels on a chassis dynamometer, placing an emission sampling probe into the tailpipe, and analyzing the collected exhaust sample. The analysis for hydrocarbon as hexane and carbon monoxide is for diagnostic information only.

B. Vehicles shall be tested in the following manner:

(1) vehicles shall be run in drive for automatic transmissions and third gear for manual transmissions;

(2) during the loaded mode, the vehicle's engine shall be run at a constant throttle position to maintain the cruising speed for at least 30 seconds;

(3) the vehicle speed of 30 plus or minus two miles per hour as measured from the dynamometer idle roll shall be used for all loaded conditions to provide appropriate diagnostic information for vehicles that fail the emission test;

(4) the vehicle shall be tested with the engine running at normal operating temperature and not overheating, as indicated by gauge, warning light, or boiling radiator, with all accessories turned off;

(5) the vehicle shall be nearly level when tested, to prevent abnormal fuel distribution; and

(6) vehicles with multiple exhaust pipes shall be tested by simultaneous sampling of all tail pipes or by sampling each tail pipe. In the latter case, the measurements for hydrocarbon as hexane, carbon monoxide, and carbon dioxide shall be numerically averaged.

Subp. 7. **Grounds for omitting loaded mode preconditioning.** The following constitute grounds for the emission inspector to omit the loaded mode preconditioning on a vehicle:

A. the vehicle has a driving wheel with a tire having less than 2/32 inch of tread or with metal protuberances or with obviously low tire pressure, as determined by superficial visual inspection; or

B. any other condition that in the opinion of the vehicle emission inspector precludes the use of loaded mode preconditioning for reasons of health and safety or damage, or both, to personnel, facilities, equipment or the vehicle.

Subp. 8. **When loaded mode preconditioning shall be omitted.** Loaded mode preconditioning shall be omitted if:

A. the person presenting the vehicle for inspection refuses loaded mode preconditioning;

B. the vehicle is unable to attain the speed specified in subpart 6, item B, subitem (3);

C. the vehicle is equipped with constant four-wheel drive;

D. the vehicle is driven by a person who, because of physical incapacity, is unable to yield the driver's seat to the emission inspector; or

E. the vehicle is driven by a person who refuses to yield the driver's seat to the emission inspector.

Subp. 9. **Alternate preconditioning.** A vehicle for which loaded mode preconditioning is omitted under subpart 7 or 8 shall be preconditioned by completing items A to D.

A. the vehicle's transmission shall be placed in neutral;

B. the vehicle's engine speed shall be increased to 2,500 plus or minus 300 revolutions per minute as measured by a tachometer;

C. the speed in item B shall be maintained for at least 30 seconds; and

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D. the vehicle engine speed shall be returned to idle.

After preconditioning, the vehicle shall be tested at idle as described in subparts 1 to 3.

Subp. 10. **Reconstructed vehicles.** All reconstructed subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine shall be classified by the model year and manufacturer's make of the exchanged engine. Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and *Minnesota Statutes*, section 325E.0951.

7005.5035 REINSPECTIONS.

Vehicles that fail the inspection under parts 7005.5020 to 7005.5030 shall be allowed reinspection after repair or adjustment of the vehicle.

A. A vehicle failing the inspection may be reinspected at any inspection station after the vehicle has been repaired under part 7005.5050.

B. The vehicle shall be accompanied by its previous inspection reports and repair information. The repair information must be completed by the person performing the repairs and shall be indicated in the space provided on the inspection report form.

C. The reinspection must take place within 30 consecutive calendar days after the initial inspection, unless the owner presents satisfactory evidence that the repairs and adjustments that were performed on the vehicle and the reinspection could not have been completed within 30 days.

D. The vehicle presented for reinspection shall be inspected only for the items which were failed as indicated on the vehicle's previous inspection report form. If the owner or operator does not provide a copy of the inspection report forms as required in item B, then both a tampering inspection and exhaust emission test shall be conducted.

E. A vehicle shall be eligible for no more than two reinspections unless the owner pays an additional fee under part 7005.5105, subpart 2.

F. If the vehicle passes the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5040 and certificate of compliance under part 7005.5045. The certificate of compliance and the inspection report may be combined into a single form.

G. If the vehicle cannot pass the reinspection, the contractor shall issue a vehicle inspection report under part 7005.5050 indicating noncompliance. The owner may then be eligible to apply for a certificate of waiver under part 7005.5055. If the owner requests a certificate of waiver, the waiver surveillance inspector shall review the request and shall approve or deny the request in accordance with part 7005.5055.

7005.5040 VEHICLE INSPECTION REPORT.

Subpart 1. **Required items.** The owner or operator of each vehicle inspected shall be provided with a vehicle inspection report at the time of each inspection. The vehicle inspection report shall be a design approved by the commissioner and shall provide space for the following information:

A. license plate number;

B. vehicle identification number;

C. model year of vehicle;

D. model year of engine;

E. make of vehicle;

F. vehicle type;

G. odometer reading, in thousands of miles;

H. maximum allowable exhaust emission concentrations;

I. exhaust emission measurements of hydrocarbon as hexane, carbon monoxide, and carbon dioxide;

J. statement of pass/fail or valid/not valid, or waiver and the reasons, if applicable;

K. inspection/reinspection number for subject vehicle;

L. date and time of inspection;

M. serial number of report;

N. inspection station number, lane, inspector, and analyzer number;

O. reason for test termination before completion of test;

P. description of the low emission adjustment that is likely to reduce a vehicle's carbon monoxide and hydrocarbon emissions;

Q. tampering inspection and results;

R. for a failed vehicle:

(1) serial number of the previous test reports;

(2) for a post-1980 model year vehicle, certification that the test was performed in accordance with the emission control system performance warranty short test;

(3) for a nonfleet vehicle, the printed name or identification number of an individual who either performed the test or has actual knowledge of the performance of the test, or for a fleet vehicle, the signature of the individual who performed the test; and

(4) diagnostic information, as appropriate;

S. itemization of the repairs performed (repair actions or parts replacement may be coded);

T. cost of the emission-related repairs, or estimated cost of the emission-related repairs required if the repairs exceed the maximum specified repair cost, and cost of the low emission adjustment;

U. analyzer serial or identification number, if used by the individual performing the repairs;

V. idle exhaust emission concentrations of hydrocarbon as hexane and carbon monoxide, if an analyzer is used when making repairs;

W. complete name, address, telephone number, and federal identification number or social security number of the business or person making the repairs; and

X. date and signature of the person making the repairs.

Subp. 2. **Responsibility for completion of form.** The contractor shall be responsible for the completion of subpart 1, items A to R, for all nonfleet vehicles. The person performing the repairs or making the cost estimates shall be responsible for completion of subpart 1, items S to X.

Subp. 3. **Inspection report supplement.** The owner or operator of each vehicle failing the initial inspection shall receive an inspection report supplement, approved by the commissioner, containing:

A. the repair cost limit for emission-related repairs;

B. a description of low emission adjustment list;

C. the probable causes of noncompliance if diagnostic information is provided; and

D. instructions for waiver applications if failure of reinspection has occurred.

7005.5045 CERTIFICATE OF COMPLIANCE.

A certificate of compliance must be issued by an inspection station or fleet inspection station to a subject vehicle that passes the tampering inspection and exhaust emission test.

The certificate of compliance shall be presented to the owner by personnel employed by the inspection station, fleet inspection station, or by the waiver surveillance inspector, as appropriate, upon receipt of the final vehicle inspection report indicating that the vehicle is in compliance with parts 7005.5010 to 7005.5105. The certificate of compliance shall be of a design approved by the department and the commissioner and shall contain, at a minimum, the date of the test and the vehicle identification number to uniquely identify the vehicle. The owner shall present the certificate of compliance to the department when making application for registration renewal.

7005.5050 VEHICLE NONCOMPLIANCE AND REPAIR.

Subpart 1. **Tampering inspection.** If the subject vehicle fails the tampering inspection or reinspection under part 7005.5025 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A subject vehicle that fails its tampering inspection shall not be eligible to have its registration renewed unless:

A. the owner replaces or repairs the fuel inlet restrictor or replaces the catalytic converter under part 7005.5025;

B. the person completing the repairs has properly completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the inspection report form; and

D. the vehicle passes the tampering reinspection.

Subp. 2. **Exhaust emission test.** If the subject vehicle fails the exhaust emission test or retest under part 7005.5030 or 7005.5035, the contractor shall issue an inspection report that indicates noncompliance.

A subject vehicle that fails its exhaust emission test shall not be eligible to have its registration renewed until items A to D have been completed or a certificate of waiver has been issued under part 7005.5055:

A. the owner repairs or adjusts the vehicle to reduce carbon monoxide and hydrocarbon as hexane emissions in accordance with the inspection report form and its supplement under part 7005.5040;

B. the person completing the repairs has completed the repair portion of the vehicle inspection report form;

C. the person completing the repairs has signed the repair portion of the vehicle inspection report form; and

D. the vehicle passes the exhaust emission retest.

7005.5055 CERTIFICATE OF WAIVER.

Subpart 1. **Eligibility.** A vehicle, including a fleet vehicle, that has failed its initial exhaust emission test and at least one exhaust emission retest is eligible for a waiver, valid for no longer than the annual registration period, if it meets the following criteria:

A. the vehicle has failed to meet the appropriate standards of compliance for hydrocarbon as hexane or carbon monoxide emissions on its initial test and at least one exhaust emission retest after repair of the vehicle;

B. for post-1980 model year vehicles whose mileage is less than 50,000 miles and whose age is less than five years, the vehicle owner presents a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work;

C. the owner or a mechanic has diagnosed and attempted to repair the vehicle to pass reinspection, including interrogation of appropriate on board diagnostic systems;

D. except as provided in item E, the owner presents satisfactory evidence to the waiver surveillance inspector that a low emission adjustment, as described in part 7005.5065, subpart 4, as appropriate according to the exhaust emission test results, has been performed on the vehicle after the initial exhaust emission test and within 90 days before renewal of registration;

E. the owner presents satisfactory evidence to the waiver surveillance inspector that either of the following exceeds the repair cost limit under part 7005.5065, as modified by part 7005.5055, subpart 2, item B:

(1) the actual cost of the low emission adjustment as appropriate to the exhaust emission test results on the inspection report form; or

(2) the actual cost under subitem (1) plus the actual or estimated cost of additional repairs or adjustments necessary to bring the vehicle into compliance with exhaust emission standards;

F. the owner complies with evidence requirements under part 7005.5065;

G. the person performing the repairs or preparing the estimate completes all parts of the repair portion of the vehicle inspection report form and signs the report form; and

H. the vehicle passes the tampering inspection under part 7005.5025 or 7005.5035, if applicable, and emission control equipment inspection under part 7005.5060.

Subp. 2. **Waivers following repairs by persons other than mechanics.**

A. In cases in which a person other than a mechanic, including an owner, attempts to repair a vehicle, the person must take the actions listed on the low emission adjustment list, as appropriate according to the exhaust emission test results, and attempt to diagnose and perform other repairs necessary to bring the vehicle into compliance as if the vehicle were being presented for repair to a mechanic.

B. In cases where a person other than a mechanic attempts repair or in cases where there is no charge for the labor of vehicle repair, the repair cost limit of part 7005.5065 must be reduced solely by the expenditure for emission-related parts including parts on the low emission adjustment list. The owner shall comply with evidence requirements under part 7005.5065.

Subp. 3. **Waiver documentation review.** The waiver surveillance inspector's duties in reviewing waiver requests consist of the provisions in items A to E.

A. To deny the issuance of a waiver to a vehicle unable to pass the emission control equipment inspection required by part 7005.5060.

B. To determine whether the vehicle should qualify for warranty repairs under applicable federal law. If so, the waiver surveillance inspector shall determine whether the owner has a signed statement from an appropriate new car dealership stating that the vehicle is not eligible for emission control system warranty work. The agency shall distribute and require the use of a standard form for this purpose. The statement shall be signed and dated by the new car dealership after the vehicle failed its initial inspection and shall identify the vehicle and the dealership. If the owner has a statement conforming to these requirements, it shall be delivered to the waiver surveillance inspector who shall proceed with the remainder of the waiver duties described in items C to E. If the owner does not have a statement conforming to these requirements, no waiver shall be issued.

C. To verify that the repair and waiver documentation presented by the owner is properly completed and that the documents indicate that the waiver criteria have been met. The inspector shall also verify that the repair facility name and location are legible.

D. To issue a certificate of waiver if all waiver criteria have been met.

E. If a waiver has been requested but not all criteria have been met, explain to the owner what criteria are not satisfied and how they may be met. The agency shall provide printed explanations of the waiver process and criteria that the inspector will distribute to owners who are denied a waiver.

Subp. 4. **Form of certificate of waiver.** The owner of a vehicle granted a waiver shall receive a certificate of waiver, which shall be proof of compliance with part 7005.5055. Each valid certificate of waiver shall contain, at a minimum, the date of the test and the vehicle identification number to uniquely identify the vehicle.

The certificate of waiver and the vehicle inspection report printed by an automated emission testing system may be combined into a single form. The owner shall present the certificate of waiver to the department when making application for registration renewal.

Subp. 5. **Waiver due to technical difficulties.** The waiver surveillance inspector shall issue a waiver for a vehicle that cannot be subjected to the inspection required by parts 7005.5010 to 7005.5105 because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, of the vehicle. A copy of the waiver shall be retained for the agency's use.

A vehicle that, in the opinion of a mechanic employed by a fleet station, cannot be inspected because of technical difficulties inherent in the manufacturer's design or construction, excluding tampering, or because of limitations of the fleet station's inspection equipment, shall be referred to the waiver surveillance inspector. The waiver surveillance inspector shall indicate concurrence on that vehicle's inspection report by signature if the inspector concurs that a waiver due to technical difficulties should be issued for the vehicle. The fleet station mechanic shall then issue a certificate of waiver. A copy of the waiver shall be returned for the agency's use.

Subp. 6. **Thirty-day waiver.** The waiver surveillance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30-day period, the commissioner shall send a notice requesting registration cancellation to the department.

7005.5060 EMISSION CONTROL EQUIPMENT INSPECTION AS A CONDITION OF WAIVER.

Subpart 1. **Emission control equipment inspection.** If a certificate of waiver is requested under part 7005.5055, the vehicle shall be checked by the waiver surveillance inspector for obvious tampering with the emission control equipment. The waiver surveillance inspector shall visually inspect for obvious tampering, removal, or disassembly of parts. At a minimum, the waiver surveillance inspector shall check if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in control of air pollution in violation of part 7005.1190 or *Minnesota Statutes,* section 325E.0951.

Subp. 2. **Failure of emission control equipment inspection.** Except for vehicles described in part 7005.5025, item C or D, the vehicle shall fail the emission control equipment inspection if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in the control of air pollution in violation of part 7005.1190 or *Minnesota Statutes,* section 325E.0951.

Subp. 3. **Repair or replacement.** The owner shall repair or replace any elements of the factory-installed motor vehicle pollution control system that are not in place as identified in subpart 1 unless the vehicle is a vehicle described in part 7005.5025, item C or D.

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Subp. 4. **Tampering dispute.** In a tampering dispute, the vehicle owner or operator may elect to leave the inspection area to seek proof of nontampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the inspection. The contractor must not bill the agency for an emission control equipment inspection upon the owner's or operator's return visit.

7005.5065 REPAIR COST LIMIT AND LOW EMISSION ADJUSTMENT.

Subpart 1. **Cost limit.** The repair cost limit is $75 for vehicles of model years before 1981 and $200 for vehicles of 1981 and later model years.

Subp. 2. **Exclusions.** In determining the costs of repairs and adjustments included in the repair cost limit, the following costs shall be excluded:

A. costs covered by a warranty; and/or

B. costs necessary to repair or replace any emission control part or parts that have been removed, dismantled, or rendered inoperative in violation of part 7005.1190 or *Minnesota Statutes,* section 325E.0951.

Subp. 3. **Evidence of repair cost.** Except as provided in part 7005.5055, subpart 2, item B, the cost of repair or estimate of the cost of repair under this part is eligible to be credited to the repair cost limit when applying for a waiver if the owner presents to the waiver surveillance inspector a legible and itemized receipt for parts replaced and labor, provided that the costs relate to the emission control system. The receipt must have a legible date and the date must be within 90 days before registration expiration and after the vehicle failed its initial inspection. The waiver surveillance inspector shall be responsible for examining receipts for such items and determining which costs are eligible to be credited toward the repair costs limit. The eligible total cost shall be indicated on the vehicle inspection report form.

Subp. 4. **Low emission adjustment.** The commissioner shall establish a list of diagnostic and repair procedures that are likely to reduce a vehicle's carbon monoxide and hydrocarbon exhaust emissions. The commissioner shall modify the list to reflect changes in motor vehicle technology.

7005.5070 LETTER OF TEMPORARY EXTENSION AND LETTER OF ANNUAL EXEMPTION.

Subpart 1. **Letter of temporary extension.**

A. If a subject vehicle requiring registration renewal will not be available, due to the vehicle's absence or storage, or the owner's absence or illness, for an inspection within the state during the 90-day period before the registration renewal, the owner may apply in writing to the commissioner for a letter of temporary extension.

B. The owner shall provide the reason for requesting a letter of temporary extension, certify that the vehicle will not be available for inspection during the 90-day period before the registration renewal, and state when the vehicle will be operated again within the metropolitan area. The owner shall sign the application and certify that the information contained in the application is correct.

C. Upon approval of the application by the commissioner, a letter of temporary extension shall be issued to the vehicle owner. The letter shall allow the owner to proceed with vehicle registration renewal.

D. An owner of a vehicle who has received a letter of temporary extension shall have the vehicle inspected:

(1) during the 90-day period preceding the registration renewal date;

(2) by an inspection station outside Minnesota which, in the judgment of the commissioner, performs inspections equivalent to those established in parts 7005.5010 to 7005.5105; or

(3) within 30 days of again operating the vehicle within the metropolitan area.

E. The owner shall complete and sign the affidavit portion of the letter of temporary extension and submit it to the registrar when making application for registration renewal. A letter of temporary extension is valid for no longer than the annual registration period. The registrar shall forward all extension affidavits to the agency within ten days after the end of the calendar month in which the affidavits are received.

F. If the owner who has received a letter of temporary extension has the vehicle inspected at an inspection station outside of Minnesota, the owner shall submit evidence of the inspection to the commissioner within 30 days of commencement of the operation of the vehicle in the metropolitan area.

G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall request the department to revoke the owner's registration.

H. If the owner fails to comply with items D to F, the owner of the subject vehicle shall not be eligible to receive a letter of temporary extension for the next annual registration period.

I. If a dispute arises regarding whether the owner has complied with items D to F, the owner may elect to present evidence of compliance. The owner shall provide evidence to the commissioner within 30 days of notification that the owner's registration has been revoked. The commissioner shall review the evidence. The commissioner shall approve or disapprove the application for the letter of temporary extension.

Subp. 2. **Letter of annual exemption.**

A. An owner whose subject vehicle is customarily domiciled outside of the metropolitan area may apply in writing to the commissioner for a letter of annual exemption.

B. The owner shall complete and sign the affidavit portion of the letter of annual exemption and present it to the registrar when making application for registration renewal. A letter of annual exemption shall not be valid for longer than the annual registration period.

7005.5075 EVIDENCE OF MEETING STATE INSPECTION REQUIREMENTS.

Either of the documents listed in items A and B shall be accepted by the department, the agency, and the registrar as evidence that a subject vehicle is in compliance with the requirements of parts 7005.5010 to 7005.5105, unless there is reason to believe that it is a false document:

A. a certificate of compliance or certificate of waiver issued by an inspection station or fleet inspection station; or

B. a letter of annual exemption, as provided in part 7005.5070.

7005.5080 FLEET INSPECTION STATION PERMITS, PROCEDURES, AND INSPECTION.

Subpart 1. **Permit application.** A registered owner of a fleet of 50 or more subject vehicles may apply to the agency for a permit to establish a fleet inspection station. Two or more persons each owning 25 or more subject vehicles may apply jointly for a fleet inspection station permit. The agency must not issue a fleet inspection station permit unless the agency finds that the applicant maintains an established facility that meets the requirements in items A to C.

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

B. At a minimum, the applicant shall own or lease the following equipment and maintain it in good working condition:

(1) ignition timing light with timing advance tester;

(2) ignition-operated tachometer;

(3) dwell meter;

(4) positive crankcase ventilation tester; and

(5) tools necessary for the installation, adjustment, repair, or replacement of items in the low emission adjustment list.

C. The applicant shall either:

(1) obtain a hydrocarbon, as hexane, and carbon monoxide emission analyzer that meets or exceeds the equipment specifications for performance warranty short tests in Code of Federal Regulations, title 40, section 85.2215, as amended, and employ a mechanic to conduct the required inspections; or

(2) enter into an agreement with the agency's inspection and maintenance contractor to have the required inspection performed. Only the equipment required to test and repair the types of vehicles in the fleet inventory will be required in the fleet station. The commissioner shall maintain a list of analyzers that the commissioner finds will perform in a manner that produces accurate test results.

Subp. 2. **Permits.**

A. Before the initial application for a fleet inspection station permit is approved, an application fee must be paid to the agency as provided in part 7005.5105 and an inspection of the premises shall be made by the agency.

B. A fleet inspection station permit shall expire one year from the date of issuance.

C. A permitted fleet inspection station shall not inspect or certify vehicles unless the vehicles are owned by the fleet owner.

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D. An application for renewal of a fleet inspection station permit must be submitted to the agency at least 45 days before permit expiration.

E. A fleet inspection station permit is only applicable to the fleet's inspection facility located at the address shown on the fleet station permit. If a fleet owner wishes to have a permit for inspection facilities at more than one address, separate permits must be obtained for each facility.

F. A fleet inspection station permit issued by the agency is not transferable.

G. If a permittee desires to change the name or address on a permit and the changes do not involve a change of ownership, the permittee shall return the permit to the agency for cancellation and submit an application form for a new permit to the agency, along with an application fee as provided in part 7005.5105. The agency shall cancel the returned permit and issue a new permit.

H. A fleet inspection station whose permit has been revoked, suspended, or has expired shall immediately cease the activity requiring a permit.

I. In the event of loss, destruction, or mutilation of the permit, the permittee may obtain a duplicate upon furnishing satisfactory proof of the fact. A fleet inspection station that loses a fleet station permit issued by the agency and finds the original after obtaining a duplicate shall immediately surrender the original permit to the agency.

J. A fleet inspection station that does not employ a mechanic to conduct the inspections shall immediately cease to operate as a fleet inspection station. The permittee shall immediately notify the agency if it has ceased to employ a mechanic and that it has ceased to operate as a fleet station.

K. When a fleet inspection station permit is surrendered, suspended, or revoked, all unused vehicle inspection report forms must be returned to the agency.

L. Surrender, suspension, or revocation of a permit shall not prevent the agency from carrying out investigative or enforcement actions against the permittee for violations of state statutes, rules, or conditions of the permit.

Subp. 3. **Equipment and records.**

A. All testing equipment and instrumentation must be maintained in good condition. Periodic calibration and maintenance of testing equipment must be accomplished under performance short test specifications in Code of Federal Regulations, title 40, section 85.2217, as amended. Recommendations by the commissioner for calibration and intervals between calibration shall be a condition of the fleet inspection station permit and shall supersede all other conflicting recommendations.

B. A record of calibrations performed on each instrument shall be maintained by the fleet inspection station, indicating the date and signature of the technician performing the calibration.

C. The fleet inspection station equipment, span gases, records, and premises shall be subject to scheduled and unscheduled checks for accuracy and condition by an agency representative.

D. The applicant or permittee shall provide information relevant to the operation of the fleet inspection station to the agency if requested by the commissioner.

Subp. 4. **Inspection frequency.** All fleet vehicles for which a fleet inspection station permit has been issued shall be inspected by the fleet station mechanic according to the schedule in part 7005.5015.

Subp. 5. **Test procedure.** The tampering inspection and exhaust emission test shall be conducted on fleet vehicles by a fleet inspection station mechanic under parts 7005.5015 to 7005.5030 with the exception of part 7005.5030, subpart 6. If the fleet vehicle fails the exhaust emission test, the vehicle shall be preconditioned according to either the procedure in part 7005.5030, subpart 6, or if the fleet inspection station does not have a dynamometer, the procedure in part 7005.5030, subpart 9. 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 75 revolutions per minute.

Subp. 6. **Vehicle inspection reports.** Inspection reports must be issued and processed by the fleet inspection station according to items A to H.

A. A vehicle inspection report shall be completed, marked "passed," and issued for each vehicle passing the inspection.

B. Vehicle inspection reports that are incorrect shall have corrections authenticated and initialed by the mechanic conducting the inspection. Voided or unusable reports and certificates shall be returned to the agency.

C. Only the fleet station mechanic may sign a fleet vehicle inspection report, except in the case of a fleet station permit holder who secures the services of the agency's inspection and maintenance contractor to perform the inspection.

D. Upon completion of the tampering inspection, exhaust emission test, and the vehicle inspection report, the original copy of each completed fleet vehicle inspection report must be forwarded to the agency within two weeks of completion of the inspection.

E. A legible copy of each completed vehicle inspection report must be retained by the fleet station conducting the inspection for a minimum period of 24 months after inspection.

F. The completed vehicle inspection report marked "passed" or "waived" shall be accepted as evidence that the vehicle is a fleet-inspected vehicle and has met the requirements of parts 7005.5010 to 7005.5105 if the vehicle registration has not expired.

G. Vehicle inspection report forms shall be obtained from the agency for a fee specified in part 7005.5105. If the number of vehicles to be inspected by the fleet inspection station is reduced after receipt of the report forms and before their use, the excess report forms shall be returned to the agency or used in later years.

H. The fleet inspection station permittee is responsible for the security and accountability of the vehicle inspection report forms. If the vehicle inspection report forms are lost or stolen, the fleet station operator shall notify the agency in writing within 24 hours of discovery of the loss and indicate the number of report forms and the serial number of the report forms. Refusal or failure to report lost report forms are grounds for revoking a fleet station permit.

Subp. 7. **Fleet audit.** Upon request of the commissioner, a fleet inspection station permittee shall submit vehicles designated by the commissioner numbering five percent of the fleet or five motor vehicles annually, whichever is greater, but no more than 25 vehicles, for inspection at inspection stations operated by the contractor.

Subp. 8. **Analyzer inspections.** A fleet station emission analyzer shall not be used for an exhaust emission test under part 7005.5030 if it does not register the agency's field audit gases within the tolerances prescribed in part 7005.5090, if there is a leak in the sampling system or the calibration port, or if the sample handling system is restricted. An agency representative shall tag a fleet inspection station's emission analyzer upon a determination that the analyzer does not meet the requirements of this subpart. The analyzer must not be used for testing until the tag is removed by an agency representative. The analyzer failure tag must be affixed to the analyzer in a manner so that the tag cannot be removed without breaking a seal or mutilating the tag. The tag must contain the following information, at a minimum:

A. a brief statement that the analyzer does not meet agency operating requirements for exhaust emission test purposes;

B. the reason for tagging;

C. the values of the agency's field audit gases used and the analyzer readings obtained;

D. the date of the agency's inspection; and

E. the signature of the agency representative tagging the analyzer.

A fleet inspection station may lease or borrow an emission analyzer for temporary use while the station's approved analyzer is being repaired, provided that an agency representative has approved its use.

7005.5085 INSPECTION STATIONS ACTING AS FLEET INSPECTION STATIONS.

A. Inspection stations may provide inspection services to a holder of a fleet inspection station permit under a separate agreement between the inspection station contractor and the holder of a fleet inspection station permit.

B. The agency may not be billed for inspection fees for a fleet vehicle inspected under an agreement between the contractor and the holder of a fleet inspection station permit.

C. Vehicle inspection reports must be filled out at the time of inspection by an inspection station operating as a fleet inspection station in the same manner required for nonfleet vehicles.

D. The holder of the fleet inspection station permit is responsible for maintaining records and reports required by part 7005.5080.

7005.5090 EXHAUST GAS ANALYZER SPECIFICATIONS.

Exhaust gas analyzers used at inspection stations and fleet inspection stations must comply with the specifications in items A to J.

A. Analyzer accuracy: the hydrocarbon analyzer must have an accuracy of plus or minus 15 parts per million at 200 to 220 parts per million concentration hydrocarbon as hexane; the carbon monoxide analyzer must have an accuracy of plus or minus 0.10 percent carbon monoxide from 1.0 percent to 1.2 percent concentration; and the carbon dioxide analyzer must have an accuracy of plus or minus 0.5 percent carbon dioxide from 5.0 percent to ten percent concentration.

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CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Barbara L. Sims do hereby certify that I am the Deputy Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 25th day of July, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts the rules governing the motor vehicle Inspection/Maintenance program, Minn. Rules Parts 7005.5010 to 7005.5105, pursuant to the authority vested in the Agency by Minn. Stat., Section 116.60 to 116.65 (1988).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat., Section 14.28 (1988).

BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting the Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of July, 1989.

Barbara L. Sims

BARBARA L. SIMS
Deputy Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 25th day of July, 1989. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule without a public hearing was published in the State Register on May 22, 1989. In addition, intent to adopt rules without a public hearing was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1(a) and 14.22 (1988) on May 17, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on June 21, 1989.

4. No requests for public hearing were received during the comment period.

5. One request for notice of submission of the final rule to the Attorney General was received by the MPCA.

6. During the comment period the MPCA staff received five written comments. Although the U.S. Environmental Protection Agency (EPA) submitted comments after the close of the comment period, EPA must approve the motor vehicle Inspection/Maintenance program as part of the State Implementation Plan for the metropolitan area. Therefore, the MPCA has proposed minor changes to the rule that reflect comments provided by EPA.

EPA recommended that the MPCA adopt the "BAR 80" analyzer specifications instead of the analyzer specifications set forth in the Code of Federal Regulations (CFR). The "BAR 80" specifications were developed by the California Bureau of Automotive Repair. The MPCA does not find a modification to the rules as proposed appropriate. The intent of requiring the CFR specifications for analyzers is to establish a minimum specification for analyzers. The MPCA agrees that the CFR are not state-of-the-art, but believes that the rule appropriately

requires analyzers to meet or exceed the promulgated national standard. EPA staff recommended the CFR standards to MPCA staff when the rules were being developed. Since the rules were proposed, California developed the newer "BAR 90" analyzer specifications and EPA has accepted "BAR 90" for California's motor vehicle inspection program. The "BAR 90" standards are so new that the MPCA has not had the opportunity to fully evaluate them. The MPCA does intend to consider the "BAR 90" standards and, if the MPCA finds that the "BAR 90" standards would be more appropriate than what is in the adopted rule, will undertake a rulemaking procedure to adopt "BAR 90" analyzer specifications.

The MPCA finds that six modifications to the proposed rule are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7005.5055, subp. 6.

The MPCA has amended subp. 6 of Minn. Rules pt. 7005.5055 as follows:

> Subp. 6. Thirty-day waiver. The waiver surveiliance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30-day period, the commissioner shall ~~send a notice requesting registration cancellation to the department.~~ request the department to not renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration renewal.

b. Minn. Rules pt. 7005.5070, subp. 1.G.

The MPCA has amended subp. 1 of Minn. Rules pt. 7005.5070 as follows:

> G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall ~~request the department to revoke the owner's registration.~~

notify the department of such noncompliance and shall request the department to not renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration renewal.

c. Minn. Rules pt. 7005.5070, subp. 1.I.

The MPCA has amended subp. 1.I. of Minn. Rules pt. 7005.5070 as follows:

> I. If a dispute arises regarding whether the owner has complied with items D to F, the owner may elect to present evidence of compliance. ~~The owner shall provide evidence to the commissioner~~ to the commissioner within 30 days of notification from the commissioner that the owner's ~~registration has been revoked.~~ has failed to comply with items D to F. The commissioner shall review the evidence. The commissioner shall approve or disapprove the application for the letter of temporary extension.

These changes are supported by the record in this proceeding. In its review of the proposed rule, the Department of Public Safety commented that although the Commissioner of Public Safety has the authority to revoke registration under Minn. Stat. § 168.17, for violation of Minn. Stat. ch. 168, it does not have the authority to revoke registration for violations of Minn. Stat. ch. 116, the statute under which the Inspection/Maintenance rules have been developed. Minn. Stat. § 116.61, subd. 1(c) (1988) only provides that registration of a motor vehicle not be renewed unless the motor vehicle has been issued a certificate of compliance or certificate of waiver from emission testing.

This matter was referred to the Attorney General staff for consideration and recommendation. The proposed modifications are reasonable because they provide the sanctions

the Department of Public Safety can legally apply under Minn. Stat. § 116.61, subd. 1(c) (1988), refusing to renew registration of a vehicle that fails to comply with emission inspection requirements.

The changes do not constitute a substantial change to the rule as proposed because they do not change the effect of the rule but clarifies that the sanctions for noncompliance with the conditions of temporary extension or thirty-day waiver is that the Department of Public Safety may not renew an owner's registration.

d. Minn. Rules pt. 7005.5035, subd. D.

The MPCA has amended subp. D of Minn. Rules pt. 7005.5035 as follows:

> D. The vehicle presented for reinspection shall be inspected only for the ~~items~~ portions of the inspection which were failed as indicated on the vehicle's previous inspection report form. If the owner or operator does not provide a copy of the inspection report forms as required in item B, then both a tampering inspection and exhaust emission test shall be conducted.

When a vehicle fails an inspection, a vehicle inspection report is issued showing the portion of the inspection the vehicle has failed. The intent of this subpart is to establish that a reinspection shall consist of inspecting only those portions of the inspection failed as indicated on the vehicle inspection report.

The proposed modification is reasonable because it clarifies that only those portions of the test which were failed, as indicated on the vehicle inspection report, are subject to

reinspection. The change does not constitute a substantial change to the rule as proposed because it clarifies, but does not change the effect of, the rule.

e. Minn. Rules pt. 7005.5025, subp. A.

The MPCA has amended subp. A of Minn. Rules pt. 7005.5025 as follows:

> A. If the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. Fuel inlet restrictors shall be replaced with original manufacturer's equipment or equivalent. Catalytic converters shall be replaced with original manufacturer's equipment or new after-market equipment ~~certified~~ that meets the emission reduction requirements and criteria established by the United States Environmental Protection Agency.

This change is supported by the record in this proceeding. The EPA pointed out in its comment letter that they do not certify catalytic converters but set emission requirements and criteria for catalytic converters.

The proposed modification does not constitute a substantial change to the proposed rule because the intent of the rule has not changed. Missing or damaged catalytic converters will still have to be replaced with catalytic converters meeting specific emission requirements and criteria established by the EPA. The proposed modification is reasonable because it clarifies that the EPA does not actually certify catalytic converters but establishes the emission requirements and criteria that catalytic converters must meet.

f. Minn. Rule pt. 7005.5030, subp. 5.A.

The MPCA has amended subp. 5.A. of Minn. Rules pt. 7005.5030 as follows:

> A. the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the emission inspector; ~~and~~ or
>
> B. the measured carbon dioxide concentration is less than four percent by volume.

This change is supported by the record in this proceeding. The intent of this subpart is to establish what criteria shall be used to invalidate or prohibit the exhaust emission test because of a leakage in the exhaust system. This could be done if the emission inspector observes an obvious exhaust leakage or other condition that could affect the validity of the exhaust emission or if the carbon dioxide concentration is less than four percent by volume.

The proposed modification clarifies what criteria shall be used to invalidate or prohibit the exhaust emission test. The proposed modification is reasonable and is not a substantial change because it does not change the meaning of the rule as explained in the Statement of Need and Reasonableness, which described either the condition in Minn. Rules pt. 7005.5030, subp. 5.A. or the condition in Minn. Rules pt. 7005.5030, subp. 5.B. as conditions that prevent accurate emissions testing.

These changes do not affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed, do not introduce

significant new subject matter, and do not make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction. These changes, therefore, do not constitute a substantial change in the rule as adopted from the rule as proposed, pursuant to Minn. Rules pt. 2010.1000 (D) (1989).

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Minnesota Pollution Control Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 7005.5010 to 7005.5105 governing the motor vehicle Inspection/Maintenance program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §§ 116.60 to 116.65.

MINNESOTA POLLUTION CONTROL AGENCY

Dated: July 25, 1989

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 25th day of July, 1989. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule without a public hearing was published in the State Register on May 22, 1989. In addition, intent to adopt rules without a public hearing was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1(a) and 14.22 (1988) on May 17, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on June 21, 1989.

4. No requests for public hearing were received during the comment period.

5. One request for notice of submission of the final rule to the Attorney General was received by the MPCA.

6. During the comment period the MPCA staff received five written comments. Although the U.S. Environmental Protection Agency (EPA) submitted comments after the close of the comment period, EPA must approve the motor vehicle Inspection/Maintenance program as part of the State Implementation Plan for the metropolitan area. Therefore, the MPCA has proposed minor changes to the rule that reflect comments provided by EPA.

EPA recommended that the MPCA adopt the "BAR 80" analyzer specifications instead of the analyzer specifications set forth in the Code of Federal Regulations (CFR). The "BAR 80" specifications were developed by the California Bureau of Automotive Repair. The MPCA does not find a modification to the rules as proposed appropriate. The intent of requiring the CFR specifications for analyzers is to establish a minimum specification for analyzers. The MPCA agrees that the CFR are not state-of-the-art, but believes that the rule appropriately

requires analyzers to meet or exceed the promulgated national standard. EPA staff recommended the CFR standards to MPCA staff when the rules were being developed. Since the rules were proposed, California developed the newer "BAR 90" analyzer specifications and EPA has accepted "BAR 90" for California's motor vehicle inspection program. The "BAR 90" standards are so new that the MPCA has not had the opportunity to fully evaluate them. The MPCA does intend to consider the "BAR 90" standards and, if the MPCA finds that the "BAR 90" standards would be more appropriate than what is in the adopted rule, will undertake a rulemaking procedure to adopt "BAR 90" analyzer specifications.

The MPCA finds that six modifications to the proposed rule are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7005.5055, subp. 6.

The MPCA has amended subp. 6 of Minn. Rules pt. 7005.5055 as follows:

> Subp. 6. Thirty-day waiver. The waiver surveiliance inspector shall issue a temporary waiver valid for no more than 30 days to allow time for repair and reinspection after the registration renewal date. If the vehicle is not issued a certificate of waiver or certificate of compliance within the 30-day period, the commissioner shall ~~send a notice requesting registration cancellation to the department.~~ request the department to not renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration renewal.

b. Minn. Rules pt. 7005.5070, subp. 1.G.

The MPCA has amended subp. 1 of Minn. Rules pt. 7005.5070 as follows:

> G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall ~~request the department to revoke the owner's registration.~~

notify the department of such noncompliance and shall request the department to not renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration renewal.

c. Minn. Rules pt. 7005.5070, subp. 1.I.

The MPCA has amended subp. 1.I. of Minn. Rules pt. 7005.5070 as follows:

> I. If a dispute arises regarding whether the owner has complied with items D to F, the owner may elect to present evidence of compliance. ~~The owner shall provide evidence to the commissioner~~ to the commissioner within 30 days of notification from the commissioner that the owner~~'s registration has been revoked.~~ has failed to comply with items D to F. The commissioner shall review the evidence. The commissioner shall approve or disapprove the application for the letter of temporary extension.

These changes are supported by the record in this proceeding. In its review of the proposed rule, the Department of Public Safety commented that although the Commissioner of Public Safety has the authority to revoke registration under Minn. Stat. § 168.17, for violation of Minn. Stat. ch. 168, it does not have the authority to revoke registration for violations of Minn. Stat. ch. 116, the statute under which the Inspection/Maintenance rules have been developed. Minn. Stat. § 116.61, subd. 1(c) (1988) only provides that registration of a motor vehicle not be renewed unless the motor vehicle has been issued a certificate of compliance or certificate of waiver from emission testing.

This matter was referred to the Attorney General staff for consideration and recommendation. The proposed modifications are reasonable because they provide the sanctions

the Department of Public Safety can legally apply under Minn. Stat. § 116.61, subd. 1(c) (1988), refusing to renew registration of a vehicle that fails to comply with emission inspection requirements.

The changes do not constitute a substantial change to the rule as proposed because they do not change the effect of the rule but clarifies that the sanctions for noncompliance with the conditions of temporary extension or thirty-day waiver is that the Department of Public Safety may not renew an owner's registration.

d. Minn. Rules pt. 7005.5035, subd. D.

The MPCA has amended subp. D of Minn. Rules pt. 7005.5035 as follows:

> D. The vehicle presented for reinspection shall be inspected only for the ~~items~~ portions of the inspection which were failed as indicated on the vehicle's previous inspection report form. If the owner or operator does not provide a copy of the inspection report forms as required in item B, then both a tampering inspection and exhaust emission test shall be conducted.

When a vehicle fails an inspection, a vehicle inspection report is issued showing the portion of the inspection the vehicle has failed. The intent of this subpart is to establish that a reinspection shall consist of inspecting only those portions of the inspection failed as indicated on the vehicle inspection report.

The proposed modification is reasonable because it clarifies that only those portions of the test which were failed, as indicated on the vehicle inspection report, are subject to

reinspection. The change does not constitute a substantial change to the rule as proposed because it clarifies, but does not change the effect of, the rule.

e. Minn. Rules pt. 7005.5025, subp. A.

The MPCA has amended subp. A of Minn. Rules pt. 7005.5025 as follows:

> A. If the catalytic converter is not in place or is damaged, the owner shall replace the catalytic converter. If the fuel inlet restrictor is not in place or is damaged, the owner shall repair or replace the fuel inlet restrictor and replace the catalytic converter. Fuel inlet restrictors shall be replaced with original manufacturer's equipment or equivalent. Catalytic converters shall be replaced with original manufacturer's equipment or new after-market equipment ~~certified~~ that meets the emission reduction requirements and criteria established by the United States Environmental Protection Agency.

This change is supported by the record in this proceeding. The EPA pointed out in its comment letter that they do not certify catalytic converters but set emission requirements and criteria for catalytic converters.

The proposed modification does not constitute a substantial change to the proposed rule because the intent of the rule has not changed. Missing or damaged catalytic converters will still have to be replaced with catalytic converters meeting specific emission requirements and criteria established by the EPA. The proposed modification is reasonable because it clarifies that the EPA does not actually certify catalytic converters but establishes the emission requirements and criteria that catalytic converters must meet.

f. Minn. Rule pt. 7005.5030, subp. 5.A.

The MPCA has amended subp. 5.A. of Minn. Rules pt. 7005.5030 as follows:

> A. the vehicle's exhaust system has an obvious leakage or other condition that could affect the validity of the exhaust sample readings as determined by the emission inspector; ~~and~~ or
>
> B. the measured carbon dioxide concentration is less than four percent by volume.

This change is supported by the record in this proceeding. The intent of this subpart is to establish what criteria shall be used to invalidate or prohibit the exhaust emission test because of a leakage in the exhaust system. This could be done if the emission inspector observes an obvious exhaust leakage or other condition that could affect the validity of the exhaust emission or if the carbon dioxide concentration is less than four percent by volume.

The proposed modification clarifies what criteria shall be used to invalidate or prohibit the exhaust emission test. The proposed modification is reasonable and is not a substantial change because it does not change the meaning of the rule as explained in the Statement of Need and Reasonableness, which described either the condition in Minn. Rules pt. 7005.5030, subp. 5.A. or the condition in Minn. Rules pt. 7005.5030, subp. 5.B. as conditions that prevent accurate emissions testing.

These changes do not affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed, do not introduce

significant new subject matter, and do not make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction. These changes, therefore, do not constitute a substantial change in the rule as adopted from the rule as proposed, pursuant to Minn. Rules pt. 2010.1000 (D) (1989).

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Minnesota Pollution Control Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 7005.5010 to 7005.5105 governing the motor vehicle Inspection/Maintenance program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §§ 116.60 to 116.65.

MINNESOTA POLLUTION CONTROL AGENCY

Dated: July 25, 1989

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

ATTACHMENT 3
BJ

Systems Control
755 N. Mary Avenue Sunnyvale, California 94086
Tel (408) 738-7400 Telex 733-8675 Telecopier (408) 733-7553

SC

June 9, 1989

RECEIVED
JUN 12 1989
Minnesota Pollution Control Agency
Division of Air Quality

Mr. Dave Thornton, Program Administrator
Program Development and Air Analysis
Division of Air Quality
520 Lafayette Road North
St. Paul, Minneapolis 55155

Dear Mr. Thornton:

Thank you very much for providing us with a copy of the Proposed Permanent Rules Relating to Motor Vehicle Inspection. We congratulate you and your staff on the fine job.

Overall, the proposed rules are well thought out. However, we would like to offer the following comments for your consideration:

1. The "calibration gas" referred to in the rules should be traceable to the National Bureau of Standard +/- 2% of the tag value. The "audit gas" should be traceable to the National Bureau of Standards +/- 1%.

2. Page 2, subparagraph 18 - "Fleet Owner" is described as the owner of at least 50 subject vehicles. In many cases fleets are leased rather than owned. You may want to add language which includes leased fleets.

D/K — I think were covered by definition of "owner" 25

3. Page 6, beginning on line 30 -

"B. In a tampering dispute, the vehicles' owner or operator may elect to leave the tampering inspection area to seek proof of non-tampering, such as obtaining emission control system information from another source, and return to the same inspection facility with documentation within 20 days and continue with the tampering inspection. The contractor may not bill the agency for an inspection upon the owner's or operator's return visit to continue the tampering inspection".

We believe that the contractor will have the latest information concerning which emission control components should be on a particular vehicle. By allowing the motorist to leave the tampering test area to seek proof of non-tampering from another source you may create a ping-pong effect. The motorist could go to another source who claims that the vehicle has not been tampered, then the motorist will have to go back to the inspection station and may fail again for tampering. The potential for several inspections exists, which could be very frustrating to the motorist. We suggest that the rules define who the other source is, and how the conflict will be resolved.

procedural

In other centralized I/M programs with tampering inspections, a state employee with an office in the inspection facility is designated the final authority for conflict resolution. This person also issues waivers and takes complaints on the program.

4. Page 12, line 4 -

"C. The reinspection must take place within 30 consecutive calendar days after the initial inspection, unless the owner presents satisfactory evidence that the repairs and adjustments that were performed on the vehicle and the reinspection could not have been completed within 30 days."

How do you define "satisfactory evidence" and who makes this decision (the contractor or the state)? We suggest that a state employee make the decision. This can be done by contacting parts suppliers to determine if the replacement parts are available or if a customer would have to wait up to 30 days for them.

I hope these comments are helpful and once again thank you for allowing us to participate in the process.

Sincerely,

Leo Carroll

Leo Carroll
Regional Marketing Manager

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL/EPD

DATE : May 5, 1989

TO : NANCY J. BODE
Assistant Attorney General

FROM : ANN M. SEHA Seha
Special Assistant Attorney General

PHONE : 6-7703

SUBJECT : **Motor Vehicle Inspection and Maintenance Rules**

Based upon our telephone conversation, I have drafted the following language to resolve the Department of Public Safety's concern about the above-referenced proposed rule.

7005.5070 LETTER OF TEMPORARY EXTENSION AND LETTER OF ANNUAL EXEMPTION

Subp. 1. . . .

G. If the owner of the subject vehicle fails to comply with items D to F, the agency shall notify the department of such noncompliance, and shall request the department to not renew the owner's registration unless the vehicle has been issued a certificate of compliance or certificate of waiver prior to registration renewal.

p.23

This language provides the sanction the DPS can legally apply under Minn. Stat. § 116.61, subd. 1(c), refusing to renew registration of a vehicle that fails to comply with emission inspection requirements. My client, the Minnesota Pollution Control Agency, agrees with this change given that DPS lacks authority to revoke registration of a vehicle for failure to comply with emission inspection requirements after registration is accomplished. If experience later shows that refusal to renew registration the next year is not a sufficient sanction, the MPCA can either seek a statutory change that would allow DPS to revoke registration in this situation or amend the rule to remove the opportunity to obtain temporary extensions.

Finally, because this language changes the proposed rule that was authorized for rulemaking by the MPCA citizen board, the MPCA staff cannot change the rule prior to proposing it. The MPCA staff can change it in response to a comment by DPS in the comment period because it is not a substantial change. The change can later be adopted by the MPCA board when it adopts the

rule. If MPCA staff present this change to the citizen board prior to publication of the proposed rule, it would delay the rulemaking process by a month due to the board's meeting schedule.

Please call me if you have any questions.

AMS:jl

cc: J. David Thornton, MPCA
Barbara Jackson, MPCA
David Kelso, MPCA

SF-00006-05 (4/86)

DEPARTMENT : Public Safety

STATE OF MINNESOTA

Office Memorandum

DATE : May 18, 1989

TO : Barbara Jackson
MPCA

FROM : Marlene Swanson, Director
Driver & Vehicle Services

RECEIVED

MAY 2 ? 1989

Minnesota Pollution Control Agency
Division of Air Quality

PHONE :

SUBJECT : Motor Vehicle Inspection and Maintenance Rules.

The purpose of this memorandum is to call your attention to an area of the proposed rules that this Department finds inappropriate. Our specific concern is contained in Part 7005.50570, LETTER OF TEMPORARY EXTENSION AND LETTER OF ANNUAL EXEMPTION. Reference to the Department revoking a vehicle's registration in subpart G and, again, in subpart I, should be removed.

The Commissioner of Public Safety receives authority to revoke registration from Minnesota Statute 168.17. Under provisions of this law, vehicle license plates may be revoked only for violation of Chapter 168. In its current form, the statutes would not support the directives of MPCA's proposed rules on emission inspection. It is not possible to extend the Commissioner's authority in this area.

P.23

A recent memorandum from Ann M. Seha, Special Assistant Attorney General, suggested changes which address the problem in subpart G. Please be aware that reference is also made to plate revocation in subpart I. Ms. Seha, in her memo of May 5, alluded to the possibility of a law change to extend the Commissioner's authority. Before any plans are made to draft legislation, extensive discussion would be necessary. There are many problems related to license plate revocations.

UNITED TECHNOLOGIES CONTROL SYSTEMS

Hamilton Test Systems, Inc.

2202 North Forbes Boulevard
Tucson, Arizona 85745
602/620-4000
Telecopier: 602/624-4923
Telex: 296 907 HAMILTON TUC

June 12, 1989

RECEIVED

JUN 15 1989

Minnesota Pollution Control Agency
Division of Air Quality

Mr. David Kelso
Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

Dear Mr. Kelso:

It is my understanding that the Minnesota Pollution Control Agency intends to adopt permanent rules relating to the motor vehicle inspection and testing program. It is with a great deal of pleasure that we offer our full support as to their purpose and form. We commend the Agency on its inclusive public process for rules adoption and see no reason for a public hearing.

Our only comment is for clarification of a term in section 7005.5035 Reinspections; subpart D; which states:

> "The vehicle presented for reinspection shall be inspected only for the items which were failed as indicated on the vehicle's previous inspection report form."

The Agency may wish to consider an alternate term or wording for "items" as this could conceivably result in the following scenario:

> A vehicle passes the CO and fails the HC requirements of the exhaust emission test due to a lean misfire. The air fuel mixture is adjusted to a fuel rich setting which could lead to passing the HC provisions of the test and failing the CO. Conceivably it could be claimed the CO and HC are two different items and therefore the vehicle passes the exhaust emissions test.

We would suggest the following alternate wording:

> "The vehicle presented for reinspection shall be inspected only for the portions of the test which were failed as indicated on the vehicles previous inspection report form."

This minor clarification of the language should benefit the Agency over the long term. Finally, please consider this as a request to be advised when the rule is submitted to the Attorney General for review and that we receive a copy of the final rule as adopted.

Sincerely,

HAMILTON TEST SYSTEMS, INC.

Tom Binder

J. Tom Binder
Senior Marketing Representative

JTB:elm

PATRICIA PARISEAU
Senator 37th District
25660 Biscayne Avenue
Farmington, Minnesota 55024
Phone: (612) 463-8496
Office:
151 State Office Building
St. Paul, Minnesota 55155
Phone: (612) 296-5252

Senate

State of Minnesota

6/21/89

RECEIVED
JUN 21 1989
Minnesota Pollution Control Agency
Division of Air Quality

Mr. David Kelso
MN Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155

Dear Mr. Kelso,

Pursuant to the notice in the 22 May 1989 State Register I would like the following comments added to the record of the rules relating to the motor vehicle inspection and testing program.

I do not believe the proposed rules are in the spirit of the legislation that gave you the authority to do the rulemaking. While it is understandable that a bureaucratic/regulatory agency would draft rules that impose burdens on individuals instead of seeking to work with them to solve existing problems I had hoped for better for a program that will touch almost every person in the Metropolitan area.

It seems to me that the goal is to improve air quality in the Metropolitan area, specifically in the handful of locations that have been identified as having carbon monoxide problems. The PCA seems to have taken that laudable goal and decided to use its new authority to conduct a big-brother type inspection of emissions control equipment on every car in the metro area. I fear you will trap a significant number of innocents who unknowingly purchased a car that had been tampered with.

My reading of the 1988 law is that it gives the PCA authority to test emissions. While there may be peripheral language and indeed other statutes that prohibit emissions equipment tampering I think it would be a public relations nightmare to force every driver to submit his or her car to an inspection "just to see if you are breaking the law buddy."

Wouldn't it be better to do what the law seems to call for. Test the emissions only, and those who fail need to do something to try and pass. Since the cost of replacing emissions control equipment that has been removed or altered does not count toward

the dollar limit for repairs you would catch the bad actors that way. This could reduce the time needed for testing, cutting down the chances of long lines of angry motorists waiting to be tested.

I also object to the fascination the proposed rules seem to have with creating a paper trail for the ordinary motorist. Your rules give no latitude to people who simply lose or forget things. How does one go about obtaining a duplicate certificate of compliance? Despite what my staff says was said in committee an owner apparently cannot just go through a testing station again to obtain the certificate.

In fact if an owner was unlucky enough to fail the first inspection your proposed rules require repairs before retesting is allowed. And if the owner is mechanically minded and can do her own adjustments so the car will meet the test your proposed rules require all sorts of irrelevant information be provided to the test station.

Isn't it enough to merely pass the test? Perhaps you should only inquire about costs and the person doing the estimate or repairs if an owner is claiming the repair dollar exemption.

Getting back to the paper shuffling the rules want to impose on half of the state's population I can see no reason for requiring a person to bring the vehicle registration card or title along before one's car can be inspected. The vehicle will have a license plate, which is adequate identification. As long as the certificate of compliance notes that and the type of car there should be no instances of license plate shifting to pass the test. To require more is unduly burdensome, even though vehicles should be carrying the registration card anyway.

The document requirement of proposed 7005.5020 is also an impossibility for someone who owns a vehicle with out-of-state plates and has recently moved to the metropolitan area. Since these cars are not being re-registered are they exempt?

The itemized receipt for "parts replaced and labor" used for evidence of repair cost under proposed 7005.5065 Subp. 3. seems to be required even if all the owner has is a written estimate. Perhaps what is meant is "for parts replaced or that would need to be replaced."

I think the customarily domiciled definition is too narrow. Nine months would be a better choice than eleven so that students would not be subject to these inspections. It may also be impossible under proposed 7005.5070 (1)(B) for a person seeking a temporary extension to state precisely when the vehicle will be in the metro area. In fact under the proposed rules the registrar would have to revoke the registration of a vehicle that failed to get inspected when the owner operating under a temporary extension was back in the metro area for one day, for example for a funeral or a holiday, and who failed to get the car inspected in the next thirty days.

I am also concerned that the proposed rules fail to deal with the practice of used car dealers allowing registrations to expire. When a person then buys such a vehicle how do they get the car inspected 90 days before the registration expired? Worse yet, who is responsible for necessary repairs to get the vehicle into compliance?

I am also concerned with the additional fee the rules impose for the third reinspection. I do not believe that was the legislative intent.

Finally, I have had little time to review your proposed rules and consider all of the ramifications. I want clean air in the metropolitan area. I feel that representing the area with the Koch refinery has given me a special appreciation for air pollution that few other legislators in Minnesota can match. That is why I am concerned that your rules force ordinary law abiding citizens through too many hoops just so they can register their cars. This after they learn that buses, trucks and the older, most polluting cars don't even need to be tested. I hope you will give some consideration to my comments.

Sincerely,

Pat Pariseau

Pat Pariseau
State Senator

c.c. Senator Reichgott

SPECIALTY EQUIPMENT MARKET ASSOCIATION

Dedicated to serving the interests of the specialty automotive aftermarket

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* Steve Woomer

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Harvey Goldberg
Mike Goodman
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Dick Wells
Vice President, Sales
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Vice President, Technical and Legislative Affairs
Robert C. Burch

* Executive Committee

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P.O. Box 4967
Whittier, Calif. 90607
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Telex: 880395
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June 16, 1989

RECEIVED
JUN 19 1989
Minnesota Pollution Control Agency
Division of Air Quality

Mr. David Kelso
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

Dear Mr. Kelso:

The Specialty Equipment Market Association (SEMA) which is comprised of manufacturers and distributors of automotive parts and accessories. We have reviewed the regulations which have been proposed for adoption by the Minnesota Pollution Control Agency to implement the Vehicle Emissions Inspection Act of 1988.

SEMA has long supported the utilization of inspection and maintenance throughout the United States as the most effective means of achieving acceptable emission levels from vehicles in use. While we concur with the intent of the regulations, including efforts to reduce or eliminate tampering with the emission control devices, we believe that certain provisions of the proposed regulation do not provide clear guidance as to their enforcement and could result in actions that unnecessarily discriminate against specialty and aftermarket equipment. Specialty equipment includes parts and accessories which are not the same as original equipment in design.

Section 7005.5060, Subpart 1. Requires that "...the waiver surveillance inspector shall check if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in control of air pollution..." Similarly, section 7005.5060, Subpart 2 provides that a vehicle shall fail "...if any elements of the factory-installed motor vehicle pollution control system are not in place or have been modified, altered, or damaged in a manner that decreases its efficiency or effectiveness in the control of air pollution in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951."

SEMA believes that effective inspection/maintenance programs necessitate that those participating in the inspection programs be provided sufficient guidance to be able to determine what acts, including the installation of parts, will constitute an act of tampering and what acts are permissible. It is clear that if elements of the emission control system are missing and are not replaced with equipment which makes provision for the emission control device, an act of tampering has occurred.

With regard to acts which involve modifications, alterations or damage, however, it is not possible to determine whether or to what extent the emission control system has been reduced in effectiveness without subjecting the vehicle to the Federal Test Procedure.

Inasmuch as no determination can be made without significant testing, we are concerned that those seeking to enforce the regulations might seek to preclude the use of equipment which was not installed by the vehicle manufacturer in the mistaken belief that the use of non-OE parts might result in modifications or alterations of the emission control system. We are not seeking to have the regulations permit the use of all automotive equipment. We are respectfully recommending, however, that guidance be provided to those implementing the regulations that they are to permit the installation of automotive equipment which makes provision for all required emission control devices.

We believe that allowing the use of equipment which makes provision for emissions controls will provide adequate safeguards for the efficiency of emission control systems and will not, at the same time, unnecessarily discriminate against non-OE equipment. To this end, we respectfully submit the following proposal for your consideration:

7005.5060 EMISSION CONTROL EQUIPMENT INSPECTION AS A CONDITION OF WAIVER.

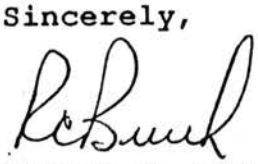
Subpart 1. Emission control equipment inspection. If a certificate of waiver is requested under part 7005.5055, the vehicle shall be checked by the waiver surveillance inspector for obvious tampering with the emission control equipment. The waiver surveillance inspector shall visually inspect for obvious tampering, removal, or disassembly of parts. At a minimum, the waiver surveillance inspector shall check if any elements of the factory-installed motor vehicle pollution control system are not in place or have been ~~modified~~, disconnected, ~~altered,~~ or ~~damaged~~ rendered inoperative ~~in a manner that decreases its efficiency or effectiveness in control of air pollution~~ in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

Subp. 2. Failure of emission control equipment inspection. Except for vehicles described in part 7005.5025, item C or D, the vehicle shall fail the emission control equipment inspection if any elements of the factory-installed motor vehicle pollution control system are not in place or have been ~~modified~~ disconnected, ~~altered~~, or ~~damaged~~ rendered inoperative ~~in a manner that decreases its efficiency or effectiveness in the control of air pollution~~ in violation of part 7005.1190 or Minnesota Statutes, section 325E.0951.

We appreciate the opportunity to provide comments on this very important issue and request that our comments be placed in any official record or minutes of the hearing, provided that there is a public hearing requested.

If you have any questions or we can be of any assistance, please feel free to contact me.

Sincerely,



Robert C. Burch
Vice President
Technical/Legislative Affairs

RCB:sp

Jay

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ANN ARBOR, MICHIGAN 48105

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Proposed Minnesota I/M Rules

FROM: Erik Herzog, Environmental Protection Specialist *Erik F. Herzog*
State and Regional Support Group

TO: Marlon Thompson, Environmental Protection Specialist
Region 5

The following are my comments on the proposed rules, parts 7005.5010 to 7005.5105.

In part 7005.5025. A., the wording of the last sentence should be changed from "certified by the United States Environmental Protection Agency" to "which meets the emission reduction requirements and criteria established by the United States Environmental Protection Agency." EPA does not actually certify catalytic converters, but rather sets performance standards for them.

The provision in part 7005.5025. B. where, "(i)n a tampering dispute, the vehicle owner or operator may elect to leave the tampering inspection area...and return to the same inspection facility with documentation within 20 days..." could allow someone with a tampered inlet to leave, have the inlet repaired and then return for another initial inspection. The State would then be unable to require the replacement of the catalytic converter, which could very likely be damaged by misfueling, and emission reductions would be lost. It might be more appropriate to allow a time period during which the owner or operator could appeal a tampering inspection but that the findings of the initial inspection should stand in the meanwhile.

In part 7005.5030. Subp. 5. A. the word "and" suggests that the exhaust leak must be obvious in order to invalidate the emission test. The low CO2 reading, as required in B., should be adequate to make that determination. The "and" should be changed to "or".

In Subp. 11. of the same section, a vehicle with an exchanged engine should be classified according to the model year of the chassis, not the engine. Engine switching by a

commercial facility would be considered tampering under federal law if the resulting vehicle did not match exactly to a certified configuration of the same or newer model year as the chassis.

Part 7005.5035. D. currently reads, "(a) vehicle presented for reinspection shall be inspected only for the items which were failed as indicated on the vehicle's previous inspection report form." A vehicle on which the inlet restrictor fails the initial inspection should also be reinspected for proper replacement of the catalytic converter, as required in 7005.5025. A.

Finally, the analyzer specifications for fleet inspection stations (7005.5080. Subp. 1. C. (1)) should be upgraded to require that they meet at least BAR 80 requirements. Considering the size of the fleets involved, requiring BAR 84 equipment would not be unreasonable. The equipment specifications in 40 CFR 85.2215 are outdated and would allow the use of manual analyzers, which is discouraged by OMS

Feel free to contact me at 374-8384 if you would like to discuss this matter further.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Motor Vehicle
Inspection/Maintenance Program
Minn. Rules Parts 7005.5010 to
7005.5105.

DECLARATION OF COUNSEL

I, Ann M. Seha, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0701.

Ann M. Seha

Ann M. Seha
Special Assistant
Attorney General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. Section 14.26 (1986):

PLEASE TAKE NOTICE that the above-captioned rules as adopted has been submitted to the Office of the Attorney General on this date, August 16, 1989, for review as to legality and form to the extent form relates to legality. The proposed rules, the rules as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and other required documents also have been submitted to the Attorney General. No requests for a public hearing were received.

The proposed rules which were published in the State Register and made available to the public on May 22, 1989, have been modified. A copy of the rules as modified is enclosed with this notice.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rules. Any written comments must be submitted within eight calendar days of the date of the submission of the rules to the Attorney General. Your comments must address only the issue of legality of the rules or the legality of the specific parts or subparts of the rules. The Attorney General standards for review are set forth in Minnesota Rules, pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Public Finance Division
515 John Ireland Blvd.
St. Paul, MN 55155
Telephone: (612) 297-2040

Any written comments submitted to the Attorney General must be submitted to Julie A. Leppink at the address above.

Dated: August 16, 1989

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Motor Vehicle Inspection/Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ron Linn, being duly sworn says:

That on the 16th day of August, 1989, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System or in the United States Mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Ron Linn

Subscribed and sworn to before me this 16th day of August, 1989.

Notary Public

MONICA A. MOELLER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES MAY 21, 1994

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

August 16, 1989

Ms. Christie Eller
Assistant Attorney General
Public Finance Division
515 Transportation Building
John Ireland Blvd.
St. Paul, MN 55155

RECEIVED
AUG 17 1989
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Re: In the Matter of Proposed Rules Governing the Motor Vehicle Inspection/Maintenance Program, Minn. Rules Parts 7005.5010 to 7005.5105.

Dear Ms. Eller:

On July 25, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rules governing the Motor Vehicle Inspection/Maintenance Program. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Notice of Intent to Solicit Outside Opinion (13 S.R. Monday, November 28, 1989).

5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (13 S.R. Monday, May 22, 1989).

8. Affidavit of Sending Notice and Proposed Rules to Chairs of House Appropriations Committee and Senate Finance Committee.

9. Comments received during the comment period.

10. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

11. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

12. Rules as proposed.

13. Statement of Need and Reasonableness.

14. Declaration of Counsel.

15. Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

16. Affidavit of Mailing of Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

Very truly yours,

Ann M. Seha

Ann M. Seha
Special Assistant
Attorney General