

CHAPTER FIVE
REFERENCE SECTION

TSI TEST SEQUENCE - BMW/PEUGEOT/VOLVO/JAGUAR (ZF AUTOMATIC TRANSMISSIONS)	05.05.00
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05.05.00 TSI TEST SEQUENCE - BMW/PEUGEOT/VOLVO/JAGUAR
(ZF AUTOMATIC TRANSMISSIONS)

Given the problems with the “ZF” automatic transmission, DPS prefers that the affected vehicles be tested at their dealerships. Accordingly, if the inspector enters an “A” (for automatic) for the transmission type, and if the vehicle type and the vehicle make, model, and model year match BMW/PEUGEOT/VOLVO/JAGUAR criteria, the TX 96 (TSI) analyzer displays the following message:

BECAUSE OF THE POSSIBILITY OF TRANSMISSION DAMAGE TO THIS VEHICLE, DPS PREFERS THAT IT BE INSPECTED AT ITS DEALERSHIP. IF YOU STILL WISH TO PERFORM THE INSPECTION, YOU MAY DO SO AT YOUR OWN RISK. PRESS “ENTER” TO CONTINUE. IF NOT, PRESS “ESC” TO ABORT THE TEST. (ENTER ABORT CODE 6)

If the inspector chooses to continue testing this vehicle, the following message will be displayed when beginning the test sequence:

BEFORE BEGINNING THE EMISSIONS TEST, MAKE SURE THE ENGINE IS AT NORMAL OPERATING TEMPERATURE. IF NOT, THE VEHICLE SHOULD BE DRIVEN UNTIL IT IS. DO NOT WARM THE ENGINE BY RAISING THE RPM ABOVE IDLE WHILE THE TRANSMISSION IS IN PARK OR NEUTRAL.

AFTER THE ENGINE REACHES NORMAL OPERATING TEMPERATURE, PUT THE TRANSMISSION IN PARK AND TURN THE ENGINE OFF FOR 30 SECONDS. RESTART THE ENGINE. AFTER THE ENGINE IS RUNNING, DO NOT MOVE THE GEAR SHIFT SELECTOR THROUGH THE FORWARD OR REVERSE GEARS BEFORE OR DURING THE TEST SEQUENCE. DO NOT EXCEED 2000 RPM.

All 1984-87 BMWs with automatic transmissions, 1983-88 Volvo 740s with automatic transmissions, 1984-89 Jaguar XJSs, and 1986-92 Peugeot 505s with automatic transmissions shall be tested using this test sequence or the latest test sequence supplied by DPS.

CONTACT YOUR LOCAL DEPARTMENT OF PUBLIC SAFETY VEHICLE INSPECTION OFFICE IF YOU HAVE FURTHER QUESTIONS REGARDING ZF AUTOMATIC TRANSMISSIONS.

05.10.00 1996 MERCEDES BENZ
OBDII INSPECTION PROCEDURES

Mercedes Benz advised that 1996 Mercedes Benz models: C220, C280, E320, S320, SL320, and C36AMG have the following problem:

When the analyzer’s diagnostic link cord is connected to the vehicle’s diagnostic link connector (DLC - OBDII port), the check engine light will stay on causing the vehicle to fail. To avoid this false failure, use the following procedure.

When asked the second bulb check question (Did the MIL light turn off) choose “YES THE MIL TURNED OFF”

This procedure is to be used ONLY on 1996 Mercedes Benz models C220, C280, E320, S320, SL320, and C36AMG.

If you have any questions, contact your DPS representative.

05.25.00 ADMINISTRATIVE RULES

TEXAS ADMINISTRATIVE CODE
TITLE 37 PUBLIC SAFETY AND CORRECTIONS
PART 1 TEXAS DEPARTMENT OF PUBLIC SAFETY
CHAPTER 23 VEHICLE INSPECTION
SUBCHAPTER G VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM

RULE §23.93 Vehicle Emissions Inspection Requirements

- (a) General. The department is authorized to establish and implement a vehicle emissions testing program as a part of the annual vehicle safety inspection program, in accordance with Texas Transportation Code, Chapter 548 and Health and Safety Code, Chapter 382.
- (b) Terms and/or Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Department of Public Safety (DPS), the terms used by the DPS have the meanings commonly ascribed to them in the fields of air pollution control and vehicle inspection. In addition to the terms defined by the TCAA, the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Affected county--refers to any county with a motor vehicle emissions inspection and maintenance program under Texas Transportation Code, §548.301 and Health and Safety Code, §382.202 and §382.302. The Texas Commission on Environmental Quality (TCEQ) specifies these counties in 30 TAC §114.50 and §114.80.
- (2) Acceleration Simulation Mode (ASM-2) I/M test--the Acceleration Simulation Mode (ASM-2) test is an emissions test using a dynamometer (a set of rollers on which a test vehicle's tires rest) which applies an increasing load or resistance to the drive train of a vehicle thereby simulating actual tailpipe emissions of vehicle as it is moving and accelerating. The ASM-2 vehicle emissions test is comprised of two phases:
- (A) the 50/15 mode--in which the vehicle is tested on the dynamometer simulating the use of 50% of the vehicle available horsepower to accelerate at a rate of 3.3 miles per hour (mph) per second to a constant speed of 15 mph; and
- (B) the 25/25 mode--in which the vehicle is tested on the dynamometer simulating the use of 25% of the vehicle available horsepower to accelerate at a rate of 3.3 mph per second to a constant speed of 25 mph.
- (3) Department--refers to the Texas Department of Public Safety.
- (4) Designated Vehicles--refers to all motor vehicles, as defined in the Texas Transportation Code, §541.201, unless otherwise exempted or excepted, that are:
- (A) capable of being powered by gasoline;
- (B) two years old through and including 24 years old; and
- (C) registered, required to be registered, primarily operated, or subject to the "Emissions Test on Resale" requirement in an affected county.
- (5) Director--refers to the director of the Texas Department of Public Safety or the designee of the director.
- (6) Emissions control component--refers to a device designed to control or reduce the emissions of substances from a motor vehicle or motor vehicle engine installed on or incorporated in a motor vehicle or motor vehicle engine in compliance with requirements imposed by the Motor Vehicle Air Pollution Control Act (42 United States Code, §1857 et seq) or other applicable law. This term shall include, but not be limited to the following components: air injection system (AIS); catalytic converter; coil; distributor; evaporative canister; exhaust gas recirculation (EGR) valve; fuel filler cap/gas cap; ignition wires; oxygen sensor; positive crank case ventilation (PCV) valve; spark plugs; thermal reactor/thermostatic air cleaner; and hoses, gaskets, belts, clamps, brackets, filters or other accessories and maintenance items related to these emissions control components and systems.
- (7) Emissions Test on Resale--refers to an emissions test performed on a vehicle coming into an affected county from another county within the state which does not have an I/M program (non-affected county); the ownership has changed as the result of a retail sale; and a registration and/or titling change is necessary. This test is not required on model year 1996 and newer vehicles if it has less than 50,000 "actual" miles.

- (8) EPA--refers to the United States Environmental Protection Agency; the federal agency that monitors and protects air and water resources.
- (9) Exempt vehicles--refers to vehicles otherwise considered "designated vehicles" that are:
- (A) exhibition vehicles, such as antique vehicles, as defined by Texas Transportation Code, § 504.502 ;
 - (B) slow-moving vehicles, as defined by Texas Transportation Code, §547.001; or
 - (C) motorcycles, as defined by Texas Transportation Code, §502.001.
- (10) Excepted vehicle--refers to motor vehicles registered in an affected county but not primarily operated in an affected county.
- (11) I/M--refers to Inspection and Maintenance.
- (12) Inspection station--refers to an inspection station/ facility as defined in the Texas Transportation Code, §548.001.
- (13) Inspector--refers to an inspector as defined in the Texas Transportation Code, §548.001.
- (14) Motorist--refers to a person or other entity responsible for the inspection, repair, maintenance or operation of a motor vehicle, which may include, but is not limited to, owners or lessees.
- (15) Out-of-cycle test--refers to an emissions test not associated with the annual vehicle safety inspection testing cycle.
- (16) OBD (On-board diagnostic system)--Computer system installed in 1996 and newer vehicles by the manufacturer which monitors the performance of the vehicle emissions control equipment, fuel metering system, and ignition system for the purpose of detecting malfunction or deterioration in performance that would be expected to cause the vehicle not to meet emissions standards. All references to OBD should be interpreted to mean the second generation of this equipment, sometimes referred to as OBD II.
- (17) Person--refers to a human being, a partnership or a corporation that is recognized by law as the subject of rights and duties.
- (18) Primarily operated in--refers to the use, including driving, parking, or storing, of a motor vehicle for 60 days or more per calendar year in affected counties. It is presumed that a vehicle is primarily operated in the county in which it is registered; the burden is on the motorist to overcome this presumption by a preponderance of the evidence.
- (19) Re-test--refers to a successive vehicle emissions inspection following the failure of an initial emissions test by a vehicle.
- (20) Revised Texas I/M SIP--refers to the most current Texas Inspection and Maintenance State Implementation Plan.
- (21) Safety inspection--refers to a compulsory vehicle inspection performed as required by Texas Transportation Code, Chapter 548, by an official inspection station issued a certificate of appointment by the department.
- (22) Safety inspection certificate--refers to an inspection certificate issued under Texas Transportation Code, Chapter 548, after a safety inspection as defined herein.
- (23) Tampering-related repairs--refers to repairs to correct tampering modifications, including but not limited to engine modifications, emissions system modifications, or fuel-type modifications disapproved by the TCEQ or the EPA.
- (24) Testing cycle--refers to an annual cycle for which a motor vehicle is subject to a vehicle emissions inspection.
- (25) Test-only facilities--refers to inspection stations certified to do emissions testing that are not engaged in repairing, replacing and/or maintaining emissions control components of vehicles. Acceptable repairs in test-only facilities shall be oil changes, air filter changes, repairs and/or maintenance of non-emissions control components, and the sale of auto convenience items.
- (26) Test-and-repair facilities--refers to inspection stations certified to do emissions testing that engage in repairing, replacing and/or maintaining emissions control components of vehicles.
- (27) TCEQ--refers to the Texas Commission on Environmental Quality.
- (28) Two-speed idle (TSI) I/M test--is an emissions test using equipment which meets TCEQ specifications for the measurement of the tailpipe exhaust emissions of a vehicle while the vehicle idles, first at a lower speed and then again at a higher speed.

(29) Two years old--refers to a vehicle upon the expiration of the initial two-year inspection certificate; or any time the vehicle is presented for inspection or required to be inspected during the year when the date of manufacture indicated on the manufacturer's federal certification label (49 CFR 567.4) is greater than 2 years. In the event the federal certification label is not present or legible, the first month of production of the model year shall be used as the date of manufacture.

(30) Twenty-four years old--refers to a vehicle when the vehicle model year is 24 years less than the current calendar year (current calendar year minus 24 years).

(31) Uncommon part--refers to a part that takes more than 30 days for expected delivery and installation.

(32) VIR--refers to the Vehicle Inspection Report.

(33) VRF--refers to the Vehicle Repair Form.

(c) Applicability. The requirements of this section and those contained in the Revised Texas I/M SIP shall apply to motorists, vehicles, vehicle inspection stations and inspectors certified by the department to inspect vehicles, and to Recognized Emissions Repair Facilities of Texas and Recognized Emissions Repair Technicians of Texas, as defined herein.

(d) Control requirements.

(1) In affected counties, in order to be certified by the department as a vehicle inspection station, the vehicle inspection station must be certified by the department to perform vehicle emissions testing. This provision does not apply to vehicle inspection stations certified by the department as vehicle inspection stations endorsed only to issue one or more of the following inspection certificates: trailer certificates, motorcycle certificates, commercial motor vehicle windshield certificates, or commercial trailer certificates.

(2) In affected counties, only department certified inspection stations certified by the department to do emissions testing may perform the annual vehicle safety inspection on designated vehicles.

(3) An inspection station in a county not designated as an affected county shall not inspect a designated vehicle unless the inspection station is certified by the department to perform emissions testing, or unless the motorist presenting the vehicle signs an affidavit on a form provided by the department stating the vehicle is exempted from emissions testing. The affidavit will be held by the inspection station for collection by the department. Under the following exceptions, a vehicle registered in an affected county may receive a safety inspection at an inspection station in a non-affected county.

(A) The vehicle is not a designated vehicle because it has not and will not be primarily operated in an affected county. This exception includes the following examples.

(i) Company fleet vehicles owned by business entities registered at a central office located in an affected county but operated from branch offices and locations in non-affected counties on a permanent basis.

(ii) Hunting and recreational vehicles registered to the owner in an affected area, but permanently maintained on a hunting or vacation home site in a non-affected county.

(B) The vehicle no longer qualifies as a designated vehicle because it no longer and will be no longer primarily operated in an affected county. For example, the vehicle registration indicates it is registered in an affected county, but the owner has moved, does not currently reside in, nor will primarily operate the vehicle in an affected county.

(C) The vehicle is registered in an affected county, not primarily operated in an affected county, and currently operated in a non-affected county, but will not return to an affected county prior to the expiration of the current inspection certificate. Under this exception the vehicle will be reinspected at an inspection station certified to do vehicle emissions testing immediately upon return to an affected county. Examples of this exception include:

(i) vehicles operated by students enrolled at learning institutions.

(ii) vehicles operated by persons during extended vacations, and

(iii) vehicles operated by persons on extended out-of-town business.

(4) All designated vehicles must be emissions tested at the time of and as a part of the designated vehicle's annual vehicle safety inspection at an inspection station certified by the department to perform vehicle emissions testing. The following exceptions apply to this provision.

(A) Commercial motor vehicles as defined by the Texas Transportation Code, §548.001 meeting the definition of "designated vehicle" as defined by this section. Designated commercial motor vehicles must be emissions tested at an inspection station certified by the department to perform vehicle emissions testing and must be issued a unique emissions test-only inspection certificate, as authorized by Texas Transportation Code, §548.251, affixed to the lower left-hand corner of the windshield of the vehicle, immediately above the registration sticker, prior to receiving a commercial motor vehicle safety inspection certificate pursuant to Texas Transportation Code, Chapter 548. The unique emissions test-only inspection certificate must be issued within 15 calendar days prior to the issuance of the commercial motor vehicle safety inspection certificate. The unique emissions test-only inspection certificate will expire at the same time the newly issued commercial motor vehicle safety inspection certificate expires.

(B) Vehicles presented for inspection by motorists in counties not designated as affected counties meeting the exceptions listed in paragraphs (3)(A) - (C) of this subsection.

(5) A vehicle with a currently valid safety inspection certificate presented for an "Emissions Test on Resale" inspection shall receive an emissions test. The owner or selling dealer may choose one of two options:

(A) a complete safety and emissions test and receipt of a new inspection certificate, or

(B) an emissions test and receipt of the unique emissions test-only inspection certificate affixed to the lower left-hand corner of the windshield of the vehicle, immediately above the registration sticker. The unique emissions test-only inspection certificate will expire at the same time as the safety inspection certificate currently displayed on the vehicle at the time the unique emissions test-only certificate is issued.

(6) Any vehicle not listed as an exempt vehicle that is capable of being powered by gasoline, from two years old to and including 24 years old, presented for the annual vehicle safety inspection in affected counties will be presumed to be a designated vehicle and will be emissions tested as a part of the annual vehicle safety inspection. Emissions testing will be conducted as follows:

(A) in all affected counties, except Travis, Williamson, and El Paso counties :

(i) all 1996 model year and newer designated vehicles, which are equipped with an On-board diagnostic system, will be emission tested using approved OBD I/M test equipment, and

(ii) all 1995 model year and older designated vehicles will be emission tested using the Acceleration Simulation Mode (ASM-2) I/M test.

(iii) Vehicles which cannot be tested using the prescribed emission testing equipment will be tested using the following default methods. OBD vehicles will be tested using ASM-2, if the vehicle (four-wheel drive and unique transmissions) cannot be tested on ASM-2, then the vehicle will be tested using TSI.

(B) This subparagraph applies to all designated vehicles in El Paso, Travis, and Williamson counties.

(i) All 1996 model year and newer designated vehicles, which are equipped with an On-board diagnostic system, will be emission tested using approved OBD I/M test equipment.

(ii) All 1995 model year and older designated vehicles will be emissions tested using approved two-speed idle I/M test equipment (TSI).

(iii) As specified by the department, OBD vehicles which can not be tested using the prescribed emission testing equipment will be tested using the approved two-speed idle I/M test equipment (TSI).

(7) Vehicles registered in affected counties will be identified by a distinguishing validation registration sticker or a registration sticker imprinted with the name of the county, as determined by the Texas Department of Transportation.

(8) Vehicles inspected under the vehicle emissions testing program and found to meet the requirements of the program in addition to all other vehicle safety inspection requirements will be passed by the certified inspector, who will thereafter affix to the windshield a unique emissions inspection certificate pursuant to Texas Transportation Code, §548.251. The only valid inspection certificate for designated vehicles shall be a unique emissions inspection certificate issued by the department, unless otherwise provided herein.

(9) The department shall perform challenge tests to provide for the reinspection of a motor vehicle at the option of the owner of the vehicle as a quality control measure of the emissions testing program. A motorist whose vehicle has failed an emissions test may request a free challenge test through the department within 15 calendar days, not including the date of the emissions test being challenged or questioned.

(10) Federal and State governmental or quasi-governmental agency vehicles that are primarily operated in affected counties that fall outside the normal registration or inspection process shall be required to comply with all vehicle emissions I/M requirements contained in the Texas I/M SIP.

(11) Any motorist in an affected county whose designated vehicle has been issued an emissions-related recall notice shall furnish proof of compliance with the recall notice prior to having their vehicle emissions tested the next testing cycle. As proof of compliance, the motorist may present a written statement from the dealership or leasing agency indicating the emissions repairs have been completed.

(12) Inspection certificates issued prior to an effective date in this section shall be valid and shall remain in effect until the expiration date thereof.

(13) A unique emissions test-only inspection certificate expires at the same time the annual vehicle safety inspection certificate it relates to expires.

(14) The department will perform quarterly equipment and/or gas audits on all vehicle emissions analyzers used to perform vehicle emissions tests. If a vehicle emissions analyzer fails the calibration process during the gas audit, the department shall cause the appropriate inspection station to cease vehicle emissions testing with the failing emissions analyzer until all necessary corrections are made and the vehicle emissions analyzer passes the calibration process.

(15) Pursuant to the Revised Texas I/M SIP, the department shall administer and monitor a follow-up loaded mode I/M test on at least 0.1% of the vehicles subject to vehicle emissions testing in a given year to evaluate the mass emissions test data as required in 40 CFR 51.353(c)(3). A contractor(s) may be used to assist in collecting, reviewing and evaluating program data.

(16) On-road testing (Remote Sensing Program) verification emissions inspection. Vehicle owners receiving a notice from the department requiring an emission test shall receive an out-of-cycle test, if the vehicle already has a valid safety and emission inspection certificate. This test will be conducted in accordance with the terms of the department's notice. The results of this verification emissions inspection shall be reported (on-line) to the Texas Information Management System Vehicle Identification Database (VID). Vehicles identified to be tested by the notice will receive the prescribed test regardless of the county of registration and whether the vehicle has a currently valid safety inspection certificate or a valid safety and emissions inspection certificate. When the vehicle has a currently valid safety inspection certificate or a valid safety and emissions inspection certificate, the owner may choose one of two options:

(A) a complete safety and emissions test and receipt of a new inspection certificate, or

(B) an emissions test and receipt of the unique emissions test-only inspection certificate affixed to the lower left-hand corner of the windshield of the vehicle, immediately above the registration sticker. The unique emissions test-only inspection certificate will expire at the same time as the safety inspection certificate currently displayed on the vehicle at the time the unique emissions test-only certificate is issued.

(17) Emissions testing of vehicles requiring vehicle identification insignias issued by public institutes of higher learning. Effective January 1, 2002 as per §51.207 of the Texas Education Code, public institutions of higher learning located in affected counties may require vehicles to be emissions tested as a condition to receive a permit to park or drive on the grounds of the institution, including vehicles registered out-of-state. The following instructions are provided for handling this type of inspection.

(A) Vehicles presented under this subsection shall receive an emissions inspection and be issued a unique emissions test-only inspection certificate which will be affixed to the lower left-hand corner of the windshield of the vehicle. Since this inspection certificate is not dated, this certificate will expire as follows:

(i) Vehicles registered in this state from counties without an emissions testing program. The unique emissions test-only inspection certificate will expire at the same time as the safety inspection certificate currently displayed on the vehicle at the time the unique emissions test-only certificate is issued.

(ii) Vehicles registered in another state. The unique emissions test-only inspection certificate will expire on the twelfth (12th) month after the month indicated on the date of the Vehicle Inspection Report (VIR) generated by the emissions inspection. Under no circumstances is the inspection station authorized to remove an out-of-state inspection and/or registration certificate, to include either safety, emissions, or combination of any of the aforementioned.

(B) The operator of a vehicle presented for an emissions inspection under this subsection will be notified to retain the Vehicle Inspection Report (VIR) as proof of emissions testing under the requirements of §51.207 of the Texas Education Code.

(e) Waivers and extensions. Under this section, the department may issue an emissions testing waiver or time extension to any vehicle that passes all requirements of the standard safety inspection portion of the annual vehicle safety inspection and meets the established criteria for a particular waiver or time extension. An emissions testing waiver or a time extension defers the need for full compliance with vehicle emissions standards of the vehicle emissions I/M program for a specified period of time after a vehicle fails an emissions test. The department will accept applications for emissions testing waivers and time extensions. There are four types of emissions testing waivers and time extensions: Low Mileage Waiver; Individual Vehicle Waiver; Parts Availability Time Extension; and Low-Income Time Extension. The motorist may apply once each testing cycle for the Low Mileage Waiver, Individual Vehicle Waiver, and Parts Availability Time Extension. The motorist may apply every other testing cycle for the Low-Income Time Extension.

(1) Low Mileage Waiver.

(A) Eligibility. A vehicle may be eligible for a Low Mileage Waiver provided that it has:

(i) failed both its initial emissions inspection and re-test; and

(ii) incurred qualified emissions-related repairs, as defined herein, whose cost is equal to at least \$100; and

(iii) the vehicle has been driven less than 5,000 miles in the previous inspection cycle; and

(iv) the vehicle will be reasonably expected to be driven fewer than 5,000 miles before the next safety inspection is required.

(B) Qualified Emissions-Related Repairs. Qualified emissions-related repairs are those repairs to emissions control components, including diagnosis, parts and labor, which count toward a Low Mileage Waiver. In order to be considered qualified emissions-related repairs, the repair(s):

(i) must be directly applicable to the cause for the emissions test failure;

(ii) must be performed after the initial emissions test or have been performed within 60 days prior to the initial emissions test;

(iii) must not be tampering-related repairs, as defined herein;

(iv) must not be covered by any available warranty coverage unless the warranty remedy has been denied in writing by the manufacturer or authorized dealer; and

(v) must be performed by a Recognized Emissions Repair Technician of Texas at a Recognized Emissions Repair Facility of Texas in order to include the labor cost and/or diagnostic costs. When repairs are not performed by a Recognized Emissions Repair Technician of Texas at a Recognized Emissions Repair Facility of Texas, only the purchase price of parts, applicable to the emissions test failure, qualify as a repair expenditure for the Low Mileage Waiver.

C) Conditions. The following conditions must be met in order to receive a Low Mileage Waiver:

(i) the vehicle must pass a visual inspection performed by a department representative to insure that the emissions repairs being claimed have actually been performed;

(ii) the diagnosis, parts and labor receipts for the qualified emissions-related repairs must be presented to the department and support that the emissions repairs being claimed have actually been performed; and

(iii) the valid re-test Vehicle Inspection Report (VIR) and valid Vehicle Repair Form (VRF) for the applicant vehicle must be presented to the department. If labor and/or diagnostic charges are being claimed towards the low mileage waiver amount, the VRF shall be completed by a Recognized Emissions Repair Technician of Texas.

(2) Low-Income Time Extension. A Low-Income Time Extension may be granted in accordance with the following conditions:

(A) The applicant must supply to the department proof in writing that:

(i) the vehicle failed the initial emissions inspection test; proof shall be in the form of the original failed VIR;

(ii) the vehicle has not been granted a Low-Income Time Extension in the previous testing cycle;

(iii) the applicant is the owner of the vehicle that is the subject of the Low-Income Time Extension; and

(iv) the applicant receives financial assistance from the Texas Health and Human Services Commission or the Department of Aging and Disability Services due to indigence (subject to approval by the director) or the applicant's adjusted gross income (if the applicant is married, the applicant's adjusted gross income is equal to the applicant's adjusted gross income plus the applicant's spouse's adjusted gross income) is at or below the current federal poverty level as published by the United States Department of Health and Human Services, Office of the Secretary, in the Federal Register; proof shall be in the form of a federal income tax return or other documentation authorized by the director that the applicant certifies as true and correct.

(B) After a vehicle receives an initial Low-Income Time Extension, the vehicle must pass an emissions test prior to receiving another Low-Income Time Extension.

(3) Parts Availability Time Extension. A Parts Availability Time Extension may be granted in accordance with the following conditions:

(A) The applicant must demonstrate to the department:

(i) reasonable attempts were made to locate necessary emissions control parts by retail or wholesale parts suppliers; and

(ii) emissions-related repairs cannot be completed before the expiration of the safety inspection certificate or before the 30-day period following an out-of-cycle inspection because the repairs require an uncommon part, as defined herein.

(B) The applicant shall provide to the department:

(i) an original VIR indicating the vehicle failed the emissions test;

(ii) an invoice, receipt, or original itemized document indicating the uncommon part(s) ordered by: name; description; catalog number; order number; source of part(s), including name, address and phone number of parts distributor; and expected delivery and installation date(s). The original itemized document must be prepared by a Recognized Emissions Repair Technician of Texas before a Parts Availability Time Extension can be issued.

(C) A Parts Availability Time Extension is not allowed for tampering-related repairs, as defined herein.

(D) If the vehicle does not pass an emissions re-test prior to the expiration of the Parts Availability Time Extension, the applicant must provide to the department, adequate documentation that one of the following conditions exists:

(i) the motorist qualifies for a Low Mileage Waiver, Low-Income Time Extension or Individual Vehicle Waiver; or

(ii) the motor vehicle will no longer be operated in the affected county.

(E) A vehicle that receives a Parts Availability Time Extension in one testing cycle must have the vehicle repaired and re-tested prior to the expiration of such extension or must qualify for another type of waiver or time extension, in order to be eligible for a Parts Availability Time Extension in the subsequent testing cycle.

(F) The length of a Parts Availability Time Extension shall depend upon expected delivery and installation date(s) of the uncommon part(s) as determined by the department representative on a case by case basis. Parts Availability Time Extensions will be issued for either 30, 60 or 90 days.

(G) The department shall issue a unique time extension sticker for Parts Availability Time Extensions.

(4) Individual Vehicle Waiver.

(A) Eligibility. If a vehicle has failed an emissions test required by the vehicle emissions I/M program, a motorist may petition the designated representative of the department for an Individual Vehicle Waiver in order for the vehicle to receive a state inspection certificate. The motorist must demonstrate that all reasonable measures (diagnostics, repairs, replacement parts, etc.) have been taken to bring the vehicle into compliance with the program, but have failed. The department will review the measures taken by the motorist to insure that they have been performed, further measures would be economically unfeasible during this inspection cycle, and a waiver will result in a minimal impact on air quality. A vehicle may be eligible for an Individual Vehicle Waiver provided that:

(i) it failed both the initial emissions inspection and re-test; and

(ii) the motorist has incurred qualified emissions-related repairs, as defined by subsection (e)(1)(B) of this section, costing equal to or are in excess of the maximum reasonable repair expenditure amounts, as defined herein for the county in which the vehicle is registered.

(B) Maximum Reasonable Repair Expenditure Amounts. The applicable amounts are:

(i) affected counties, except El Paso county--\$600, and

(ii) El Paso county--\$450.

(C) Validity. The individual vehicle waiver shall be valid through the end of the twelfth month from the date of issuance. Motorists must apply for the individual vehicle waiver each testing cycle.

(D) Conditions. The following conditions must be met in order to receive an individual vehicle waiver:

(i) the vehicle must pass a visual inspection performed by a department representative to insure that the emissions repairs being claimed have actually been performed;

(ii) the diagnosis, parts, and labor receipts for the qualified emissions-related repairs must be presented to the department and support that the emissions repairs being claimed have actually been performed; and

(iii) the valid re-test Vehicle Inspection Report (VIR) and valid Vehicle Repair Form (VRF) for the applicant vehicle must be presented to the department. If labor and/or diagnostic charges are being claimed towards the individual vehicle waiver, the VRF shall be completed by a Recognized Emissions Repair Technician of Texas.

(f) Prohibitions.

(1) No person may operate or allow to be operated any motor vehicle that does not comply with:

(A) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection administered by the department, as evidenced by a current valid inspection certificate affixed to the vehicle windshield; and

(B) the vehicle emissions inspection and maintenance requirements contained in the Revised Texas I/M SIP.

(2) No person or entity may own, operate, or allow the operation of a designated vehicle in an affected county unless the vehicle has complied with all applicable vehicle emissions inspection and maintenance requirements contained in the Revised Texas I/M SIP, unless otherwise provided for herein.

(3) No person may issue or allow the issuance of a Vehicle Inspection Report (VIR), as authorized by the department, unless all applicable air pollution emissions control-related requirements of the annual vehicle safety inspection and the vehicle emissions inspection and maintenance requirements and procedures contained in the Revised Texas I/M SIP are completely and properly performed in accordance with the rules and regulations adopted by the department and the TCEQ.

(4) No person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen inspection certificates, VIRs, VRFs, vehicle emissions repair documentation, or other documents which may be used to circumvent the vehicle emissions inspection and maintenance requirements and procedures contained in Texas Transportation Code, Chapter 548 and the Revised Texas I/M SIP.

(5) No organization, business, person, or other entity may represent itself as an inspector certified by the department, unless such certification has been issued pursuant to the certification requirements and procedures contained in the Revised Texas I/M SIP and the rules and regulations of the department.

(6) No person may act as or offer to perform services as a Recognized Emissions Repair Technician of Texas or a Recognized Emissions Repair Facility of Texas, as defined in subsections (h) and (i) of this section, without first obtaining and maintaining recognition by the department.

(g) Violation/Penalties. Pursuant to Texas Transportation Code, §548.601, any person who operates a designated vehicle in an affected county without displaying a valid unique emissions inspection certificate, may be subject to a fine in an amount not to exceed that set out in Texas Transportation Code, §548.604.

(h) Requirements for Recognized Emissions Repair Technicians of Texas. The department will recognize automotive repair technicians that meet the qualifications as set forth herein.

(1) In order to be recognized by the department as a Recognized Emissions Repair Technician of Texas, the technician must:

(A) have a minimum of three years full-time automotive repair service experience;

(B) possess current certification in the following areas based on the following tests offered by the National Institute of Automotive Service Excellence (ASE):

(i) Engine Repair (ASE Test A1);

(ii) Electrical/Electronic Systems (ASE Test A6);

(iii) Engine Performance (ASE Test A8); and

(iv) Advanced Engine Performance Specialist (ASE Test L1); and

(C) must be employed by a Recognized Emissions Repair Facility of Texas, as defined herein.

(2) A Recognized Emissions Repair Technician of Texas shall perform the following duties:

(A) complete and certify the VRF form(s); and

(B) notify the DPS in writing within 14 days of changes in the technician's ASE testing status.

(3) Failure to comply with these rules and failure to meet the qualifications set out herein may result in the department ceasing to recognize the technician.

(i) Requirements for Recognized Emissions Repair Facilities of Texas.

(1) In order to be recognized by the department as a Recognized Emissions Repair Facility of Texas, the facility must:

(A) employ at least one full-time Recognized Emissions Repair Technician of Texas, as described in subsection (h) of this section; and

(B) possess equipment to perform the functionality of the following items:

(i) ammeter;

(ii) compression tester;

(iii) cooling system tester;

(iv) dwellmeter;

(v) engine analyzer;

(vi) five gas exhaust analyzer (which can perform diagnostic repair for at least hydrocarbon (HC), carbon monoxide (CO), carbon dioxide (CO₂), and oxides of nitrogen (NOX), except for those in Travis, Williamson, and El Paso counties which require a four gas exhaust analyzer (which can perform diagnostic repair for at least hydrocarbon (HC), carbon monoxide (CO), and carbon dioxide (CO₂);

(vii) fuel pressure/pressure drop tester;

- (viii) ohmmeter;
- (ix) repair reference information;
- (x) scan tool/or OBDII capable testing equipment;
- (xi) tachometer;
- (xii) timing light;
- (xiii) vacuum/pressure gauge;
- (xiv) vacuum pump; and;
- (xv) volt-meter.

(2) A Recognized Emissions Repair Facility of Texas shall:

(A) notify the DPS in writing within 14 days of changes in the facility's technicians' ASE testing status or employment status and the facility's equipment functionality status; and

(B) agree in writing upon application for recognition by the department to maintain compliance with the qualifications enumerated in paragraph (1) of this subsection, in order to maintain recognition by the department.

(3) Failure to comply with these rules and failure to meet the qualifications set out herein, may result in the department ceasing to recognize the facility.

(j) Certified emissions inspection station requirements.

(1) In order to be certified by the department as an emissions inspection station, for purposes of the emissions I/M program, the station must:

(A) be licensed by the department as an official vehicle inspection station;

(B) comply with the DPS Rules and Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors and other applicable rules and regulations of the department;

(C) complete all applicable forms and reports as required by the department;

(D) purchase or lease emissions testing equipment that is currently certified by the TCEQ to emissions test vehicles, or upgrade existing emissions testing equipment to meet the current certification requirements of the TCEQ;

(E) have a designated telephone line dedicated solely for each vehicle emissions analyzer to be used to perform vehicle emissions tests; and

(F) enter into and maintain a business arrangement with the Texas Information Management System contractor to obtain a telecommunications link to the Texas Information Management System Vehicle Identification Database (VID) for each vehicle emissions analyzer to be used to inspect vehicles as described in the Revised Texas I/M SIP.

(G) All public certified emissions inspection stations in affected counties, excluding Travis, Williamson, and El Paso counties shall offer both the ASM-2 test and the OBD test. Certified emissions inspection stations in these affected counties desiring to offer OBD-only emission testing to the public must request a waiver as low volume emissions inspection station from the department Regional Supervisor. All public certified emissions inspection stations in El Paso, Travis and Williamson counties shall offer both the OBD and TSI test.

(2) Failure to comply with these rules may result the in denial, suspension or revocation of an inspection station's certificate of appointment, pursuant to Texas Transportation Code, §548.405, or in a fine, pursuant to Texas Transportation Code, §542.301 and §548.601, in an amount not to exceed that set out in Texas Transportation Code, §542.401.

(k) Certified emissions inspector requirements.

(1) To qualify as a certified inspector, an individual must:

(A) be licensed by the department as an official vehicle inspector;

(B) must complete the training required for the Vehicle Emissions Inspection Program and receive the department's current approved inspector's certificate for such training;

(C) must comply with the DPS Rules and Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors and other applicable rules, regulations, and notices of the department; and

(D) complete all applicable forms and reports as required by the department.

(2) Failure to comply with these rules may result in the denial, suspension or revocation of a certified inspector's certificate, pursuant to Texas Transportation Code, §548.405, or in a fine, pursuant to Texas Transportation Code, §542.301 and §548.601, in an amount not to exceed that set out in Texas Transportation Code, §542.401.

(l) Inspection and Maintenance Emissions Testing Fees. The fees for emissions testing will be set by the TCEQ. The fee for an emissions test shall provide for one free re-test for each failed initial emissions inspection, provided that the motorist has the re-test performed at the same inspection station where the vehicle originally failed and the re-test is conducted within 15 calendar days of the initial emissions test, not including the date of the initial emissions test.

(m) Audits.

(1) The department is authorized to perform covert and overt audits pertaining to the emissions testing program.

(2) The department may authorize enforcement personnel or other individuals to remove, disconnect, adjust, or make inoperable vehicle emissions control equipment, devices, or systems and to operate a vehicle in the tampered condition in order to perform a quality control audit of an inspection station or other quality control activities as necessary to assess and ensure the effectiveness of the vehicle emissions inspection and maintenance program.

(n) Authority to publish manuals. The Public Safety Commission authorizes the director of the Department of Public Safety to promulgate, publish and distribute necessary manuals of instruction and procedure for the implementation of the emissions I/M testing program in a manner not inconsistent with these rules. The department adopts by reference the VEHICLE EMISSIONS INSPECTION AND MAINTENANCE RULES AND REGULATIONS MANUAL FOR OFFICIAL VEHICLE INSPECTION STATIONS AND CERTIFIED INSPECTORS as the standard for conducting emissions inspections in designated counties. Any violation of these rules and regulations may result in the suspension or revocation of the certificate of appointment of the vehicle inspection station or certificate of the certified inspector. Such manual(s) shall be available for public inspection at reasonable times at offices of the department as designated by the director.

Source Note: The provisions of this §23.93 adopted to be effective January 1, 1997, 21 TexReg 12426; amended to be effective September 9, 1997, 22 TexReg 9007; amended to be effective February 6, 2001, 26 TexReg 1163; amended to be effective January 10, 2002, 27 TexReg 277; amended to be effective July 17, 2003, 28 TexReg 5541; amended, to be effective June 13, 2005, 30 TexReg 3432.

05.25.02 RULE §23.95 Waiver for Low Volume Emissions Inspection Stations

(a) General. 37 TAC §23.93(j)(1)(G) of this title (relating to Vehicle Emissions Inspection and Maintenance Program) requires that all public certified emissions inspection stations offer both Acceleration Simulation Mode 2 (ASM2) and On-Board Diagnostic II (OBDII) vehicle emissions tests. This section provides the requirements, application procedures, and the limitations of the low volume waiver provided by 37 TAC §23.93 (relating to Vehicle Emissions Inspection and Maintenance Program). This waiver allows a public certified inspection station to perform limited state required vehicle emission testing on 1996 and newer model year vehicles using department approved OBDII testing equipment. Government and fleet inspection stations do not require this waiver.

(b) Limitations of low volume waiver.

(1) Notwithstanding subsection (a) of this section, under no circumstance shall an inspection station, public, government or fleet, operating with only OBDII test equipment issue an inspection certificate to a "designated vehicle" as defined in 37 TAC §23.93 of this title (relating to Vehicle Inspection Emissions and Maintenance Program) which is model year 1995 and older.

(2) An inspection station operating under a low volume waiver is limited to performing 1200 emission inspections per year. This limitation is achieved through the OBD analyzer software and the vehicle inspection database contractor. Each month, the inspection station is allocated 100 emission tests. After the monthly test allocation of the station has been used, no more inspections will be

allowed until the next month. In the event that the station performs less than 100 emission tests, the remaining number will carry over to the next month. The annual waiver limit number will be automatically reset each January with no carry over from the previous year.

(c) Applications for waiver.

(1) New inspection station applications shall follow the procedures in 37 TAC §23.1 of this title (relating to New Applications) with the addition that the application form be annotated with "LOW VOLUME WAIVER - OBD ONLY" at the top of the form. New applicants will include written acknowledgement of limitation of low volume waiver as indicated in paragraph (2)(G) of this subsection.

(2) Owners or operators of currently certified emission inspection stations shall request this waiver by letter or fax to the local department Regional Supervisor. This written correspondence must include the following:

(A) Station name,

(B) Physical address of the station,

(C) Mailing address of the station,

(D) Station number,

(E) Signature of the station owner or operator,

(F) Copy of purchase order or receipt for state approved OBDII only emission testing equipment, and

(G) Signatory's statement acknowledging the limitations of low volume waiver. This statement shall read as follows: "I understand the conditions and limitations of being granted a low volume, OBD only emissions inspection station waiver. I agree to the limitation of 1200 annual emissions tests per year and agree to the 100 monthly emission test limit. I agree this inspection station shall not issue certificates to other than 1996 and newer model year designated vehicles. I understand and agree that violating the terms of this waiver shall result in the suspension and/or revocation of this station's certification."

(3) The local Regional Supervisor will objectively review each application. After review, the Regional Supervisor shall indicate approval or disapproval by endorsement, with a copy provided to the requesting inspection station and the departmental file on the station. If disapproved, the Regional Supervisor must provide reasons for the department's denial of the waiver.

(d) In order to encourage a stable and viable program for providing emissions testing to the public in all areas of an affected county, the department will review the annual low volume waiver and monthly test number limitations on a regular basis and revise these number limits accordingly.

(e) This waiver is not available for inspection stations in El Paso County.

Low Volume Emissions Inspection Station Waiver
"OBD Only"

Date: _____

TO: DPS Regional Supervisor
(address)

The inspection station below requests an "OBD-Only" Low Volume Emissions Inspection Station Waiver.

Station name: _____

Station number: _____

Physical address of the station: _____

Mailing address of the station: _____

A copy of the purchase order or receipt for a state approved OBDII only emissions testing equipment is attached.

By signing below, I, the station owner or operator, acknowledge that I have read and understand the limitations of the low volume waiver, to wit:

"I understand the conditions and limitations of being granted a low volume, OBD only emissions inspection station waiver. I agree to the limitation of 1200 annual emissions tests per year and agree to the 100 monthly emissions test limit. I agree this inspection station shall not issue certificates to other than 1996 and newer model year designated vehicles. I understand and agree that violating the terms of this waiver shall result in the suspension and/or revocation of this station's certification."

Signature of the station owner or operator: _____

Printed or typed name of station owner or operator: _____

For department use only.

Approve: _____ Disapprove: _____

Regional Supervisor signature: _____

Reasons for Disapproval: _____

Distribution: Original to department file and copy to requesting station.

05.25.03 RULE §23.96 Emissions Analyzer Access/Identification Card

(a) General. Access to the vehicle emissions analyzers at certified inspection stations in all counties shall be controlled using an access/identification card.

(b) Access/Identification Card (Access/ID card).

(1) The department will issue an Access/ID card to each certified inspector who performs emissions testing. The Access/ID card will be in a format prescribed by the department that identifies the individual as a department-certified inspector. At a minimum, it will contain the following additional information:

(A) photograph of the inspector;

(B) inspector's name, first and last;

(C) inspector identification number; and

(D) bar coded information used to authenticate inspection records with the Texas Information Management System (TIMS).

(2) At the time of issue, the Access/ID card is enrolled into the Texas Information Management System (TIMS) by a department technician. The Access/ID card will not be activated until this enrollment in the TIMS is complete.

(3) The Access/ID card is the inspector's official identification. Inspectors must carry the Access/ID card on their person at all times while performing inspection duties; and it must be presented to any department official upon request.

(4) Access/identification cards are nontransferable, nor may they be duplicated. The inspector is responsible for all transactions made between the vehicle analyzer and the Texas Information Management System made using their Access/ID card.

(5) The inspector is responsible for upkeep of the card. Loss of an Access/ID card shall immediately be reported to the proper department representative. The replacement fee for a lost, defaced, stolen, or discarded Access/ID card is \$10.00.

(6) All Access/ID cards are the property of the department and must be returned upon request.

(7) Any lost or stolen Access/ID card recovered, which cannot be immediately returned to the proper cardholder, will be returned to the department. Returned Access/ID cards may be claimed by the inspector after showing proof of identity.

(8) The data records maintained in the Texas Information Management System are government records. Fraudulent use of the Access/ID card or the entering of false information using the Access/ID card will subject the user to criminal action under either Penal Code §37.10, Transportation Code §548.601, or both as well as administrative action by the department.

(c) Use of Access/Identification Card (Access/ID card).

(1) Before an official emissions inspection may begin, the inspector must enter two codes that uniquely identify the vehicle inspection record with the inspector.

(2) The vehicle emissions analyzer first requires the entry of the inspector's access code. The entry of the access code is via the 2-D bar code reader, which reads the access code from an access/identification card. The inspector is required to enter his access code using the analyzer bar code reader for every inspection. The vehicle analyzer automatically verifies the inspector's access code, certification expiration date, and the presence of an inspector or station lockout.

(3) After the inspector's access code is validated, the inspector will then be required to enter a unique personal identification number (PIN) known only to the inspector. This PIN is encrypted on the analyzer and is unreadable to anyone and is neither displayed nor printed in any way. Inspectors may not give, share, lend, or divulge this PIN to another person without the explicit consent of appropriate department personnel. Failure to comply with this paragraph shall result in suspension or revocation of the inspector's certification as well as any appropriate criminal action or administrative disciplinary action. Inspectors are responsible for unauthorized access of the Texas Information Management System resulting from their negligence or carelessness in maintaining the confidentiality of their Personal Identification Number (PIN).

(d) Inspector's signed statement acknowledging the department's policy for the use and protection of emissions analyzer access/identification card. Each inspector shall, as a condition of issue of the Access/ID card, complete and sign, on a locally produced form, the following statement:

Attached Graphic

Figure: 37 TAC §23.96(d)

DPS Policy for the Use and Protection of Emissions Analyzer Access/Identification Card

I acknowledge that I have read the Department of Public Safety Rule for the use and protection of the Emissions Analyzer Access/Identification Card and corresponding Personal Identification Number (PIN). I understand that I must comply with the rule when accessing and using the vehicle emissions analyzer and my failure to comply with the rule may result in suspension or revocation of the inspector's certification as well as any appropriate criminal action or administrative disciplinary action.

Signature: _____

Printed Name: _____

Inspector ID #: _____

Date: _____

GLOSSARY OF TERMS

05.30.00

Gas Audit -The examination and verification of the validity and integrity of the exhaust gas analyzer's operation. (Analyzer to be audited by DPS representative quarterly.)

Leak Check - A method of verifying there are no leaks in the gas analyzer's lines, fittings, probes, and infrared bench.

Low Flow - The inability of an adequate gas sample to flow through the infrared bench, usually caused by clogged filters or a crimped hose.

Tamper Lock-Out -An indication to the analyzer operator that tamper switches on the gas analyzer have been actuated and the emissions testing can no longer be continued.