

ILLINOIS POLLUTION CONTROL BOARD
July 21, 1994

IN THE MATTER OF:)
)
ENHANCED VEHICLE INSPECTION AND) R94-20
MAINTENANCE (I/M) REGULATIONS) (Identical-in-Substance Rules)
AMENDMENTS 35 ILL. ADM. CODE)
240)

Proposal for Public Comment

PROPOSED OPINION AND ORDER OF THE BOARD (by G. Tanner Girard):

On July 20, 1994, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking. Section 182(b) and (c) of the Clean Air Act (CAA), as amended in 1990, requires the use of "inspection and maintenance" (I/M) programs in areas not meeting the national ambient air quality standards (NAAQS) for ozone and/or carbon monoxide. The CAA specifies the use of "basic" I/M programs in "moderate" nonattainment areas and "marginal" nonattainment areas with existing I/M programs. It requires the use of "enhanced" I/M programs in "serious", "severe", and "extreme" ozone nonattainment areas with urbanized populations of 200,000 or more. In Illinois, the Chicago and Metro-East St. Louis (Metro-East) areas are classified as "severe" and "moderate" nonattainment for ozone, respectively, and as such are subject to the I/M requirement.

The General Assembly recently enacted the Vehicle Emissions Inspection Law (625 ILCS 5/13B et seq.) effective January 18, 1994. (P.A. 88-533.) That statute provides authority for the Agency to implement an enhanced I/M program and meet the United States Environmental Protection Agency's (U.S. EPA's) requirements for such a program. P.A. 88-533 mandates enhanced I/M testing for the Metro-East area and certain portions of the Chicago nonattainment area.

P.A. 88-533, at new Section 13B-20, mandates adoption of enhanced I/M rules by the identical-in-substance rulemaking procedure. The Agency has proposed codified U.S. EPA emissions standards concerning evaporative system pressure and purge testing for the enhanced I/M program in this docket by identical-in-substance procedures under Section 28.4 of the Act.

This proposal was filed pursuant to Section 28.4 of the Act and is accepted for hearing. (P.A. 87-1213, effective September 26, 1992; 415 ILCS 5/28.4.) Pursuant to the provisions of that section the Board is required to adopt regulations that are identical in substance to federal regulations that the state must adopt to comply with the 1990 CAA amendments. Section 28.4(g) provides that Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 & 5-40) and Title VII of the Environmental Protection Act (415 ILCS 5/26 through 29) do not apply to this

proceeding. Thus, this proceeding will not be subject to First Notice or Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to Appear in the Illinois Register. The Board will receive public comments on the proposed amendments for a period of 45 days after that date of publication. The Board will then proceed to adopt amendments based on the Agency's proposal.

However, major portions of the federal enhanced I/M scheme are not codified in federal regulations, but exist only as federal guidance. Section 7.2 of the Act, which defines "identical-in-substance" rulemaking and establishes conditions for its use, allows the Board only to adopt federal rules using this mechanism.

The Agency has accordingly chosen to use the next-fastest procedural mechanism, the Section 28.5 "fast-track" rulemaking (P.A. 87-1213, effective September 26, 1992; 415 ILCS 5/28.5), for those segments of the enhanced I/M rules that are based on federal guidelines, as that rulemaking also implements the CAA. The Board has designated that companion docket as R94-19.

The Agency's proposals represent the procedural means by which the Agency seeks to achieve the mobile source emissions standards necessary for the implementation of the enhanced I/M program. The standards proposed in R94-19 incorporate federal guidance. The Agency is pursuing codified U.S. EPA emissions standards concerning evaporative system pressure and purge testing for the enhanced I/M program in this docket by identical-in-substance procedures under Section 28.4 of the Act. In companion docket R94-19, the Agency is pursuing emissions standards based on U.S. EPA guidance.

The Board does not normally conduct public hearings in identical-in-substance proceedings, but we will conduct a hearing in this matter. Since this proposal will ultimately result in a state implementation plan (SIP) revision, federal law requires that the state conduct a hearing. The Board will conduct that hearing so that it coordinates well with the hearings to be conducted in docket R94-19.

In the interest of administrative economy, the Board directs the Hearing Officer to verify that the persons on the Notice List in this proceeding wish to continue to receive mailings in this proceeding.

ORDER

The Board directs the Clerk to cause the filing of the following proposal for publication in the Illinois Register:

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE B: AIR POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER k: EMISSION STANDARDS AND
 LIMITATIONS FOR MOBILE SOURCES

PART 240
 MOBILE SOURCES

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section	
240.101	Preamble
240.102	Definitions
240.103	Prohibitions
240.104	Inspection
240.105	Penalties
240.106	Determination of Violation
240.107	Incorporations by Reference

SUBPART B: EMISSIONS

Section	
240.121	Smoke Emissions
240.122	Diesel Engine Emissions Standards for Locomotives
240.123	Liquid Petroleum Gas Fuel Systems
240.124	Vehicle Exhaust Emission Standards
240.125	Compliance Determination

SUBPART C: HEAVY-DUTY DIESEL SMOKE
 OPACITY STANDARDS AND TEST PROCEDURES

Section	
240.140	Applicability
240.141	Heavy-Duty Diesel Vehicle Smoke Opacity Standards and Test Procedures

SUBPART F: EVAPORATIVE TEST STANDARDS

<u>Section</u>	
<u>240.172</u>	<u>Evaporative System Pressure Test Standards</u>
<u>240.173</u>	<u>Evaporative System Purge Test Standards</u>

240.Appendix A Rule into Section Table
 240.Appendix B Section into Rule Table

AUTHORITY: Implementing Sections 9, 10 and 13 and authorized by Sections 27 and 28.4 of the Environmental Protection Act (~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1009, 1010, 1013 and 1027~~) [415 ILCS 5/9, 10, 13, 27, and 28.4 (1992)].

SOURCE: Adopted as Chapter 2: Air Pollution, Part VII: Mobile Sources, filed and effective April 14, 1972; codified at 7 Ill. Reg. 13628; amended in R85-25, at 10 Ill. Reg. 11277, effective June 16, 1986; amended in R90-20 at 16 Ill. Reg. 6184, effective April 7, 1992; amended in R94- _____ at _____ Ill. Reg. _____, effective _____

NOTE: Capitalization denotes statutory language.

SUBPART F: EVAPORATIVE TEST STANDARDS

Section 240.172 Evaporative System Pressure Test Standards

- a) The vehicles shall be inspected utilizing an evaporative system pressure test adopted by the Agency.
- b) The vehicle shall fail the evaporative system pressure test if one of the following occurs:
 - 1) The system cannot maintain a system pressure above eight inches of water for up to two minutes after being pressurized to 14 plus or minus 0.5 inches of water;
 - 2) No pressure drop is detected when the gas cap is loosened;
 - 3) The fuel vapor storage canister is missing or obviously damaged;
 - 4) System vapor lines or hoses are missing or obviously disconnected; or
 - 5) The gas cap is missing.

(Source: Added at _____ Ill. Reg. _____, effective _____)

Section 240.173 Evaporative System Purge Test Standards

- a) The vehicle shall be inspected utilizing the evaporative system purge test adopted by the Agency.
- b) The vehicle shall fail the evaporative system purge test if the canister purge system flow as measured during the course of the transient exhaust emission test is less than one liter.

(Source: Added at _____ Ill. Reg. _____, effective _____)

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 21st day of July, 1994, by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board