

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2001

IN THE MATTER OF:)
)
ENHANCED VEHICLE INSPECTION AND) R02-8
MAINTENANCE (I/M) REGULATIONS:) (Rulemaking - Air)
AMENDMENTS TO 35 ILL. ADM. CODE)
240.191 – 240.193)

Final Order. Adopted Rule.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

On August 20, 2001, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend the Board's regulations on inspecting and maintaining vehicles to control air emissions. Today, the Board adopts amendments to 35 Ill. Adm. Code 240.191, 240.192 and 240.193. The adopted rules contain most, but not all, of the Agency's proposed changes.

BACKGROUND

Sections 182(b) and (c) of the federal Clean Air Act (CAA) (42 U.S.C §§ 7511a(b) and (c)) require states to implement vehicle "inspection and maintenance" (I/M) programs in areas that do not meet National Ambient Air Quality Standards (NAAQS) for ozone or carbon monoxide. Areas that do not meet NAAQS are referred to as "nonattainment" areas.

The CAA requires "basic" I/M programs in "moderate" and "marginal" ozone nonattainment areas with existing I/M programs. It requires "enhanced" I/M programs in "serious," "severe," and "extreme" ozone nonattainment areas with a population of 200,000 or more. The CAA also requires states to submit, for the approval of the United States Environmental Protection Agency (USEPA), revisions to their State Implementation Plans (SIPs) that describe a satisfactory I/M program and assure that the I/M program will be implemented.

In Illinois, two areas do not meet the NAAQS for ozone: (1) the Chicago metropolitan nonattainment area, which is a severe nonattainment area; and (2) the Metro-East St. Louis nonattainment area, which is a moderate nonattainment area. Under Illinois' Vehicle Emissions Inspection Law of 1995 (Vehicle Emissions Law (625 ILCS 5/13B-1 *et seq.* (2000)), the Agency has proposed, and the Board has adopted, as amendments to 35 Ill. Adm. Code 240, an enhanced I/M program for these two nonattainment areas. *See* Enhanced Vehicle Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code 240 (July 8, 1998), R98-24; (December 1, 1994), R94-20; (December 1, 1994), R94-19.

The Agency's proposal was filed under Section 13 B-20(a) of the Vehicle Emissions Law of 1995 (Vehicle Emissions Law). 625 ILCS 5/13-B-1 *et seq.* (2000). The Vehicle Emissions Law provides that Section 27(b) of the Environmental Protection Act (Act) (415 ILCS 5/27(b) (2000)) and the rulemaking provisions of the Administrative Procedure Act (5 ILCS 100/1-1 *et*

seq.(2000)) “shall not apply to rules adopted by the Board under this subsection.” 625 ILCS 5/13B-20(a) (2000). Section 13B-20(a) requires the Board to adopt rules within 120 days after it receives the Agency’s proposal, that is, on or before December 18, 2001. Adoption of these rules today fulfills the statutory mandate.

On August 23, 2001, the Board accepted the proposal for hearing and directed the proposal be filed for publication in the *Illinois Register* as a proposal for public comment. The proposal for public comment appeared in the *Illinois Register* on September 7, 2001, 25 Ill. Reg. 11328.

The Board held two public hearings in this matter. The first hearing was held on October 12, 2001, in Collinsville, Illinois. The second hearing was held on October 19, 2001, in Chicago, Illinois. Both hearings were held before Hearing Officer John Knittle. At both hearings, the Agency was present to provide testimony in support of its proposal. The following Agency personnel participated in the Board proceedings: Elizabeth Tracy, manager of the Division of Vehicle Inspection and Maintenance Program, Bureau of Air; Michael Hills, Technical Services employee in the Vehicle Inspection and Maintenance Program; and James Matheny, Technical Service Manager of the Division of Vehicle Inspection Maintenance. No other testimony or public comments were filed in this matter.

AGENCY PROPOSAL

The Agency proposed amendments to 35 Ill. Adm. Code 240.191, 240.192, and 240.193. Specifically, the Agency stated that its proposal would revise 35 Ill. Adm. Code 240 by:

1. Revising the text of Section 240.191 to refer to the OBD procedural rules contained in 35 Ill. Adm. Code 276;
2. Delaying mandatory “pass/fail” OBD testing to January 1, 2003, if the Agency chooses to apply to USEPA for this delay, and USEPA grants it;
3. Modifying the list of diagnostic trouble codes (DTC) that, if identified during an OBD test, will result in a vehicle’s failure;
4. Adding a malfunction indicator light (MIL) visual check, also known as a bulb check, to the OBD test; and
5. Revising the text of Section 240.193 to clarify that the inspection of any vehicle fault codes actually consists of the electronic retrieval of those stored fault codes. *See* Agency Statement of Reasons at 6-10.

The Agency described these proposed changes as “relatively minor adjustments to the Enhanced I/M program.” Agency Statement of Reasons at 5. The Agency states that it was proposing the amendments “to enable Illinois to meet federal and state mandated enhanced emissions testing requirements.” *Id.* at 3. The Agency also stated that its proposal was “designed to promote the acceptance of and adherence to the enhanced I/M program, by

incorporating necessary ‘flexibility’ provisions for OBD testing as authorized by recent USEPA rulemaking and guidance.” *Id.* at 5.

THE ADOPTED AMENDMENTS

Federal regulations require the adoption by states of standards that result in a reduction of vehicle emissions through testing procedures meeting, or exceeding, the amount of emissions that would be reduced if its “model” I/M program design was implemented. USEPA requires “design elements” to be a part of any enhanced I/M plan, but allows states to vary certain program inputs as long as the plan achieves the same or greater reductions in emissions that those required by USEPA’s applicable performance standard. The Board has adopted certain required standards for Illinois’ enhanced I/M program, and the Agency has adopted certain necessary procedural rules at 35 Ill. Adm. Code 276.

The amendments the Board is adopting today are designed to promote the acceptance of and adherence to the enhanced I/M program, and to refine certain test requirements by incorporating necessary ‘flexibility’ provisions for OBD testing as authorized by recent USEPA rulemaking and guidance.

Additional changes have been made to the rule for clarity and for the workability of the program. Although a majority of the changes were minor, the Board is making one noteworthy change, which the Agency agreed to at hearing. As proposed, the last sentence in Section 240.191 would have delayed mandatory “pass/fail” OBD testing to January 1, 2003, if the Agency chooses to apply to USEPA for this delay, and USEPA grants it. At hearing, the Board expressed concerns that this change would create a situation where the date is extended only if two separate conditions are fulfilled, causing the potential problem that the public might not know whether the date had been extended. The Agency did not object to the removal of this provision, and the Board does not include this portion of the proposal in the adopted amendments. This sentence has been omitted from the adopted rules.

CONCLUSION

As previously discussed, Sections 182(b) and (c) of the CAA (42 U.S.C. Section 751a(b),(c)) require states to implement vehicle “inspection and maintenance” I/M programs in areas that do not meet NAAQS for ozone or carbon monoxide. Accordingly, the Board adopts the suggested amendments to 35 Ill. Adm. Code 240 to bring the Illinois I/M program into conformity with all CAA requirements. As noted, the rules adopted to day incorporate each of the Agency’s suggested changes except the one delaying mandatory “pass/fail” OBD testing to January 1, 2003, if the Agency chooses to apply to USEPA for this delay, and USEPA grants it.

The Board finds that the Agency proposal and supporting documentation demonstrate that the proposal will enable Illinois to meet federal and state mandated enhanced emissions testing requirements, and promote the acceptance of and adherence to the enhanced I/M program.

ORDER;

The Board directs the Clerk to submit the following adopted amendments to 35 Ill. Adm. Code 240 to the Secretary of State for filing and publication in the *Illinois Register*. Proposed additions are underlined; proposed deletions are stricken.

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 (repealed)
240.125	Compliance Determination (repealed)

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

Section	
240.140	Applicability
240.141	Smoke Opacity Standards and Test Procedures for Diesel-Powered Heavy Duty Vehicles

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

Section	
240.151	Applicability
240.152	Steady-State Idle Mode Vehicle Exhaust Emission Standards
240.153	Compliance Determination

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section	
240.161	Applicability
240.162	Vehicle Exhaust Emission Start-Up Standards
240.163	Vehicle Exhaust Emission Final Standards
240.164	Vehicle Exhaust Emission Fast-Pass Standards
240.165	Compliance Determination

SUBPART F: EVAPORATIVE TEST STANDARDS

Section	
240.171	Applicability
240.172	Evaporative System Integrity Test Standards
240.173	Evaporative System Purge Test Standards (Repealed)

SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

240.181	Applicability
240.182	On-Road Remote Sensing Emission Standards
240.183	Compliance Determination

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

240.191	Applicability
240.192	On-Board Diagnostic Test Standards
240.193	Compliance Determination

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

240.Table A	Vehicle Exhaust Emission Start-Up Standards
240.Table B	Vehicle Exhaust Emission Final Standards
240.Table C	Vehicle Exhaust Emission Fast-Pass Standards

AUTHORITY: Implementing Sections 9, 10 and 13 and authorized by Section 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 10, 13, 27 and 28.5] and Section 13B-20 of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20]; implementing Section 13-109.2 of the Illinois Vehicle Code [625 ILCS 5/13-109.2].

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 R94-20 at 18 Ill. Reg. 18013, effective December 12, 1994; amended in R94-19 at 18 Ill. Reg. 18228, effective December 20, 1994; amended in R98-24 at 22 Ill. Reg. 13723, effective July 13, 1998; expedited correction at 22 Ill. Reg. 21120, effective July 13, 1998; amended in R01-12 at 24 Ill. Reg. 19188, effective December 18, 2000; amended in R01-8 at 25 Ill. Reg. 3680, effective February 26, 2001; amended in R02-8 at 25 Ill. Reg. _____, effective _____.

BOARD NOTE: This part implements the Environmental Protection Act as of July 1, 1994.

NOTE: Capitalization denotes statutory language.

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section 240.191 Applicability

The standards of this Subpart apply to all 1996 and newer model year light duty vehicles, light duty trucks 1, and light duty trucks 2 that are required to meet the standards contained in 40 CFR § 86.094-17 and which are inspected utilizing the on-board diagnostic test procedures contained in 35 Ill. Adm. Code 276.209. Vehicles that receive a result of fail do not thereby fail their emissions test until January 1, 2002.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 240.192 On-Board Diagnostic Test Standards

Vehicles subject to on-board diagnostic testing shall fail the on-board diagnostic test if one of the following occurs:

- a) the vehicle connector is missing, has been tampered with, or is otherwise inoperable; or
- b) the malfunction indicator light is commanded to be illuminated and it is not visually illuminated according to visual inspection; or
- c) the malfunction indicator light is commanded to be illuminated for ~~and any of the following~~ on-board diagnostic trouble codes ~~are present (where x refers to any digit);~~ or
 - 1) ~~Any PX1XX Fuel and Air Metering codes~~
 - 2) ~~Any PX2XX Fuel and Air Metering codes~~
 - 3) ~~Any PX3XX Ignition System or Misfire codes~~
 - 4) ~~Any PX4XX Auxiliary Emission Controls codes~~

- 5) — ~~P0500 Vehicle Speed Sensor Malfunction~~
- 6) — ~~P0501 Vehicle Speed Sensor Range/Malfunction~~
- 7) — ~~P0502 Vehicle Speed Sensor Circuit Low Input~~
- 8) — ~~P0503 Vehicle Speed Sensor Intermittent/Erratic/High~~
- 9) — ~~P0505 Idle Control System Malfunction~~
- 10) — ~~P0506 Idle Control System RPM Lower Than Expected~~
- 11) — ~~P0507 Idle Control System RPM Higher Than Expected~~
- 12) — ~~P0510 Closed Throttle Position Switch Malfunction~~
- 13) — ~~P0550 Power Steering Pressure Sensor Circuit Malfunction~~
- 14) — ~~P0551 Power Steering Pressure Sensor Circuit Malfunction~~
- 15) — ~~P0552 Power Steering Pressure Sensor Circuit Low Input~~
- 16) — ~~P0553 Power Steering Pressure Sensor Circuit Intermittent~~
- 17) — ~~P0554 Power Steering Pressure Sensor Circuit Intermittent~~
- 18) — ~~P0560 System Voltage Malfunction~~
- 19) — ~~P0561 System Voltage Unstable~~
- 20) — ~~P0562 System Voltage Low~~
- 21) — ~~P0563 System Voltage High~~
- 22) — ~~Any PX6XX Computer and Output Circuits Codes~~
- 23) — ~~P0703 Brake Switch Input~~
- 24) — ~~P0705 Transmission Range Sensor Circuit Malfunction (PRNDL Input)~~
- 25) — ~~P0706 Transmission Range Sensor Circuit Range/Performance~~
- 26) — ~~P0707 Transmission Range Sensor Circuit Low Input~~
- 27) — ~~P0708 Transmission Range Sensor Circuit High Input~~

- ~~28) — P0709 Transmission Range Sensor Circuit Intermittent~~
- ~~29) — P0719 Torque Converter/Brake Switch “B” Circuit Low~~
- ~~30) — P0720 Output Speed Sensor Circuit Malfunction~~
- ~~31) — P0721 Output Speed Sensor Circuit Range/Performance~~
- ~~32) — P0722 Output Speed Sensor Circuit No Signal~~
- ~~33) — P0723 Output Speed Sensor Circuit Intermittent~~
- ~~34) — P0724 Torque Converter/Brake Switch “B” Circuit High~~
- ~~35) — P0725 Engine Speed Input Circuit Malfunction~~
- ~~36) — P0726 Engine Speed Input Circuit Range/Performance~~
- ~~37) — P0727 Engine Speed Input Circuit No Signal~~
- ~~38) — P0728 Engine Speed Input Circuit Intermittent~~
- ~~39) — P0740 Torque Converter Clutch System Malfunction~~
- ~~40) — P0741 Torque Converter System Performance or Stuck Off~~
- ~~41) — P0742 Torque Converter System Stuck On~~
- ~~42) — P0743 Torque Converter System Electrical~~
- ~~43) — P0744 Torque Converter System Intermittent~~

d) the malfunction indicator light (MIL) does not illuminate at all when the vehicle is in the key-on/engine-off condition.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

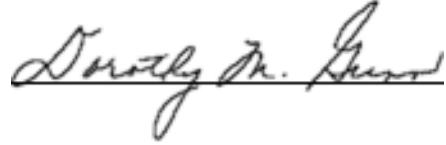
Section 240.193 Compliance Determination

Compliance shall be determined based upon the inspection of the on-board diagnostic vehicle connector, malfunction indicator light, and electronic retrieval of data stored in the vehicle’s on-board diagnostic system fault codes using the on-board diagnostic test procedures ~~that will be~~ adopted by the Agency in 35 Ill. Adm. Code 276.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above opinion and order was adopted on December 6, 2001 by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board