

ILLINOIS POLLUTION CONTROL BOARD

October 6, 2011

IN THE MATTER OF:)
)
REVISION OF ENHANCED VEHICLE) R12-12
EMISSION INSPECTION AND) (Rulemaking - Air)
MAINTENANCE (I/M) REGULATIONS:)
AMENDMENTS TO 35 ILL. ADM. CODE)
PART 240)

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

On October 3, 2011, the Illinois Environmental Protection Agency (Agency) filed a rulemaking proposal pursuant to Sections 10, 27 (excluding subsection (b)) and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/10, 27 and 28 (2010)), Sections 102.200 and 102.202 of Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code 102.200, 102.202 (2010)) and Section 13C-20(a) of the Vehicle Emissions Inspection Law (VEIL) of 2005 (625 ILCS 5/13C-20(a) (2010)). The Agency proposes to sunset the steady-state idle and evaporative system integrity test standards used in the Illinois enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas.

The Agency has included in its filing a Statement of Reasons (SR) and a motion for waiver of copy requirements (Mot. Waive). *See* 415 ILCS 5/27(a) (2008), 35 Ill. Adm. Code 101.500, 102.110, 102.200, 102.402.

For the reasons stated below, the Board accepts the Agency's rulemaking proposal for hearing and grants the Agency's motion for waiver of copy requirements. The Board directs the Clerk to publish the proposal in the *Illinois Register* as a proposal for public comment.

LEGAL BACKGROUND

Background Statement of Facts

The Agency states that Section 182 of the Clean Air Act (CAA) requires the implementation of vehicle inspection and maintenance (I/M) programs in areas not meeting the National Ambient Air Quality Standards (NAAQS) for ozone. SR at 3, citing 42 U.S.C. § 7511a (2010). The 1977 CAA amendments required vehicle I/M programs in areas with long standing air quality problems. SR at 3, citing 57 Fed. Reg. 52950, 52951 (Nov. 5, 1992). The 1990 CAA amendments expanded the role of I/M programs as an attainment strategy and mandated the use of "basic" or "enhanced" I/M programs, as well as requiring the United States Environmental Protection Agency (USEPA) to develop different performance standards for these two programs. *Id.*

The Agency states that basic I/M programs are required in “marginal” ozone nonattainment areas with existing I/M programs and in “moderate” ozone nonattainment areas. SR at 3, citing 42 U.S.C. § 7511a. The Agency further states that enhanced I/M programs are required in “serious,” “severe” and “extreme” ozone nonattainment areas with urbanized populations of 200,000 or more. *Id.*

The Agency states that Illinois includes two nonattainment areas: “the Chicago metropolitan area which was classified as “severe” under the revoked 1-hour ozone standard and is now classified as “moderate” under the 1997 8-hour standard; and the Metro-East St. Louis area which was redesignated to attainment of the 1-hour standard and is now classified as “moderate” nonattainment for ozone under the 1997 8-hour standard.” SR at 3, citing 40 C.F.R. § 81.314 (2010). The Agency notes that, although enhanced I/M was not required in the Metro-East St. Louis nonattainment area, Illinois opted to implement there as an element of its strategy to attain the ozone standard. SR at 3-4.

The Agency states that the “USEPA I/M 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.” SR at 4, citing 57 Fed. Reg. at 52951. The USEPA further requires certain design elements to be a part of any enhanced I/M program, but allows states to vary certain design elements and program inputs as long as the plan achieves the same or greater reductions in emissions than those required by the USEPA’s applicable performance standard. SR at 4, citing 57 Fed. Reg. at 52953. The Agency states that the enhanced performance standard requires the following program elements: (1) network type, (2) required start date, (3) annual test frequency, (4) model year coverage, (5) vehicle type coverage, (6) exhaust emission test type, (7) emission standards, (8) emission control device inspections, (9) evaporative system function checks, (10) stringency or failure rate, (11) waiver rate, (12) compliance rate and (13) evaluation date. SR at 4, citing 40 C.F.R. § 51.351 (2010). As part of this standard, on-board diagnostic (OBD) I/M testing is required for all subject vehicles of model year 1996 and newer. SR at 4, citing 40 C.F.R. § 51.351(c). The Agency notes that federal regulations allow states to utilize the OBD I/M test and test standards instead of the idle exhaust and evaporative tests. SR at 4, citing 40 C.F.R. § 51.357(a)(12) (2010), 66 Fed. Reg. 18156, 18160 (April 5, 2001). The Agency further notes that federal regulations allow states to vary vehicle model year coverage from the USEPA’s model program assumptions regarding vehicle model year coverage as long as necessary emission reductions are achieved. SR at 4, citing 40 C.F.R. § 51.356 (2010).

The Agency contends that the VEIL requirements were adopted by the Illinois General Assembly in 1984 and provided authority for an I/M program in response to federal requirements. SR at 4-5, citing 625 ILCS 5/13A (1984). The VEIL of 1995 was adopted by the Illinois General Assembly to provide authority for the Agency to implement enhanced I/M. SR at 5, citing 625 ILCS 5/13B (1995). The VEIL of 2005, adopted by the Illinois General Assembly, made the OBD test the primary I/M test and exempted vehicles of model year 1995 and older from I/M testing. SR at 5, citing 625 ILCS 5/13C (2006). The VEIL of 2005 also maintained the steady-state idle exhaust and evaporative system integrity tests as available fallback tests for certain vehicles. *Id.* The Agency notes that, to implement VEIL, the Board adopted emission test standards in 35 Ill. Adm. Code Part 276 and the Board and the Agency

have amended these rules over the years in response to changes in federal I/M requirements. SR at 5.

The Agency states that the Illinois General Assembly recently amended the VEIL of 2005 through P.A. 97-0106. SR at 5, citing Ill. Pub. Act. No. 97-0106 (July 14, 2011) (effective Feb. 1, 2012).¹ P.A. 97-0106 repeals the steady-state idle and evaporative system integrity emissions tests. SR at 5, citing Ill. Pub. Act. No. 97-0106 at § 13C-25(d), (e), (f). The Agency notes that these emission tests “were substituted for the OBD test for heavy-duty vehicles not required to be equipped with OBD systems meeting federal OBD II specifications and certain vehicles that could not receive the OBD test due to their design or with known OBD communication or software problems.” SR at 5, citing 625 ILCS 5/13C-25(d) (2010). P.A. 97-0106 also exempts pre-2007 heavy-duty vehicles with a gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds from the requirement to be tested. SR at 5-6, citing Ill. Pub. Act. No. 97-0106 at § 13C-15(b)(8)(M), (b)(8)(N). The Agency states that, under the VEIL of 2005, these heavy-duty vehicles are not all required to be equipped with OBD systems meeting federal OBD II specifications and therefore these vehicles are tested using the steady-state idle and evaporative system integrity tests. SR at 6. The Agency states that it was necessary to exempt those vehicles from the requirement to obtain an emissions test since the Illinois General Assembly eliminated the steady-state idle and evaporative system integrity tests as of February 1, 2012. *Id.*

The Agency notes that P.A. 97-0106 also adds a visual inspection test as a new substitute for the OBD test for vehicles that cannot receive the OBD test due to their design or with known OBD communication or software problems. SR at 6, citing Ill. Pub. Act. No. 97-0106 at § 13C-25(h).

Statutory Authority for Rulemaking

The Agency cites Sections 10(A), 27 (excluding subsection (b)) and 28 as sources of the Board’s general authority to adopt air pollution regulations. SR at 2. The Agency notes that this proposal “is not being proposed as an identical-in-substance, fast-track, or federally required rulemaking.” *Id.* In addition, the Agency is filing this proposal under the authority of Section 13C-20(a) of the VEIL of 2005, which states in relevant part that “the Board is required to adopt standards necessary for the enhanced inspection and maintenance program within 120 days after the [Agency] proposes those standards to the Board[.]” SR at 2. Section 13C-20(a) further states that:

... subsection (b) of Section 27 of the Environmental Protection Act and the rulemaking provisions of the Illinois Administrative Procedure Act do not apply to rules adopted by the Board under this subsection. SR at 2, citing 625 ILCS 5/13C-20(a).

¹ P.A. 97-0106 is available at Illinois General Assembly, State of Illinois, Public Acts, 97th General Assembly, located at <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0106&GA=97>.

SUMMARY OF AGENCY PROPOSAL

The Agency believes that this rulemaking implements P.A. 97-0106. SR at 6. The amendments “include a repeal of the steady-state idle and evaporative system integrity emissions tests, exemption of pre-2007 heavy-duty vehicles with a GVWR between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds, and the addition of a new visual inspection test.” *Id.* The Agency notes that the amendments are effective February 1, 2012. *Id.*

The Agency states that, as a result of sunseting the steady-state idle and evaporative integrity test standards used in the Illinois program as of February 1, 2012, the Illinois program “will continue to be an OBD program – testing subject vehicles using the OBD test, with the exception of a miniscule subset of vehicles that cannot receive the OBD test.” SR at 6-7. These vehicles will receive the new visual inspection test. *Id.* at 7. The Agency states that this new visual inspection test will provide motorists with the same flexibility they were allowed to receive with the steady-state idle and evaporative system integrity tests where their vehicles were unable to receive the OBD test. *Id.* The visual inspection test standards provide that vehicles subject to the test will fail the test if the malfunction indicator lamp (MIL) does not illuminate in the key-on/engine off position or continuously illuminates in the key-on/engine off position. *Id.* The Agency states that the visual inspection test and standards are consistent with P.A. 97-0106 and are consistent with federal law, making them the most logical substitute for the OBD test and standards. *Id.*

The Agency is also proposing amendments to its I/M procedural rules, 25 Ill. Adm. Code Part 276, “to implement P.A. 97-0106 and to operate in concert with these proposed amendments.” SR at 8. The amendments include the sunset of the steady-state idle and evaporative system integrity test procedures and related requirements, and new visual inspection test procedures. *Id.* The rulemaking also proposes that compliance with the visual inspection test standards must be determined based on a visual examination of the MIL using the visual inspection test procedures adopted by the Agency in Part 276. *Id.*

MOTION FOR WAIVER OF COPY REQUIREMENTS

The Agency moves that the Board waive the requirement that the Agency submit an original and nine copies of the regulatory proposal including all documents relied upon, and waive the requirement that the Agency provide copies of certain documents relied upon, pursuant to 35 Ill. Adm. Code 101.500, 102.110, 102.200 and 102.402. Mot. Waive at 1. The Agency lists the following documents that it relied upon when drafting the proposal:

- a) Clean Air Act (42 U.S.C. 7401 *et seq.*)
- b) Ill. Pub. Act. No. 97-0106 (July 14, 2011) (effective Feb. 1, 2012)
- c) 40 C.F.R. § 85.2222 (2010)

- d) “Performing Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program,” United States Environmental Protection Agency, Air and Radiation, June 2001.
- e) “Reinventing the Illinois I/M Program, 2005 Clean Air Conference,” James Matheny, Illinois Environmental Protection Agency, Page 18, September 2005.
- f) “VOC Reduction (TPD) in the Chicago NAA from Existing and Proposed I/M Programs, 2012-2020,” Sam Long, Illinois Environmental Protection Agency, January 11, 2011.
- g) “VOC Reduction (TPD) in the Metro-East + Jersey NAA from Existing and Proposed I/M Programs, 2012-2020,” Sam Long, Illinois Environmental Protection Agency, January 11, 2011. Mot. Waive at 1-2.

The Agency states that items (a) through (c) are “readily accessible to or are within the possession of the Board.” Mot. Waive at 2. The Agency moves “that the Board waive the requirements that the [Agency] provide copies of such documents” given the ease of accessibility of these documents. *Id.*

The Agency further moves that, “given the length of the remainder of the proposal and the resources required to provide nine copies,” the Board waive the normal copy requirements and allow the Agency to file the original and four complete copies of such documents. Mot. Waive at 2.

DISCUSSION

Rulemaking Proposal

The Board finds that the Agency’s rulemaking proposal meets the content requirements of the Board’s procedural rules and accepts the petition for hearing. *See* 35 Ill. Adm. Code 102.202.

Motion for Waiver of Copy Requirements

Section 101.500(d) of the Board’s procedural rules provides in pertinent part that, “[w]ithin 14 days after service of a motion, a party may file a response to the motion. . . . Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period. . . .” 35 Ill. Adm. Code 101.500(d). Because the Board is required to adopt rules within 120 days of receiving the Agency’s proposal on October 3, 2011 and in the absence to date of any opposition to the Agency’s motion, the Board concludes that undue delay would result from allowing the 14-day response period to run. The Board has reviewed the substance of the motion, grants the motion and waives copy requirements as requested by the Agency.

Board Procedure

Because Section 13C-20(a) of the VEIL of 2005 (625 ILCS 5/13C-20(a)(2010)) requires the Board to adopt rules within 120 days of receiving the Agency's proposal, the Board will submit the proposal to publication in the *Illinois Register* as a proposal for public comment without commenting on its substantive merits. The assigned hearing officer will establish a deadline for filing public comments.

Under Section 28 of the Act (415 ILCS 5/28 (2010)), the Board will hold at least two hearings on the proposal. The assigned hearing officer will establish dates and locations for the hearings. After considering the issues raised at the hearings and in public comments, the Board will issue a final opinion and order and publish adopted rules in the *Illinois Register*.

Under Section 13C-20(a) of the VEIL of 2005 (625 ILCS 5/13C-20(a) (2010)), Section 27(b) of the Act (415 ICLS 5/27(b) (2010)) and the rulemaking provisions of the Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2010)) "do not apply to rules adopted by the Board under this subsection." 625 ILCS 5/13C-20(a) (2010). Accordingly, the Board will not request that the Department of Commerce and Economic Opportunity conduct an economic impact study of this rulemaking proposal. The Board will also not submit the proposal to first or second notice pursuant to Section 5-40 of the Administrative Procedure Act. (5 ILCS 100/5-40 (2010)). The Board will, however conduct hearings and solicit comment as described above. *See generally* Enhanced Vehicle Inspection and Maintenance (I/M) Regulations: Amendment to 35 Ill. Adm. Code 240, R01-12 (Aug. 24, 2000) (accepting Agency proposal for hearing under repealed Section 13B).

CONCLUSION

For the reasons stated above, the Board accepts the Agency's rulemaking for hearing and grants the Agency's motion for waiver of copy requirements. The Board directs the Clerk to provide publication of the proposal in the *Illinois Register* as a proposal for public comment. Finally, the Board directs its hearing officer to take any necessary steps to avoid delay in completing the record so that the Board may meet its 120-day deadline for adopting rules.

ORDER

The Board directs the Clerk to provide publication of the following proposal in the *Illinois Register* as a proposal for public comment.

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

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SUBPART B: EMISSIONS

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

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SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

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240.153	Compliance Determination

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

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

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

Section	
240.181	Applicability
240.182	On-Road Remote Sensing Emission Standards
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SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section	
240.191	Applicability
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240.193	Compliance Determination

SUBPART I: VISUAL INSPECTION TEST STANDARDS

<u>Section</u>	
<u>240.201</u>	<u>Applicability</u>
<u>240.202</u>	<u>Visual Inspection Test Standards</u>
<u>240.203</u>	<u>Compliance Determination</u>

240.APPENDIX A	Rule into Section Table
240.APPENDIX B	Section into Rule Table
240.TABLE A	Vehicle Exhaust Emission Start-Up Standards (Repealed)
240.TABLE B	Vehicle Exhaust Emission Final Standards (Repealed)
240.TABLE C	Vehicle Exhaust Emission Fast-Pass Standards (Repealed)

AUTHORITY: Implementing Sections 9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9, 10, 27, and 28] and Section 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-20].

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. 16379, effective December 18, 2001;

amended in R11-19 at 35 Ill. Reg. 5552, effective March 18, 2011; amended in R12-12 at 36 Ill. Reg. _____, effective _____.

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

NOTE: Capitalization denotes statutory language.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section 240.102 Definitions

All terms that appear in this Part have the definitions specified in this Section, the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C], and 35 Ill. Adm. Code 201 and 211. When conflicting definitions occur between this Section and 35 Ill. Adm. Code 201 or 211, the definitions of this Section apply in this Part.

“Agency” means the Illinois Environmental Protection Agency.

“Diesel engine” means all types of internal-combustion engines in which air is compressed to a temperature sufficiently high to ignite fuel injected directly into the cylinder area.

“Diesel locomotive” means a diesel engine vehicle designed to move cars on a railway.

“Evaporative system integrity test” means a test of a vehicle’s evaporative system. The test shall either consist of a leak check of a vehicle’s fuel cap with a fuel cap pressure decay tester (fuel cap pressure decay test), a fuel cap leak flow tester (fuel cap leak flow test), or a visual functional check, as applicable.

“Fuel cap” means a device used to seal a vehicle’s fuel inlet.

“Fuel cap leak flow test” means a test which may be performed in accordance with this Part on a vehicle’s fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

“Fuel cap leak flow tester” means a device used to determine the leak flow integrity of a vehicle’s fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

“Fuel cap pressure decay test” means the test performed in accordance with this Part on a vehicle’s fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

“Fuel cap pressure decay tester” means a device used to determine the pressure decay integrity of a vehicle’s fuel cap by monitoring the pressure behind the fuel cap for a ten second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

“Fuel cap visual functional test” means the test performed in accordance with this Part on a vehicle’s fuel cap using visual analysis to determine whether the vehicle complies with the evaporative system emission standards of this Part.

“Gross vehicle weight rating (GVWR)” means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

“Heavy duty vehicle” means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

“High idle” means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at speed of 2500 ± 300 RPM.

“Idle mode” means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

“Initial idle mode” means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in “as-received” condition.

“Light duty truck 1” means a motor vehicle rated at 6000 pounds maximum GVWR or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

“Light duty truck 2” means a motor vehicle rated between 6001 and 8500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

“Light duty vehicle” means a passenger car or passenger car derivative capable of seating 12 passengers or fewer.

“Measured values” means five-second running averages of exhaust emission

concentrations sampled at a minimum rate of twice per second.

“Model year” means the year of manufacture of a motor vehicle based upon the annual production period as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

“Motor vehicle” as used in this Part, shall have the same meaning as in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].

“Opacity” means the percentage of light transmitted from a source that is prevented from reaching a light detector.

“Preconditioning mode” means a period of steady-state high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failures caused by improper or insufficient warm-up.

“Second-chance idle mode” means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

“Snap-acceleration test” means a test to measure exhaust smoke opacity from heavy-duty diesel powered vehicles in accordance with the SAE J1667 procedure, incorporated by reference at Section 240.107 of this Subpart.

“Steady-state idle test” means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a loaded or-high idle preconditioning mode and a second-chance idle mode.

“Vehicle curb weight” means the actual vehicle weight plus standard equipment and a full fuel tank.

“Visual inspection test” means a visual examination of a vehicle’s malfunction indicator lamp (MIL) consisting of verifying the status of the MIL in the key-on/engine off position followed by verifying the status of the MIL in the key-on/engine on position to determine the status of the MIL and existence of an emission related malfunction with the vehicle.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

- a) All motor vehicles subject to inspection pursuant to Section 13C-15 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-15] shall comply with applicable vehicle emission standards contained in Sections 240.152, 240.172, 240.182, ~~and 240.192~~, and 240.202 of this Part.
- b) All diesel-powered vehicles subject to inspection pursuant to Section 13-109.1 of the Illinois Vehicle Code [625 ILCS 5/13-109.1] must comply with applicable smoke opacity standards set forth in Section 240.141(a) of this Part.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 240.105 Penalties

- a) Any violations of Sections 240.103, 240.121, 240.122, or 240.123 of this Part shall be subject to the penalties as set forth in Section 42 of the Act [415 ILCS 5/42].
- b) Any violations of Sections 240.104(b), 240.152, 240.172, 240.182, ~~or 240.192~~, or 240.202 of this Part, as applicable, shall be subject to the penalties as set forth in Sections 13C-55 and 13C-60 of the Vehicle Emissions Inspection Law [625 ILCS 5/13C-55 and 13C-60].
- c) Any violation of Section 240.141(a) of this Part will be subject to penalties as set forth in Section 13-109.1 of the Illinois Vehicle Code [625 ILCS 5/13-109.1].

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 240.106 Determination of Violation

- a) Any violations of Sections 240.103, 240.121, 240.122, or 240.123 of this Part shall be determined by visual observation or by a test procedure employing an opacity measurement system as qualified by 35 Ill. Adm. Code 201, Subpart J.
- b) Any violations of Sections 240.152, 240.172, 240.182, ~~or 240.192~~, or 240.202 of this Part, as applicable, shall be determined in accordance with test procedures adopted by the Agency in 35 Ill. Adm. Code 276.
- c) Any violation of Section 240.141(a) of this Part will be determined in accordance with test procedures set forth in Section 240.141(b) of this Part.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

Section 240.151 Applicability

This Subpart is effective through January 31, 2012. The standards of this Subpart apply to those vehicles identified in subsection 13C-25(d) of the Vehicle Emissions Inspection Law of 2005.

(Source: Amended at 36 Ill. Reg._____, effective _____)

SUBPART F: EVAPORATIVE TEST STANDARDS

Section 240.171 Applicability

This Subpart is effective through January 31, 2012. The standards of this Subpart apply to those vehicles identified in subsection 13C-25(d) of the Vehicle Emissions Inspection Law of 2005

(Source: Amended at 36 Ill. Reg._____, effective _____)

SUBPART I: VISUAL INSPECTION TEST STANDARDS

Section 240.201 Applicability

This Subpart is applicable beginning February 1, 2012. The standards of this Subpart apply to those vehicles tested pursuant to subsection 13C-25(h) of the Vehicle Emissions Inspection Law of 2005.

(Source: Added at 36 Ill. Reg._____, effective _____)

Section 240.202 Visual Inspection Test Standards

Vehicles subject to visual inspection testing shall fail the visual inspection test if the MIL does not illuminate in the key-on/engine off position or continuously illuminates in the key-on/engine on position.

(Source: Added at 36 Ill. Reg._____, effective _____)

Section 240.203 Compliance Determination

Compliance shall be determined based upon a visual examination of the MIL using the visual inspection test procedures adopted by the Agency in 35 Ill. Adm. Code 276.

(Source: Added at 36 Ill. Reg._____, effective _____)

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 6, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board