

ILLINOIS POLLUTION CONTROL BOARD  
January 5, 2012

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 )

Adopted Rule. Final Opinion and Order.

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

The Board today adopts amendments to Part 240 of its air pollution regulations, which establishes emission standards and limitations for mobile sources. 35 Ill. Adm. Code 240. These amendments will become final upon filing with the Secretary of State.

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 proposed 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.

Pursuant to Section 13C-20(a) of the VEIL of 2005, Section 27(b) of the Act (415 ILCS 5/27(b) (2010)) and the rulemaking provisions of the Illinois 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 13C-20(a) (2010). Additionally, the VEIL of 2005 requires the Board to adopt rules within 120 days of the Agency proposal. *Id.*

In this opinion and order, the Board first provides the procedural history and legal background of this rulemaking. The Board then summarizes the Agency's proposal and the Agency's pre-hearing comment. Next, the Board addresses the technical feasibility and economic reasonableness of the proposal. The opinion concludes with a summary of the adopted rules on a section-by-section basis and the Board's conclusion. The order that follows directs the Clerk to provide publication of the adopted rules in the *Illinois Register*.

**PROCEDURAL HISTORY**

On October 3, 2011, the Agency filed its rulemaking proposal, accompanied by, among other documents, a motion for waiver of copy requirements, a statement of reasons (SR) and a technical support document (TSD).

On October 6, 2011, the Board accepted the rulemaking proposal for hearing and directed the Clerk to publish the proposal in the *Illinois Register* for public comment. This notice appeared in the *Illinois Register* on October 28, 2011. 35 Ill. Reg. 17178 (Oct. 28, 2011). In its October 6, 2011 order, the Board also granted the Agency's motion for waiver of copy requirements.

In an October 6, 2011 order, the hearing officer scheduled two hearings. The first hearing was set to take place on November 17, 2011 in Chicago and the second hearing was set to take place on November 30, 2011 in Edwardsville. The hearing officer order included a prefiling deadline for the first hearing of November 4, 2011 and for the second hearing of November 28, 2011.

On November 2, 2011, the Agency prefiled testimony of Michael Hills (Test.) for the first hearing. On November 3, 2011, the Joint Committee on Administrative Rules (JCAR) submitted five stylistic, non-substantive changes to the Agency's proposal.

The first hearing took place as scheduled on November 17, 2011 and the hearing officer entered Mr. Hill's testimony as Exhibit 1 to the proceeding. The transcript for the first hearing was received by the Board on November 21, 2011 (Tr.).

The second hearing took place November 30, 2011. No prefiled testimony was received and no exhibits were entered. The Board received the transcript of the second hearing on December 1, 2011.

At the second hearing, the hearing officer set a post-hearing comment deadline of December 14, 2011. No post-hearing comments were filed.

## **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 it 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).<sup>1</sup> 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).

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<sup>1</sup> 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**

### **Agency Statement of Reasons**

The Agency states 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, 35 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.*

### **Pre-Filed Testimony of Michael Hills**

Mr. Hills is an engineer with the Technical Services Section of the Illinois Vehicle Inspection and Maintenance Program at the Agency. Test. at 1. Mr. Hills makes a number of supplementary points to the Agency proposal in his pre-filed testimony.

Mr. Hills states that P.A. 97-0106 requires the Agency to optimize the I/M Program to continue to meet the federal Clean Air Act inspection and maintenance requirement “in a more cost effective manner.” Test. at 1. Mr. Hills states that, as a result, the Agency designed a test program “that minimizes costs and improves consumer acceptance by focusing on the fleet of vehicles that will exist in the 2012 through 2020 time period.” *Id.*

Mr. Hills notes that, as a result of P.A. 97-0106, the Agency will be prohibited from using the steady-state idle and gas cap emissions tests after January 31, 2012. Test. at 2. Mr. Hills states that the decision to eliminate these tests “was based on modeling projections showing negligible emission reduction benefits, a declining subject vehicle fleet, and significant long-term costs for continued use of these test procedures.” *Id.* Mr. Hills also notes that federal regulations allow states to vary the model year and vehicle type coverage in their programs. *Id.*

Mr. Hills states that less than 3% of the vehicle tests in Illinois are steady-state idle exhaust/gas cap tests. Test. at 2. Mr. Hills further states that, starting with the 2007 model year onwards, heavy duty vehicles with a GVWR of less than 14,000 are required to be equipped with OBD technology. *Id.* Therefore, the projected number of steady-state idle exhaust/gas cap tests conducted in Illinois is expected to fall to less than 1% by 2015. *Id.* at 2-3. Mr. Hill states that these tests and standards are no longer economically reasonable. *Id.* at 3.

Mr. Hills states that modeling projections of the expected 2012 Illinois fleet show that approximately 90% of the volatile organic compound (VOC) reductions would come from OBD equipped vehicles. Test. at 3. Mr. Hills notes that the loss in VOC reductions will be 0.00 tons per day for the projected range from 2012 through 2020 in the Chicago and Metro East non-attainment areas. *Id.* Mr. Hills further notes that the General Assembly “decided it was technically feasible and economically reasonable to eliminate the requirement for any steady-state idle exhaust/gas cap testing in the Illinois I/M program. *Id.*

Mr. Hills contends that the main change the proposal seeks to make to implement P.A. 97-0106 is to sunset all Subpart D (steady-state idle mode test emission standards) and Subpart F (evaporative test standards) standards contained in 35 Ill. Adm. Code 240, beginning February 1, 2012. Test. at 3. Mr. Hills notes that the addition of the visual inspection test is necessary to handle certain vehicles that are equipped with OBD technology, but for which OBD testing is not possible due to the vehicle’s design. *Id.* Mr. Hills contends that, without this test, “these vehicles would not be able to pass an OBD test and the motorist would have no means of correcting the problem and renewing the vehicle’s registration.” *Id.* at 4. Mr. Hills sees this as “an undue burden on the motorist.” *Id.*

Mr. Hills states that the Agency will make the determination as to which vehicles are eligible for the visual inspection test and that the Agency will develop a list of such vehicles. Test. at 4. At hearing, Mr. Hills indicated that, currently, there are three vehicle models on the list which the Agency has encountered over the years of testing. Tr. at 12-13.

Mr. Hills states that the visual inspection test standards are based on long-standing practice within the I/M community and federal law and the test is technically feasible. Test. at 4. By ensuring that the MIL functions correctly (through the “key-on/engine off” check), a motorist is able to be alerted when the OBD system detects potential problems with the vehicle’s emissions control equipment. *Id.* at 4-5. The “key-on, engine on” check verifies that there are no fault codes stored on the vehicle’s OBD system which would require the illumination of the MIL. *Id.* at 5. Mr. Hills notes that the OBD system stores fault codes whenever it detects possible problems with the vehicle’s emissions control equipment and that these codes are used by repair technicians to help identify areas to focus on during repairs. *Id.*

Mr. Hills also contends that the visual inspection tests are economically reasonable because they will not require any new test equipment and therefore will not incur any additional costs to Illinois or motorists. Test. at 5.

## **DISCUSSION**

### **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 submitted the proposal to publication in the *Illinois Register* as a proposal for public comment without commenting on its substantive merits.

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 did not request that the Department of Commerce and Economic Opportunity conduct an economic impact study of this rulemaking proposal. The Board also did 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 did, however, conduct two hearings and solicit comment as described above.

### **Affected Regions and Sources**

The Agency lists the geographic regions subject to this rulemaking to include those "affected counties" as defined in Section 13C-5 of the VEIL of 2005. SR at 8. Specifically, the following counties located in the Chicago and Metro-East St. Louis areas are affected: "Cook, DuPage and Lake, and portions of Kane, Kendall, McHenry, Will, Madison, Monroe and St. Clair." *Id.*

The Agency states that the sources affected by the proposal include "motor vehicles subject to the provisions of the VEIL of 2005 and the owners of such vehicles." SR at 8. While the Agency did not include a list of affected sources with the proposal due to the burden of compiling such a substantial list, the Agency does estimate that, for the 2012/2013 test cycle, there will be 3.6 million initial tests conducted in Illinois. *Id.* The Agency does not believe that affected sources will be negatively impacted by this rulemaking because the proposal "reduces the population of affected vehicles and, through the new visual inspection test, provides the same flexibility that the steady-state idle and evaporative system integrity tests provided for vehicles that cannot receive the OBD test due to the vehicle's design or with known OBD communication or software problems." *Id.*

### **Technical Feasibility**

The Agency contends that the proposal is technically feasible. SR at 9. As of February 1, 2012, the steady-state idle and evaporative system integrity emissions tests are not allowed by

statute nor are they necessary because they were implemented for use on the subset of heavy-duty vehicles that P.A. 97-0106 exempts from the emission testing requirement. *Id.*, citing TSD. The Agency further contends that these tests are not required by federal law or regulations where the OBD test is utilized. SR at 9.

The Agency states that modeling projections indicate this proposal will lead to “no loss in emission reduction benefits” and that the new visual inspection test will provide motorists with the same flexibility they were able to receive through the steady-state idle and evaporative system integrity tests. SR at 9. The Agency contends that the visual inspection test and standards are necessary in order to implement P.A. 97-0106 and to provide motorists with continued flexibility. *Id.* The Agency further notes that the test and standards are feasible because they are based on the existing OBD test required by federal regulations. *Id.*

### **Economic Reasonableness**

The Agency believes that the proposal is reasonable “because elimination of the steady-state idle and evaporative system integrity emissions tests and exemption of certain heavy-duty vehicles will result in a significant cost savings to the Illinois program and a potential cost savings to motorists that own these vehicles.” SR at 10. The Agency contends that these tests are not economically reasonable to retain given the small percentage of vehicles that receive these tests. *Id.* The Agency further states that the new visual inspection test and standards will not result in increased costs to the Illinois program or motorists. *Id.*

### **Summary of Agency’s Proposal**

After conducting two public hearings and reviewing the Agency’s proposal, the Board finds the proposal is both technically feasible and economically reasonable. The Board therefore concludes to adopt the amendments to Part 240.

### **JCAR Comments**

On November 3, 2011, the Board received comments from JCAR regarding the Agency proposal. Based on these comments, the adopted language removes a Board note from the Part 240 table of contents and also incorporates five non-substantive, grammatical changes proposed by JCAR.

## **SECTION-BY-SECTION ANALYSIS OF THE ADOPTED RULES**

In the following subsections, the Board summarizes the adopted amendments to its vehicle emissions inspection regulations. See 35 Ill. Adm. Code 240.

### **Part 240 Mobile Sources: Table of Contents**

The Board removes the “Board Note” in this section. Tr. at 9.

## **Subpart A: Definitions and General Provisions**

### **Section 240.102: Definitions**

This section establishes the definitions used in Part 240. The Board updates this section to add a definition of “visual inspection test,” which is necessary for the adopted Subpart I. SR at 11. The Board also makes two grammatical revisions. Tr. at 9-10.

### **Section 240.104: Inspection**

This section establishes references to various emission standards that subject vehicles must comply with when tested. The Board adds a reference to the visual inspection test standards, which is necessary for the adopted Subpart I. SR at 11.

### **Section 240.105: Penalties**

This section establishes penalties for noncompliance with various standards contained in Part 240. The Board adds a reference to the visual inspection test standards, which is necessary for the adopted Subpart I. SR at 11. The Board also makes two grammatical revisions. Tr. at 10-11.

### **Section 240.106: Determination of Violation**

This section establishes the methods for determining violations of various standards contained in Part 240. The Board adds a reference to the visual inspection test standards, which is necessary for the adopted Subpart I. SR at 11.

## **Subpart D: Steady-State Idle Mode Test Emission Standards**

### **Section 240.151: Applicability**

This section establishes the applicability of the steady-state idle test standards. The Board clarifies the applicability of this section because the steady-state idle test will not be allowed by statute after January 31, 2012. SR at 12. Therefore, the applicability of this subpart must specify that these test standards are applicable only through January 31, 2012. *Id.*

## **Subpart F: Evaporative Test Standards**

### **Section 240.171: Applicability**

This section establishes the applicability of the evaporative system integrity test standards. The Board clarifies the applicability of this section because the evaporative system integrity test will not be allowed by statute after January 31, 2012. SR at 11-12. Therefore, the applicability of this subpart must specify that these test standards are applicable only through January 31, 2012. *Id.* at 12.

**Subpart I: Visual Inspection Test Standards**

**Section 240.201: Applicability**

This section establishes the applicability of the visual inspection test standards. By statute, this section is applicable beginning February 1, 2012 and applies to those vehicles tested pursuant to Section 13C-25(h) of the VEIL of 2005, as amended. SR at 12. The Board also makes one grammatical revision. Tr. at 11.

**Section 240.202: Visual Inspection Test Standards**

This section establishes the visual inspection test standards for subject vehicles. The Board adopts language stating that vehicles will 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. SR at 12.

**Section 240.203: Compliance Determination**

The section establishes the method for determining compliance with the visual inspection test standards. The Board adopts language stating that compliance with the visual inspection test standards contained in adopted Section 240.202 is determined by using the visual inspection test procedures adopted by the Agency in 35 Ill. Adm. Code 276.

**CONCLUSION**

For the reasons stated above, the Board adopts amendments to its vehicle emissions inspection regulations. In the order below, the Board directs the Clerk to provide publication of the adopted rules in the *Illinois Register*.

**ORDER**

The Board directs the Clerk to provide publication of the following adopted amendments 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 (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 (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  
 240.183 Compliance Determination

#### SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

##### Section

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

#### SUBPART I: VISUAL INSPECTION TEST STANDARDS

##### Section

240.201 Applicability  
240.202 Visual Inspection Test Standards  
240.203 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 (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” or (“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  $2500 \pm 300$  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 \_\_\_\_\_)

#### Section 240.104 Inspection

- 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 Section 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 January 5, 2012, by a vote of 5-0.




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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board