

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1997

IN THE MATTER OF:)
)
CLEAN FUEL FLEET PROGRAM:) R98-8
AMENDMENTS TO 35 ILL. ADM.) (Rulemaking - Air)
CODE 241)

Adopted Rule. Final Order.

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

Today the Board adopts as final regulations amendments to 35 Ill. Adm. Code 241 (Clean Fuel Fleet Program (CFFP)). On July 7, 1997, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking to amend the CFFP pursuant to Section 28.5 of the Environmental Protection Act (Act). 415 ILCS 5/28.5 (1996). The Board initially adopted the CFFP on September 7, 1995. See Clean Fuel Fleet Program: Amendments to 35 Ill. Adm. Code 241 (September 7, 1995), R95-12.

Sections 182(c)(4)(A) and Section 246 of the Clean Air Act (CAA) (42 U.S.C. 7511(c)(4)(A) and 7586 (1990)), require all serious, severe, and extreme ozone nonattainment areas (NAA) to adopt a CFFP by May 15, 1994. In Illinois, the Chicago area is classified as a severe ozone NAA and is subject to the CFFP. The attainment year for the Chicago area is 2007. Pursuant to CFFP, if certain fleet owners acquire new motor vehicles, beginning model year 1998 and thereafter, a specified percentage of these new motor vehicles must be clean fuel fleet vehicles (CFFVs) which meet the federal low emission standards established by the United States Environmental Protection Agency (USEPA) for the CFFP. The adopted rules amend certain sections of the CFFP to reflect that owners and operators will have an additional year to meet the requirements of the CFFP and to correct certain amounts of credit given for over-compliance.

PROCEDURAL HISTORY

On July 10, 1997, the Board adopted the Agency proposal for first notice publication, pursuant to the Illinois Administrative Procedure Act (APA) (5 ILCS 100/1-1 (1996)). Subsequently, on July 25, 1997, the amendments to Part 241 were published in the *Illinois Register* (21 Ill. Reg. 9639 (July 25, 1997)), and the APA 45-day comment period began. According to the APA, the first notice comment period ended on September 8, 1997; however under Section 28.5 of the Act (415 ILCS 5/28.5 (1996)), the record does not close until 14 days after the availability of transcripts. The transcript was available on September 2, 1997. Consequently, the record and the public comment period, closed on September 16, 1997. No public comments were received during the first notice period with the exception of one minor editorial change suggested by the Joint Committee on Administrative Rules (JCAR) during the first notice comment period. On October 16, 1997, the Board adopted the amendments to Part

241 for the purpose of second notice review by JCAR pursuant to the APA. On November 12, 1997, JCAR issued a certificate of no objection. We therefore adopt these amendments as final rules, effective upon filing with the Secretary of State.

SUMMARY OF TESTIMONY

The first hearing in this matter was held on August 27, 1997. The Board received one prefiled testimony prior to hearing from Darwin J. Burkhart, Environmental Protection Specialist in the Air Quality Planning Section of the Agency.

At hearing, Mr. Burkhart testified that the Agency requested the Board delay implementation of the CFFP by one year due to the insufficient supply of vehicles certified to comply with any one of the four federal low emission standards, which consists of the low emission vehicle, inherently low emission vehicle, ultra low emission vehicle, and zero emission vehicle standards. Tr. at 14. Further, Mr. Burkhart asserted that with less than six types of certified light-duty vehicles and only a few types of certified heavy-duty engines available for the program at the current time, the USEPA had informed the states that it would allow for a one year delay in program implementation. Tr. at 14. Finally, Mr. Burkhart testified that a one year delay in the CFFP would only have a minimal environmental impact. Tr. at 15-16.

No requests were made for the second hearing within 7 days of the first hearing in accordance with Section 28.5 of the Act (415 ILCS 5/28.5 (1996)). Consequently, the second and third hearings, originally scheduled for September 24, 1997, and October 10, 1997, respectively, were canceled by hearing officer order dated September 4, 1997.

CONCLUSION

Considering the factors enumerated in Sections 27 and 28.5 of the Act (415 ILCS 5/27, 28.5 (1996)), the Board finds that the adopted rules are technically feasible and do not have an adverse economic impact on the People of the State of Illinois. Accordingly, the Board adopts the amendments to 35 Ill. Adm. Code 241.

ORDER

The Board directs the Clerk of the Board to cause the filing of the following adopted rules for final notice publication in the *Illinois Register* with the Secretary of State:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: POLLUTION CONTROL BOARD

PART 241
CLEAN FUEL FLEET PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
241.101	Other Definitions
241.102	Definitions
241.103	Abbreviations
241.104	Incorporations by Reference

SUBPART B: GENERAL REQUIREMENTS

Section	
241.110	Applicability
241.111	Exemptions
241.112	Registration of Fleet Owners or Operators
241.113	Control Requirements
241.114	Conversions
241.115	Operating Requirements

SUBPART C: CREDITS

Section	
241.130	Clean Fuel Fleet Credit Program
241.131	Credit Provisions

SUBPART D: RECORDKEEPING AND REPORTING

Section	
241.140	Reporting Requirements
241.141	Recordkeeping Requirements
241.142	Report of Credit Activities

APPENDIX A Emission Standards for Clean Fuel Vehicles

TABLE A	Low Emission Vehicle (LEV) Standards for Light-Duty Clean Fuel Vehicles (g/mi)
TABLE B	Ultra-Low Emission Vehicle (ULEV) Standards for Light-Duty Clean Fuel Vehicles (g/mi)
TABLE C	NMOG Standards for Flexible-Fueled and Dual-Fueled Vehicles
TABLE D	Emission Standards for Model Year 1998 and Later Heavy-Duty Vehicles (g/bhp-hr)

APPENDIX B Credit Values

TABLE A	Credit Generation: Acquiring a Light-Duty Clean Fuel Vehicle before MY 1998 1999 or Acquiring More Light-Duty Clean Fuel Vehicles than Required
TABLE B	Credit Generation: Acquiring Light-Duty ULEV or ZEV Clean Fuel Vehicles
TABLE C	Credits Needed in Lieu of Acquiring a Light-Duty LEV

- TABLE D Credit Generation: Acquiring a Heavy-Duty Clean Fuel Vehicle before MY ~~1998~~1999 or Acquiring More Heavy-Duty Clean Fuel Vehicles than Required
- TABLE E: Credit Generation: Acquiring Heavy-Duty ULEV or ZEV Clean Fuel Vehicles
- TABLE F: Credits Needed in Lieu of Acquiring a Heavy-Duty LEV

AUTHORITY: Implementing Sections 9, 9.1, and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act (415 ILCS 5/9, 9.1, 10, 27, and 28.5).

SOURCE: Adopted at R95-12 at 19 Ill. Reg. 13265, effective September 11, 1995; amended in R978-8, at 21 Ill. Reg. _____, effective

SUBPART B: GENERAL REQUIREMENTS

Section 241.113 Control Requirements

- a) Any covered fleet owner or operator who acquires one or more new covered fleet vehicles in a model year must meet the emission standards in subsection (e) of this Section for the following percentages of new covered fleet vehicle acquisitions:
 - 1) The portion of the acquisition of light-duty new covered fleet vehicles that must be light-duty clean fuel vehicles in any model year (MY) are as follows:
 - A) In MY ~~1998~~1999, at least 30 percent;
 - B) In MY ~~1999~~2000, at least 50 percent; and
 - C) In MY ~~2000~~2001 and every MY thereafter, at least 70 percent.
 - 2) The portion of the acquisition of heavy-duty new covered fleet vehicles that must be heavy-duty clean fuel vehicles shall be 50 percent of the total number of heavy-duty new covered fleet vehicles acquired in each model year, commencing in MY ~~1998~~1999 and thereafter.
- b) Any fraction of a new clean fuel vehicle acquisition requirement resulting from the percentage calculation in subsection (a)(1) or (a)(2) of this Section may be carried over and added to the new clean fuel vehicle acquisition requirement in the next model year for that type of clean fuel vehicle (i.e. LDV and LDT, or HDV) in which an acquisition of such a clean fuel vehicle is required pursuant to subsection (a) of this Section.
- c) An owner's or operator's light-duty and heavy-duty clean fuel vehicle acquisition requirements in a given model year shall be the number of clean fuel vehicles calculated in subsections (a)(1) and (a)(2) of this Section plus any

fraction of the same category and weight class (i.e., LDV/LDT or HDV) of motor vehicle acquisition requirements carried over from a preceding year.

- d) Notwithstanding subsections (b) and (c) of this Section, in any model year no owner or operator shall:
- 1) Fall short of the acquisition requirements for new LDV/LDT or HDV clean fuel vehicles by an amount equal to or greater than one motor vehicle unit;
 - 2) Meet the acquisition requirements for clean fuel LDVs or LDTs through acquisition of clean fuel HDVs; or
 - 3) Meet the acquisition requirements for clean fuel HDVs through the acquisition of clean fuel LDVs or LDTs.
- e) Motor vehicles acquired to meet the requirements of subsection (a) of this Section or Subpart C of this Part must be certified by USEPA to meet the federal emission certification standards of either LEV, ULEV, ZEV, or ILEV for a clean alternative fuel(s), as set forth in Appendix A of this Part and in 40 CFR Part 88, incorporated by reference in Section 241.104 of this Part.
- f) The owner or operator must meet the acquisition requirements of subsection (a) of this Section by acquiring clean fuel vehicles or redeeming credits equal to or greater than the number of vehicle units calculated in accordance with subsection (a) of this Section through one or more of the following:
- 1) Purchase or lease clean fuel vehicles certified by USEPA to meet any of the LEV, ULEV, ZEV, or ILEV standards referenced in subsection (e) of this Section;
 - 2) Conversion of existing or new motor vehicles to meet a LEV, ULEV, ZEV or ILEV standard specified in subsection (e) of this Section, consistent with the requirements of Section 241.114 of this Subpart; or
 - 3) Redeem credits generated or acquired consistent with the requirements of Subpart C of this Part.

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

SUBPART C: CREDITS

Section 241.130 Clean Fuel Fleet Credit Program

- a) Any owner or operator of ten or more fleet vehicles located or primarily

operated in the covered area may participate in the clean fuel fleet credit program, provided that the owner or operator requests that the Agency establish a clean fuel fleet credit account and complies with the registration, operating, emission standards, and recordkeeping and reporting requirements of Sections 241.112, 241.113(e), 241.115, and 241.142 of this Part, respectively, and the requirements of this Subpart and, if the vehicle for which credit is being claimed is converted, complies with the requirements of Section 241.114 of this Part.

- b) Any owner or operator of a fleet may earn credits by:
- 1) Acquiring more clean fuel vehicles or fractions of clean fuel vehicles than required in any MY pursuant to Section 241.113 of this Part;
 - 2) Acquiring clean fuel vehicles that meet the ULEV or ZEV standard;
 - 3) Acquiring clean fuel vehicles which belong to a category of motor vehicles that are otherwise exempt under Section 241.111 of this Part; and
 - 4) Acquiring clean fuel vehicles before September 1, ~~1997~~1998, if the requirements of Section 241.112 of this Part have been met.
- c) Credits will be generated, redeemed, or traded after the owner or operator submits the information listed in Sections 241.140(a) and (b) of this Part to the Agency for each clean fuel vehicle involved in the credit transaction, requests that a credit transaction be posted and states the number of credits added to and subtracted from the credit accounts, and the Agency has received and reviewed the submittal. Credit transactions must be authorized by the owner or operator whose account is being reduced. The Agency will review, and add to and subtract from credit accounts, according to the criteria of this Subpart and Appendix B of this Part.
- d) Credits shall be designated by the Agency at the time of issuance as either LDV/LDT credits or HDV credits. LDV/LDT credits may not be exchanged for HDV credits and HDV credits may not be exchanged for LDV/LDT credits.
- e) Notwithstanding subsection (b) of this Section, if a clean fuel vehicle has ever been used to demonstrate compliance under Subpart B of this Part, or used to generate credits under this Subpart, such clean fuel vehicle may never be used by any other person for the purpose of generating credits under this Subpart.

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

SUBPART D: RECORDKEEPING AND REPORTING

Section 241.140 Reporting Requirements

By November 1, ~~1998~~1999, and by November 1 every year thereafter, the owner or operator of a covered fleet must submit the following information about its activities during the prior model year to the Agency:

- a) For each motor vehicle newly acquired or being used to earn credits, which also includes motor vehicles converted to clean fuel vehicles:
 - 1) The make, model, and year of manufacture;
 - 2) The date of vehicle acquisition;
 - 3) The vehicle identification number (VIN);
 - 4) The GVWR, as specified by the manufacturer;
 - 5) If the motor vehicle is being used to earn credits, the LVW for LDTs whose GVWR is less than or equal to 6,000 lbs and the ALVW for LDTs whose GVWR is greater than 6,000 lbs;
 - 6) The license plate number and state registered in; and
 - 7) A statement of whether the motor vehicle is exempt pursuant to Section 241.111 of this Part and which exemption applies.
- b) For each clean fuel vehicle newly acquired or being used to earn credits, which also includes motor vehicles converted to clean fuel vehicles:
 - 1) The low emission standard(s) to which the motor vehicle is certified by USEPA, consistent with Section 241.113(e) of this Part;
 - 2) The clean alternative fuel(s) to which the motor vehicle is certified to operate by the manufacturer in order to meet the federal low emission standard(s) in Section 241.113(e) of this Part;
 - 3) The 8-character alpha numeric bar-coded vehicle emission configuration number; and
 - 4) For motor vehicles converted to clean fuel vehicles pursuant to Section 241.114 of this Part:

- A) The date the motor vehicle was converted;
 - B) The name and address of the person(s) or firm performing the conversion; and
 - C) A statement that, to the best of the owner's or operator's knowledge, the motor vehicle was converted in accordance with the applicable requirements of 40 CFR Part 88, incorporated by reference in Section 241.104 of this Part.
- c) In addition to the information required in subsections (a) and (b) of this Section, the owner or operator must state:
- 1) The number, to the nearest tenth, of clean fuel vehicles the owner or operator was required to acquire pursuant to Section 241.113 of this Part;
 - 2) How that obligation was met;
 - 3) If any of the clean fuel vehicles in the fleet used for compliance or credits in the last two model years are no longer part of the fleet, the VIN and the date the clean fuel vehicle was transferred or taken out of service; and
 - 4) If the fleet vehicles are centrally fueled at a location that is owned, operated or controlled by the covered fleet owner or operator, the amount of bulk fuel purchased by type of fuel.
- d) All reports to the Agency must include the owner's or operator's fleet registration number, the name of the operation, and the signature of the owner or operator.

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

Section 241.APPENDIX B Credit Values

Table A Credit Generation: Acquiring a Light-Duty Clean Fuel Vehicle before MY ~~1998~~1999 or Acquiring More Light-Duty Clean Fuel Vehicles than Required

TYPE	LDV, LDT ≤ 6000 GVWR ≤ 3750 LVW	LDT ≤ 6000 GVWR > 3750 LVW ≤ 5750 LVW	LDT > 6000 GVWR ≤ 3750 ALVW	LDT > 6000 GVWR > 3750 ALVW ≤ 5750 ALVW	LDT > 6000 GVWR > 5750 ALVW
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LEV	1.00	1.26	0.71	0.91	1.11
ULEV	1.20	1.54	1.00	1.29 <u>1.26</u>	1.47 <u>1.56</u>
ZEV	1.43	1.83	1.43	1.83	2.23

TABLE B Credit Generation: Acquiring Light-Duty ULEV or ZEV Clean Fuel Vehicles

TYPE	LDV, LDT ≤ 6000 GVWR ≤ 3750 LVW	LDT ≤ 6000 GVWR > 3750 LVW ≤ 5750 LVW	LDT > 6000 GVWR ≤ 3750 ALVW	LDT > 6000 GVWR > 3750 ALVW ≤ 5750 ALVW	LDT > 6000 GVWR > 5750 ALVW
ULEV	0.20	0.29	0.29	0.34	0.45
ZEV	0.43	0.57	0.71	0.91	1.11

TABLE C Credits Needed in Lieu of Acquiring a Light-Duty LEV

TYPE	LDV, LDT ≤ 6000 GVWR ≤ 3750 LVW	LDT ≤ 6000 GVWR > 3750 LVW ≤ 5750 LVW	LDT > 6000 GVWR ≤ 3750 ALVW	LDT > 6000 GVWR > 3750 ALVW ≤ 5750 LVW	LDT > 6000 GVWR > 5750 ALVW
LEV	1.00	1.26	0.71	0.91	1.11

TABLE D Credit Generation: Acquiring a Heavy-Duty Clean Fuel Vehicle before MY ~~1998~~1999 or Acquiring More Heavy-Duty Clean Fuel Vehicles than Required

VEHICLE TYPE	HDV
LEV	1.00
ULEV	1.87
ZEV	3.53

TABLE E Credit Generation: Acquiring Heavy-Duty ULEV or ZEV Clean Fuel Vehicles

VEHICLE TYPE	HDV
ULEV	0.87
ZEV	2.53

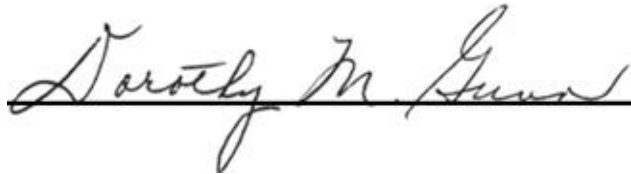
TABLE F Credits Needed in Lieu of Acquiring a Heavy-Duty LEV

<u>VEHICLE TYPE</u>	<u>HDV</u>
LEV	1.00

(Source: Amended 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 20th day of November 1997, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board