

ILLINOIS POLLUTION CONTROL BOARD  
January 7, 1993

IN THE MATTER OF: )  
 )  
APPLICATION OF CALIFORNIA ) R89-17(C)  
MOTOR VEHICLE CONTROL PROGRAM ) (Rulemaking)  
IN ILLINOIS )

DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority's action dismissing this docket. I believe that adoption of the California LEV program in Illinois is both technically feasible and economically reasonable. Therefore, I would have proceeded with the rulemaking.

In September 1990, the California Air Resources Board (CARB) adopted a new program, the Low Emission Vehicle (LEV) program, to further tighten emissions from vehicles in California. The LEV program establishes four new categories of vehicle emission standards which are to be phased in beginning in model year (MY) 1994. The four types of LEV vehicles are categorized according to the emission standards those vehicles must meet. The transitional low emission vehicle (TLEV) represents 10-20% of new vehicle<sup>1</sup> production beginning in MY 1994. TLEVs must meet a hydrocarbon (HC) standard of 0.125 grams per mile (g/mi). Carbon monoxide (CO) and oxides of nitrogen (NOx) standards are the same as for MY 1993 vehicles. The low emission vehicle (LEV) represents 25% of new vehicle production beginning in MY 1997. LEVs must meet standards of 0.075 g/mi HC and 0.2 g/mi NOx. The CO standard for LEVs is the same as for MY 1993 vehicles and TLEVs. The ultra low emission vehicle (ULEV) represents 2 - 15% of new vehicle production between 1997 - 2003. The HC standard for ULEVs is 0.04 g/mi, and the CO standard is 1.7 g/mi. (These standards are about half of those from LEVs.) The NOx standard for ULEVs remains the same as for LEVs. Finally, the zero emission vehicle (ZEV) represents 2 - 10% of new vehicle production between 1998 - 2003. The ZEV is expected to be an electric car, which will not have any direct pollutant emissions. (P.C.# 35; Ex. 26B, Tab 5.)

The percentage figures given for conventional vehicles, TLEVs, LEVs, and ULEVs are guidelines for the manufacturers to reach fleet average standards. Manufacturers are required to certify sufficient portions of their fleet to meet increasingly strict fleet average standards. Manufacturers may meet the fleet

<sup>1</sup> As used here, the term "vehicle" refers to passenger cars and light-duty trucks rated at 6000 pounds gross vehicle weight or less.

0138-0375

average standard by certifying vehicles to any combination of conventional vehicle, TLEV, LEV, ULEV, and ZEV standards. However, the percentage requirements for ZEVs are mandatory, although manufacturers can meet these ZEV requirements with emission credits. (P.C.# 35; Ex. 26B, Tab 5.)

I recognize that there are uncertainties associated with the California LEV program. However, I agree with the Chicago Lung Association and the Sierra Club that these uncertainties do not justify inaction. Mobile sources account for a large percentage of volatile organic compounds (VOC) and nitrogen oxides (NOx), which are ozone precursors. It is apparent that in order to achieve attainment with the ozone standard, there will have to be some regulation of mobile sources. I believe that the California LEV program will help achieve attainment while imposing a relatively minimal burden on consumers. The Illinois Environmental Protection Agency (Agency) estimates that implementing the LEV program in model year (MY) 1996 will result in VOC reductions in the Chicago area of 6000 to 8000 tons per year (TPY), or sixteen to twenty-three tons per day (TPD) by the year 2010.<sup>2</sup> (Ex. 45 at xi, xiv, 7-27.) The LEV program would result in estimated NOx reductions in the Chicago area of 7000 to 9700 TPY, or twenty to twenty-six TPD by the year 2010. (Ex. 45 at 11.) This is a reduction of about 2% for VOCs from all sources in the Chicago area, and a 6-8% reduction of mobile source VOCs. (Ex. 45 at xi, 26.) Statewide, the Agency estimates that the LEV program would result in VOC reductions of 11,000 to 16,000 TPY (thirty-one to forty-three TPD), and NOx reductions of 13,000 to 19,000 TPY (thirty-seven to fifty-two TPD) by 2010. (Ex. 45 at 13, 26.) While these are not huge reductions, in order to reach attainment it will be necessary to achieve all possible reductions. The Agency states that although the LEV program would not contribute to the required 15% reasonable further progress (RFP) reduction in 1996, the standards may contribute to the required 3% additional RFP reduction in subsequent years. (Ex. 45 at xii, 35.) In order to achieve these estimated reductions, the phase-in of the LEV program must begin, since the reductions are dependent upon fleet turn-over. I see no legitimate reason to delay this phase-in.

I would also like to address several other concerns raised by participants and by other Board members. First, several participants argued that the California plan is not tailored to

<sup>2</sup> This estimate compares the California LEV program with the emission reductions achieved by the federal Tier I standards. Because the implementation of the federal Tier II standards in MY 2004 is only a possibility, the Board cannot assume that only projected emission reductions from that Tier II program will actually occur.

0138-0376

Illinois, and pointed especially to differences in climate. However, this argument assumes that the federal standards are in some way tailored to Illinois. That is not the case. If Illinois does not specifically adopt the California standards, we will continue to be governed by the federal standards. Those federal standards were not adopted with any consideration of Illinois' situation. Indeed, the federal standards which become effective with model year 1994 vehicles are basically the existing California "Tier I" standards. Apparently Congress believed that conditions in California, at least as they relate to air pollution, are sufficiently analogous to the rest of the country to justify adoption of California Tier I standards on a nationwide basis. The Board should continue this trend by adopting the California LEV program.

Second, the majority, and several participants, have raised the concern that by adopting the California LEV program, Illinois would basically delegate rulemaking authority in this area to California. This issue is a red herring. It is true that if California changes its LEV program in the future, Illinois (and any other state which has adopted the LEV program) will have to decide whether to adopt those changes or to return to whatever federal standards exist at that time. However, Illinois will have that choice, just as it has that choice now. The mere adoption of the LEV program does not, in any way, change Illinois' options in this area. I must also point out that because the Clean Air Act prohibits states other than California from adopting their own motor vehicle control program, by not adopting the California program, we are basically delegating rulemaking in this arena to the federal government.

Third, there has been discussion of the potential "problems" raised by the LEV program's requirement that a small number of electric vehicles be added to the fleet. I must point out that the Energy Policy Act of 1992 (H.R. 776), recently passed by Congress, contains a number of incentives for electric vehicles. Among other things, the Energy Policy Act establishes a 10 percent credit (capped at \$4000 per vehicle) for qualified electric vehicles. A credit is particularly valuable, because a credit (as opposed to a deduction) saves 100 cents per dollar of tax paid. Incentives are being provided, so that I have little doubt that the number of electric vehicles required by the LEV program will be available.

Fourth, I note that the Illinois New Car and Truck Dealers Association (INC\TDA) has repeatedly stated its objection to this proposal, fearing that cross-border sales and dealer trades would be harmed. However, I believe that adoption of this program would actually help Illinois dealers, by ending sales by out-of-state dealers to Illinois residents. Because the rules would have allowed only vehicles certified under the LEV program to be registered in Illinois, Illinois residents would have to

0138-0377

purchase new vehicles at Illinois dealerships, rather than in Indiana, Wisconsin, or any of the other states bordering Illinois.

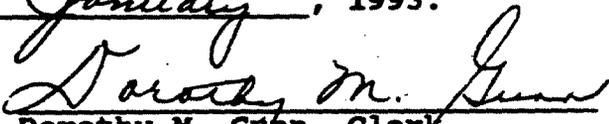
At least two other states, New York and Massachusetts, have already adopted the California LEV program, and a number of other states are moving towards adoption. I had hoped that Illinois would be in this vanguard. If Illinois, along with California, New York, and Massachusetts, adopted the LEV program, those states would account for a large percentage of vehicle sales, and perhaps a majority of those sales. Such a situation would go far in allaying manufacturers' concerns about producing two different types of vehicles for different states. Perhaps the federal certification procedure could then be changed so that "California cars" could be sold in "federal" states, and the whole country could benefit from the reduced pollutants emitted under the LEV program.

I recognize that there are several uncertainties associated with the LEV program. However, I believe that these uncertainties do not outweigh the value of the program in reducing air pollution and attaining compliance with the ozone standard. I see no good reason for further delay. I would have continued with the rulemaking process so that the California LEV program could be adopted in Illinois.

For these reasons, I dissent.

  
 Theodore Meyer  
 Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was filed on the 12<sup>th</sup> day of January, 1993.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board

0138-0378