

ILLINOIS POLLUTION CONTROL BOARD

August 23, 2001

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

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On August 20, 2001, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend the Board's regulations on inspecting and maintaining vehicles to control air emissions. Today, the Board accepts the Agency's proposal for hearing.

BACKGROUND

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

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

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

## DISCUSSION

In this portion of the opinion, the Board describes the Agency's proposal to amend 35 Ill. Adm. Code 240.191, 240.192, and 240.193; discusses the statutory framework governing this rulemaking; and describes how the Board will proceed with the Agency's proposal.

### Agency Proposal

Under Section 13B-20(a) of the Vehicle Emissions Law (625 ILCS 5/13B-20(a) (2000)), the Agency proposes amendments to 35 Ill. Adm. Code 240 with respect to the enhanced I/M program for the Chicago metropolitan and Metro-East St. Louis nonattainment areas. See Agency Statement of Reasons at 3-4. Through the proposed amendments, the Agency intends to provide a certain flexibility pursuant to recent USEPA rules for On Board Diagnostic (OBD) test standards. See Agency Statement of Reasons at 6. Specifically, the Agency states that its proposal would revise 35 Ill. Adm. Code 240 by:

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

The Agency describes these proposed changes as "relatively minor adjustments to the Enhanced I/M program." Agency Statement of Reasons at 5. The Agency states that it is proposing the amendments "to enable Illinois to meet federal and state mandated enhanced emissions testing requirements." *Id.* at 3. The Agency also states that its proposal is "designed to promote the acceptance of and adherence to the enhanced I/M program, by incorporating necessary 'flexibility' provisions for OBD testing as authorized by recent USEPA rulemaking and guidance." *Id.* at 5.

### Statutory Framework

The Agency proposes to amend 35 Ill. Adm. Code 240 pursuant to Section 13B-20(a) of the Vehicle Emissions Law (625 ILCS 5/13B-20(a) (2000)). Section 13B-20(a) provides in part:

The Agency shall propose standards necessary to achieve reductions in the emission of hydrocarbons, carbon monoxide, and oxides of nitrogen from motor vehicles subject to inspection under this Chapter. Within 120 days after the

Agency proposes these standards, the Board shall adopt rules establishing standards for the emission of hydrocarbons, carbon monoxide, and oxides of nitrogen from motor vehicles subject to inspection under this Chapter. These rules may be amended from time to time pursuant to Agency proposals.

\* \* \*

[S]ubsection (b) of Section 27 of the Environmental Protection Act and the rulemaking provisions of the Illinois Administrative Procedure Act shall not apply to rules adopted by the Board under this subsection. 625 ILCS 5/13B-20(a) (2000).

#### Proceedings Before the Board

The Board accepts the Agency's proposal for hearing. Because Section 13B-20(a) of the Vehicle Emissions Law requires the Board to adopt rules within 120 days after it receives the Agency's proposal, the Board will, without commenting on the merits of the Agency's proposal, proceed by publishing this proposal in the *Illinois Register* as a proposal for public comment. The hearing officer assigned to this rulemaking will establish a deadline for filing public comments.

Pursuant to Section 28 of the Environmental Protection Act (Act) (415 ILCS 5/28 (2000)), the Board will hold at least two public hearings during this rulemaking. The Board will hold one hearing in Chicago and one hearing in the Metro-East St. Louis area. The hearing officer will establish specific locations and times for the hearings. After considering the issues raised at the public hearings and in public comments, the Board will issue a final opinion and order and publish the adopted rules in the *Illinois Register*.

As set forth above, Section 13B-20(a) of the Vehicle Emissions Law states that Section 27(b) of the Act (415 ILCS 5/27(b) (2000)) and the rulemaking provisions of the Administrative Procedure Act (5 ILCS 100/1-1 *et seq.*(2000)) "shall not apply to rules adopted by the Board under this subsection." 625 ILCS 5/13B-20(a) (2000). Accordingly, the Board will not request that the Department of Commerce and Community Affairs conduct an economic impact study of the proposed amendments pursuant to Section 27(b) of the Act, nor will the Board submit the proposed amendments for first or second notice pursuant to Section 5-40 of the Administrative Procedure Act (5 ILCS 100/5-40 (2000)). The Board will, however, hold public hearings and solicit public comment as described above.

The Board directs the hearing officer to schedule public hearings pursuant to Section 28 of the Act. Further, as noted above, the proposal will be published as a proposal for public comment in the *Illinois Register*. The Board also notes that hearing transcripts and the Board's opinions and orders in this rulemaking, including this opinion and order, will be available on the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

ORDER

The Board directs the Clerk to file the following proposed amendments to 35 Ill. Adm. Code 240 with the Secretary of State to publish in the *Illinois Register* as a proposal for public comment. Proposed additions are underlined; proposed deletions are stricken.

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER K: EMISSION STANDARDS AND LIMITATIONS FOR MOBILE  
SOURCES

PART 240

MOBILE SOURCES

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section	
240.101	Preamble
240.102	Definitions
240.103	Prohibitions
240.104	Inspection
240.105	Penalties
240.106	Determination of Violation
240.107	Incorporations by Reference

SUBPART B: EMISSIONS

Section	
240.121	Smoke Emissions
240.122	Diesel Engine Emissions Standards for Locomotives
240.123	Liquid Petroleum Gas Fuel Systems
240.124	Vehicle Exhaust Emission Standards (repealed)
240.125	Compliance Determination (repealed)

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

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

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

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

#### SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

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

#### SUBPART F: EVAPORATIVE TEST STANDARDS

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

#### SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

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

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

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

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

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

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

**SOURCE:** Adopted as Chapter 2: Air Pollution, Part VII: Mobile Sources, filed and effective

April 14, 1972; codified at 7 Ill. Reg. 13628; amended in R85-25, at 10 Ill. Reg. 11277, effective June 16, 1986; amended in R90-20 at 16 Ill. Reg. 6184, effective April 7, 1992; amended in R94-20 at 18 Ill. Reg. 18013, effective December 12, 1994; amended in R94-19 at 18 Ill. Reg. 18228, effective December 20, 1994; amended in R98-24 at 22 Ill. Reg. 13723, effective July 13, 1998; expedited correction at 22 Ill. Reg. 21120, effective July 13, 1998; amended in R01-12 at 24 Ill. Reg. 19188, effective December 18, 2000; amended in R01-8 at 25 Ill. Reg. 3680, effective February 26, 2001; amended in R02-8 at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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

NOTE: Capitalization denotes statutory language.

## SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

### Section 240.191 Applicability

The standards of this Subpart apply to all 1996 and newer model year light duty vehicles, light duty trucks 1, and light duty trucks 2 that are required to meet the standards contained in 40 CFR § 86.094-17 and which are inspected utilizing the on-board diagnostic test procedures contained in 35 Ill. Adm. Code 276.209. Vehicles that receive a result of fail do not thereby fail their emissions test until January 1, 2002. However, this date shall be extended to January 1, 2003, if the Agency petitions the USEPA for such an extension, and the request for an extension is approved by the USEPA pursuant to 40 CFR § 51.357(a)(12).

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

### Section 240.192 On-Board Diagnostic Test Standards

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

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

- 4) — ~~Any PX4XX Auxiliary Emission Controls codes~~
- 5) — ~~P0500 Vehicle Speed Sensor Malfunction~~
- 6) — ~~P0501 Vehicle Speed Sensor Range/Malfunction~~
- 7) — ~~P0502 Vehicle Speed Sensor Circuit Low Input~~
- 8) — ~~P0503 Vehicle Speed Sensor Intermittent/Erratic/High~~
- 9) — ~~P0505 Idle Control System Malfunction~~
- 10) — ~~P0506 Idle Control System RPM Lower Than Expected~~
- 11) — ~~P0507 Idle Control System RPM Higher Than Expected~~
- 12) — ~~P0510 Closed Throttle Position Switch Malfunction~~
- 13) — ~~P0550 Power Steering Pressure Sensor Circuit Malfunction~~
- 14) — ~~P0551 Power Steering Pressure Sensor Circuit Malfunction~~
- 15) — ~~P0552 Power Steering Pressure Sensor Circuit Low Input~~
- 16) — ~~P0553 Power Steering Pressure Sensor Circuit Intermittent~~
- 17) — ~~P0554 Power Steering Pressure Sensor Circuit Intermittent~~
- 18) — ~~P0560 System Voltage Malfunction~~
- 19) — ~~P0561 System Voltage Unstable~~
- 20) — ~~P0562 System Voltage Low~~
- 21) — ~~P0563 System Voltage High~~
- 22) — ~~Any PX6XX Computer and Output Circuits Codes~~
- 23) — ~~P0703 Brake Switch Input~~
- 24) — ~~P0705 Transmission Range Sensor Circuit Malfunction (PRNDL Input)~~
- 25) — ~~P0706 Transmission Range Sensor Circuit Range/Performance~~
- 26) — ~~P0707 Transmission Range Sensor Circuit Low Input~~

- 27) — ~~P0708 Transmission Range Sensor Circuit High Input~~
- 28) — ~~P0709 Transmission Range Sensor Circuit Intermittent~~
- 29) — ~~P0719 Torque Converter/Brake Switch “B” Circuit Low~~
- 30) — ~~P0720 Output Speed Sensor Circuit Malfunction~~
- 31) — ~~P0721 Output Speed Sensor Circuit Range/Performance~~
- 32) — ~~P0722 Output Speed Sensor Circuit No Signal~~
- 33) — ~~P0723 Output Speed Sensor Circuit Intermittent~~
- 34) — ~~P0724 Torque Converter/Brake Switch “B” Circuit High~~
- 35) — ~~P0725 Engine Speed Input Circuit Malfunction~~
- 36) — ~~P0726 Engine Speed Input Circuit Range/Performance~~
- 37) — ~~P0727 Engine Speed Input Circuit No Signal~~
- 38) — ~~P0728 Engine Speed Input Circuit Intermittent~~
- 39) — ~~P0740 Torque Converter Clutch System Malfunction~~
- 40) — ~~P0741 Torque Converter System Performance or Stuck Off~~
- 41) — ~~P0742 Torque Converter System Stuck On~~
- 42) — ~~P0743 Torque Converter System Electrical~~
- 43) — ~~P0744 Torque Converter System Intermittent~~

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

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

#### Section 240.193 Compliance Determination

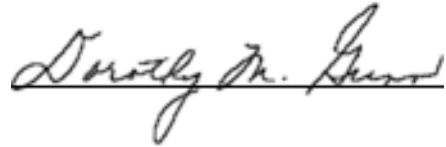
Compliance shall be determined based upon the inspection of the on-board diagnostic vehicle connector, malfunction indicator light, and electronic retrieval of data stored in the vehicle’s on-board diagnostic system fault codes using the on-board diagnostic test procedures ~~that will be~~ adopted by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



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

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above opinion and order was adopted on the 23rd day of August 2001 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