



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



**Statement of Reasons Pursuant to 4-168b
of the Connecticut General Statutes**

Hearing Report

Amendment to the Regulations of Connecticut State Agencies Concerning:

Low Emission Vehicles - section 22a-174-36

Hearing Officer Paul E. Farrell

Public Hearing of June 25, 1998

On May 26, 1998, the Commissioner of the Department of Environmental Protection ("Department") published a notice of intent to amend section 22a-174-36 of the Regulations of Connecticut State Agencies ("R.C.S.A.") concerning the adoption in Connecticut of the National Low Emission Vehicle program. Pursuant to such notice, a public hearing was held on June 25, 1998. The public comment period for these proposed amendments closed on June 29, 1998.

I. Outline of this Report

This report describes the amendments to the Regulations of Connecticut State Agencies as proposed for hearing; the final wording of the proposed regulations; a statement of the principal reasons in support of the Department's intended action; a statement of the principal reasons in opposition of the Department's intended action and the reasons for rejecting such comments; and a summary of all comments and responses thereto on the proposed action. Those who provided comments are identified in Attachment 1.

II. Summary of the Proposed Amendment

On January 7, 1998, the Administrator of the United States Environmental Protection Agency ("EPA") finalized federal regulations for a voluntary clean car program called the National Low Emission Vehicle ("LEV") program. The National LEV regulations allow vehicle manufacturers to commit to meet tailpipe standards for new cars and light duty trucks that are more stringent

than EPA can mandate. The State of Connecticut committed to adopt the National LEV program on January 27, 1998. On March 9, 1998, the EPA Administrator made a finding that the National LEV program is "in effect" and that nine northeastern states and twenty-three vehicle manufacturers (covered manufacturers) have opted into this voluntary program. The proposed amendment adopts language specified by EPA in 86 CFR 1705-99 which will allow covered manufacturers to comply with National LEV as an alternative means of complying with the "California Tailpipe standards" which Connecticut adopted in December, 1994, and became effective in model year 1998. The National LEV program is in effect until model year 2004 unless EPA adopts additional standards at least equivalent to National LEV by December 15, 2000, in which case National LEV will be in effect until model year 2006. The Department of Environmental Protection will use the emission reductions generated by this program to satisfy the requirements of the Clean Air Act.

Subsection (g) of section 22a-174-36 of the Regulations of Connecticut State Agencies is proposed to be amended as follows:

(g) Alternative Means of Compliance VIA THE NATIONAL LOW EMISSION VEHICLE (LEV) PROGRAM. [Reserved]

(NEW)

(1) The provisions of subsections (b) through (f) of this section shall not apply to any 1999 and subsequent model year passenger car or light duty truck sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received in the State of Connecticut for the time period specified in subdivision (3) of this subsection if a covered manufacturer, as defined at 40 CFR 86.1702, of such vehicle complies with a National LEV program adopted by the Administrator pursuant to 42 U.S.C. 7521(a)(1) and 42 U.S.C. 7601(a) in accordance with the provisions set forth in 40 CFR Parts 9, 85 and 86 and 63 Federal Register 926 (January 7, 1998).

(2) For the time period specified in subdivision (3) of this subsection, manufacturers may comply with National LEV or equally stringent mandatory federal standards in lieu of compliance with any program adopted by the Commissioner pursuant to the authority provided in section 177 of the Clean Air Act applicable to any gasoline powered passenger cars, light-duty trucks up through 6,000 pounds GVWR, and medium-duty vehicles from 6,001 to 14,000 pounds GVWR, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900.

(3) The State of Connecticut, as set forth by the provisions of this subsection, shall participate in the National LEV from model year 1999, inclusive, until model year 2006, except as expressly provided

in 40 CFR 86.1707. If, no later than December 15, 2000, the Administrator does not take final action to adopt standards at least as stringent as the National LEV standards provided in 40 CFR part 86 subpart R that apply to new motor vehicles in model years 2004, 2005 or 2006, participation in National LEV extends only until model year 2004, except as expressly provided in 40 CFR 86.1707.

(4) If a covered manufacturer, as defined at 40 CFR 86.1702, opts out of the National LEV program in accordance with the provisions of 40 CFR 86.1707, the transition from requirements imposed by the National LEV programs to the requirements imposed by the provisions of subsections (b) through (f) of this section will proceed in accordance with 40 CFR 86.1707.

(5) Nothing in this subsection shall preclude the Commissioner from adopting and implementing requirements under section 177 of the Clean Air Act for heavy duty trucks and engines and diesel-powered vehicles between 6,001 and 14,000 pounds GVWR.

Statement of Purpose: To adopt a national low emission vehicle program as an alternative means of compliance with the low emission vehicle program adopted by the Department in accordance with the provisions of Clean Air Act section 177 on December 22, 1994.

III. Principal Reasons in Support of the Proposed Action

The principal reasons in support of amending this regulation as stated above are: (1) this action is consistent with the Clean Air Act and underlying federal regulations; and (2) this action is necessary to implement the national low emission vehicle program as directed by the Governor of the State of Connecticut on January 27, 1998.

IV. Principal Considerations in Opposition to the Proposed Action

The Department received no comments in opposition to the proposed action.

V. Summary of Comments

Comments from the U.S. Environmental Protection Agency (EPA)

Comment:

EPA requested that subdivision (2) of the proposed amendment be revised to reference zero emissions vehicles. EPA suggests subdivision (2) be amended as follows: "For the time period specified in subdivision (3) of this subsection, manufacturers may comply with National LEV or equally stringent mandatory federal standards in lieu of compliance with any program, including any mandates for sales of zero emissions vehicles, adopted by the Commissioner pursuant to the authority provided in section 177 of the Clean Air Act applicable to passenger cars, light duty trucks up through 6,000 pounds GVWR, and medium duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900."

Response:

The proposed rule did not address zero emissions vehicles (ZEVs) because the Department's existing low emission vehicle regulation does not include a ZEV sales mandate and on several occasions the Department has stated that it has no intention of adopting a ZEV sales mandate. Be that as it may, I recommend the Commissioner adopt the EPA's suggested revision so as to demonstrate to EPA and the covered manufacturers that Connecticut's commitment to the National LEV program includes a commitment to maintain the Department's position on the ZEV sales mandate.

Comment:

EPA commented that under subdivision (4) of the proposed rule, the Commissioner should include the specific language of 40 CFR 86.1705(g)(3), which discuss these provisions applying to any section 177 program, not just the one presently on the books in Connecticut.

EPA suggests revising subdivision (4) of the proposed rule as follows: "If a covered manufacturer, as defined at 40 CFR 86.1702, opts out of the National LEV program in accordance with the provisions of 40 CFR 86.1707, the transition from the requirements imposed by the National LEV program to the requirements imposed by the provisions of subsections (b) through (f) of this section or any Connecticut section 177 program applicable to passenger cars, light duty trucks up through 6,000 pounds GVWR, and medium duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1,

Article 1, Section 1900, will proceed in accordance with 40 CFR 86.1707.”

Response:

I recommend the Commissioner adopt the suggested revised language offered by EPA with one change. The phrase “any Connecticut section 177 program” should be replaced by the phrase “any program adopted by the Commissioner pursuant to the authority provided in section 177 of the Clean Air Act, 42 U.S.C. 7507.” The second phrase more accurately describes the Department’s authority with respect to the adoption and implementation of a program under section 177 of the Clean Air Act.

Also as a point of clarification, it is the Department’s interpretation of subdivision (4) of the proposed rule is that this provision only applies to section 177 programs which would become effective during the National LEV program and does not apply to those 177 programs that, even though administratively adopted during such period, would not become a binding requirement on automobile manufacturers until after the National LEV program has expired.

VI. Final Wording of the Proposed Regulation

Subsection (g) of section 22a-174-36 of the Regulations of Connecticut State Agencies is amended as follows:

(NEW)

(g) Alternative Means of Compliance VIA THE NATIONAL LOW EMISSION VEHICLE (LEV) PROGRAM. [Reserved]

(NEW)

(1) The provisions of subsections (b) through (f) of this section shall not apply to any 1999 and subsequent model year passenger car or light duty truck sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received in the State of Connecticut for the time period specified in subdivision (3) of this subsection if a covered manufacturer, as defined at 40 CFR 86.1702, of such vehicle complies with a National LEV program adopted by the Administrator pursuant to 42 U.S.C. 7521(a)(1) and 42 U.S.C. 7601(a) in accordance with the provisions set forth in 40 CFR Parts 9, 85 and 86 and 63 Federal Register 926 (January 7, 1998).

(2) For the time period specified in subdivision (3) of this subsection, manufacturers may comply with National LEV or equally stringent mandatory federal standards in lieu of compliance with any program, including any mandates for sales of zero emissions vehicles,

adopted by the Commissioner pursuant to the authority provided in section 177 of the Clean Air Act, 42 U.S.C. 7507, applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR, and medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900.

(3) The State of Connecticut, as set forth by the provisions of this subsection, shall participate in the National LEV from model year 1999, inclusive, until model year 2006, except as expressly provided in 40 CFR 86.1707. If, no later than December 15, 2000, the Administrator does not take final action to adopt standards at least as stringent as the National LEV standards provided in 40 CFR part 86 subpart R that apply to new motor vehicles in model years 2004, 2005 or 2006, participation in National LEV extends only until model year 2004, except as expressly provided in 40 CFR 86.1707.

(4) If a covered manufacturer, as defined at 40 CFR 86.1702, opts out of the National LEV program in accordance with the provisions of 40 CFR 86.1707, the transition from requirements imposed by the National LEV programs to the requirements imposed by the provisions of subsections (b) through (f) of this section or any program adopted by the Commissioner pursuant to the authority provided in section 177 of the Clean Air Act, 42 U.S.C. 7507, applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR, and medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900, will proceed in accordance with 40 CFR 86.1707.

(5) Nothing in this subsection shall preclude the Commissioner from adopting and implementing requirements under section 177 of the Clean Air Act, 42 U.S.C. 7507, for heavy duty trucks and engines and diesel-powered vehicles between 6,001 and 14,000 pounds GVWR.

Statement of Purpose: To adopt a national low emission vehicle program as an alternative means of compliance with the low emission vehicle program adopted by the Department in accordance with the provisions of Clean Air Act section 177, 42 U.S.C. 7507, on December 22, 1994.

VII. Conclusion

Based upon the comments submitted by interested parties and addressed in this Hearing Report, I recommend the proposed final regulation, as contained herein, be submitted by the Commissioner of Environmental Protection for approval by the Attorney General and the Legislative Regulations Review Committee. Based upon the same considerations, I also recommend this proposed regulation, upon promulgation, be submitted to the U.S. Environmental Protection Agency as a revision to the Connecticut State Implementation Plan for Air Quality.



Paul E. Farrell
Hearing Officer

9/17/98
Date

Attachment 1
List of Commentors

1. Mr. David B. Conroy, Manager
Air Quality Planning Unit
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