



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ANN ARBOR, MICHIGAN 48105

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OFFICE OF  
AIR AND RADIATION

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MEMORANDUM

SUBJECT: EPA Meeting with National Association of Fleet Administrators, Inc. (NAFA) to Discuss the Document Entitled "Draft Definitions for the Clean Fuel Fleet Program"

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TO: Docket A-92-30

The Clean Air Act provides a framework for Clean Fuel Fleet Program (CFF) and requires that EPA promulgate certain regulations regarding the program, which affected states are to implement. However, certain terms and issues were not sufficiently defined in the Act. Thus, to reduce ambiguity and increase the effectiveness of the CFF program, EPA will propose in the CFF Emission Standards, Conversions, and General Provisions NPRM to define certain terms and resolve certain issues by regulation.

On November 24, 1992 three representatives (Janis Christensen, David Lefever, and Patrick O'Connor) of the National Association of Fleet Administrators, Inc. (NAFA) met with EPA staff members from the Special Regulatory Projects Branch to discuss the document entitled "Draft Definitions for the Clean Fuel Fleet Program" (see document numbered II-C-1 in Docket A-92-30). These discussions focused upon the key definitions for "covered fleet operator," "centrally fueled," and "capable of being centrally fueled," as well other draft definitions. The input presented by NAFA is attached. EPA and NAFA agreed to continue to address these issues as the formal rulemaking process begins in the near future.

Attachment

November, 1992

**RESPONSE TO EPA DOCUMENT, "DRAFT DEFINITIONS FOR THE CLEAN FUEL FLEET PROGRAM"**

The following statements reflect the preliminary comments of the National Alternative Fuels Task Force of the National Association of Fleet Administrators, Inc.

TERMS NOT ADDRESSED (Page 2 of EPA Document)

EPA has made a decision to not define the following terms because they are sufficiently defined in the Act.

1. "covered fleet"
2. "covered area"
3. "covered fleet vehicle"

NAFA COMMENT: Agree with EPA's decision

OTHER TERMS NOT ADDRESSED (Page 2 of EPA Document)

EPA has declined to define certain other terms because the issues involved vary widely from area to area.

1. "the development of SIP revisions, including who should participate in relevant discussions"

NAFA COMMENT: Although this may not be needed by regulation, SIP approval should be contingent on a state's demonstration that the requirement of Section 246(a)(4) -- "Consultation; Consideration of Factors" has been met.

2. "fuel issues, including fuel availability and fuel use"

NAFA COMMENT -- , Availability of Clean Alternative Fuels --Section 246(e) requires that fuel providers make clean alternative fuels available to covered fleet operators. This issue must be covered by federal regulation. The availability of clean alternative fuels to centrally fueled fleets is a critical element of the program. This issue does not meet EPA's criteria of a topic "omitted from the proposed regulations because the issue varies widely from one area to another." It more appropriately meets EPA's criteria for a topic where there is a "need for uniformity among state programs ... for fleets operating in more than one state.

A national regulation setting the requirements for fuel availability also relieves that states from the potentially contentious issue of ensuring that state programs are "fuel neutral."

"COVERED FLEET OPERATOR" (Pages 3-5 of EPA Document)

EPA is proposing that:

1. A "covered fleet operator" be defined as a person who operates a fleet of at least ten "covered fleet vehicles."

NAFA COMMENT: Agree

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2. To be a covered fleet operator, the fleet must either be primarily operated within the covered area or must be centrally fueled, or garaged and maintained, at a site within the covered area.

**NAFA COMMENT:** The concept of centrally garaged and maintained is not included in the Clean Air Act Amendment of 1990.

3. Fleets which are operated from a covered area, or spend 75 percent or more of the operating time in the covered area, should be considered operating in the covered area.

**NAFA COMMENT:** Agree with the use of a 75 percent operating time test. A 75 percent level represents a high degree of operation inside a covered area, with concomitant impact on area emission levels. This level ensures that only those fleets that spend a substantial amount of time in the covered area will be required to make the substantial investment in clean-fuel vehicles and fueling facilities.

4. Fleets report to their states the use pattern for each vehicle that does not meet the 75% test. EPA is proposing to allow the states to choose the criteria that will be used to determine the percentage of use in a covered area including indicators of mileage, location of destination points, or fraction of time spent operating in the covered area.

**NAFA COMMENT:** A substantial reporting requirement creates a significant burden for fleet operators, and states, particularly if the report requires detailed information. A suggested alternative would be to limit the requirement to a reporting of the number of non-covered vehicles, with a certification that the necessary data supporting the determination is available for inspection.

The burden associated with a detailed reporting requirement is not commensurate with the benefit that the states would obtain. States are not going to be able to process the information from thousands of fleet operators. In the Los Angeles Basin alone, the number of fleet operators is estimated at between 10,000 and 20,000.

A simplified report with a recordkeeping requirement provides the opportunity for states to conduct random inspections to ensure compliance.

An additional burden for fleets would result if states were to select differing criteria for determining the degree of fleet operation in a covered area. National fleets, in particular, would find it very difficult to collect data on individual vehicles based on such factors as destination points or miles actually driven in the area. Typically, this type of information is not collected.

NAFA recommends that EPA establish national criteria, with the states having the option of choosing additional criteria. A fleet would then have the option of selecting which criteria most accurately and efficiently represents the operation of the fleet.

NAFA recommends that EPA consider a criteria based on the percentage of fuel purchased in the covered area. This information could be efficiently collected by most fleet operators.

5. Covered fleet operators be able to appeal to their states to modify their figures on the number of covered fleet vehicles. Further, EPA proposes that states be allowed to require that the state be updated by a covered fleet operator of any increases in fleet size.

**NAFA COMMENT:** Agree

'CENTRALLY FUELED' (Pages 5-6 of EPA Document)

EPA is proposing to:

1. Define "centrally fueled" as meaning that a fleet vehicle is usually refueled at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the covered fleet operator.

[If fleet vehicles are required to be refueled at a service station with which the fleet operator has contract for refueling purposes, then the vehicles would be considered to be centrally fueled. However, if there is not such contract, and the fleet vehicles receive no special refueling benefits at the service station, then they would not be considered centrally fueled. Credit card purchases would not be considered a refueling agreement.]

NAFA COMMENT: Contract refueling presents at least two issues. First, a fleet may have an agreement with a local service station for refueling of several, but less than 10 vehicles. In this instance, is the fleet considered to be a "covered fleet operator" with central fueling.

The second issue is more acute. In a contractual relationship the fleet operator will not always have the ability to persuade the fuel provider to make a clean alternative fuel available. Not only small service stations provide contract refueling, but large service companies, such as Ryder and Penske, will include refueling within the range of their services.

The EPA should adopt a threshold test for determining if contract refueling equates to centrally fueled and should require those contract facilities to make the clean alternative fuel available (Section 246(e)). A fuel provider would be required to make a clean alternative fuel available to its fleet customers, if such fuel provider provides refueling to x number of fleet vehicles per a specified time period. Fuel providers refueling less than x number of vehicles would not be required to provide the clean fuel and their fleet customers would not be considered centrally fueled.

2. Define "usually refueled" as meaning a fleet vehicle which is refueled at such location at least 75 percent of the time.

NAFA COMMENT: Agree

3. Require that a fleet report to the state which vehicles are not centrally fueled, along with how the determination is made.

NAFA COMMENT: As discussed earlier, such a provision would create a substantial paperwork burden for fleet operators. A simplified report with a recordkeeping requirement provides the opportunity for states to conduct random inspections to ensure compliance. In this case the EPA should develop national criteria, rather than the states.

4. Allow each state to determine the parameters of average fleet operation for fleets in their states. That determination may be based on seasonal working patterns for each fleet or other considerations.

NAFA COMMENT: Unsure of what is meant. Very concerned if the intent is to set criteria which is based on an "average fleet operation." Average fleet criteria are not appropriate because of the diversity and lack of uniformity of fleets and their operating characteristics.

CAPABLE OF BEING CENTRALLY FUELED (Pages 6-8 of EPA Document)

EPA is proposing:

1. That capable of being centrally fueled be defined as meaning it would be practical and economically feasible to refuel the covered fleet vehicles at a location that is owned, operated, or controlled by the covered fleet operator, or it under contract with the covered fleet operator.

NAFA COMMENT: Agree with EPA's decision.

2. That fleets which have been centrally fueled at any time since November 15, 1990, be presumed to be capable of being centrally fueled.

NAFA COMMENT: Agree, unless the facility has been closed, and the operations terminated.

3. Fleets which consist of vehicles that do not travel further than their operating range on a single tank of fuel more than 50 percent of the time before returning to a central location are presumed to be capable of being centrally fueled.

NAFA COMMENT: The proposed language would define as capable of central fueling vehicles which exceed the range of their fuel supply up to 50 percent of the time. This approach contradicts the clear intent of the Clean Air Act Amendments of 1990: to focus clean fuel mandates on fleet vehicles which are centrally fueled because these vehicles can regularly operate on the clean fuel obtained from their own fueling facility. How could a fleet operate a dedicated clean-fueled vehicle, for example, if half the time it could not carry enough fuel to return to the original location? The 50 percent number appears to be an arbitrary figure. While we agree with EPA's conclusion that "it would be contrary to the intent of the Act to exempt vehicles just because, on occasion, they travel further than their operational range," we feel that the 50 percent number dramatically exceeds the "occasional" situation.

We recommend that fleet vehicles that do not travel further than their operational range on a single tank of fuel more than 25 percent of the time before returning to such common location are presumed to be capable of being centrally fueled. This would more accurately reflect the "occasional" trips beyond operational range. This would also parallel EPA's definition of "centrally fueled" as meaning a fleet vehicle which is fueled at a location at least 75 percent of the time (or not fueled at the facility more than 25 percent of the time.)

4. That as long as the fleet has at least 10 vehicles that are capable of central refueling, that fact that one or more additional vehicles are not capable of centrally fueling does not mean that the entire fleet is incapable of central fueling. Therefore, covered vehicles purchased for use in such a fleet will trigger the purchase requirements, regardless of how individual vehicles will be fueled.

NAFA COMMENT: We are not certain of what is intended. Does EPA mean that the percentage purchase requirement, i.e. 30 percent in model year 1998, applies to all vehicles in the fleet, including vehicles that are not capable of being centrally fueled. Example, a fleet has 100 vehicles, 30 are capable of central fueling, 70 are not. In model year 1998 the fleet intends to purchase 30 vehicles (15 are capable of central fueling, 15 are not). Does the 30% acquisition apply to the 30 vehicles or to the 15 vehicles? The acquisition requirement should apply just to those vehicles that are capable of being centrally fueled.

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5. That fleets report to their state whether some or all of their vehicles are not capable of being centrally fueled.

**NAFA COMMENT:** As discussed earlier, such a provision would create a substantial paperwork burden for fleet operators. A simplified report with a recordkeeping requirement provides the opportunity for states to conduct random inspections to ensure compliance. In this case the EPA should develop national criteria, rather than the states. The capability of a fleet being centrally fueled is not going to vary by area. For purposes of planning, national fleets need consistency and certain in how this determination is made.

**EMERGENCY VEHICLE** (Page 11 of EPA Document)

EPA is proposing:

1. To define emergency vehicle as meaning any vehicle that is legally authorized by a government authority to exceed the speed limit to transport people and equipment to and from situations in which is required to save lives or property.

**NAFA COMMENT:** Agree with EPA's decision.

2. That vehicles whose primary function does not include exceeding the speed limit, such as tow trucks, are not considered emergency vehicles.

**NAFA COMMENT:** Agree with EPA's decision with a modification. EPA has made a blanket assumption that tow trucks are never emergency vehicles. In fact, such vehicles are regularly used for emergency purposes, particularly when operated by government agencies. Such vehicles are authorized to exceed the speed limit and are equipped with blue and/or red flashing lights. A more accurate statement would be that "for hire tow trucks" are not considered to be exempt. Other tow trucks would be exempt if authorized to exceed the speed limit and equipped with red and/or blue flashing lights.

**LAW ENFORCEMENT VEHICLE** (Page 11 of EPA Document)

EPA is proposing:

1. To define "law enforcement vehicle" as meaning any vehicle which is primarily operated by a civilian or military police officer or sheriff, or by personnel of the FBI, DEA, or other agencies of the federal government, or by state highway patrols, or other similar law enforcement agencies, and which is used for the purpose of law enforcement activities.

Vehicles operated by private security companies and vehicles operated by law enforcement agencies largely for staff or administrative purpose would not be covered by this exemption.

**NAFA COMMENT:** Agree with EPA's decision.

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**MODEL YEAR** (Page 12 of EPA Document)

EPA proposes that the "model year" for fleet purchases be September 1 to August 31.

**NAFA COMMENT:** Agree with EPA's decision.

**NEW COVERED FLEET VEHICLE** (Pages 13-15 of EPA Document)

EPA proposes to define this term as a vehicle that has not been previously controlled by the current purchaser, regardless of model year, except as follows.

1. Vehicles that were manufactured before the start of the fleet program.

**NAFA COMMENT:** This provision will favor fleets which frequently acquire only used vehicles, such as taxicab fleets which frequently acquire used police vehicles. Under the proposed regulation, these fleets might not have to acquire clean-fueled vehicles for many years.

2. Vehicles transferred as part of a corporate takeover, acquisition or merger, and vehicles transferred with an employee.

**NAFA COMMENT:** This is a very important to the efficient management of vehicle fleets.

3. Vehicles transferred into a fleet for less than 120 days.

**NAFA COMMENT:** Agree with EPA's decision.

**UNDER NORMAL CIRCUMSTANCES GARAGED AT PERSONAL RESIDENCE AT NIGHT**, Pages 16-17 of EPA Document)

EPA proposes to define this term as meaning a vehicle that, when it is not in use, is normally parked at the personal residence of the individual who usually operates it, rather than at a central refueling, maintenance, and/or business location. This exemption would not apply to vehicles which are, in fact, centrally fueled.

**NAFA COMMENT:** Supports EPA determination on the meaning of this term, as long as the definition of the term "centrally fueled" includes the phrase "usually refueled" and means a fleet vehicle which is refueled at such location at least 75 percent of the time.

**DISTRIBUTED FLEETS** (Pages 18-19 of EPA Document)

Distributed fleets are fleets which are owned by one person but are operated from different locations within a covered area. EPA discusses three cases:

1. A fleet is not covered when the total fleet in the covered area consists of less than 10 vehicles.

**NAFA COMMENT:** Agree with EPA's conclusion.

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2. A fleet is covered if the total fleet consists of 10 or more vehicles, all of which are centrally fueled. EPA is proposing that these vehicles should be considered to belong to one fleet regardless of whether the vehicles are fueled at the same location.

**NAFA COMMENT:** Unclear as to the difference between this example and the following example.

3. Portions of a fleet of 10 or more centrally fueled vehicles would not be covered in the event that subjects consist of less than ten vehicles.

**NAFA COMMENT:** Unclear as to the difference between this example and the example above.

**MULTI-STATE NONATTAINMENT AREAS.** (Pages 19-20 of EPA Document)

EPA proposes to require that, to the greatest extent possible, multi-state nonattainment areas promulgate a single clean-fuel vehicle program.

**NAFA COMMENT:** This is a very important factor in a successful clean-fuel fleet program. Multi-state areas should be required to promulgate a single clean-fuel vehicle program.