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OFFICE OF
 AIR AND RADIATION

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MEMORANDUM

SUBJECT: Clean Fuel Fleet Vehicle
 Distributed Fleets Regu

FROM: Jean Marie Revelt, EPS *Jean Marie Revelt*
 Engine and Vehicle Regulations Branch

THRU: Tad Wyszor, Project Manager *Tad Wyszor*
 Special Regulatory Projects Branch

TO: Docket No. A-92-30
 Clean Fuel Fleet Definitions and General Provisions

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1. The Question

With regard to counting the vehicles in distributed fleets under the Clean Fuel Fleet Vehicle program, Muhammed R. Islam of the Wisconsin Department of Natural Resources and Brad Beeson of EPA Region 5 recently asked us whether, for the purposes of the purchase requirement, each operating location is considered separately. More specifically, Mr. Islam would like to know if the method of counting vehicles would allow a fleet with several locations in a single nonattainment area to consolidate the administration of the fleet among the locations and thus avoid separate compliance in each separate location. Thus, a fleet owner could tally all the covered vehicles among the locations to determine the number of covered fleet vehicles for the purpose of the purchase requirement. Then, the fleet owner could acquire the necessary clean fuel vehicles centrally and allocated them among the distribute fleets according to how it makes most sense.

Mr. Islam believes that this is allowed pursuant to the Clean Fuel Fleet Vehicle program definitions, because the criteria for covered fleet operators is based on the overall count of 10 covered fleet vehicles in a single covered area. His interpretation is based on three major criteria: (1) whether the fleet operates in a single covered area; (2) whether the vehicles can be centrally fueled; and (3) whether the number of covered vehicles is more than 10, regardless of whether they are parked.

2. The Answer

Mr. Islam is correct in his interpretation that subfleets are combined for the purposes of determining the number of covered fleet vehicles owned or operated by a single person. More specifically, in the case of a distributed fleet, if the number of *covered fleet vehicles* summed across subfleets is equal to or greater than ten, then the entire fleet is a covered fleet for the purpose of the rule and those covered fleet vehicles are subject to the purchase requirements specified in the Act. Because the fleet is considered in its entirety, the fleet operator can distribute the clean fuel fleet vehicles required to be purchased under the program among the subfleets as desired.

The remainder of this memorandum discusses this issue in more detail. It concludes with a discussion of how to count vehicles in a distributed fleet for the purpose of determining the number of clean fuel fleet vehicles that must be purchased pursuant to the program.

3. Discussion

It is understandable that there would be some confusion with regard to how to treat distributed fleets for the purpose of determining the purchase requirements of the clean fuel fleet program, in part because the NPRM contained a specific section on how to deal with distributed fleets but the final rule does not. However, both the NPRM and final rule come to the same conclusion on this question.

a) NPRM. The NPRM proposed to treat distributed fleets as follows:

(i) If the total distributed fleet consists of less than ten vehicles, then it is not considered to be a covered fleet.

(2) If the total distributed fleet consists of ten or more vehicles, and they are all centrally fueled, then the fleet is considered to be a covered fleet.

(3) If the total distributed fleet consists of ten or more vehicles which operate primarily in the covered area, but portions of that fleet operate out of separate facilities and one or more of the subfleets consist of less than ten vehicles, then as long as ten or more vehicles summed across the subfleets are centrally fueled or capable of being centrally fueled at least some of the time, those vehicles are subject to the requirements of the program.

In other words, if ten or more vehicles across the subfleets are centrally fueled or capable of being centrally fueled, then those

vehicles constitute a covered fleet and are subject to the terms of the program.

b) Final Rule. The treatment of distributed fleets in the final rule is consistent with what was proposed in the NPRM, even though explicit discussion of this issue was omitted. This discussion was not included because of changes in the definition of centrally fueled and capable of being centrally fueled. Specifically, to be considered centrally fueled or capable of being centrally fueled, it must be the case that a vehicle is or could be refueled at a central location 100% of the time. Thus, a vehicle that is not already currently centrally fueled 100% of the time and that is operated beyond its operational range (as specified in the rule) is not considered to be capable of being centrally fueled.

Because of the 100%-of-the-time requirement, it is reasonable to sum vehicles over distributed fleets to determine if the number of covered fleet vehicles in a fleet is greater than or equal to ten. Any vehicle that could not even potentially be centrally refueled would never be required to be replaced by a clean fuel vehicle that would require special fuel.

A result of this determination may mean that one or more subfleets in a distributed fleet may contain less than ten covered fleet vehicles. While it can be argued that this will make it hard to ensure fuel availability for the clean fuel vehicles required to be purchased (because it may not be efficient to acquire central fueling facilities for fewer than ten vehicles at a subfleet location), it is not expected to be burdensome for fleet operators for at least three reasons. First, fleet operators can enter into refueling arrangements with fuel stations, or even other fleet operators, to ensure the availability of clean alternative fuels.

Second, reformulated gasoline is included as a clean fuel under the terms of the Act, and this fuel is expected to be readily available in many areas required to implement the clean fuel fleet program as part of their SIP. In addition, manufacturers will be able to certify clean fuel fleet vehicles using conventional gasoline as the "clean fuel." This will make it easier for fleets in all areas to comply with the purchase requirements of the program, particularly those in nonattainment areas that are subject to the clean fuel fleet program but that are not reformulated gasoline areas (Atlanta, GA; Baton Rouge, LA; Denver/Boulder, CO).

Finally, fleet operators may allocate the clean fuel vehicles among the subfleets any way they choose, to facilitate fuel availability. Since it will never be the case that 100% of the covered fleet vehicles will need to be clean fuel vehicles, the fleet operator has some flexibility in determining how to

place the clean fuel vehicles among the distributed fleets. For example, a fleet operator may decide to place all of the clean fuel fleet vehicles in one location, to make the installation of a central fuel facility economically feasible or to centralize maintenance. Alternatively, the fleet operator may choose to place all of the vehicles in equal or any other proportion among the subfleets. In any case, the ability to distribute clean fuel fleet vehicles among subfleets is considered to be an important mechanism to enable fleet owners to satisfy the purchase requirement in the most efficient way possible, with minimal interference with the normal business operations of the fleet.

4. An Important Point About How To Count Vehicles

An important point to emphasize is that, when determining if a fleet is subject to the program, it is not sufficient to simply count the total number of vehicles in an operator's fleet. What matters is the number of *covered fleet vehicles*. Thus, fleet owners need to go through the following logic:

- * Is the fleet operated in a covered area?
- * Are there at least 10 non-exempt vehicles in the fleet?
- * Are at least 10 of those non-exempt vehicles operated in the covered area (as such operation is defined by the state)?
- * Are at least 10 of those vehicles centrally fueled or capable of being centrally fueled 100% of the time?

If the answer to the last question is "yes," then the fleet is a covered fleet for the purpose of the program.

Again, it does not matter if those vehicles are split up into several subfleets and each subfleet has less than ten covered fleet vehicles. Because they are or could be centrally fueled, and there are more than ten of them, they are subject to the purchase requirement.

Finally, for purposes of complying with the purchase requirement, the fleet owner may purchase vehicles centrally and allocate them among the distributed fleets as he or she sees fit. Thus, the fleet operator can place all of the clean fuel vehicles in one subfleet, or allocate them in any proportion among the subfleets.

cc: Muhammed R. Islam
Wisconsin Department of Natural Resources