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BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)
)RO1-12
ENHANCED VEHICLE INSPECTION AND) (RULEMAKING - AIR)
MAINTENANCE (I/M) REGULATIONS:)
AMENDMENTS TO 35 ILL. ADM.)
CODE 240.)

The following is a transcript of proceedings
from the hearing held in the above-entitled matter,
taken stenographically by ROSEMARIE LAMANTIA, CSR, a
notary public within and for the County of Cook and
State of Illinois, before RICHARD R. MCGILL, JR.,
Hearing Officer, at 100 West Randolph Street, Room
11-500, Chicago, Illinois, on the 11th day of October,
2000, A.D., scheduled to commence at the hour of 10:30
a.m.

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A P P E A R A N C E S:
HEARING TAKEN BEFORE:

3 ILLINOIS POLLUTION CONTROL Board,
100 West Randolph Street
4 Room 11-500
Chicago, Illinois 60601
5 (312) 814-3629
6 BY: RICHARD R. MCGILL, JR., HEARING OFFICER

7 ILLINOIS POLLUTION CONTROL Board MEMBERS PRESENT:

8 Mr. Samuel Lawton, Jr.

9 Mr. Anad Rao

10

11 MEMBERS OF THE ILLINOIS Environmental Protection Agency

12 AS WELL AS OTHER INTERESTED ENTITIES AND AUDIENCE

13 MEMBERS WERE PRESENT AT THE HEARING, BUT NOT LISTED ON

14 THIS APPEARANCE PAGE.

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1 HEARING OFFICER MCGILL: On the record.

2 Good morning. My name is Richard McGill. I'm

3 the senior attorney for Research and Writing with the

4 Illinois Pollution Control Board.

5 The Board has appointed me to serve as a hearing
6 officer in this rulemaking proceeding entitled In The
7 Matter of Enhanced Vehicle Inspection and Maintenance
8 I/M Regulations: Amendments to 35 Illinois
9 Administrative Code 240. The docket number for this
10 rulemaking R01-12 and today is the first hearing.

11 Also present today on behalf of the Board is
12 Board member Samuel T. Lawton, Jr., to my left; and from
13 the Board's technical unit, Anand Rao, to my right.

14 I'll just provide a little background on the
15 Agency's proposal.

16 On August 21, 2000, the Illinois Environmental
17 Protection Agency or Agency filed a proposal to amend
18 the Enhanced Vehicle Inspection and Maintenance or I/M
19 Regulations at 35 Illinois Administrative Code 240.

20 The enhanced I/M program is designed to control
21 air emissions from vehicles and it applies in the
22 Chicago metropolitan and metro east St. Louis ozone
23 non-attainment areas.

24 The Agency describes its proposed amendments as

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1 follows.

2 Delaying the implementation of pass/fail
3 on-board diagnostic testing from January 1, 2001, to
4 January 1, 2002; retaining current more lenient start-up
5 hydrocarbon and carbon monoxide emission standards for
6 model year 1981 through model year 1987 light duty
7 vehicles, light duty trucks 1 and light duty trucks 2

8 and adding several definitions incorporating United
9 States Environmental Protection Agency or USEPA guidance
10 by reference eliminating outdated provisions and
11 clarifying certain provisions.

12 The Agency proposes the amendments pursuant to
13 Section 13B-20(a) of the Vehicle Emissions Inspection
14 Law of 1995, which exempts this proceeding from certain
15 rulemaking requirements.

16 Because that section requires the Board to adopt
17 rules within 120 days after it receives the Agency's
18 proposal, the Board, without commenting on the merits of
19 the Agency's proposal, proceeded by submitting the
20 proposed amendment for publication in the Illinois
21 Register.

22 The proposed amendments appeared in Volume 24 of
23 the Illinois Register on December 15, 2000, beginning at
24 page 13820.

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1 December 19th is the 120th day after the Board
2 received the Agency's proposal. The last regularly
3 scheduled Board meeting before that statutory deadline
4 is December 7, 2000. The Board, therefore, could adopt
5 final ruling at its December 7th meeting in compliance
6 with the 120 day deadline.

7 Please note that sign-up sheets for this
8 proceeding service and notice list are located here at
9 the front of the room. Those on the notice list will

10 receive only Board opinions and orders and hearing
11 officer orders. Those on the service list will receive
12 these documents plus certain other filings such as
13 public comments. Also here at the front of the room are
14 copies of the current notice and service lists. These
15 lists are updated periodically.

16 Besides witnesses for the Agency, if you wish to
17 testify today, you must sign-in on the appropriate
18 sign-up sheet here at the front of the room. Time
19 permitting, after the Agency's testimony, we will
20 proceed with the testimony of persons who sign up in the
21 order their names appear on the sign-up sheet.

22 Just a few words about the format we'll follow
23 today.

24 The Board's procedural rules for regulatory

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1 proceedings govern this hearing. All information that
2 is relevant and not repetitious or privileged will be
3 admitted. All witnesses will be sworn and subject to
4 cross questioning.

5 If you do not wish to give testimony, you may
6 file written public comments.

7 As for the order for today's proceeding, we'll
8 begin with the Agency's testimony. Time permitting
9 after that we'll proceed with the testimony of persons
10 who sign up in the order their names appear on the
11 sign-up sheet. Anyone may ask a question of any
12 witness. I ask that during question periods, if you

13 have a question, please raise your hand and wait for me
14 to acknowledge you. When I acknowledge you, please
15 state your name and any organization you are
16 representing here today and your position with that
17 organization.

18 Please speak one at the time. If you are
19 speaking over each other, the court reporter will not be
20 able to accurately transcribe your statement for the
21 record. For the same reasons, please speak loudly and
22 clearly and not too rapidly.

23 Please note that any questions asked by anyone
24 with the Board are intended to help build a complete

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1 record for the Board's decision and not to express any
2 preconceived notion or bias.

3 Are there any questions about the procedure that
4 we'll follow today? Seeing none, I'd ask Board member
5 Lawton if you would like to make any remarks at this.

6 MR. LAWTON: On behalf of the Chairman Claire
7 Manning and the Board I want to welcome you to this
8 hearing. The hearing officer has indicated that we're
9 under a severe time frame so I'm not going to take up
10 your time with comments of my own too much. It's nice
11 to see you both.

12 HEARING OFFICER MCGILL: Thank you.

13 The purpose of this portion of the hearing is to
14 receive testimony from the Agency on its proposed

15 amendment.

16 At this point, I would ask the court reporter to
17 swear in all of the Agency witnesses at once, Chris
18 Demeroukas, assistant counsel, Division of Legal Counsel
19 with IEPA is here, and it James R. Matheny, manager,
20 technical services, vehicle inspection and maintenance
21 with the Agency is also here. If you would go ahead and
22 swear them in.

23 (Witnesses sworn.)

24 HEARING OFFICER MCGILL: Mr. Demeroukas, I'll

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1 turn it over to you at this point.

2 MR. DEMEROUKAS: Thank you, Mr. McGill. Good
3 morning.

4 My name is Chris P. Demeroukas. I'm an
5 assistant counsel for the Illinois EPA working in the
6 vehicle emissions test program.

7 The Illinois EPA is here today to present
8 testimony regarding certain amendments of the Board's
9 vehicle emission and inspection rules of Part 240.

10 Before I go further, I'd like to have two
11 exhibits marked for identification and introduced into
12 the record.

13 HEARING OFFICER MCGILL: Okay. I have been
14 handed two documents and I'll take them in turn.

15 The first document is referred to as an errata
16 sheet, E-R-R-A-T-A, signed by Christopher Demeroukas and
17 dated October 12, 2000.

18 Is there any objection to entering the described
19 document as a hearing exhibit? Seeing none, I'll mark
20 this as Exhibit No. 1 and enter this document into the
21 record as a hearing exhibit.

22 (Exhibit No. 1 was received.)

23 HEARING OFFICER MCGILL: The second document is
24 from the Federal Register of September 20, 2000, and

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1 it's Volume 65, beginning at page 56844 and running to
2 page 56856, and it's entitled Environmental Protection
3 Agency 40 C.F.R. Parts 51 and 85, amendments to vehicle
4 inspection maintenance program requirements
5 incorporating the on-board diagnostic check. It is a
6 notice of proposed rulemaking from the USEPA. Is there
7 any objection to entering the described document as a
8 hearing exhibit? Seeing none, I'll mark this document
9 as Exhibit No. 2 and enter it into the record as a
10 hearing exhibit.

11 (Exhibit No. 2 was received.)

12 HEARING OFFICER MCGILL: Okay. Mr. Demeroukas,
13 if you would like to proceed with the Agency's
14 testimony.

15 MR. DEMEROUKAS: Thank you.

16 Unfortunately, our program manager, Elizabeth
17 Tracy, was unable to make it today, so I will right now
18 briefly describe those two exhibits, which she was going
19 to do in her prepared testimony.

20 The first exhibit is an errata sheet, as
21 mentioned, and it contains basically two items. One
22 corrects a mistake between the statement of reasons
23 submitted previously and the actual proposed amendatory
24 text concerning the ending date of our proposed vehicle

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1 model year range to retain emission start-up standards.
2 The correct date should be 1987, instead of the
3 incorrect date of 1986, as stated in the statement of
4 reasons portion of our pre-submitted materials.

5 The second exhibit, as mentioned, is a notice of
6 proposed rulemaking concerning on-board diagnostics that
7 was recently published in the Federal Register by the
8 USEPA. In our pre-submitted document, we submitted a
9 letter from USEPA Region 5, here in Chicago, which
10 stated that these proposed amendments were forthcoming
11 and, in fact, they have now been published and we wanted
12 to get them into the record.

13 Our proposed amendments to Part 240 have three
14 main provisions.

15 First, they propose a delay of up to one year in
16 the implementation of so-called pass/fail on-board
17 diagnostic testing for most model year 1996 and newer
18 vehicles equipped with OBD equipment.

19 Second, it proposes to retain the current
20 start-up emission standards for certain older vehicles
21 model year 1981 through 1987, instead of going to final
22 standards, as is currently required by the rule, on

23 February 1st, 2001.

24 Finally, our rule proposes certain minor

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1 clarifications and cleanup changes to the existing rule.

2 I'd now like to have Mr. James Matheny of the
3 EPA read into the record his pre-filed testimony and
4 then we'll both be available for questions.

5 MR. MATHENY: Good morning. My name is James
6 Matheny. I'm the manager of technical services in the
7 Division of Inspection and Maintenance, Bureau of Air,
8 Illinois EPA.

9 I've been employed with the Agency since 1976,
10 including approximately 9 years in the Division of Air
11 Pollution Control and 15 years in the Division of
12 Vehicle Inspection and Maintenance. I'm a registered
13 professional engineer.

14 The purpose of my testimony is to provide
15 information on the results of the evaluations conducted
16 to determine the potential impasse of the Agency's
17 proposed amendments to Part 240, particularly the
18 proposed retention of start-up I/M 240 exhaust emissions
19 standards for 1981 through 1987 model year vehicles.

20 The evaluation consisted of analyzing results of
21 I/M 240 emissions tests conducted during the first one
22 and one half years of enhanced program operation to
23 determine the current and projected behavior of
24 passenger cars -- of the passenger car and light duty

1 fleet. Emissions modeling was conducted to estimate the
2 potential loss in emission reduction benefit due to
3 retaining start-up standards for specific model years of
4 vehicles.

5 Estimated impacts of proposed changes on failure
6 rates and retest volumes.

7 Prior to implementation of the enhanced sign-in
8 program, the Illinois EPA projected annual test volumes
9 based upon the use of historical Illinois vehicle
10 registration data and emission test failure rates
11 predicted to result from application of applicable
12 emission standards. In the absence of I/M 240 test
13 data, Illinois EPA relied upon data from USEPA research
14 programs and operating I/M programs in other states to
15 estimate how many vehicles would fail the initial test
16 and require repair.

17 Now, with over one and one half years of
18 operating experience and data on over two and one half
19 million I/M 240 tests the Illinois EPA can more
20 accurately predict how vehicles will actually perform
21 when tested. Data indicates more accurately -- excuse
22 me -- data indicates that older model year vehicles, if
23 tested against final I/M 240 cutpoints or standards,
24 will be expected to fail at more than double the current

1 rates. For the oldest vehicles subject to the I/M 240

2 test, final standard failure rates in excess of 50
3 percent are expected. Retaining start-up standards for
4 these vehicles has been recommended as a means to
5 maintain public acceptance of the I/M program without
6 significantly impacting on program effectiveness.

7 As summarized in the technical support document,
8 the Illinois EPA has estimated that in calendar year
9 2001, 50,000 fewer vehicles would fail the initial
10 inspection, if start-up standards were retained for 1981
11 through 1987 model year vehicles.

12 Estimated impacts of proposed changes on I/M
13 program emission reduction benefits.

14 Using the MOBILE5 emission factor model,
15 Illinois EPA has estimated the loss in I/M Program
16 Volatile Organic Material or VOM reduction due to
17 retention of the start-up standards. The results of
18 this analysis indicate that the proposal would have
19 relatively small impact on program effectiveness, which
20 with annual fleet turnover, will diminish each year.

21 In 2002, the change would reduce program
22 effectiveness by approximately 2.0 tons per day of VOM
23 reduction in Northeastern Illinois or approximately 3
24 percent of total I/M program VOM reductions.

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1 By 2006, the change would amount to 0.4 tons per
2 day or 0.6 percent of total I/M VOM reductions.

3 This lost in effectiveness is small and can be

4 accommodated in the Illinois State Implementation Plan.

5 This concludes my prepared statement.

6 HEARING OFFICER MCGILL: Thank you. We'll now
7 proceed with questions for the Agency's witnesses.

8 As I mentioned earlier, if you have a question,
9 please raise your hand and wait for me to acknowledge
10 you. When I acknowledge you, please state your name and
11 any organization you are representing here today and
12 your position with that organization.

13 Before the Board proceeds with its questions,
14 does anyone else have any questions for the Agency's
15 witnesses?

16 AUDIENCE: I have one clarification question.
17 I'm Kendra O'Connor with the Illinois Attorney General's
18 office, Environmental Bureau.

19 When you were swearing in the -- or admitting
20 the documents to record, you said the errata sheet was
21 dated October 12th.

22 HEARING OFFICER MCGILL: That is the date on the
23 document but I assume, Mr. Demeroukas, that was an
24 oversight. Is that correct?

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1 MR. DEMEROUKAS: That's correct. It should be
2 today's date, October 11th.

3 HEARING OFFICER MCGILL: Thank you for
4 clarifying that on the record.

5 Any other questions?

6 The Board has several questions it would like to

7 pose and we'll start with that at this time.

8 Just a general question, the phrase I/M 240 is
9 used throughout the existing Part 240 rules and the
10 Agency's proposal. For the record, please explain what
11 the phrase I/M 240 means.

12 MR. MATHENY: I/M 240 is -- I/M 240 is the
13 acronym to describe or refer to the transient mass
14 emissions inspection procedure that USEPA had developed
15 back in the late 1980s and has been implemented for use
16 in the Illinois Enhanced Vehicle Inspection and
17 Maintenance Program. I/M 240 refers to -- 240 refers to
18 the 240 second maximum duration of the driving cycle
19 that the vehicle undergoes as it is positioned on the
20 dynamometer and essentially driven for the purposes of
21 measuring the mass amount of emissions coming out of the
22 tail pipe.

23 HEARING OFFICER MCGILL: Thank you.

24 MR. RAO: Yes, I had a clarification question

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1 concerning this new definition you've proposed for
2 adjusted loaded vehicle weight. Can you please clarify
3 whether this adjusted loaded vehicle weight is the
4 average of vehicle curb weight and gross vehicle weight
5 or is it just a sum of the vehicle curb weight and the
6 gross weight divided by two? You know, just clarify
7 whether the definition applies to both terms or just
8 the -- the gross vehicle weight.

9 MR. MATHENY: The adjusted vehicle weight, you
10 should sum the current weight plus the gross vehicle
11 weight and then divide that value by two.

12 MR. RAO: Okay. Thank you.

13 HEARING OFFICER MCGILL: Another question
14 relating to definitions, currently -- this is in Section
15 240.102 of the existing rules, there is a definition of
16 transient loaded mode test. And if I could, I'll
17 just -- I think it would be helpful to read that
18 definition. It is a short definition.

19 Transient loaded mode test means the vehicle
20 emissions test run on an inertial and power-absorbing
21 dynamometer using USEPA I/M 240 driving cycle consisting
22 of accelerations and decelerations simulating on-road
23 driving conditions.

24 Existing Part 240 Sub-part E, which addresses

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1 transient loaded mode test emissions standards, has
2 several provisions that appear to refer to the transient
3 loaded mode test but without using the defined term.
4 Does the Agency have a copy of current Part 240? If you
5 don't, I can provide that, if it would be helpful.

6 MR. DEMEROUKAS: I have a copy.

7 HEARING OFFICER MCGILL: Do you have a copy?

8 MR. DEMEROUKAS: Where specifically in Sub-part
9 E?

10 HEARING OFFICER MCGILL: I'm about to give some
11 samples of instances of language in Sub-part E that

12 appears to be referring to transient loaded mode test
13 but without using that defined term.

14 For example, Section 240.161, refers to quote,
15 transient I/M 240 loaded mode exhaust emission test
16 procedures, end quote.

17 Section 240.162 refers to quote, I/M 240
18 testing, end quote.

19 And Section 240.165 refers to quote, transient
20 I/M 240 test procedures, end quote.

21 Please explain whether these are all simply
22 different ways of referring to the defined term
23 transient loaded mode test?

24 MR. DEMEROUKAS: Could you clarify your last

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1 citation, 240.165?

2 HEARING OFFICER MCGILL: Right, 240.165,
3 Subsection A at the end of the first sentence refers to
4 transient I/M 240 test procedures, and in 240.165 B at
5 the end of the first sentence the same language appears,
6 transient I/M 240 test procedures. I'm just trying to
7 figure out if these are all references to the defined
8 term transient loaded mode test.

9 MR. MATHENY: They all refer to the same test.

10 HEARING OFFICER MCGILL: They all refer to the
11 same test. Okay. Thank you.

12 There is a question on Section 240.107,
13 incorporations by reference. The Agency proposes to

14 incorporate by reference a USEPA guidance document at
15 Section 240.107D. Is this guidance document referred to
16 elsewhere in the Part 240 rules?

17 MR. DEMEROUKAS: It is not referred to
18 specifically, but it is the source document for two
19 definitions, two new definitions. If that is not the
20 correct procedural way, if there doesn't need to be an
21 incorporation by reference, if it is not specifically
22 referenced, we would agree to take that out.

23 HEARING OFFICER MCGILL: Okay. So the reason
24 the Agency proposed incorporating the document by

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1 reference is that the -- that guidance document contains
2 the two newly proposed definitions, adjusted loaded
3 vehicle weight and vehicle curb weight?

4 MR. DEMEROUKAS: That's correct.

5 HEARING OFFICER MCGILL: Okay. So that wasn't
6 serving any other purpose then?

7 MR. DEMEROUKAS: No.

8 HEARING OFFICER MCGILL: Okay. Thank you.

9 Just a question on Section 240.162, vehicle
10 exhaust emission start-up standards, that section
11 currently states that the start-up standards, the less
12 stringent standards will apply, quote, until two years
13 after the beginning of I/M 240 testing, end quote.

14 Would it now be appropriate to replace the
15 quoted language with quote, until January 31, 2001, end
16 quote, or some other specific date?

17 MR. DEMEROUKAS: The language in that section
18 could be revised to include a specific date, although it
19 won't be January 1st, 2001. The reason this was
20 originally written this way, and it is currently in Part
21 240, was at the time that we proposed the amendments, we
22 did not know when the enhanced I/M program would start.
23 It turned out to start on February 1st, 1999. Although
24 we did know at the time prior to February 1st, 1999,

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1 that in two years after starting the program we wanted
2 to go to final standards. That is why it is written
3 somewhat in a contorted way. Instead of revising it for
4 a specific date, which I could do, I had introduced this
5 language that may be a little bit confusing, so it is
6 possible to come up with a specific date as a revised
7 proposed revision to that section.

8 HEARING OFFICER MCGILL: I may have misspoken.
9 I had suggested January 31, 2001, or I meant to suggest
10 that, I may have misspoken earlier. Would that be the
11 appropriate date, if the language would read something
12 to the effect of until January 31, 2001, or should it be
13 February 1, 2001?

14 MR. DEMEROUKAS: You're correct when you
15 mentioned January 1st, I didn't --

16 HEARING OFFICER MCGILL: Okay.

17 MR. DEMEROUKAS: -- but, yes, it would be
18 through January 31st for all vehicles but we would still

19 have to have the proviso that after that date, just as
20 the proposed language is now, subsequent to January
21 31st, 2001, these standards shall continue to apply and
22 then specify the 1981 through 1987 LDV, LDT1 and LDT2
23 vehicles. So we still need to have that in there.

24 HEARING OFFICER MCGILL: Understood. Thank you
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1 very much.

2 MR. RAO: I had a couple of -- few questions
3 concerning the proposed change, you know, which
4 basically retains the start-up standards for '81 through
5 '87 model year vehicles.

6 Could you please explain why this group of
7 vehicles have problems meeting the final standards?

8 MR. MATHENY: 1981 was the first year the
9 vehicles -- that light duty vehicles were required to
10 have three-way catalytic convertors to meet the federal
11 standards for nitrogen -- oxides of nitrogen.
12 That implementation of that standard on a federal level
13 more or less provided or required manufacturers to begin
14 to more accurately and precisely meter fuel into the
15 engines. The technology that was used to do that in
16 those early years was -- the vehicles began to appear
17 with computerized control systems and fuel metering
18 systems, although the technology wasn't as advanced as
19 it is now. Currently most vehicles on the road today,
20 most vehicles sold today have fuel injection, multiport
21 fuel injection systems, whereas back in the early '80s,

22 they were using less sophisticated methods to meter the
23 fuel. Including there are -- many vehicles continued to
24 use carburettors and we are finding now, and other

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1 states have found that have been testing those vehicles
2 and have moved to the final cutpoints, that it is very
3 difficult for many of those vehicles, particularly now
4 that they've got very high mileage. The average mileage
5 accumulation on the vehicles in this group are well over
6 100,000 miles. Those vehicles are nearing the end of
7 their useful life. And as a result, to repair those
8 vehicles to meet those tight standards became difficult
9 in terms of the availability of replacement parts and
10 the cost of those repairs, particularly relative to the
11 value of the vehicle. And the only option available to
12 some of those owners would be a waiver so the actual
13 impact or benefit associated with going to the final
14 cutpoints is lessened by the fact that the vehicle --
15 the owners would use other administrative means to
16 comply with the program as opposed to actually, you
17 know, buying the carburetor, the replacement carburetor,
18 if they can find it, or make the other necessary repairs
19 to meet the final cutpoints. And that was the primary,
20 you know, motivation.

21 MR. RAO: You know, you mentioned the problems
22 with getting parts to maintain these control devices on
23 these older vehicles and also the repair costs. Do you

24 have any idea as to what would be those, you know,

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1 repair costs if these vehicles were required to repair
2 their control devices to meet the final standards?

3 I know in your proposal you didn't talk a whole
4 lot about the economic impact of the rule because you're
5 relaxing the standard, just wanted to get -- you know,
6 some information in the record as to what would be the
7 cost if they were forced to comply with the final
8 standards? Do you have that information or would it be
9 possible for you to provide that information?

10 MR. MATHENY: I know that we -- it has been very
11 difficult for us to collect accurate information on the
12 cost of repair for vehicles that are in our program for
13 a number of reasons. We're trying to address that now
14 with our contractor and with the repair industry. So
15 far as the -- providing -- I know that the state of
16 Wisconsin, which has gone through similar rulemaking,
17 and has, in effect, adopted a similar approach where
18 they have not gone to the final cutpoints, they relied
19 on information provided by their -- by an advisory
20 committee made up of repair technicians, where they
21 attempted to, you know, provide, you know, estimates of
22 additional costs associated with repair, we may be able
23 to provide that information to you. We don't have it
24 here today.

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1 MR. RAO: No, if it is possible, you know, if
2 you can include that information in your comments, that
3 would be helpful.

4 MR. MATHENY: But I don't know right now of any
5 state that has implemented an I/M 240 based enhanced
6 program that has, in fact, gone to those final cutpoints
7 on these older cars. We're not inventing -- you know,
8 we're not inventing the wheel here or reinventing the
9 wheel. We're attempting to, you know -- and we are
10 proposing to do what other states have already done for
11 similar reasons.

12 MR. RAO: One other question I had, you know --

13 HEARING OFFICER MCGILL: Would you like to have
14 that information on other states?

15 MR. RAO: Yes.

16 You have made several references to others state
17 programs also having problems in implementing the final
18 standards for older vehicles. Can you tell us a little
19 more about, you know, give examples of who these other
20 states are and whether they're taking similar approaches
21 or are they -- you know, including larger groups of
22 vehicles in their -- you know, in asking -- relaxed
23 standards for older vehicles?

24 MR. MATHENY: There are two or three states that

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1 come to mind. One is Wisconsin, our neighbors to the
2 north, who have -- they have had their enhanced program

3 operating since -- oh, I believe it was 1993 or 4. They
4 were one of the first to implement. State of Arizona
5 implemented mid '90s, and Colorado as well. All the
6 programs -- they have different -- for example, Colorado
7 does not have -- Denver is not an ozone non-attainment
8 area. Their emphasis is on control of carbon monoxide.
9 So they have, you know, tailored their carbon monoxide
10 standards around the fleet.

11 Wisconsin implemented a proposal very similar to
12 what we have -- what we're proposing here, although they
13 limited it to the 1981 through 1986 fleet. When we
14 evaluated the information, our failure rates, it
15 appeared that the 1987 model year vehicles could be
16 included as well without a significant reduction in the
17 loss of credit.

18 The other state that I mentioned was the state
19 of Arizona, who have taken a more radicle approach to
20 their whole program and they have -- they've changed
21 their whole test procedure. They've diverged away from
22 the I/M 240 test for other reasons and in doing so,
23 there is an opportunity for them to tailor their
24 emission standards accordingly. But their information

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1 was showing the same, more or less the same behavior of
2 the fleet.

3 And the Arizona instance, their fleet is
4 considerably older than fleets in northern cities. And
5 their emphasis is slightly different. But those are the

6 three states that we have been in contact with. As an
7 aside there are other states that are kind of in our
8 similar situation, are now having one to two years of
9 operation, you know -- are faced with making these
10 similar decisions.

11 MR. DEMEROUKAS: To add to Jim's testimony, I
12 did speak with the program manager of Maryland, who,
13 when preparing for this rulemaking, I asked that very
14 question, luckily enough for him in his administrative
15 role he has wide leeway so he just told me that yes, we
16 are going to keep the start-up standards for the '81
17 through '86 model year vehicles.

18 So, again, as Jim mentioned, when he compare us
19 with Wisconsin, slightly different.

20 If you would like, we could canvass a few states
21 and include that into the comments of our record, but as
22 Jim has stated, it's a pretty wide spread feeling that
23 due to the age and the difficulty of repairing the old
24 carburetor vehicles and the very -- or the relatively

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1 small amount of emission reduction lost by retaining
2 start-up standards, it's something that more or less is
3 just accepted by the states as a good idea to do.

4 MR. RAO: Okay.

5 HEARING OFFICER MCGILL: Just to clarify,
6 certainly the Agency can supplement its responses to
7 questions in public comment and at the next hearing,

8 which is scheduled for October 20th in Collinsville.

9 I'll have some specifics on that later.

10 MR. RAO: Thank you.

11 HEARING OFFICER MCGILL: Just a question on
12 Section 240.163, vehicle exhaust emission final
13 standards, related to an earlier question I had been
14 about providing a specific date. This section currently
15 states that the final standards will apply, quote,
16 beginning at the conclusion of testing using the
17 start-up vehicle exhaust emission standards required in
18 Section 240.162, end quote.

19 Would it now be appropriate to replace the
20 quoted language with, quote, beginning February 1, 2001,
21 or some other specific date?

22 MR. DEMEROUKAS: That is correct, with the
23 proviso that the remainder of the language in some form
24 that was proposed be kept. So, for instance, it could

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1 read, beginning February 1st, 2001, except for model
2 year 1981 through '87, LDV, LDT1 and LDT2 vehicles. So
3 it would be basically the flip side of the Part 1,
4 240.162 text.

5 HEARING OFFICER MCGILL: Okay. Thank you.

6 MR. RAO: I had another clarification question
7 on 240.191.

8 HEARING OFFICER MCGILL: 240.191 is
9 applicability section, Sub-part H, on-board diagnostic
10 testing.

11 MR. RAO: In this section there is reference
12 made to on-board diagnostic test procedures that will be
13 adopted by the Agency under Part 276.

14 I just wanted to get a clarification as to
15 whether the Agency has already adopted these procedures
16 or whether the Agency is going to adopt these
17 procedures?

18 MR. DEMEROUKAS: The Agency has adopted certain
19 on-board diagnostic procedures, unfortunately I didn't
20 catch that, that should have been a cleanup in this
21 rulemaking. So it should read that have been adopted or
22 just contained in Part 276.

23 Another thing to note in that specific section
24 is related to an exhibit in -- Exhibit 1 today, which is

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1 the errata sheet, this Section 240.191 will need to be
2 revised to state in effect that vehicles that receive a
3 result of fail do not thereby fail their emission test
4 until a period no later than January 1st, 2002. Now,
5 that is rough. I need to work on that, but the point is
6 pass/fail OBD testing will begin no later than January
7 1st, 2002, in accordance with the comment in the errata
8 sheet.

9 MR. RAO: Thank you.

10 HEARING OFFICER MCGILL: On that subject, maybe
11 you can, for the record, explain the rationale for the
12 change from the Agency's original proposal, which was

13 just to change the date for January 1, 2001, to January
14 1, 2002? I was wondering if you could explain why you
15 now want to amend that proposed language to read
16 something along the lines of no later than January 1,
17 2002?

18 MR. MATHENY: The reason we are asking for the
19 extension is in part to provide time to react and
20 incorporate the USEPA changes or proposed changes to
21 their OBD regulations. Our existing procedures, our
22 existing standards were developed from their original
23 rule, which, you know, is now being -- is now the
24 subject of rulemaking and that is not expected to be

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1 finalized, you know, obviously, until after this -- the
2 existing deadline or date has passed.

3 MR. DEMEROUKAS: If I could add, I believe the
4 specific point of your question is why now through the
5 errata sheet today we're asking that instead of a
6 specific date for the delay of pass/fail testing be
7 moved ahead one year precisely, why up to one year now
8 we're asking for the date to be moved.

9 HEARING OFFICER MCGILL: Correct.

10 MR. DEMEROUKAS: I believe it would be better
11 for our program manager to discuss the rationale for
12 this and she should be available at our next hearing in
13 Collinsville next week.

14 HEARING OFFICER MCGILL: Okay. And that is
15 Elizabeth Tracy?

16 MR. DEMEROUKAS: That's correct.

17 HEARING OFFICER MCGILL: So you're anticipating
18 that she would be available to testify and answer
19 questions at the second hearing?

20 MR. DEMEROUKAS: That's correct, and if for some
21 odd reason she won't be able to, we will certainly be
22 able to respond in the record.

23 HEARING OFFICER MCGILL: Okay. Thank you.

24 MR. RAO: I have one more question concerning a
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1 proposed change in Section 240, Table A, vehicle exhaust
2 emission start-up standards.

3 In this table for light duty trucks 2, you have
4 proposed a change, which basically changes loaded
5 vehicle weight to adjusted loaded vehicle weight. Could
6 you please clarify whether similar changes need to be
7 made for light duty trucks 1 where there is a reference
8 to loaded vehicle weight?

9 MR. MATHENY: No, the change and the addition of
10 the definition for adjusted loaded vehicle weight is
11 specific to those heavier light duty trucks, the light
12 duty trucks 2, and, you know, the change is designed to,
13 you know, make sure that our emission standards are
14 consistent with the federal certification standards for
15 those vehicles, which is based on adjusted loaded
16 vehicle weight as opposed to the loaded vehicle weight.

17 MR. RAO: Thank you.

18 HEARING OFFICER MCGILL: I just have one other
19 question on Section 240, Table C, vehicle exhaust
20 emission fast-pass standards. In Subsections A, B and C
21 the Agency has proposed language that refers to this
22 sub-part. I'll give you a moment, if you want to look
23 at those. There is a couple of references, I believe,
24 in each subsection to quote, this sub-part, end quote.

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1 And I just wanted to clarify that reference, if you
2 could.

3 MR. DEMEROUKAS: That is an error. It should
4 read either paragraph or subsection, I forget the exact
5 term that we should use but it shouldn't be sub-part.

6 HEARING OFFICER MCGILL: Okay. Thank you.

7 Can we go off the record for a moment?

8 (Off the record.)

9 HEARING OFFICER MCGILL: Back on the record.

10 For the record, the Board has concluded its
11 questions for the time being.

12 For the record, does anyone else have any
13 questions for the Agency's witnesses? Seeing none, I'd
14 like to note that no one else has -- no one has signed
15 up on the sign-up sheet to testify today.

16 For the record, does anyone else wish to testify
17 today? Seeing no response I would like to move onto a
18 few procedural matters to address before we adjourn.

19 There is one additional hearing scheduled in
20 this rulemaking. It is scheduled for Friday, October

21 20, 2000, at 10:30 a.m. at the Department of
22 Transportation, classroom regional headquarters complex,
23 1100 East Port Plaza Drive in Collinsville, Illinois.
24 The deadline for filing public comments in this

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1 rulemaking is Thursday, November 9th, 2000. The mailbox
2 rule does not apply to this filing, which means that the
3 Board's clerk's office must receive the public comments
4 by 4:30 on November 9th. The Board is presently
5 accepting public comments.

6 Copy of the transcript of today's hearing should
7 be available at the Board by October 16th, 2000.
8 Shortly after that, the transcript should be available
9 through the Board's Website, which is located at
10 www.ipcb.state.il.us

11 The Board's August 24th, 2000 opinion and order
12 in this matter, as well as my August 29, 2000 hearing
13 officer order, also are available on the Board's
14 Website. That hearing officer order includes a
15 description of the requirements associated with filing
16 public comments in this rulemaking.

17 If anyone has any questions about the procedural
18 aspects of this rulemaking, I can be reached by
19 telephone at 312-814-6983 or e-mail
20 mcgillr@ipcb.state.il.us

21 Are there any other matters that need to be
22 addressed at this time?

23 Seeing none, I would like to thank everyone for
24 participating today. This hearing is adjourned.

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1 STATE OF ILLINOIS)
)SS:
2 COUNTY OF DU PAGE)

3 I, ROSEMARIE LAMANTIA, being first duly sworn,
4 on oath says that she is a court reporter doing business
5 in the City of Chicago; that she reported in shorthand
6 the proceedings given at the taking of said hearing, and
7 that the foregoing is a true and correct transcript of
8 her shorthand notes so taken as aforesaid, and contains
9 all the proceedings given at said hearing.

10

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ROSEMARIE LA MANTIA, CSR
License No. 84 - 2661

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Subscribed and sworn to before me
this day of , 2000.

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Notary Public.

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