

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

ENHANCED VEHICLE INSPECTIONS AND)
MAINTENANCE (I/M) REGULATIONS:) R02-8
AMENDMENTS TO 35 ILL ADM. CODE) (Rulemaking - Air)
240.191-240.193)

Proceedings held on October 12th, 2001, at 9:30 a.m., at
the Illinois Regional Headquarters Complex, IDOT Classroom, 1100
East Port Plaza Drive, Collinsville, Illinois, before John C.
Knittle, Hearing Officer.

Reported by: Lynn E. Bartimus, CSR, RPR
CSR License No.: 084-004150

KEEFE REPORTING COMPANY
11 North 44th Street
Belleville, IL 62226
(618) 277-0190

1-800-244-0190

A P P E A R A N C E S

ILLINOIS POLLUTION CONTROL BOARD

BY: John C. Knittle, Hearing Officer

Thomas E. Johnson, Board Member
P.O. Box 67
Urbana, Illinois 61803

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: DIVISION OF LEGAL COUNSEL

Christopher P. Demeroukas, Assistant Counsel
Charles Matoesian

VEHICLE INSPECTION AND MAINTENANCE

Technical Services

James R. Matheny, Manager

Michael Hills

Bureau of Air

Elizabeth R. Tracy, Manager

1021 North Grand Avenue East
Springfield, Illinois 62794-9276

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I N D E X

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E X H I B I T S

No exhibits were entered.

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1 P R O C E E D I N G S

2 (October 12th, 2001; 9:30 a.m.)

3 HEARING OFFICER KNITTLE: Let's go on the record. Good
4 morning. My name is John Knittle. I'm a hearing officer with
5 the Illinois Pollution -- that's no longer true. I'm an attorney
6 assistant with the Illinois Pollution Control Board. I'm acting
7 as hearing officer for this rulemaking proceeding, entitled,
8 Enhanced Vehicle Inspection and Maintenance (I/M) Regulations,
9 Amendments to 35 Illinois Administrative Code, 240.191 through
10 240.193. The Board docket number on this is R02-8.

11 Today's date is October 12th. It is approximately 9:30
12 a.m. And we are present here in the Department of Transportation
13 classroom in Collinsville, Illinois, for the public hearing that
14 was properly noticed up pursuant to the Board's regulations.

15 I want to indicate that we have Board Member Thomas E.
16 Johnson here. He is the presiding board member for this
17 proceeding. And before we get started, Mr. Johnson, do you have
18 any remarks you would like to make at this point in time?

19 MR. JOHNSON: Briefly, I would just like to welcome you all
20 on behalf of the Board. And despite the turnout here today, I
21 want you to know that we know this is an important matter. We
22 will handle it with all due deference and dispatch and assure you
23 that we are aware of the time constraints imposed on us by the
24 statute.

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1 HEARING OFFICER KNITTLE: Thank you, Board Member Johnson.
2 In terms of a little background on this proposal, the Illinois
3 Environmental Protection Agency filed this proposal on August
4 20th, 2001, to amend the Board's regulations on inspecting and
5 maintaining vehicles to control air emissions. The enhanced I/M
6 program was designed to control air emissions from vehicles, and
7 it applies to both the Chicago metropolitan and the Metro-East
8 St. Louis ozone nonattainment areas.

9 The Agency describes its proposed amendments as follows.
10 Number one, to add a provision that allows compliance with OBD
11 test standards to be delayed until January 1st, 2003, if the
12 USEPA grants a delay, upon a request from the Agency.

13 Number two, to modify the list of diagnostic trouble
14 codes -- those are called DTCs -- that, if present during an OBD
15 test, will result in a failure.

16 And three, to add a malfunction indicator light check. And
17 that, so you know, is MIL check. The Agency proposes the
18 amendments pursuant to Section 13B-20(a) of the Vehicle Emissions
19 Inspection Law, which exempts this proceeding from certain
20 rulemaking requirements, because that section requires the Board
21 to adopt rules within 120 days after it receives the Agency's
22 proposal. The Board proceeded by submitting the proposed
23 amendments for publication in the Illinois Register. And we did
24 this in an August 23rd, 2001, Board order, which accepted this

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1 matter for hearing without commenting on the merits of the
2 proposal.

3 Calculating out 120 days from the date the Agency filed the
4 proposal, December 18th is the day by which we have to decide
5 this case. The last regularly scheduled Board meeting before the
6 statutory deadline is December 5th. The Board, therefore, you
7 know, has to adopt an order by December 5th, at its December 5th
8 board meeting, to comply with the 120-day deadline. And we will
9 do so.

10 Please note that there are sign-up sheets in this
11 proceeding. For this proceeding, service and notice lists set up
12 up front -- I haven't really set them out, but if anyone comes
13 in, I'll throw them out.

14 Those on the notice list will receive only Board orders and
15 opinions from the hearing officer orders. Those on the service
16 list will receive these documents plus certain other filings,
17 such as public comments. If anybody other than the Agency
18 representatives wants to testify today, they will, of course, be
19 allowed to do so and do so after the Agency's testimony. I want
20 to note for the record that the only people present here today
21 are, in fact, Agency personnel. So that's not an option. Right
22 now, I'm not going to go into the proceedings and procedures for
23 setting that up. If somebody else comes, we will, of course,

24 handle that as it becomes necessary.

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1 MR. JOHNSON: I might note, just for purposes of clarity,
2 and because of the vast number of acronyms in this business, OBD
3 is on-board diagnostic.

4 HEARING OFFICER KNITTLE: Thank you, Board Member Johnson.
5 I forgot that one.

6 Also, I want everyone here from the Agency to know that any
7 questions asked by the Board, via Mr. Johnson or myself, are
8 solely intended to help build a complete record for the Board's
9 decision and not to express any preconceived notion or bias about
10 this rulemaking.

11 Well, let's then get moving with the Agency testimony. You
12 can introduce yourself and the members of the Agency you brought
13 with you, sir.

14 MR. DEMEROUKAS: Thank you. My name is Chris Demeroukas.
15 I am an attorney with the Illinois Environmental Protection
16 Agency, working in the Vehicle Emissions Inspection Program.

17 We have prefiled testimony in this rulemaking, entitled,
18 "Summary of Testimony of Elizabeth R. Tracy" and "Summary of
19 Testimony of Michael Hills." So at this hearing, what I would
20 like to do is just have those two persons and Mr. James Matheny,
21 Technical Service Manager of the Division of Vehicle Inspection
22 Maintenance, to introduce themselves, be sworn in, and then be
23 available to answer any questions that may be asked of them. So

24 if we could, Ms. Tracy.

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1 MS. TRACY: My name is Elizabeth Tracy, and I am the
2 manager of the Vehicle Inspection and Maintenance Program, Bureau
3 of Air, at the Illinois Environmental Protection Agency.

4 MR. HILLS: My name is Mike Hills, and I work at Vehicle
5 Inspection and Maintenance in the Technical Services section.

6 MR. MATHENY: My name is James Matheny. And I am manager
7 of Technical Services with the Vehicle Inspection Program for the
8 Illinois EPA.

9 MR. KNITTLE: And Mr. Demeroukas, I note there is someone
10 else from the Agency.

11 MR. DEMEROUKAS: Yes. Mr. Charles Matoesian. He is an
12 attorney at the Agency. He won't be testifying, however, at this
13 hearing.

14 HEARING OFFICER KNITTLE: Okay. Well, thank you very much.
15 No opening statements, I take it, Mr. Demeroukas?

16 MR. DEMEROUKAS: No.

17 HEARING OFFICER KNITTLE: Could you swear -- can we do a
18 mass swearing in of all three witnesses?

19 (Whereupon the witnesses were collectively sworn by the
20 Notary Public.)

21 HEARING OFFICER KNITTLE: Mr. Demeroukas, you are just
22 presenting them for questions, correct?

23 MR. DEMEROUKAS: That's correct.

24 HEARING OFFICER KNITTLE: And as there are no members of

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1 the public here to ask any questions, it falls upon us as the
2 Board, if we have any. We do have a couple. I wanted to
3 address -- mainly, the Agency's proposal, the first part of it is
4 to add a provision that allows compliance with the OBD -- and as
5 Mr. Johnson has pointed out, on-board diagnostic test
6 standards -- to be delayed until January 1st, 2003, if the USEPA
7 grants a delay upon a request from the Agency. We want to know,
8 if we can, what the rationale for any further delay in
9 implementing the OBD test is.

10 MS. TRACY: The -- when we submitted our rulemaking, we did
11 not know at that time whether we would be looking for an
12 extension, for one year, which is allowable by the USEPA. At
13 this point in time, we do not believe that is necessary, to ask
14 for the delay. And we would ask the Board if, at your
15 discretion, if you would like to remove that, that you can do so.

16 MR. KNITTLE: That would be an option with --

17 MS. TRACY: Yes.

18 MR. KNITTLE: The Agency wouldn't oppose that?

19 MS. TRACY: No.

20 HEARING OFFICER KNITTLE: Okay.

21 MS. TRACY: We have not made any overtures with the USEPA
22 in order to get an extension.

23 MR. JOHNSON: Originally, the rationale was simply --

24 MS. TRACY: The rationale, right, has to do with whether

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1 the contractor was prepared to proceed and whether the public
2 would be adequately notified of such changes. However, we have
3 been doing advisory on-board diagnostic testing for over two
4 years now, with, you know, not particular problems, although we
5 do have some software issues that do need to be resolved, to be
6 fully compliant with that. We expect that to occur in the next
7 few months.

8 HEARING OFFICER KNITTLE: Thank you. Well, that's all the
9 questions that the Board has here today. In order to give
10 members of the public who may still want to attend this hearing
11 an opportunity to do so, we are going to take a recess and go
12 back on the record at 10:30. So let's just meet back here at
13 10:30. We will stay off the record until that point in time.

14 MR. JOHNSON: Thank you.

15 (Whereupon, a recess was taken.)

16 HEARING OFFICER KNITTLE: All right. We are back on the
17 record after a one-hour recess, approximately. It's 10:35 a.m.
18 I want to note for the record that the only people still
19 attending this hearing are members of the Agency. We have no
20 members of the public here. Were they here, they would, of
21 course, be able to provide testimony and ask questions of the

22 Agency witnesses. However, that is not the case.

23 I want to note that -- well, actually, Mr. Demeroukas, do
24 you have any closing statements you want to make at this point in

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1 time?

2 MR. DEMEROUKAS: Just that I thank you very much for being
3 here at the hearing, of course. And we will see you next week in
4 Chicago.

5 HEARING OFFICER KNITTLE: That's correct. If anyone has
6 any questions about the procedural aspects of this rulemaking, I
7 can be reached by telephone at 217-384-7535, or at e-mail at
8 knittlej@ipcb.state.il.us.

9 Mr. Demeroukas is right. There is an additional hearing
10 scheduled in this matter, set for October 19th, at 9:30 a.m., in
11 Chicago. That hearing will be held in Room 8-033. Do you need
12 it again?

13 MR. JOHNSON: What time?

14 HEARING OFFICER KNITTLE: At 9:30 in the James R. Thompson
15 Center. The transcript of today's hearing should be available by
16 e-mail Monday, a hard copy Tuesday. And it will be available
17 shortly after that on the Board's website at
18 www.ipcb.state.il.us. The Board's August 23rd Board order and
19 the August 31st hearing officer order should also be available on
20 the website.

21 And the hearing officer describes how to make public

22 comments, but, of course, that doesn't really apply, unless you
23 folks at the Agency want to make a public comment. I'd like to
24 thank everyone for participating today. Mr. -- Board Member

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1 Johnson, do you have any comments you would like to make at this
2 point?

3 MR. JOHNSON: Nothing. Thank you for coming. I will see
4 you in Chicago.

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STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

I, Lynn E. Bartimus, a Notary Public within and for the County of St. Clair, State of Illinois, do hereby certify that a hearing was held on October 12th, 2001, at the Illinois Regional Headquarters Complex, IDOT Classroom, 1100 East Port Plaza Drive, Collinsville, Illinois, before John C. Knittle, Hearing Officer; that examination of each witness was taken down in shorthand by me and afterwards transcribed by computer-aided transcription, and the transcript is herewith returned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on this 15th day of October, 2001.

Lynn E. Bartimus, CSR, RPR
Notary Public
License No. 084-004150

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