

THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
GASOLINE VOLATILITY STANDARDS )  
AND MOTOR VEHICLE REFINISHING: )  
PROPOSED AMENDMENTS TO )  
ILL. ADM. CODE 211, 215, 218 )  
AND 219. )

R12-24  
(Rulemaking-Air)

TRANSCRIPT FROM THE PROCEEDINGS

taken before HEARING OFFICER KATHLEEN CROWLEY,  
by LORI ANN ASAUSKAS, CSR, RPR, a notary public  
within and for the County of Cook and State  
of Illinois, at the Illinois Pollution Control  
Board, 1021 North Grand Avenue East (North  
Entrance), Springfield, Illinois, on the 23rd  
day of August, 2012, A.D., at 1:00 o'clock  
a.m.

1 A P P E A R A N C E S:

2 ILLINOIS POLLUTION CONTROL BOARD,  
3 1021 North Grand Avenue East  
4 North Entrance  
5 Springfield, Illinois 60601  
6 (217) 524-8509  
7 webbc@ipcb.state.il.us

8 BY: MS. KATHLEEN CROWLEY, HEARING OFFICER,

9

10 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
11 1021 North Grand Avenue East  
12 P.O. Box 19276  
13 Springfield, Illinois 62794-9276  
14 (217) 782-5544  
15 kent.mohr@illinois.gov

16 BY: MR. KENT E. MOHR, JR.,

17

18 Appeared on behalf of the Illinois  
19 Environmental Protection Agency.

20

21

22 ALSO PRESENT:

23

24 Ms. Erin Conley, DCEO  
25 Ms. Brooke Doggett, DCEO  
26 Ms. Annette Fulgenzi, DCEO  
27 Mr. Michael D. Rogers, IEPA  
28 Ms. Jackie Sims, IEPA

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E X H I B I T S

Marked for  
Identification

IEPA Exhibit No. 1.....	7
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HEARING OFFICER CROWLEY: Good afternoon. My name is Cathleen Crowley and I'm the assigned hearing officer in this proceeding.

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This is the first of two presently scheduled hearings being conducted by the Illinois Pollution Control Board In the Matter Of: Gasoline Volatility Standards and Motor Vehicle Refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218 and 219, which is our Docket 12-24.

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At today's hearing, the Board will begin receipt of testimony on the merits and economic effects of the Illinois Environmental Protection Agency's April 2, 2012, regulatory proposal.

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In brief, the proposal would repeal superseded gasoline volatility standards adopted by the state and also provide some limited regulatory relief for certain automobile refinishers.

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We've determined before we started that all persons present here are either

1 representing or associated with the Illinois  
2 Environmental Protection Agency or the  
3 Department of Commerce and Economic Opportunity.  
4 So we will not be going into some of our usual  
5 opening remarks.

6                   Seated to my immediate right  
7 is Board Member Carrie Zalewski, who is the  
8 Board member coordinating this rulemaking.  
9 Seated to her immediate right is Board member  
10 Deanna Glosser. Seated to my left is Board  
11 member Jennifer Burke. To her left is Chairman  
12 Thomas Holbrook.

13                   Do any of the Board members  
14 want to say anything?

15                   Okay. At this point I will  
16 ask for entering of appearances by the Agency  
17 and anybody else who cares to do so.

18                   MR. MOHR: Good afternoon. My name  
19 is Kent Mohr. I'm an attorney for the Illinois  
20 EPA.

21                   Just as a short introduction,  
22 the Illinois EPA filed this rulemaking proposal  
23 to repeal the state gasoline volatility standards  
24 at 35 Ill. Adm. Code Parts 215, 218 and 219.585

1 due to the applicability of the federal gasoline  
2 volatility standards and the federal reformulated  
3 gasoline program.

4 In addition, the Illinois EPA  
5 filed the rulemaking in order to allow for the  
6 use of an equivalent high volume low pressure or  
7 HVLP coding applicator that's used in motor  
8 vehicle refinishing operations and to repeal the  
9 registration program associated with those motor  
10 vehicle refinishing operations due to the analogous  
11 national emission standards for hazardous air  
12 pollutant registration requirements that are  
13 associated with motor vehicle refinishing, those  
14 being located at 40 CFR Part 63 Subpart 6(h).

15 I have with me two witnesses.  
16 Seated next to me is Michael Rogers with the  
17 technical services section of the Division of  
18 Mobile Source Programs within the Bureau of Air  
19 at the Illinois EPA and Annette Fulgenzi who is  
20 the project manager of the Illinois Small Business  
21 Environmental Assistance Program within the  
22 Department of Commerce and Economic Opportunity  
23 to answer any questions that may be asked of  
24 them today.

1                   We have pre-filed testimony in  
2 this matter entitled "Testimony of Michael D.  
3 Rogers." We have not pre-filed testimony for  
4 Ms. Fulgenzi, but she is here today to assist  
5 in answering any questions as necessary.

6                   At this time I would like  
7 to move that Mr. Rogers' pre-filed testimony  
8 be entered into the record as an exhibit.

9   (Document marked as  
10   IEPA Exhibit No. 1  
11   for identification,  
12   8/23/12.)

13                   HEARING OFFICER CROWLEY: Thank you.  
14 We will enter that as Exhibit No. 1.

15                   MR. MOHR: I would like to now have  
16 Mr. Rogers and Ms. Fulgenzi sworn in so that they  
17 can answer any questions that may be asked.

18                   HEARING OFFICER CROWLEY: Please do  
19 so.

20   (Witnesses sworn.)

21                   MR. MOHR: That's all I have.

22                   HEARING OFFICER CROWLEY: Let me put  
23 a couple of things into the record and then we  
24 will -- I doubt we will by asking questions, but

1 as I mentioned earlier, the Agency filed this  
2 proposal on April 2nd.

3 To expedite completion of the  
4 rule, on April 19th, the Board adopted a first  
5 notice opinion and order without commenting on  
6 the merits of the proposal.

7 The first notice of the proposed  
8 rule appeared on May 19th in the Illinois Register,  
9 Volume 36 at Page 6913. The 45-day first notice  
10 comment period required by the Administrative  
11 Procedure Act expired on July 3rd. No public  
12 comments have been filed.

13 But the Joint Committee on  
14 Administrative Rules requested an analysis of  
15 economic and budgetary effects of the rulemaking  
16 on May 16th and this, of course, is not uncommon  
17 in Board rulemaking proceedings.

18 On June 27, 2012, Chairman  
19 Thomas Holbrook submitted a written request to  
20 the Department of Commerce and Economic Opportunity,  
21 known as DCEO, that it perform an economic impact  
22 study as provided for in Section 27 of the  
23 Environmental Protection Act.

24 The Board requested that DCEO



1 provide any response to the request on or before  
2 August 1, 2012. On August 2, DCEO's director,  
3 David Vaught, replied in pertinent part that at  
4 this time the department is unable to undertake  
5 such an economic impact study. Therefore, it must  
6 respectfully decline his request.

7           The August 2, DCEO response has  
8 been available on the Board's website since that  
9 date giving the public the required 21-day notice  
10 of the decision. Section 27(b) requires the Board  
11 to hold a hearing on the economic impact of the  
12 rules, any EcIS submitted, and/or any explanation  
13 for not conducting an EcIS study.

14           Section 27(b) allows the Board  
15 to dovetail the economic impact hearing with any  
16 other hearing and this is one of those dovetailed  
17 hearings, for the record.

18           Before we begin, I asked  
19 Mr. Mohr if he would like to have Mr. Rogers  
20 provide a summary of his testimony in support  
21 of the proposal and the decision was made not  
22 to, but just to introduce the testimony as read,  
23 which the Board has had for sometime and  
24 I'm sure the other folks in the room have had

1 as well.

2 Are there any questions for  
3 Mr. Rogers? Okay. I guess not.

4 The next thing I would raise  
5 then does anyone have any comments on the DCEO  
6 response to the study request? There are no  
7 such comments.

8 If I recall -- I have just one  
9 question. If I recall correctly, the Agency's  
10 statement of reasons stated that it was the  
11 Agency's belief that this would have no adverse  
12 effect on the economy in the state of Illinois  
13 since basically it's regulatory relief for the  
14 motor vehicle refinishers if one, EPA has agreed  
15 to the use of the equipment you described,  
16 Mr. Mohr, and secondly, we would also be repealing  
17 superseded rules so there would be no adverse  
18 economic impact, is that a correct reading?

19 MR. MOHR: Are you asking me or are  
20 you asking the witness?

21 HEARING OFFICER CROWLEY: Whoever you  
22 would like to have answer it.

23 MR. MOHR: Do you want to answer  
24 that?

1 MR. ROGERS: It's my belief that  
2 the repeal of the RVP rules would make it easier  
3 for businesses to comply to be less recordkeeping,  
4 there would be less involvement within the  
5 potential seeking of waivers due to a fuel  
6 shortage.

7 As far as the rule for the motor  
8 vehicle refinishing, the only thing that we would  
9 be requiring is if they do make use of the option  
10 to use a HVLP equivalent spray gun, they must  
11 maintain documentation that that has been approved  
12 by USEPA, which is available from the manufacturer  
13 of spray guns and that's just keeping something on  
14 file. The dropping of the registration requirement  
15 would be a little bit less paperwork for them.

16 So we believe that it would  
17 allow business a little bit more flexibility and  
18 in a very small way, reduce their administrative  
19 burden.

20 HEARING OFFICER CROWLEY: Thank you  
21 for that explicit statement. That's helpful for  
22 us.

23 MR. ROGERS: You're welcome.

24 HEARING OFFICER CROWLEY: Did you have

1 anything you would like to add to that?

2 MS. FULGENZI: I think I would add  
3 from the Small Business Environmental Assistance  
4 Program that we work closely with the industry  
5 and this is the positive for the industry. As  
6 Mike eluded, it does reduce some confusion for  
7 the companies that we deal with because there's  
8 redundancy in registration -- currently with the  
9 state registration and the federal requirement  
10 for those registrations.

11 HEARING OFFICER CROWLEY: Thank you.  
12 That's also helpful to have it stated that way in  
13 the record. Thank you.

14 Are there any additional questions  
15 or comments? There do not appear to be.

16 We have another hearing scheduled  
17 in this matter in Chicago on September 20th at  
18 1:00 p.m. in the Board's offices and I will see  
19 some or perhaps all of you there. Thank you very  
20 much.

21 MR. MOHR: Thank you for having us  
22 here today.

23

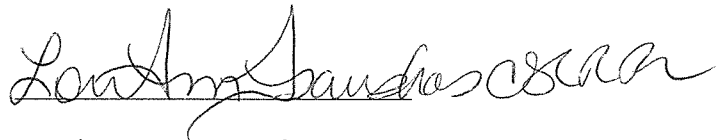
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(Whereupon, no further  
proceedings were had  
in the above-entitled  
cause.)

1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF C O O K )  
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6 I, LORI ANN ASAUSKAS, CSR, RPR,  
7 do hereby state that I am a court reporter doing  
8 business in the City of Chicago, County of Cook,  
9 and State of Illinois; that I reported by means  
10 of machine shorthand the proceedings held in the  
11 foregoing cause, and that the foregoing is a true  
12 and correct transcript of my shorthand notes so  
13 taken as aforesaid.

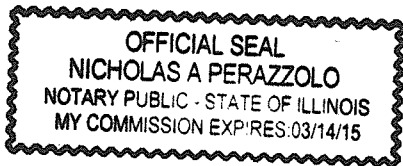
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17 Lori Ann Asauskas, CSR, RPR.

18 Notary Public, Cook County, Illinois  
19

20 SUBSCRIBED AND SWORN TO  
21 before me this 28<sup>th</sup> day  
of August, A.D., 2012.

22   
23 Notary Public



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