

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

IN THE MATTER OF:)

3)

ENHANCED VEHICLE INSPECTION)

4 AND MAINTENANCE (I/M)) R98-24

REGULATIONS: AMENDMENTS TO)(Rulemaking-Air)

5 35 ILL. ADM. CODE 240) Volume I

6

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8 The following is the transcript of a

9 rulemaking hearing held in the above-entitled

10 matter, taken stenographically by Kim M. Howells,

11 CSR, a notary public within and for the County of

12 Cook and State of Illinois, before AMY MURAN FELTON,

13 Hearing Officer, at 100 West Randolph Street,

14 Room 9-040, Chicago, Illinois, on the 17th day of

15 March, A.D., 1998, scheduled to commence at 10:30

16 a.m., commencing at 10:37 a.m.

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

2 HEARING TAKEN BEFORE:
3 MS. AMY MURAN FELTON
4 ILLINOIS POLLUTION CONTROL BOARD
5 100 West Randolph Street
6 Suite 11-500
7 Chicago, Illinois 60601
8 (312) 814-7011

6 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

7 Marili McFawn
8 Robert O'Brien
9

10 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
MEMBERS PRESENT:

11 Christopher P. Demeroukas, Assistant Counsel
12 Michael Steven Hills
13 Elizabeth R. Tracy
14 James R. Matheny
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1 (Exhibit Nos. 1 - 5 marked
2 for identification, 3/17/98,
3 prior to the commencement
4 of this hearing.)

5 THE HEARING OFFICER: Good morning. My name is
6 Amy Muran Felton, and I am the hearing officer in
7 this proceeding. I would like to welcome you to
8 this hearing being held by the Illinois Pollution
9 Control Board.

10 This hearing is entitled: In the Matter
11 of Enhanced Vehicle Inspection and Maintenance
12 Regulations, also known as the enhanced I/M program,
13 amendments to 35 Illinois Administrative Code 240
14 and docketed by the board as R98-24.

15 Present today on behalf of the Illinois
16 Pollution Control Board and seated to my left is
17 Marili McFawn, the board member coordinating this
18 rulemaking. Also present with us and seated to my
19 right is Robert O'Brien of the board's technical
20 unit.

21 In the back, I have placed notice list and
22 service list sign-up sheets. Please note that if
23 your name is on the notice list, you will only
24 receive copies of the board's opinions and orders

1 and all hearing officer orders. If your name is on
2 the service list, you will not only receive copies
3 of the board's opinions and orders, but you will
4 receive copies of all documents filed by all persons
5 on the service list in this proceeding. Keep in
6 mind that if your name is on the service list, you
7 are also required to serve all persons on the
8 service list with all documents you file with the
9 board. You are not precluded from presenting
10 testimony or questions at this hearing if your name
11 is not on either of the lists.

12 Copies of the board's January 22nd, 1998,
13 proposed rule; the February 2nd, 1998, hearing
14 officer order; and the prefiled testimony of Michael
15 Hills of the Illinois Environmental Protection
16 Agency are located on the table in the back.

17 On January 21st, 1998, the Illinois
18 Environmental Protection Agency filed this proposal
19 for rulemaking to amend Part 240, the enhanced I/M
20 program. On January 22nd, 1998, the board adopted
21 for first notice the amendments to the enhanced I/M
22 program as proposed by the agency. This proposal
23 was published in the Illinois Register on
24 February 6th, 1998, at 22 Ill. Reg. 2720.

1 By way of background, Sections 182(b) and
2 (c) of the Clean Air Act requires states to adopt
3 inspection and maintenance programs in areas that do
4 not meet the National Ambient Air Quality Standards
5 for ozone and/or carbon monoxide. In Illinois, two
6 areas do not meet the National Ambient Air Quality
7 Standards for ozone, the Metro-East St. Louis
8 non-attainment area, which is moderate
9 non-attainment, and the Chicago non-attainment area,
10 which is in severe non-attainment.

11 The Illinois Vehicle Inspection Law, also
12 known as the inspection law, requires the agency to
13 propose and the board to adopt a mission standard
14 for vehicles in portions of the Metro-East St. Louis
15 and Chicago metropolitan areas. The board adopted
16 the bulk of the standards necessary for
17 implementation of the enhanced I/M program as a
18 result of the rulemaking docketed as Enhanced
19 Vehicle Inspection and Maintenance Regulations,
20 amendments to 25 Illinois Administrative Code 240
21 docketed as R94-14 and R94-20.

22 In the current proposal, the agency
23 proposes the remainder of the mobile source emission
24 standards necessary for the implementation of the

1 enhanced I/M program. The proposal also clarifies
2 and modifies some existing standards.

3 The proposal was filed pursuant to
4 Section 28.5 of the Environmental Protection Act
5 entitled Clean Air Act Rules Fast Track
6 Procedures. Pursuant to the provisions of that
7 section, the board is required to proceed within set
8 time frames for the adoption of the regulation. As
9 stated in the board's January 22nd, 1998, order, the
10 board has no discretion to adjust these time frames
11 under any circumstances.

12 Also pursuant to Section 28.5, the board
13 scheduled three hearings. As announced in hearing
14 officer order dated February 2nd, 1998, today's
15 hearing is confined to testimony by the agency
16 witnesses concerning the scope, applicability, and
17 the basis of the rule.

18 Pursuant to this section, this hearing
19 will be continued on the record from day to day, if
20 necessary, until completed. Within seven days after
21 close of this hearing, any person may request that
22 the second hearing be held. If after those seven
23 days the agency and affected entities are in
24 agreement upon a portion of the rule, the U.S. EPA

1 has not informed the board of any unresolved
2 objections and no other interested party contests
3 this rule or asks for an opportunity to present
4 additional evidence, the board may cancel the
5 additional two hearings. All persons listed on the
6 notice list will be advised of the cancellation of
7 the following two hearings by way of hearing officer
8 order.

9 Currently, the second hearing is scheduled
10 for Tuesday, April 14th, 1998, at 10:30 a.m. in
11 Room 9-031 in the James H. Thompson Center and will
12 be devoted to presentation of testimony, documents,
13 and comments by affected entities and all other
14 interested parties.

15 The third hearing is currently scheduled
16 for Tuesday, April 28th, 1998, at 10:30 a.m. in
17 Room 9-031 in the James R. Thompson Center and will
18 be devoted solely to any agency response to the
19 materials submitted at the second hearing. The
20 third hearing will be canceled if the agency
21 indicates to the board that it does not intend to
22 introduce any additional material.

23 The board notes that the inspection law
24 exempts the proposed amendments from the

1 requirements of Section 27(b) of the Environmental
2 Protection Act which requires that the board ask
3 that an economic impact study of the proposal be
4 performed. Accordingly, the board will not request
5 that an economic impact study of this proposal be
6 performed.

7 The board will proceed to adopt a second
8 notice rule proposal for review by the joint
9 committee on administrative rules on or before
10 May 31st, 1998 if the third hearing is canceled on
11 or before June 20th, 1998, if the third hearing is
12 out. The board will proceed to final adoption of
13 the rules 21 days after the receipt of the joint
14 committee on administrative rules certificate of no
15 objection.

16 This hearing will be governed by the
17 board's procedural rules for regulatory
18 proceedings. All information which is relevant and
19 not repetitious or privileged will be admitted. All
20 witness will be sworn and subject to
21 cross-questioning.

22 Again, the purpose of today's hearing is
23 to allow the agency to present testimony in support
24 of this proposal and to allow questioning of the

1 agency. The agency will present any testimony it
2 may have regarding its proposal. Subsequently, we
3 will allow for questioning.

4 I prefer that during the questioning
5 period anyone who has a question raises their hand,
6 please acknowledge who they are and who they
7 represent.

8 Are there any other questions at this
9 time?

10 At this time, I would also like to add
11 whether or not Board Member McFawn has any other
12 questions or remarks she would like to make.

13 MS. McFAWN: No, other than to welcome you.
14 It's nice to see you all here. We might as well
15 proceed with your testimony.

16 THE HEARING OFFICER: Yes. Right now we can
17 proceed with the agency. If you want to start right
18 now with any statement you have.

19 MR. DEMEROUKAS: Yes. Thank you.

20 Good morning. My name is Christopher
21 Demeroukas, and I'm the assistant counsel with the
22 Illinois Environmental Protection Agency in
23 Springfield, Illinois. With me today in support of
24 this rulemaking are three of my colleagues from the

1 agency who work in the Division of Vehicle
2 Inspection and Maintenance whom I'll ask to raise
3 their hands in turn as I introduce them.

4 The first is Mr. Michael Hills, an
5 engineer with the technical services section of the
6 division; next is Miss Elizabeth Tracy, division
7 manager; and, finally, Mr. James Matheny, manager of
8 the technical services section.

9 At this point, I would like to offer and
10 have marked for identification purposes an errata
11 sheet containing minor corrections to the rule.

12 THE HEARING OFFICER: You have offered to me an
13 errata sheet containing suggested changes to the
14 proposal?

15 MR. DEMEROUKAS: Right, minor corrections.

16 THE HEARING OFFICER: Are there any objections
17 to the admittance of this errata sheet?

18 Seeing that there are none, we will admit
19 this errata sheet as Exhibit No. 1.

20 MR. DEMEROUKAS: Thank you.

21 THE HEARING OFFICER: Thank you.

22 MR. DEMEROUKAS: I now move that Agency Exhibit
23 No. 1 be introduced into evidence.

24 THE HEARING OFFICER: Okay. So moved.

1 MR. DEMEROUKAS: Thank you. I'll provide a
2 brief introduction, then proceed to the witnesses.

3 In January 1994, the Illinois General
4 Assembly adopted and Governor Edgar signed public
5 act 88-533, which included the Vehicle Emissions
6 Inspection Law of 1995. This law requires the
7 agency to upgrade our existing basic vehicle
8 emissions inspection maintenance program to meet the
9 requirements of the Clean Air Act and Federal
10 Vehicle Emissions Inspection and Maintenance
11 Requirements.

12 The agency proposed and the board adopted
13 the vast majority of the standards required for the
14 enhanced vehicle emissions inspection program in
15 late 1994 in board rulemakings docketed as R94-19
16 and R94-20.

17 The proposal by the agency before the
18 board now is to amend 35 Illinois Administrative
19 Code, Part 240 to clarify and modify existing
20 standards and add remaining standards for the
21 program. The agency's rulemaking adds fast-pass
22 standards to the IM240 vehicle exhaust emissions
23 test, replaces the current vehicle evaporative
24 system integrity test with three easier to perform

1 fuel cap tests, adds standards for the required
2 on-road remote sensing test, and adds a required
3 on-board diagnostic test and eliminates the purge
4 test.

5 Each of the revisions I have noted and
6 which are contained in the agency's proposed
7 rulemaking are designed to improve the efficiency
8 and effectiveness of the enhanced vehicle inspection
9 maintenance program.

10 Miss Muran Felton, I now ask that
11 Mr. Hills and Miss Tracy and Mr. Matheny be sworn.

12 THE HEARING OFFICER: That would be great.

13 Would you swear them in, please?

14 (Witnesses sworn.)

15 MR. DEMEROUKAS: I now present four exhibits
16 and move that they be marked as Agency Exhibits for
17 identification Nos. 2, 3, 4, and 5.

18 THE HEARING OFFICER: Are there any objections
19 to admitting Exhibit No. 2, the resume of Michael
20 Steven Hills?

21 Seeing that there are no objections, the
22 resume of Michael Steven Hills will be admitted into
23 the record as Exhibit No. 2.

24 The next document is the prefiled

1 testimony of Michael Hills. Are there any
2 objections to admitting the prefiled testimony of
3 Michael Hills in as Exhibit No. 3?

4 Seeing that there are no objections, the
5 testimony of Michael Hills will be admitted into the
6 record as Exhibit No. 3.

7 The fourth document is a resume of
8 Elizabeth Tracy. Are there any objections to
9 admitting Miss Tracy's resume into the record?

10 Seeing that there are no objections, the
11 resume of Elizabeth Tracy will be admitted into the
12 record as Exhibit No. 4.

13 The final document is the resume of James
14 Matheny. Are there any objections to admitting
15 Mr. Matheny's resume into the record as Exhibit
16 No. 5?

17 Seeing that there are no objections,
18 Mr. Matheny's resume will be admitted as Exhibit
19 No. 5.

20 MR. DEMEROUKAS: May I have the exhibits?

21 THE HEARING OFFICER: Yes.

22 MR. DEMEROUKAS: Thank you.

23 THE HEARING OFFICER: We will need them back at
24 the end of the hearing, but that's fine.

1 MR. DEMEROUKAS: I now call Mr. Michael Hills
2 as my first witness.

3 WHEREUPON:

4 MICHAEL S. HILLS,
5 called as a witness herein, having been first duly
6 sworn, testified, and saith as follows:

7 DIRECT EXAMINATION

8 by Mr. Demeroukas

9 Q. Mr. Hills, would you, for the record,
10 please state your name, occupation, current duties
11 and place of business?

12 A. My name is Michael Hills. I'm an engineer
13 with the vehicle emission test program, technical
14 services section in Springfield, Illinois.

15 Q. I'm now handing you a document that has
16 been marked for identification purposes as Agency
17 Exhibit No. 2. Would you please examine it?

18 Do you recognize this document?

19 A. Yes.

20 Q. What is that document?

21 A. It is my resume.

22 Q. Is all the information contained in Agency
23 Exhibit No. 2 and identified by you as your resume
24 true and complete to the best of your knowledge?

1 A. Yes, it is.

2 MR. DEMEROUKAS: I move that the document
3 marked for identification purposes as Agency Exhibit
4 No. 2 be accepted into evidence as the resume of
5 Mr. Michael Hills.

6 THE HEARING OFFICER: Are there any
7 objections?

8 No objections. We'll admit this as
9 Exhibit No. 2.

10 BY MR. DEMEROUKAS:

11 Q. Mr. Hills, have you had occasion to
12 review the proposed amendments to 35 Illinois
13 Administrative Code Part 240 contained in the
14 agency's regulatory submittal in R98-24?

15 A. Yes, I have.

16 Q. And did you prepare testimony concerning
17 the proposed standards contained in this rulemaking?

18 A. Yes, I did.

19 Q. I'm now handing you a copy of the document
20 entitled prefiled testimony of Michael Hills and
21 marked as Agency Exhibit No. 3. Would you please
22 examine it?

23 Are you familiar with this document?

24 A. Yes, I am.

1 Q. Mr. Hills, does this contain the prefiled
2 testimony prepared in support of this rulemaking?

3 A. Yes, it does.

4 MR. DEMEROUKAS: I move that Agency Exhibit
5 No. 3 identified by the witness as the prefiled
6 testimony of Michael Hills be accepted as evidence
7 as if read pursuant to Section 28.5, Paragraph G, of
8 the Environmental Protection Act.

9 THE HEARING OFFICER: Are there any objections
10 to admitting Mr. Hills' testimony into the record as
11 if read?

12 Seeing none, we will admit it into the
13 record as Exhibit No. 2 as if it had been read.

14 MR. DEMEROUKAS: I now call Miss Elizabeth
15 Tracy as my second witness.

16 THE HEARING OFFICER: Fine.

17 WHEREUPON:

18 ELIZABETH R. TRACY,
19 called as a witness herein, having been first duly
20 sworn, testified, and saith as follows:

21 DIRECT EXAMINATION

22 by Mr. Demeroukas

23 Q. Miss Tracy, will you for the record please
24 state your name, occupation, current duties, and

1 place of business?

2 A. My name is Elizabeth Tracy, and I am the
3 manager of the Division of Vehicle Inspection and
4 Maintenance, the Bureau of Air, Illinois EPA, in
5 Springfield, Illinois.

6 Q. I'm now handing you a document that has
7 been marked for identification purposes as Agency
8 Exhibit No. 4. Would you please examine it?

9 Do you recognize this document?

10 A. Yes. This is my resume.

11 Q. Does all the information contained in
12 Agency Exhibit No. 4 and identified by you as your
13 resume true and complete to the best of your
14 knowledge?

15 A. Yes.

16 MR. DEMEROUKAS: I move that the document
17 marked for identification purposes as Agency Exhibit
18 No. 4 be accepted into evidence as the resume of
19 Miss Elizabeth Tracy.

20 THE HEARING OFFICER: Are there any objections
21 to admitting this Exhibit No. 4?

22 Seeing that there are none, we will admit
23 Miss Tracy's resume into the record as Exhibit
24 No. 4.

1 MR. DEMEROUKAS: I now call Mr. James Matheny
2 as my third witness.

3 WHEREUPON:

4 JAMES R. MATHENY ,
5 called as a witness herein, having been first duly
6 sworn, testified, and saith as follows:

7 DIRECT EXAMINATION

8 by Mr. Demeroukas

9 Q. Mr. Matheny, will you for the record
10 please state your name, occupation, current duties,
11 and place of business?

12 A. My name is Jim Matheny. I'm an engineer,
13 manager of technical services with the vehicle
14 emission test program, Illinois EPA in Springfield.

15 Q. I'm now handing you a document that has
16 been marked for identification purposes as Agency
17 Exhibit No. 5. Would you please examine it?

18 Do you recognize this document?

19 A. Yes, I do.

20 Q. What is that document?

21 A. It's my resume.

22 Q. Mr. Matheny, does all the information
23 contained in Agency Exhibit No. 5 and identified by
24 you as your resume true and complete to the best of

1 your knowledge?

2 A. Yes, it is.

3 MR. DEMEROUKAS: I move that the document
4 marked for identification purposes as Agency Exhibit
5 No. 5 be accepted as the resume of Mr. James
6 Matheny.

7 THE HEARING OFFICER: Are there any objections
8 to admitting Mr. Matheny's resume into the record as
9 Exhibit No. 5?

10 Seeing none, so admitted into the record
11 as Exhibit No. 5.

12 MR. DEMEROUKAS: The witnesses will now be
13 available to answer any questions.

14 THE HEARING OFFICER: Okay. Is there anything
15 else right now that the agency would like to present
16 in support of their proposal?

17 MR. DEMEROUKAS: Not at this time.

18 THE HEARING OFFICER: Okay. We will now
19 proceed with any questions of the agency witnesses.

20 I'm going to proceed. I have a few
21 questions related to proposal, some technical and
22 some substantive. The first one relates to the
23 proposal of Section 240.107 entitled Incorporations
24 by Reference. I'm just looking for a technical

1 clarification here under 240.107(c).

2 I noticed in the board's proposal this is
3 a reference to the U.S. EPA high-tech I/M test
4 procedures; however, in the agency's initial
5 fast-pass proposal that sections 240.107(c) has an
6 address for this particular high-tech I/M test
7 procedure located in Ann Arbor, Michigan, and I am
8 wondering in terms of reconciling this whether or
9 not that address should still be included into this
10 Subsection C?

11 MR. DEMEROUKAS: It should be included. That
12 was an inadvertent error.

13 THE HEARING OFFICER: Okay. And the address is
14 still 2565 Plymouth Road, Ann Arbor, Michigan 48105,
15 the zip code.

16 MR. DEMEROUKAS: I would have to confirm that.

17 THE HEARING OFFICER: Okay.

18 MR. DEMEROUKAS: I don't know this minute if
19 that's still the correct address.

20 THE HEARING OFFICER: Okay. If you can confirm
21 that in your proposed hearing comment, just to
22 confirm that.

23 MR. DEMEROUKAS: I will.

24 THE HEARING OFFICER: That would help us.

1 Thank you.

2 The next technical question I have relates
3 to Section 240.172. The title may have been
4 inadvertent on our part, but I want to make sure
5 that the title should read Evaporative System
6 Integrity Test Standard and "pressure" should be
7 crossed out?

8 MR. DEMEROUKAS: In the packet that we filed
9 before the board --

10 THE HEARING OFFICER: Right.

11 MR. DEMEROUKAS: -- the word integrity is
12 underlined, and the word pressure is crossed out.

13 THE HEARING OFFICER: Okay.

14 MR. DEMEROUKAS: Thank you.

15 The next question I have relates to
16 Section 240, Table C, entitled Vehicle Exhaust
17 Emission Fast-Pass Standard. I just wanted to
18 confirm under the -- that there are five columns
19 here, and under the column seconds, if you could
20 proceed down to seconds 131 and 132, I wanted to
21 confirm that that far -- the fifth column under
22 carbon monoxide Phase II, the values for 131, should
23 still read .553, and the value for one second 132
24 should read .534. I believe that's the agency

1 proposal. I just wanted to confirm that.

2 MR. DEMEROUKAS: Would you please repeat the
3 question?

4 THE HEARING OFFICER: Yes.

5 Under the column seconds for the value
6 131, second 131, should the fifth column, which is
7 under the carbon monoxide heading Phase II -- is it
8 correct that this reads .553, that value?

9 MR. HILLS: It's correct that it reads that,
10 but it's wrong. It should be .530 for the second
11 131.

12 THE HEARING OFFICER: I just noticed from when
13 I was tracing the column down from a nontechnical
14 perspective that it seemed a little odd.

15 MR. HILLS: You're right.

16 MS. McFAWN: So would it be the same value for
17 second 130 then?

18 MR. HILLS: Yeah.

19 MS. McFAWN: It doesn't change?

20 MR. HILLS: Right. Because .530 at second
21 130, .530 at second 131, and then .534 at second
22 132.

23 THE HEARING OFFICER: So the value for the
24 second 132 is correct as it is proposed?

1 MR. HILLS: Yes. It's 131.

2 THE HEARING OFFICER: All right. Then the

3 other question I have in this table is with regard

4 to second 236. Again, that value in the fifth

5 column under the carbon monoxide Phase II heading

6 currently reads 17.188. I wondered if that value

7 was correct as proposed, again, based on my just

8 looking at the columns -- the values in that

9 column.

10 MR. HILLS: Okay. Second 236 is correct, but

11 235 should be 17.187, not 189 in the second 235.

12 THE HEARING OFFICER: Thank you.

13 One other question I -- actually, if I can

14 bring you back again, I apologize, to

15 Section 240.172, Subsection A, entitled Fuel Cap

16 Pressure Decay Standards. There's a reference in

17 that proposal to -- a numerical reference to 6 plus

18 0.3 inches. Is that 6 plus or minus 0.3 inches?

19 MR. HILLS: Yes, it is, but that -- the plus or

20 minus 0.3 has been dropped in the errata sheet.

21 THE HEARING OFFICER: Okay. Thank you.

22 I had a couple other questions just on the

23 program based on Mr. Hills' prefiled testimony. The

24 first question relates to the fast-pass -- the new

1 proposal for the fast-pass standard. I just had a
2 question with regard to this standard. If the
3 vehicle does not meet the fast-pass standard within
4 the 240 seconds, does the vehicle then fail, or what
5 happens then?

6 MR. HILLS: You check the full composite in
7 Phase II emissions in grams per mile to the grams
8 per mile standards for the full test.

9 You compare the full grams per mile
10 emissions that you receive from the car to the full
11 standard in Sections 240.162 or 163 depending on
12 which standard applies, and then if they don't meet
13 those standards, then the car does fail.

14 THE HEARING OFFICER: Okay. Thank you.

15 With regard to the evaporative system
16 standards, why has the agency determined that a full
17 pressure test of the entire evaporative system would
18 be infeasible in a high-fast lane?

19 MR. HILLS: It requires access under the hood
20 in most cases to the engine compartment and with
21 each vehicle the rotating pressure system can be
22 different from vehicle to vehicle, and, therefore,
23 it would add a lot of time to test the vehicle, and
24 it would be -- it would require more training, and I

1 guess that would be about it.

2 THE HEARING OFFICER: Is your proposal
3 consistent with U.S. EPA's requirement, or are there
4 any requirements for this test by U.S. EPA?

5 MR. MATHENY: U.S. EPA has approved our stated
6 implementation revision including the gas cap tests
7 in lieu of the pressure and purge evaporative
8 tests.

9 THE HEARING OFFICER: Thank you.

10 With regard to the on-road sensing
11 emission standards, on what basis does the agency
12 base this proposal? Is it from U.S. EPA? Is it
13 from another source?

14 MR. HILLS: Well, it's required by U.S. EPA,
15 but they have not established any emission
16 standards. States were kind of left on their own to
17 do that, and we chose -- we looked at various states
18 around the country that have been doing studies on
19 remote sensing and found Wisconsin to have a very
20 well-prepared standard of remote sensing where they
21 tested approximately 71,000 vehicles and determined
22 emission standard based on those tests, and we've
23 adopted those standards as our own.

24 MS. McFAWN: Those are the limitations at

1 Section 241.82?

2 MR. HILLS: Yes.

3 MS. McFAWN: Okay. That Wisconsin study, is
4 that part of the submittal you made to the board?

5 MR. HILLS: I believe it is, yes. Yes, it is.

6 MS. McFAWN: Okay.

7 THE HEARING OFFICER: Thank you.

8 Again, with regard to the on-road remote
9 sensing test, why does the current proposal require
10 that vehicles fail twice before an order is notified
11 of an official failure?

12 MR. HILLS: That's to ensure that we get an
13 accurate reading on each car.

14 THE HEARING OFFICER: I guess if I can follow
15 up, I noticed in the testimony there seems to be a
16 reference to an incidence of false failures. Is
17 that --

18 MR. HILLS: Yes. To reduce --

19 THE HEARING OFFICER: -- a common occurrence?

20 MR. HILLS: -- the chance of false failures, we
21 require that two failures occur before we bring a
22 motorist in for a retest.

23 THE HEARING OFFICER: Is that a common
24 occurrence, a false failure? Is that something that

1 the agency --

2 MR. HILLS: In the Wisconsin study, the false
3 failure rate as a percent of the total test was
4 around three percent.

5 MS. McFAWN: Exactly how does this work?

6 MR. HILLS: Well, there's an infrared beam
7 that's set up that crosses the road, and when a car
8 trips the beam, essentially a photo is taken. It's
9 not really a photo, but it's a snapshot of the
10 emissions coming out of the tail pipe, and at the
11 same time, there's a camera that takes a picture of
12 the license plate of the vehicle, and the infrared
13 beam determines the percent of carbon monoxide and
14 PPM of hydrocarbons and assigns those readings to
15 the license plate that was photographed.

16 Then those readings are compared to the
17 standards to determine whether the vehicle passes or
18 fails.

19 MS. McFAWN: So it's really random?

20 MR. HILLS: Yes.

21 MS. McFAWN: Would you set it up like, for
22 instance, on a tollway?

23 MR. HILLS: You want to be careful where you
24 set it up where cars aren't decelerating. That can

1 cause a false failure. So they're usually set up on
2 on-ramps, in places where a car is accelerating
3 instead of decelerating.

4 I guess a tollway would be all right if
5 you set it on when the cars are leaving, not as
6 they're entering.

7 MS. McFAWN: And it's random?

8 MR. HILLS: Yes.

9 MS. McFAWN: So how would you ever get a car
10 for a second time, you know, if you need two tests,
11 right, before you can send the notice?

12 MR. MATHENY: I can answer that.

13 MS. McFAWN: Sure.

14 MR. MATHENY: A few years ago a professor from
15 the University of Denver did come out under a
16 contract with the old Department of Natural
17 Resources or Environment -- I can't remember --

18 MS. McFAWN: DENR?

19 MR. MATHENY: DENR. And in effect they set up
20 a remote sensing device on an on-ramp on the
21 Eisenhower out by Cicero. And you essentially leave
22 the sensor for a number of days. So particularly
23 convening traffic, you will take a measurement of a
24 vehicle on, say, Monday, and there's a likelihood

1 that they will return on Tuesday and Wednesday and
2 Thursday. So you'll have multiple opportunities to
3 take a snapshot of the emissions from a particular
4 vehicle.

5 MS. McFAWN: I see. Okay. Thank you.

6 MR. DEMEROUKAS: I can also note one other
7 item. According to the Vehicle Emissions Inspection
8 Law of 1995 at 625 ILCS 13(b)-15, Paragraph I, for
9 on-road sensing, it requires two tests before the
10 vehicle owner is notified to come in for an
11 out-of-cycle inspection.

12 THE HEARING OFFICER: Thank you.

13 With regard to the on-board diagnostic
14 proposal, I had a question just for clarification.
15 There's a reference in Mr. Hills' testimony to an
16 MIL status and trouble code information. What does
17 MIL stand for?

18 MR. HILLS: Malfunction indicator light. It's
19 a little light on your dashboard that says check
20 engine.

21 THE HEARING OFFICER: Thank you.

22 And also with regard to the OBD, on-board
23 diagnostic testing, why is the agency proposing this
24 only on an advisory basis?

1 MR. MATHENY: Earlier in the year, in February
2 I believe it was, U.S. EPA amended their rule
3 governing OBD inspections and inspection maintenance
4 programs, and they eliminated the final
5 implementation date from that rule pending the
6 collection of data from a number of states such that
7 they could, in effect, refine that requirement.

8 There's some question as to whether or not
9 motor vehicle manufacturers have truly standardized
10 the OBD systems as was required in the original
11 federal rule requiring manufacturers to put these
12 systems on vehicles, and so they delayed or reserved
13 the final implementation date for passing and
14 failing vehicles that are tested and show these
15 trouble codes.

16 THE HEARING OFFICER: Do you have the -- is
17 this a Federal Register cite by the U.S. EPA? Do
18 you have that with you at this time?

19 MR. DEMEROUKAS: What we had, we had included
20 in the submittal before the board in item 15(g) is
21 the notice of the proposed rulemaking, and that was
22 from December of 1997. We do not have with us the
23 final rule.

24 MS. McFAWN: So you're saying that the notice

1 of the proposal rulemaking published by U.S. EPA on
2 December 22nd, 1997, has now gone final?

3 MR. DEMEROUKAS: I believe it has. I would
4 have to check that.

5 MS. McFAWN: Could you do that and submit that
6 along with your post-hearing comments?

7 MR. DEMEROUKAS: Yes, I will.

8 MS. McFAWN: Thank you.

9 THE HEARING OFFICER: I don't have any other
10 questions at this time.

11 Does anyone else have any questions?

12 Mr. O'Brien do you have any?

13 MR. O'BRIEN: You made some corrections on the
14 chart 240, Table C. The lines you said were 131 and
15 236. The question is, what are you referring to
16 when you make those corrections?

17 MR. DEMEROUKAS: Could you restate that? I
18 don't understand what you mean.

19 MR. O'BRIEN: Where did you get the corrections
20 from?

21 MR. HILLS: The high-tech I/M test procedure, a
22 document from the U.S. EPA.

23 MR. O'BRIEN: Okay.

24 THE HEARING OFFICER: Thank you.

1 MS. McFAWN: I had a question about the
2 on-board diagnostic portion of your proposal. You
3 say that you're adding this enhanced I/M test
4 program. Since it's advisory only -- you mentioned
5 that the U.S. EPA has reviewed this packet and
6 approved it as a SIP submittal; is that correct?

7 MR. DEMEROUKAS: Not this packet.

8 MS. McFAWN: Not this packet?

9 MR. DEMEROUKAS: What Mr. Matheny was referring
10 to was the substitution of the gas cap only
11 evaporative system integrity test for the full
12 pressure and purge tests.

13 MS. McFAWN: Okay. If the board wasn't -- if
14 the board did not adopt the advisory test standards
15 that you're proposing having the OBD, could you tell
16 me what the impact of that would be?

17 MR. MATHENY: The impact on?

18 MS. McFAWN: The state system.

19 MR. MATHENY: On the state system?

20 MS. McFAWN: Or the state program, yes.

21 MR. DEMEROUKAS: Could you clarify that in
22 terms of what kind of impacts?

23 MS. McFAWN: Well, you're saying that the
24 reason you're proposing it is to enhance the I/M

1 test program in Illinois. How does this enhance the
2 I/M test program?

3 MR. MATHENY: Well, the OBD test is a required
4 element of all enhanced programs.

5 MS. McFAWN: Well, then why is it advisory?

6 MR. MATHENY: It's advisory because U.S. EPA is
7 currently rethinking when that would become a
8 mandatory test because of some technical concerns
9 that have been brought forward to them, I believe,
10 primarily from the auto manufacturers. Yet, you
11 know, they're still requiring that enhanced programs
12 incorporate the on-board diagnostic test as part of
13 the test procedure.

14 MS. McFAWN: So a motorist could decline to
15 have this test taken on their car? As I understand
16 it, you go through the lane, and you agree to let
17 this downloading from your car's computer system go
18 on; is that right?

19 MR. DEMEROUKAS: That's correct.

20 MS. McFAWN: Could a motorist say I don't care
21 to partake in that particular portion of this test
22 since it's advisory only?

23 MR. DEMEROUKAS: Not if the board adopts this
24 portion of the rule, which would require the

1 motorist to take this portion, the gas cap portion,
2 every other element of the test.

3 As Mr. Matheny stated, the federal rule, I
4 believe the final rule relating to on-board
5 diagnostics, still requires that the test be
6 conducted in an enhanced I/M program, but they
7 reserve the pass/fail determination until some
8 unknown future date. So we are required to include
9 it and perform the test.

10 MS. McFAWN: Okay.

11 MR. HILLS: And vehicles that do fail will be
12 provided with a list from this OBD download which
13 may indicate to a mechanic what are the possible
14 problems. So it will aid in locating the problem
15 because the emission failed.

16 MS. McFAWN: Well, that's true, but it would
17 seem to me that the owner of the car could go to
18 their repair technician and have the same download
19 take place by the repair technician. I mean, that's
20 part of the standard vehicle maintenance oftentimes
21 with cars that are equipped with such computers. I
22 just wondered. Thanks.

23 THE HEARING OFFICER: I had one other question
24 with regard to OBD advisory status.

1 Do you have an idea as to when the U.S.
2 EPA anticipates that they will require this, or
3 would the agency be requiring this, at what time
4 that would occur?

5 MR. MATHENY: Right now that's unknown.

6 MS. McFAWN: We were reviewing your errata
7 sheet that you gave us this morning, and at least
8 upon first review, I had some questions about seven,
9 eight, and possibly nine.

10 Could you tell us -- you want us to make
11 some amendments to the rule as it was adopted for
12 first notice, and I'm not exactly sure where these
13 amendments should go on the tables referred there,
14 Table A and Table B.

15 MR. DEMEROUKAS: I could explain. On Table A,
16 let's take that one first --

17 MS. McFAWN: All right.

18 MR. DEMEROUKAS: -- the proposed crossing out
19 tier one paren., 1994, plus, close paren., under
20 light-duty vehicles --

21 MS. McFAWN: Yes.

22 MR. DEMEROUKAS: -- on the same line on the
23 page are the standards reading, from left to right,
24 0.80, 0.50, 15.0, 12.0, and 2.0 and reserved, they

1 should be moved one line down to clearly indicate
2 that those standards will pertain to the proposed
3 1996 plus category.

4 MS. McFAWN: Okay.

5 MR. DEMEROUKAS: The same thing for Table B.

6 MS. McFAWN: I see. All right. Okay. Thank
7 you.

8 We also then do have a question on No. 9.
9 Where do you want this change to take place, in the
10 summary section?

11 MR. DEMEROUKAS: Yes. It's technically not
12 part of the rule, but we wanted to include a
13 revision to the technical support document of the
14 evaporative system integrity test systems. I just
15 wanted to note that. It's not a change to the rule.

16 MS. McFAWN: Oh, okay. Thank you.

17 MR. O'BRIEN: With respect to the remote
18 sensing, this is sort of two part, does it take a
19 snapshot of every vehicle that passes it during a
20 certain time frame, or is it selective?

21 MR. HILLS: No. It will attempt to take a
22 picture of every car. It doesn't pick up every car,
23 but there's no -- it doesn't select based on where
24 the car is registered or anything like that. That's

1 done later after all the data is brought together.

2 MR. O'BRIEN: Is there any criteria for
3 selecting where they're set up other than the
4 technical one that you mentioned earlier as what is
5 an on-ramp where they're accelerating?

6 I guess the concern is that it might get
7 put in poor neighborhoods where, you know, a
8 likelihood of vehicles there will have more emission
9 problems.

10 MR. MATHENY: The federal guidance requires
11 that we locate the devices throughout the emission
12 testing areas, so that sites are located in all the
13 nonattainment counties or the subject counties.

14 MR. O'BRIEN: Random sampling then?

15 MR. MATHENY: More or less. Sometimes it is
16 difficult to properly locate those devices just
17 based upon the roadway geometrics. You can really
18 only cover, with the existing technology, one lane
19 of traffic. So it limits, to some extent, you to as
20 Mr. Hills indicated on-ramps to expressway, where a
21 major arterial road or a road with two-way traffic
22 is really not a good candidate for this type of
23 technology.

24 MR. O'BRIEN: Okay. Would these devices be

1 easily seen from the roadway? Are they large, or
2 are they small?

3 If the vehicle is passing and he says, oh,
4 there's a sensor here, you know, I've got to avoid
5 this on-ramp for the next week or so, is that --

6 MR. MATHENY: The equipment is reasonably
7 compact. The sensors and reflector on the opposite
8 side of the traffic lane is very small. It can be
9 set up on a tripod, but generally the equipment
10 accompanied with the actual sensing equipment is a
11 mobile van, you know, a large panel van where the
12 computer equipment is stored to capture the emission
13 levels and the vehicle's information.

14 MR. O'BRIEN: Thank you.

15 MS. McFAWN: Following up on that, it says that
16 the proposed Rule 240.183, compliance determination,
17 that the agency will adopt procedures having to do
18 with the on-road remote sensing test.

19 Do you have those drafted?

20 MR. DEMEROUKAS: No, we don't.

21 MS. McFAWN: What kind of procedures do you
22 anticipate being included in that kind of series of
23 rules?

24 MR. MATHENY: Procedures, you know, that

1 specify citing criteria to make sure that they are
2 located properly such that the individuals that will
3 actually be locating the devices and citing the
4 devices follow criteria to minimize or eliminate the
5 occurrence of false passes as well as any other
6 criteria that would be necessary to provide for a
7 representative cross-section of vehicles in the
8 area.

9 MS. McFAWN: Anything else? I mean, citing
10 criteria, any other theme that would be included in
11 these types of procedures?

12 MR. HILLS: Safety for the operator's
13 equipment.

14 MS. McFAWN: Are these physically manned by
15 people, this equipment?

16 MR. HILLS: Yeah.

17 MS. McFAWN: Oh. I thought maybe it was set
18 out there, and it automatically did it, you know.

19 MR. MATHENY: They can be set up that way, but
20 generally with the numbers that will be done and the
21 length of time you'll remain at a location with set
22 up time and, you know, monitoring to make sure that
23 the equipment is operating properly, and generally
24 there's one or two people that will be there on

1 site.

2 MS. McFAWN: Will they have to do anything to
3 the equipment, and, if so, would that be part of
4 your procedures?

5 I mean, will they have to physically
6 trigger the equipment or have instructions on how
7 often it's supposed to be set to take the
8 photograph?

9 MR. MATHENY: They will have to calibrate the
10 equipment to make sure that the emission
11 measurements are accurate.

12 MS. McFAWN: The calibration procedures, would
13 that be part of your rules?

14 MR. MATHENY: Yes.

15 MS. McFAWN: When would you anticipate adopting
16 these types of rules?

17 MR. DEMEROUKAS: We anticipate adopting them
18 within the next three to six months.

19 MS. McFAWN: Because this would actually go on
20 site -- when would you start using this type of
21 equipment?

22 MR. DEMEROUKAS: We anticipate starting this at
23 the same time frame of starting the enhanced -- the
24 entirety of the enhanced program.

1 MS. McFAWN: Are there any federal guidelines
2 on the type of procedures you anticipate having to
3 adopt to make this testing work?

4 MR. MATHENY: I believe U.S. EPA has prepared
5 and issued some guidance on remote sensing devices
6 and testing.

7 MS. McFAWN: Do we have that before us?

8 MR. MATHENY: I don't know. We did not submit
9 that proposal.

10 THE HEARING OFFICER: Which was the testing
11 standards that you based -- you liked the Wisconsin
12 test. Which test was that? Was that --

13 MR. HILLS: That was remote.

14 THE HEARING OFFICER: That was remote?

15 MR. HILLS: Yes.

16 MR. O'BRIEN: Does Wisconsin require them to be
17 tested again, an out-of-cycle test, as you're
18 proposing?

19 MR. HILLS: Their rules currently state that
20 they do, but they are not currently performing RSD
21 on the -- they're currently not requiring people to
22 come in.

23 MR. O'BRIEN: Do they at least notify the
24 people?

1 MR. HILLS: No, I don't think so.

2 MR. O'BRIEN: Is there any sort of report on --

3 how do I want to say this -- capture efficiency as

4 far as getting a vehicle twice in a certain time

5 frame and being able to identify it and notify that

6 person?

7 MR. HILLS: I've seen studies that have looked

8 into that, but I can't tell you right now what they

9 were. I think they were fairly good percentage as

10 far as getting two shots on somebody, and that

11 didn't seem to be a problem in getting people twice.

12 MR. O'BRIEN: So there isn't a problem with

13 avoidance? I mean, if somebody sees a mini-van on

14 the side of the road and it appears to be somewhat

15 identifiable as a testing site and then people start

16 hearing about the fact that -- you know, if your car

17 is not doing good on emissions, you know, you've got

18 to avoid these places, you know, there's usually a

19 lot of different routes to take in any given area?

20 MR. HILLS: Yeah. At the time these studies

21 were performed though, they weren't -- they were

22 just demonstrations. So the motorist wasn't aware

23 of what was being done.

24 MR. O'BRIEN: All right.

1 MR. HILLS: So I don't know if anybody has
2 looked into the fact that people are avoiding them.
3 It's still a young program.

4 MR. O'BRIEN: Thank you.

5 MS. McFAWN: Could you, for the record, state
6 what your time frame is for this enhanced program?

7 MS. TRACY: We expect to begin enhanced
8 emission testing sometime between December 1 of 1998
9 and June 1 of 1999.

10 The remote sensing component we would
11 expect to occur for the first cycle during the
12 summer of 1999. We are requiring the contractor for
13 centralized emission testing to perform the RSD
14 testing for us, and as part of emission testing as a
15 whole, we expect that this vehicle that they bring
16 in, probably one or two of these vans equipped to do
17 this testing, would probably be set up for perhaps a
18 couple weeks in duration during the summer months.

19 MR. O'BRIEN: At one location?

20 MS. TRACY: At these multiple sites that we
21 have identified.

22 MS. McFAWN: Is it the contractor that then
23 takes the information gathered and puts it into a
24 package of information that's usable by the agency?

1 Is that how that's done?

2 MS. TRACY: We work together with them to try
3 to develop that.

4 MS. McFAWN: Is the contractor in charge of
5 just the on-the-road testing, or does the contractor
6 also assist the agency, for example, in the on-board
7 diagnostic information that's generated?

8 MS. TRACY: The contractor is responsible for
9 everything that happens in the lane in terms of the
10 actual testing, which would include the on-board
11 diagnostics.

12 MS. McFAWN: On a statewide basis or on a
13 site-by-site basis?

14 MS. TRACY: The centralized emission contractor
15 actually will be responsible for the testing at all
16 of our sites.

17 MS. McFAWN: And then do they take all that
18 information and then develop it to assist the
19 agency, or do you take that information?

20 MS. TRACY: It's automatically, you know,
21 updated. It's automatically updated on the computer
22 database that we have developed.

23 MR. O'BRIEN: The identification of the
24 vehicles, does that come from the license plate?

1 MS. TRACY: That's correct.

2 MR. O'BRIEN: And will the contractor have
3 access to the information via the license plate,
4 home address, stuff like that from the vehicle?

5 MS. TRACY: Some of these details have not been
6 completely worked out. It is likely that the agency
7 would do the notification, and we would assimilate
8 in some fashion from the plate identification to the
9 point where we have a good plate, a good match, and
10 we've identified that it is a testable vehicle in a
11 test area because as you know the testing universe
12 is, you know, only a part of the state.

13 MR. O'BRIEN: But will a contractor at any
14 point have access to the personal information?

15 MS. TRACY: They work with us in all the
16 aspects of the program. I mean, I'm not sure what
17 your question is leading to.

18 MR. O'BRIEN: I guess as a matter of security,
19 you know, having the home address of the car and
20 having to know when it leaves the house, I guess,
21 you know, and whether or not that should be outside
22 of the state's, you know, control. Does that make
23 sense?

24 MR. MATHENY: The individuals who will be

1 taking the remote sensing measurements will not have
2 access to that information. They will simply be
3 providing emission results, the digitized photograph
4 of the back end of the vehicle with the license
5 plate to our test contractor who will then merge
6 that information with other data that they currently
7 maintain for us on what we call the vehicle
8 emissions database, and that database does contain
9 information that we receive from the Secretary of
10 State's Office on the vehicle registration
11 information, the owners' names and addresses. That
12 information we use to send out our emission test
13 notices for the current existing centralized program
14 as well as notify the secretary of state when
15 vehicles have not complied with the requirements.

16 MR. O'BRIEN: Okay. Thank you.

17 THE HEARING OFFICER: Are there other questions
18 for the agency witnesses?

19 Seeing that there are no questions for the
20 agency witnesses, we will proceed to the end of this
21 proceeding today. I would just like to note that
22 the second hearing for this rulemaking is scheduled
23 for Tuesday, April 15th, 1998, at 10:30 a.m. in
24 Room 9-031 in the same building, the James R.

1 Thompson Center. The third hearing is scheduled for
2 Tuesday, April 28th, 1998, at 10:30 as well in
3 Room 9-031 in the James R. Thompson Center.

4 I remind you though that if after seven
5 days following the close of this hearing there is no
6 request for additional hearings, the board may
7 cancel the second and third hearing. In that event,
8 all persons listed on the notice list will receive
9 the hearing officer order indicating that the
10 cancellation has occurred.

11 If the board cancels the next two
12 hearings, the record in this matter is anticipated
13 to close on April 6th, 1998, which is 14 days after
14 the availability of the transcript. Consequently,
15 if no additional hearings are held, we anticipate
16 that all public comments shall be received by the
17 board on or before April 6th, 1998.

18 The mailbox rule as set forth in 35
19 Illinois Administrative Code 101.102 (d) will not
20 apply to these filings.

21 If there are no other matters to be
22 addressed this morning, we will close this hearing,
23 and I thank all of you for your attendance and
24 participation in this proceeding.

1 Thank you.

2 MS. McFAWN: You had no more comments?

3 MR. DEMEROUKAS: We have no more comments.

4 MS. McFAWN: I thank you as well.

5 THE HEARING OFFICER: Thank you very much.

6 Have a good day.

7 (Whereupon, these were all the
8 above-entitled proceedings had
9 at this time.)

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1 STATE OF ILLINOIS)

) SS.

2 COUNTY OF C O O K)

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5 I, KIM M. HOWELLS, CSR, do hereby

6 state that I am a court reporter doing business in

7 the City of Chicago, County of Cook, and State of

8 Illinois; that I reported by means of machine

9 shorthand the proceedings held in the foregoing

10 cause, and that the foregoing is a true and correct

11 transcript of my shorthand notes so taken as

12 aforesaid.

13

14

15 _____
Kim M. Howells, CSR.

Notary Public, Cook County, IL

16 Illinois License No. 084-004037

17

18 SUBSCRIBED AND SWORN TO

before me this _____ day

19 of _____, A.D., 1998.

20 _____

Notary Public

21

22

23

24