

1 ILLINOIS POLLUTION CONTROL BOARD

2 In the Matter of:)
)
 3 DIESEL OPACITY RULES;) R01-8
 AMENDMENTS TO) (Rulemaking - Air)
 4 35 Ill. Adm. Code 240)

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6 TRANSCRIPT OF PROCEEDINGS had at
 7 the hearing of the above-entitled matter, taken
 8 stenographically by Cheryl L. Sandeck, CSR,
 9 before STACY L. MEYERS, Hearing Officer, held at
 10 160 North LaSalle Street, Illinois, on the 24th
 11 day of October, 2000, at the hour of
 12 10:00 a.m.

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1 PRESENT:

2 HEARING TAKEN BEFORE:

3 Illinois Pollution Control Board
4 100 West Randolph Street
5 Room 11-500
6 Chicago, Illinois 60601
7 (312) 814-7011,
8 BY: MS. STACY L. MEYERS

9 ALSO PRESENT: MR. SAMUEL T. LAWTON, JR.,
10 Board Member

11 MS. ALISA LIU,
12 Environmental Scientist

13 MR. ANAND RAO,
14 Environmental Scientist

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1 HEARING OFFICER MEYERS: Good morning. This
2 hearing is being conducted by the Illinois
3 Pollution Control Board. My name is Stacy Meyers,
4 and I am the hearing officer in this proceeding
5 entitled In The Matter Of Diesel Opacity Rules
6 Amendments to 35 Illinois Administrative Code 240,
7 docket number R01-8.

8 For the record, today's date is
9 October 24th, 2000, and it is approximately 10:00
10 o'clock in the morning.

11 I would like to introduce you to the
12 member of the board that is here this morning who
13 has been assigned to this matter. Sitting to my
14 immediate right is Mr. Samuel T. Lawton, Junior.

15 MR. LAWTON: Good morning.

16 HEARING OFFICER MEYERS: This is the second
17 of two presently scheduled hearings for receipt of
18 testimony and questions concerning the Board's
19 September 7th, 2000 proposal to amend its existing
20 diesel opacity regulations as required by
21 legislative mandate.

22 This hearing is governed by the Board's
23 procedural rules for regulatory proceedings. That
24 means that all information which is relevant and

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1 not repetitious or privileged will be admitted in

2 accordance with 35 Illinois Administrative Code
3 102.282. All witnesses will be sworn and subject
4 to cross-examining.

5 The Illinois General Assembly passed
6 Public Act 91-254 in 1999. That law, which
7 amends the Illinois Vehicle Code, requires the
8 Board to amend its existing diesel smoke opacity
9 rules within eight months of the legislation's
10 effective date of July 1st 2000. The Board passes
11 the proposed -- passed the proposed first notice
12 opinion and order for this matter on
13 September 7th, 2000. Copies of the order are
14 located in the back of the room. The opinion and
15 order are also available on the Board's website.
16 Our URL address is www.ibcb.state.il.us.

17 The usual order of regulatory hearings
18 is that the proponent of the proposed regulation
19 presents testimony concerning the proposal. The
20 general assembly did not specify anyone other than
21 the Board to be the proponent of amendments to
22 existing diesel opacity regulations. The Board's
23 explanation of this proposal is found in the
24 September 7th, 2000, first notice of opinion and

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1 order.

2 Today, since I have briefly summarized

3 proposed amendments on the October 4th hearing in
4 Springfield, I will not be summarizing the
5 proposed amendments again since we have no one new
6 in our audience.

7 Ms. Alisa Liu, an environmental
8 scientist with the Pollution Control Board, is
9 available to answer any questions that there may
10 be regarding the proposed regulations.

11 After questions to the proponent are
12 complete, the Board typically hears testimony from
13 persons who have prefiled testimony with the
14 Board. As no one has done so, we will hear
15 testimony by people who have signed up today. I
16 will proceed by calling people in the order that
17 they had registered to testify. If you wish to
18 present testimony to the Board today, please sign
19 in on the sheet located on the table in the back
20 of the room.

21 A note to the record, there is no one
22 here today to testify or to ask questions from
23 Ms. Alisa Liu.

24 At this time I would like to give

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1 Mr. Samuel T. Lawton, Junior, the opportunity make
2 any additional remarks.

3 MR. LAWTON: Good morning. I want to welcome

4 you to this hearing on behalf of the Illinois
5 Pollution Control Board. The State has had
6 opacity legislation with regard to diesel
7 emissions for some time. However, the recent
8 directive from the Illinois General Assembly has
9 called upon the Board to amend the regulations
10 respecting opacity levels and to be consistent
11 with the USEPA guidance and to incorporate
12 procedures that are consistent with the Society of
13 Automotive Engineers' recommended practice.

14 To the extent that there are any
15 exceptions to those particular documents, the
16 Illinois General Assembly has directed the
17 Pollution Control Board to adopt a mandatory
18 regulation that will be consistent with the United
19 States Environmental Protection Agency guidance
20 and also with regard to the procedures and
21 practice of the Society of Automotive Engineers.
22 To the extent that the proposed regulatory
23 amendment is inconsistent with either of those, I
24 imagine the hearing officer will comment on that

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1 in the course of the proceeding.

2 HEARING OFFICER MEYERS: Briefly since I am
3 not going to go into in-depth summary today,
4 required changes to the smoke diesel opacity

5 regulations fall under three categories; one, the
6 incorporation of new smoke test opacity
7 procedures; two, temporary relaxation of smoke
8 opacity standards for diesel-powered heavy-duty
9 vehicles from 1973 and earlier; and three, the
10 deletion of provisions regarding Adjusted Standard
11 92-4, which relaxed the general 55 percent opacity
12 standard to 85 percent for Detroit Diesel
13 Corporation, or DDC, 1987 to 1990 series 60
14 engines.

15 For a further summary of our changes
16 and amendments to the Board's existing diesel
17 opacity regulations, please either refer to the
18 transcript of the October 4th, 2000 hearing, which
19 was held in Springfield, which is available
20 through our board's clerk's office at 75 cents a
21 page as well as our board website. Or you may
22 also review the Board's September 7th first notice
23 of opinion and order for details regarding any
24 changes.

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1 At this time I open up the floor and
2 proceed with questions for Ms. Alisa Liu, who is
3 the environmental scientist available today for
4 the Board.

5 Please if you wouldn't mind, I would

6 appreciate you swearing Ms. Alisa Liu in, if you
7 could swear her in.

8 (Whereupon Alisa Liu was
9 sworn.)

10 HEARING OFFICER MEYERS: Are there any
11 questions for Ms. Alisa Liu today?

12 We now note the floor open up to public
13 testimony. Since there is nobody present today to
14 testify, I currently recommend that we recess for
15 approximately 30 minutes, until 10:40, to give
16 anyone who is not here presently the opportunity
17 to participate in this hearing at that time.

18 Are there any objections? Okay. Then
19 it is exactly 10:10 at this time. We will
20 continue at 10:40. Thank you.

21 (Short recess taken.)

22 HEARING OFFICER MEYERS: Welcome back. At
23 this time we have returned to the public hearing
24 for the matter of Diesel Opacity Rules, docket

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1 number R01-8.

2 Let the record reflect, please, that
3 there is still no one in the audience, and there
4 is no one signed up to testify here today. We,
5 once again, have not received any prefiled
6 testimony. However, I do have a few remarks for

7 the record.

8 The first is regarding service and
9 notice lists. Copies of the current notice and
10 service list are available in the back of the room
11 today. If anyone finds that their name does not
12 appear on the lists, we have sign-up sheets for
13 the notice and service list in the back of the
14 room as well, which allows for the opportunity to
15 be included on either list.

16 Individuals on the notice list receive
17 only board and hearing officer opinion and orders.
18 Individuals on the service list receive copies of
19 all documents filed by all persons on the service
20 list including prefiled testimony and questions,
21 motions and appearances as well as board and
22 hearing officer opinion and orders.

23 If your name is on the service list and
24 you file documents with the Board, you must also

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1 serve everyone on the service list with copies of
2 those same documents. If you have any questions
3 about the lists, please see me after the hearing.

4 Are there any other matters that need
5 to be addressed at this time?

6 MR. LAWTON: Nothing.

7 HEARING OFFICER MEYERS: If any persons would

8 like a copy of the transcript from today's
9 hearing, you can speak to the court reporter
10 directly. You may also contact the board's
11 clerk's office in Chicago for a hard copy at 75
12 cents a page or down-load the hearing from the
13 Board's website.

14 Due to time constraints placed upon the
15 Board by the Illinois General Assembly, no
16 additional hearings will be held after today
17 regarding R01-8.

18 Due to the expedited nature of this
19 rule making as mandated by the Illinois General
20 Assembly, the APA first notice period will end on
21 Monday, November 6th, 2000. However, the Board
22 will accept public comments in this matter through
23 November 9th, 2000. The mailbox rule will apply
24 to the November 6th date only. Since the Illinois

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1 General Assembly has given the Board an
2 eight-month deadline to adopt these rules, we will
3 not extend the public comment period beyond this
4 date.

5 Anyone may file public comments with
6 the clerk of the board. You must simultaneously
7 deliver your comment to all persons on the service
8 list and include an attached notice sheet, proof

9 of service and a copy of the current service list.
10 You should contact the clerk's office to make sure
11 you have an updated service list.

12 The Board anticipates it will go to
13 second notice on either November 16th or
14 December 7th, 2000.

15 At this time if there are no further
16 questions, I would like to adjourn.

17 (Whereupon the proceedings in
18 the above-entitled cause were
19 adjourned.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF LAKE)

4 I, Cheryl L. Sandeck, a Notary Public
5 within and for the County of Lake and State of
6 Illinois, and a Certified Shorthand Reporter of
7 the State of Illinois, do hereby certify that I
8 reported in shorthand the proceedings had at the
9 taking of said hearing and that the foregoing is a
true, complete, and correct transcript of my

10 shorthand notes so taken as aforesaid, and
11 contains all the proceedings given at said
12 hearing.

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Notary Public, Cook County, Illinois
C.S.R. License No. 084-03710

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