

1 ILLINOIS ENVIROMENTAL PROTECTION AGENCY  
 2 IN THE MATTER OF: )  
 PROCEDURES TO BE FOLLOWED )  
 3 IN THE PERFORMANCE OF )  
 INSPECTIONS OF MOTOR VEHICLE ) (Rulemaking-  
 4 EMISSIONS, 35 ILL. ADM. CODE ) Air  
 PART 276 )

5

6 REPORT OF THE PROCEEDINGS held in the  
 7 above entitled cause before Hearing Officer Dean  
 8 Studer, called by the Illinois Enviromental  
 9 Protection Agency, taken by Steven Brickey, CSR,  
 10 for the State of Illinois, 100 West Randolph Street,  
 11 Chicago, Illinois, on the 17th day of November, 2011,  
 12 commencing at the hour of 1:00 p.m.

13

14

15

16

17

18

19

20

21

22

23

24 L.A. COURT REPORTERS, LLC. (312) 419-9292

A P P E A R A N C E S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

MR. DEAN STUDER, Hearing Officer

MR. KENT MOHR

MR. STEPHEN THORPE

MR. MICHAEL HILLS

REPORTED BY:

Steven J. Brickey, CSR

CSR License No. 084-004675

L.A. COURT REPORTERS, LLC. (312) 419-9292

1                   MR. STUDER: Good afternoon. My  
2 name is Dean Studer and I'm the Hearing Officer  
3 for the Illinois Environmental Protection Agency,  
4 or Illinois EPA. My purpose today is to ensure  
5 this hearing runs in a fair and orderly manner  
6 according to the rules. This hearing is being  
7 held for the purpose of gathering public comment  
8 on proposed amendments to the Illinois EPA's  
9 Vehicle Inspection and Maintenance Program rules  
10 entitled Procedures to be Followed in the  
11 Performance of Inspections of Motor Vehicle  
12 Emissions. And that's at 35 Ill. Adm. Code Part  
13 276.

14                   The proposal would amend the  
15 State of Illinois regulations at 35 Ill. Adm. Code  
16 Part 276 to reflect an amendment to the Vehicle  
17 Emissions Inspection Law, VEIL, of 2005 and that's  
18 625 ILCS 5/13C and those amendments were made by  
19 Public Act 17-0106. PA 97-0106 amends the VEIL of  
20 2005 by repealing the steady-state idle exhaust  
21 and evaporative system integrity inspection test.

22                   These inspections tests were  
23 submitted for the onboard diagnostic OBD test for  
24 heavy duty vehicles not required to be equipped

1 with OBD systems meeting federal OBD II  
2 specifications on certain vehicles that could not  
3 receive the OBD test due to their design or with  
4 known OBD communication or software problems.

5           Public Act 97-0106 exempts  
6 pre2007 heavy duty vehicles with a gross vehicle  
7 weight rating, GVWR, between 8,501 and 14,000  
8 pounds and any heavy duty vehicles with a GVWR  
9 greater than 14,000 pounds from the requirement to  
10 be tested. These heavy duty vehicles are not all  
11 required to be equipped with OBD systems meeting  
12 the federal OBD II specification.

13           Also Public Act 97-0106 adds a  
14 visual inspection test as a new substitute for the  
15 OBD test for vehicles that cannot receive the OBD  
16 test due to their design or with known OBD  
17 communication software problems.

18           In addition, it revises the  
19 definition of malfunction indicator lamp and OBD  
20 system. Finally, it corrects an error with  
21 respect to the exemption for vehicles located and  
22 primarily used outside of the affected counties  
23 and in other jurisdictions where vehicle emissions  
24 tests are not required. This exemption applies to

1 vehicles that are located and primarily used  
2 outside of the affected counties and in other  
3 jurisdictions where vehicle emission tests are not  
4 required. Public Act 97-0106 is effective  
5 February 1st, 2012. Copies of this proposal are  
6 available on the Illinois EPA's website at  
7 [www.epa.state.il.us/public](http://www.epa.state.il.us/public), P-U-B-L-I-C, hyphen,  
8 notices, N-O-T-I-C-E-S. That's N-O-T-I-C-E-S.

9 This is the first of two  
10 hearings that Illinois EPA is holding regarding  
11 the proposed amendments to 35 Ill. Adm. Code Part  
12 276. The second hearing will be held in  
13 Collinsville on Wednesday, November 30th, 2011, at  
14 1:30 p.m. in the Regional Room at the Illinois  
15 Department of Transportation Region Office and  
16 that's at 1902 East Port Plaza Drive.

17 This hearing is being held under  
18 the provisions of 35 Ill. Adm. Code 164.  
19 Procedures for informational and quasi legislative  
20 public hearing. Copies of these procedures can be  
21 accessed on the website for the Illinois Pollution  
22 Control Board at [www.ipcb.state.il.us](http://www.ipcb.state.il.us) or if you do  
23 not have ready access to the web, these  
24 regulations can be obtained from me by request.

1 Illinois EPA staff members present today will  
2 introduce themselves and make presentations.  
3 Following this overview, I will allow the public  
4 to ask questions or provide comments and ask  
5 questions.

6                   You are not required to  
7 verbalize your comments as written comments are  
8 given the same consideration and may be submitted  
9 to the Agency at any time within the public  
10 comment period which ends on December 15th, 2011.

11                   Comments will be accepted as  
12 long as they are postmarked by December 15th,  
13 2011. Any person who wants to make oral comments  
14 may do so as long as statements are relevant to  
15 the issues that are addressed at this hearing and  
16 time allows. If you have lengthy comments or  
17 questions, it may be helpful to submit them to me  
18 in writing before the close of the comment period  
19 and I will ensure they are included in the record  
20 as exhibits.

21                   Please keep comments and  
22 questions relevant to issues at hand. If your  
23 comments fall outside the scope of this hearing, I  
24 may ask you to proceed to another issue. Remember

1 all written comments whether or not you say them  
2 out loud will become part of the official hearing  
3 record and will be considered. The registration  
4 cards are on the table off to my right and you can  
5 fill one out and indicate if you would like to  
6 comment today. Anyone who fills out one of these  
7 cards or who files written comments on this  
8 proceeding prior to the close of the hearing  
9 record will be notified of the Illinois EPA's  
10 final decision in this matter.

11 The notification will contain  
12 information as to how you may access the Illinois  
13 EPA's responsiveness summary. In the summary,  
14 Illinois EPA staff will respond to all relevant  
15 and significant questions and issues submitted in  
16 writing before the close of the comment period and  
17 may respond to specific issues and questions  
18 raised at either of the two hearings in this  
19 matter.

20 Again, the written record in  
21 this matter will close December 15th, 2011.  
22 Therefore, I will accept all written comments as  
23 long as they are postmarked on or before December  
24 15th, 2011. All relevant questions, comment or

1 data will also be placed into the hearing record  
2 as exhibits provided they are received during the  
3 comment period. Please send all written comments  
4 or data to me at the following address: Dean  
5 Studer, D-E-A-N, S-T-U-D-E-R, Hearing Officer,  
6 Illinois EPA, regarding Revisions to the  
7 Performance of Inspections of Motor Vehicle  
8 Emissions, 1021 North Grand Avenue East, PO Box  
9 19276, Springfield, Illinois 62794-9276.

10 This address is also listed on  
11 the public notice for the hearing today. I want  
12 to remind those who wish to submit written  
13 comments in this matter to please ensure your  
14 submittal indicates that these comments are in  
15 regard to the performance of inspection of motor  
16 vehicle emissions. This will help ensure that the  
17 comments are included in the hearing record for  
18 this proceeding.

19 A court reporter is here today  
20 taking a verbatim record of these recordings for  
21 the purpose of making our administrative record.  
22 For his benefit, please keep the general  
23 background noise to a minimum so he can hear  
24 everything that is said. Also, when you speak or



1 begin to speak, please state your name and, if  
2 applicable, any governmental body or organization  
3 or association that you represent. If you are  
4 requesting -- if you are representing yourself,  
5 you can state that you are an interested citizen  
6 or a member of the public. Also, for the benefit  
7 of the court reporter, please spell your last  
8 name. If there are alternate spellings for the  
9 first name, you may also spell your first name.  
10 People who have requested to speak will be called  
11 upon in the order they are registered to make a  
12 statement.

13 I ask that while you are  
14 speaking that you direct your attention to the  
15 hearing panel and to the court reporter to ensure  
16 an accurate record of your questions and comments  
17 can be made. A prolonged dialogue with members of  
18 the hearing panel or with others in attendance  
19 will not be permitted. To ensure that everyone  
20 has the opportunity to speak at this hearing, I  
21 will initially limit comments and questions to  
22 nine minutes per person. Once this has been  
23 completed, then as time allows, I'll allow those  
24 that initially ran out of time to come forward.

1 Before we start with the Illinois EPA's  
2 presentations, I'd like to record preliminary  
3 documents into the hearing record as exhibits.

4 For the record, Exhibit 1 is the  
5 copy of the notice of public hearing. Exhibit No.  
6 2A is the notice of proposed amendments published  
7 in the Illinois Register, and Exhibit No. 2B is  
8 the full text of the amendments published in the  
9 Illinois Register. If anyone here has documents  
10 that they wish to have entered into the record,  
11 when it is their turn to speak, you may give the  
12 documents to me and I will have them entered into  
13 the record as an exhibit. I'll turn things over  
14 to Kent Mohr to introduce himself and the panel  
15 here today. This will be followed by presentation  
16 and statements by members of the panel.

17 MR. MOHR: My name is Kent Mohr.  
18 I'm an attorney for the Illinois EPA Vehicle  
19 Emissions Inspection Program. With me today are  
20 Stephen Thorpe who is the manager of the  
21 compliance assurance section of the division of  
22 mobile source programs, bureau of air at the  
23 Illinois EPA and Michael Hills with the technical  
24 services section of the division of mobile source

1 programs and bureau of air and the Illinois EPA.

2 Mike?

3 MR. HILLS: My name is Michael Hills  
4 and I'm an engineer with the technical services  
5 section of the Illinois Vehicle Inspection  
6 Maintenance Program or I/M program at the Illinois  
7 Environmental Protection Agency or Agency.

8 Today, we are presenting  
9 proposed amendments to 35 Ill. Adm. Code Part 276  
10 which outlines the procedures used in Illinois for  
11 vehicle emissions inspections. These amendments  
12 will update the test procedure compliance  
13 requirements that correspond with the current  
14 Vehicle Emissions Inspection Law as amended by the  
15 Illinois General Assembly in July 2011.

16 As stated previously, the  
17 Illinois General Assembly amended the Vehicle  
18 Emissions Inspection Law, or VEIL, of 2005 through  
19 Public Act 97-0106 which repeals the steady-state  
20 idle and gas cap emissions test effective February  
21 1st, 2012. Therefore, the Agency will be  
22 prohibited from using these tests after January  
23 31st, 2012. The vast majority of vehicles subject  
24 to these tests are pre2007 model year heavy duty

1 vehicles between 8,501 and 14,000 pounds gross  
2 vehicle weight rating, or GVWR, and all heavy duty  
3 vehicles with GVWR greater than 14,000 pounds as  
4 they were not required to be equipped with OBD.

5           Therefore, the Illinois General  
6 Assembly has exempted these vehicles from the  
7 emissions test requirement in Illinois. This  
8 rulemaking implements Public Act 97-0106 by  
9 proposing to sunset the steady-state idle and gas  
10 cap procedures. The decision to eliminate these  
11 tests is based on models and projections showing  
12 negligible emission reduction benefits, a  
13 declining subject vehicle fleet and significant  
14 long-term costs to continued use of these test  
15 procedures.

16           Currently less than three  
17 percent of the vehicle tests in Illinois are  
18 steady-state idle exhaust/gas cap tests. In  
19 addition, starting with the 2007 model year, heavy  
20 duty vehicles with the GVWR of less than 14,000  
21 pounds are required to be equipped with OBD  
22 technology and will receive the OBD test instead  
23 of the steady-state idle exhaust/gas cap test. As  
24 a result, the projected number of steady-state

1 idle exhaust/gas cap tests are expected to fall to  
2 less than one percent by 2015. The steady-state  
3 idle exhaust/gas cap test is no longer  
4 economically reasonable in the Illinois IM program  
5 given the additional capital and operating cost  
6 when only one percent of the fleet will be subject  
7 to this type of testing.

8 Modeling projections of the  
9 expected Illinois fleet for 2012 show that  
10 approximately 90 percent of the volatile organic  
11 compound, or VOC, reductions would come from OBD  
12 equipped vehicles.

13 In addition, the loss in VOC  
14 reduction will be 0.00 tons per day for the  
15 projected calendar year range from 2012 to 2020 in  
16 both the Chicago and Metro East non-attainment  
17 areas.

18 Given the fact that the  
19 steady-state idle exhaust/gas cap test is only  
20 used on pre2007 model year and non-OBD equipped  
21 vehicles, a small and diminishing portion of the  
22 vehicles subject to testing in the future, are not  
23 required by federal law or regulations where the  
24 OBD test is utilized and that the cost was

1 significantly higher than OBD testing. The  
2 Illinois General Assembly decided it was  
3 technically feasible and economically reasonable  
4 to eliminate the requirement for any steady-state  
5 idle exhaust/gas cap testing in the Illinois IM  
6 program.

7                   The main change that this  
8 rulemaking proposes to make to implement Public  
9 Act 97-0106 is to sunset all procedures, test  
10 equipment, specifications and equipment and  
11 maintenance -- equipment, maintenance and  
12 calibration requirements related to steady-state  
13 idle and gas cap test. These are 276.203,  
14 276.204, 276.205, 276.502, 276.503, 276.504,  
15 276.601, 276.602 and 276.603 contained in 35 Ill.  
16 Adm. Code 276 beginning February 1st, 2012.

17                   The addition of the visual  
18 inspection test is necessary to handle certain  
19 vehicles that are equipped with OBD technology for  
20 which OBD testing is not possible due to the  
21 vehicle's design. The new visual inspection test  
22 created and allowed by Public Act 97-0106 will  
23 provide motorists with the same flexibility they  
24 receive through the steady-state idle and gas cap

1 test in the current Illinois IM program.

2 Specifically, the visual  
3 inspection test will be used only on vehicles for  
4 which OBD testing is not possible due to the  
5 vehicle's originally certified design or its  
6 design was modified in accordance with federal law  
7 and regulations and on any vehicle which of -- on  
8 any vehicle with known OBD communications or  
9 software problems as determined by the Agency.

10 Without this fallback test  
11 procedure, these vehicles will not be able to pass  
12 an OBD test and the motorist would have no means  
13 of correcting the problem and renewing the vehicle  
14 registration. Not having this test will result in  
15 an undue burden on the motorists.

16 The Agency will make the  
17 determination as to which vehicles are eligible  
18 for the visual inspection test and will develop a  
19 list of such vehicles. Any vehicle that does not  
20 appear on this list will not be eligible for the  
21 visual inspection test and will need to comply  
22 with the full OBD inspections. In order to pass  
23 the visual inspection, the malfunction indicator  
24 lamp, or MIL, must illuminate during the

1 key-on/engine off check and not illuminate during  
2 the key-on/engine on check. As a result, the  
3 Agency is proposing in 35 Ill. Adm. Code Part 240  
4 the Illinois Pollution Control Board's Inspection  
5 and Maintenance Emissions Test standards, that  
6 vehicles shall fail the visual inspection if the  
7 MIL does not illuminate the key-on/engine off  
8 position or continuously illuminate key-on/engine  
9 on position.

10                   The visual inspection test  
11 procedures is based on long standing practice with  
12 the IM community and federal law. The key  
13 on/engine off check certifies the new MIL bulb is  
14 functioning properly. Without a properly  
15 functioning bulb, the motorist would never be  
16 alerted when the OBD system detects a potential  
17 problem with the vehicle's emissions control  
18 equipment.

19                   The key-on/engine on check  
20 verifies there are no fault codes stored on the  
21 vehicle's OBD system, which would require the  
22 illumination of the MIL. The OBD system stores  
23 fault codes whenever it detects possible problems  
24 with the vehicle's emissions control equipment and



1 are used by repair technicians to help identify  
2 areas to focus on during repairs.

3 The addition of the visual  
4 inspection procedure will not require any new test  
5 equipment and, therefore, will not occur any  
6 additional costs to the state or motorists.

7 Clarification of outside  
8 affected counties or exemption requirements. 35  
9 Ill. Adm. Code 276.405 is being corrected to  
10 correspond with the amendment made through Public  
11 Act 97-0106 to Section 5/13C-15(b)9 of the VEIL of  
12 2005. Specifically under 35 Ill. Adm. Code  
13 276.405, persons whose vehicles are registered in  
14 Illinois testing areas such as the Chicago  
15 metropolitan or bistate Metro East areas, but  
16 primarily operate their vehicle outside the  
17 Illinois testing areas in the areas that do not  
18 require emissions testing are entitled to an  
19 annual exemption from the emissions testing  
20 requirement.

21 This was the original attempt of  
22 the exemption. However, the current wording of  
23 this exemption results in an unintended loophole  
24 that would provide the annual exemption for a

1 vehicle that is primarily outside the Illinois  
2 testing areas, but within an area that requires  
3 emissions testing. If the vehicle is registered  
4 in an Illinois testing area, but is primarily  
5 operated outside of the Illinois testing areas,  
6 but in an area that requires emissions testing, it  
7 still must be tested under the provisions  
8 specified in 35 Ill. Adm. Code Part 276 Subpart K  
9 -- reciprocity with other jurisdictions.

10 Therefore, this change would  
11 clarify the original intent and close the  
12 unintended loophole. This change accomplishes  
13 this clarification by using the term and instead  
14 of or.

15 In summary, with this  
16 rulemaking, the Agency is updating the vehicle  
17 emissions test procedures contained in 35 Ill.  
18 Adm. Code 276 to correspond with the VEIL of 2005  
19 as amended by the Illinois General Assembly  
20 through PA, Public Act 97-0106. These changes  
21 will allow the State of Illinois to continue to  
22 meet the Clean Air Act I/M requirements with a  
23 modernized and streamlined I/M program.

24 MR. STUDER: Thank you, Mike. Can

1 we go off the record for a minute?

2 (Whereupon, a discussion was had  
3 off the record.)

4 MR. STUDER: Back on the record.

5 MR. MOHR: Mr. Thorpe does not have  
6 any testimony today so the Agency is ready to take  
7 any questions that the public might have.

8 MR. STUDER: For the record, let the  
9 record indicate there are no members of the public  
10 here. We will take written comments through the  
11 15th of December and unless anyone here has any  
12 additional comments that they would like to make  
13 on the record, this hearing is adjourned.

14

15

16

17

18

19

20

21

22

23

24

1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF COOK )  
4

5 I, Steven Brickey, Certified Shorthand  
6 Reporter, do hereby certify that I reported in  
7 shorthand the proceedings had at the trial  
8 aforesaid, and that the foregoing is a true,  
9 complete and correct transcript of the proceedings  
10 of said trial as appears from my stenographic  
11 notes so taken and transcribed under my personal  
12 direction.

13 Witness my official signature in and for  
14 Cook County, Illinois, on this \_\_\_\_\_ day of  
15 \_\_\_\_\_, A.D., 2010.

16  
17  
18  
19  
20 \_\_\_\_\_  
21 STEVEN BRICKEY, CSR  
22 8 West Monroe Street  
23 Suite 2007  
Chicago, Illinois 60603  
24 Phone: (312) 419-9292  
25 CSR No. 084-004675