

## **Responsiveness Summary**

### **Illinois Environmental Protection Agency Rulemaking Amendments to Procedures To Be Followed In The Performance Of Inspections Of Motor Vehicle Emissions (35 Ill. Adm. Code 276)**

**FINAL April 11, 2011**

## Table of Contents

<b>Pre-hearing Public Outreach .....</b>	<b>3</b>
<b>Public Hearing of February 23, 2011 .....</b>	<b>3</b>
<b>Public Hearing of March 2, 2011.....</b>	<b>3-4</b>
<b>Background of Proposed Amendments .....</b>	<b>4-5</b>
<b>Responses to Comments, Questions and Concerns.....</b>	<b>5</b>
<b>First Notice Changes.....</b>	<b>5-6</b>
<b>Conclusion and Proposed Action.....</b>	<b>6</b>
<b>Acronyms and Initials.....</b>	<b>6-7</b>
<b>Distribution of Responsiveness Summary .....</b>	<b>7</b>
<b>Who to Contact for Answers.....</b>	<b>7</b>

## **PRE-HEARING PUBLIC OUTREACH**

On January 3, 2011, the entire public hearing notice was published in the Illinois Register (35 Ill. Reg. 14). In addition, the entire public hearing notice was posted electronically on the Illinois EPA website, <http://www.epa.state.il.us/public-notices/general-notices.html#vim-rule-amendments>.

## **FEBRUARY 23, 2011 PUBLIC HEARING**

Illinois EPA Hearing Officer, Dean Studer opened the hearing February 23, 2011, at approximately 2:00 p.m. in Room 208 of the Madison County Administration Building in Edwardsville, Illinois.

Illinois EPA representatives, Mike Hills, Steve Thorpe, Barb Baxter, and Ron Wohrle explained the proposed amendments.

Illinois EPA Attorney, Kent Mohr explained various discrepancies between the proposed amendments filed by the Illinois EPA and the Joint Committee on Administrative Rules' (JCAR) 1<sup>st</sup> Notice version of the proposed amendments published in the Illinois Register.

Hearing Officer Studer closed the hearing after the Illinois EPA's presentation.

Illinois EPA personnel were available before, during, and after the hearing to meet with the public. However, there were no members of the public present at the hearing.

A court reporter prepared a transcript of the public hearing which was posted on the Illinois EPA website.

## **MARCH 2, 2011 PUBLIC HEARING**

Illinois EPA Hearing Officer, Dean Studer opened the hearing March 2, 2011, at approximately 1:30 p.m. in Room 2-025 of the James R. Thompson Center in Chicago, Illinois.

Illinois EPA representatives, Mike Hills, Steve Thorpe, Barb Baxter, and Ron Wohrle explained the proposed amendments.

Illinois EPA Attorney, Kent Mohr explained various discrepancies between the proposed amendments filed by the Illinois EPA and JCAR's 1<sup>st</sup> Notice version of the proposed amendments published in the Illinois Register.

Hearing Officer Studer closed the hearing after the Illinois EPA's presentation.

Illinois EPA personnel were available before, during, and after the hearing to meet with the public. However, there were no members of the public present at the hearing.

A court reporter prepared a transcript of the public hearing which was posted on the Illinois EPA website.

## **BACKGROUND OF PROPOSED AMENDMENTS**

The Illinois EPA, Bureau of Air, Division of Mobile Source Programs, prepared a draft of proposed amendments to its Vehicle Inspection and Maintenance Program rules (Procedures To Be Followed In The Performance Of Inspections Of Motor Vehicle Emissions) at 35 Ill. Adm. Code 276. 35 Ill. Adm. Code 276 prescribes rules relating to vehicle emissions inspections. Specifically, 35 Ill. Adm. Code 276 sets forth vehicle emissions inspection procedures, emissions compliance and exemption requirements, test equipment specifications, equipment maintenance and calibration requirements, fleet self-testing requirements, grievance procedures, notice requirements, and reciprocity requirements. The proposal amends Part 276 to reflect the adoption of the Vehicle Emissions Inspection Law of 2005 (VEIL of 2005) (P.A. 94-526) (625 ILCS 5/13C), an amendment to the VEIL of 2005 (P.A. 94-848), and to make necessary improvements to the program. The VEIL of 2005 was a replacement for, and continuation of, the program established under the Vehicle Emissions Inspection Law of 1995 (VEIL of 1995) (625 ILCS 5/13B). The VEIL of 2005 was modeled off of the VEIL of 1995, but added definitions relating to the on-board diagnostic (OBD) inspection test; exempted model year 1995 and older vehicles from inspection; replaced the transient loaded mode (IM240) emissions test with the OBD test as the primary vehicle inspection test; maintained the steady-state idle exhaust gas analysis and evaporative system integrity tests as secondary tests; revised the OBD test; revised waiver provisions; added a provision for vehicles located outside of the affected counties; removed the prohibition against contractor repairs; and made other additions. An amendment to the VEIL of 2005 provided that the owner of a subject vehicle must obtain an emission compliance certificate to demonstrate compliance and established a system of registration denial for vehicles in noncompliance with the inspection requirement.

The proposed amendments to 35 Ill. Adm. Code 276 remove definitions relating to the proposed removal of the IM240 emissions test, add new definitions and clarify other definitions. The amendments propose the removal of the IM240 emissions test procedures, related provisions, and all references thereto to reflect full implementation of OBD testing. The amendments require a subject vehicle owner to obtain, but not display or possess, an emissions compliance certificate in order to obtain or renew the subject vehicle's registration. The amendments specify the design of an emissions compliance certificate. The amendments remove all different types of inspection certificates or stickers and propose the use of a universal "emission compliance certificate." The amendments clarify the recordkeeping requirements relating to maintenance and calibrations performed. The amendments revise provisions relating to waivers, economic hardship, fleet self-testing, grievances, test notices, and reciprocity.

The amendments propose a new section relating to the collection and reporting of repair facility data. The amendments propose a new section providing requirements for obtaining an emissions compliance certificate where the vehicle is located and being primarily operated outside the affected counties. The proposed amendments eliminate Table A and B relating to the IM240 test. Finally, the proposed amendments update and clarify other provisions in the rule.

## Responses to Comments, Questions and Concerns

There were no members of the public present at either of the public hearings held in this matter. Also, the Illinois EPA did not receive any written comments from the public during the public comment period which closed on April 1, 2011.

### FIRST NOTICE CHANGES

At both the Edwardsville and Chicago hearings, Illinois EPA Attorney, Kent Mohr explained various discrepancies between the proposed amendments filed by the Illinois EPA and JCAR's 1<sup>st</sup> Notice version of the proposed amendments published in the Illinois Register. After receiving a response from JCAR regarding these discrepancies, the Illinois EPA is making the following First Notice Changes:

1. In line 400, change "loaded mode or" to "~~loaded mode or~~".
2. In line 1330, change "~~thereof~~" to "thereof".
3. In Section 276.501, change lines 1718-1735 to the following:

Compliance with Illinois vehicle ~~test~~exhaust and evaporative emissions standards shall be determined by following the test procedures set forth in Subpart B of this Part and by utilizing sampling vehicle exhaust and evaporative emissions with the following:

- a) Steady-state idle test equipment meeting the specifications set forth in Sections 276.502 and 276.503 of this Part and the evaporative;
- b) ~~Evaporative~~ system test equipment meeting the specifications set forth in Section 276.504 of this Part; or
- c) ~~Transient loaded mode test equipment meeting the specifications set forth in Sections 276.505 and 276.506 of this Part;~~
- bd) On-road remote sensing test equipment meeting the specifications set forth in Section 276.507 of this Part; and

ce) OBD test equipment meeting the specifications set forth in Section 276.508 of this Part.

The First Notice Change to Section 276.501 has been reformatted to correct a JCAR error and also to clarify that since the steady-state idle and evaporative system tests are performed as one emissions test, both the steady-state idle and evaporative test equipment should be utilized. If the on-road remote sensing test is used, the on-road remote sensing test equipment should be utilized. If the OBD test is used, then the OBD test equipment should be utilized.

At both hearings, the Illinois EPA discussed its proposed amendment to Section 276.804 that changed a citation as follows:

**Section 276.804 Review of Agency's Determination**

The Agency's written determination shall be subject to review in the Circuit Court in accordance with the provisions of the Administrative Review Law [735 ILCS 5/3-101 et. seq.~~Art. III~~].

This proposed amendment to Section 276.804 was missing from JCAR's 1<sup>st</sup> Notice version of the proposed amendments. After discussions with JCAR, the Illinois EPA has not included this as a First Notice Change because JCAR prefers the citation format as it is currently found in this Section.

The Illinois EPA is proposing the following additional First Notice Changes at the request and suggestion of JCAR:

1. In line 120, delete the period.
2. In line 1286 and 1288, strike the commas and add semi-colons.

**CONCLUSION AND PROPOSED ACTION**

The Illinois EPA has made a determination to proceed to Second Notice with these proposed amendments, including First Notice Changes, to the Procedures To Be Followed In The Performance Of Inspections Of Motor Vehicle Emissions at 35 Ill. Adm. Code 276. After Second Notice has expired, the Illinois EPA will proceed to adopt this proposal.

**ACRONYMS AND INITIALS**

ILCS	Illinois Compiled Statutes
Ill. Adm. Code	Illinois Administrative Code

Illinois EPA	Illinois Environmental Protection Agency
Ill. Reg.	Illinois Register
IM240	transient loaded mode
JCAR	Joint Committee on Administrative Rules
OBD	On-board diagnostic
VEIL of 1995	Vehicle Emissions Inspection Law of 1995
VEIL of 2005	Vehicle Emissions Inspection Law of 2005

### **DISTRIBUTION OF RESPONSIVENESS SUMMARY**

An announcement that the responsiveness summary is available on the Agency website is mailed to all who registered at the hearing and to all who sent in written comments. Printed copies of this responsiveness summary are available from Kent E. Mohr Jr., Illinois EPA, 217-782-5544, e-mail: <kent.mohr@illinois.gov>.

### **WHO CAN ANSWER YOUR QUESTIONS**

#### **Illinois EPA Vehicle Inspection and Maintenance Program:**

Vehicle inspection technical questions.....	Mike Hills.....	217-785-7449
Vehicle inspection compliance questions.....	Steve Thorpe...	217-785-7449
Vehicle inspection grievance questions.....	Barb Baxter.....	847-758-3412
Vehicle inspection waiver questions.....	Ron Wohrle.....	847-758-3412
Legal questions.....	Kent Mohr.....	217-782-5544
Public hearing of February 23, 2011.....	Dean Studer....	217-558-8280
Public hearing of March 2, 2011.....	Dean Studer....	217-558-8280

The public notice, hearing transcripts, notice of proposed amendments, proposed amendments, and responsiveness summary are available on the Illinois EPA website:

<http://www.epa.state.il.us/public-notices/general-notices.html#vim-rule-amendments>