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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
PUBLIC HEARING ON PROPOSED AMENDMENTS

WEDNESDAY, MARCH 7, 2012
1:30 P.M.
1021 N. GRAND AVENUE EAST
SPRINGFIELD, ILLINOIS

PATKES REPORTING SERVICE
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REPORTER: LAUREL A. PATKES, CSR #084-001340

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PANEL MEMBERS:

DEAN STUDER, Hearing Officer
KENT MOHR
DARWIN BURKHART

I N D E X

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1 HEARING OFFICER STUDER: Good
2 afternoon. My name is Dean Studer, and I'm the
3 hearing officer for the Illinois Environmental
4 Protection Agency or otherwise Illinois EPA. My
5 purpose today is to ensure that this hearing runs in
6 a fair and orderly manner and according to rules.

7 This hearing is being held for
8 the purpose of gathering public comment on proposed
9 amendments to the Illinois EPA's Alternate Fuels
10 Program Rules, 35 Illinois Administrative Code
11 Part 275.

12 The Illinois Environmental
13 Protection Agency's proposal would amend Part 275 to
14 reflect amendments to Section 30 of the Alternate
15 Fuels Act, referred to as Act, signed into law on
16 July 11, 2011 as Public Act 97-0090.

17 Amendments to Section 30 of
18 the Act establish an electric vehicle car sharing
19 grant program. These amendments provide that
20 through the fiscal year 2013, Illinois EPA may award
21 grants to car sharing organizations for the purchase
22 of new electric vehicles from an Illinois car
23 dealership to the extent that funds remain available
24 from the alternate fuel vehicle rebate fund.

1 Also, amendments to Section 30
2 provide grant award criteria, eligibility
3 requirements, application requirements, funding
4 limitations, and reporting requirements.

5 The Illinois EPA's proposed
6 amendments to Part 275 establish procedures for the
7 issuance of electric vehicle car sharing grants.

8 Specifically, the proposed
9 amendments establish the availability and
10 limitations of grants, grant application
11 requirements and criteria and procedures relating to
12 the Illinois EPA's award of grants and grant funding
13 amounts.

14 In addition, the proposed
15 amendments establish requirements relating to grant
16 agreements, access to grant projects, audits,
17 maintenance of records, reporting, and
18 reimbursement.

19 Also, the proposed amendments
20 establish procedures for addressing noncompliance
21 with grant requirements. The Illinois EPA's
22 proposed amendments also make clarifications
23 relating to the alternate fuel rebate program.

24 Copies of this proposal are

1 available on the Illinois EPA's website at
2 www.epa.state.il.us/public-notices.

3 This is the first of two
4 hearings that the Illinois EPA is holding regarding
5 the proposed amendments to 35 Illinois
6 Administrative Code Part 275. The second hearing
7 will be held in Elk Grove Village tomorrow,
8 Thursday, March 8, 2012. It begins at 1:30 p.m. in
9 the Elk Grove Village Regional Conference Room at
10 Illinois EPA's Building at 831 Busse Road, Elk Grove
11 Village.

12 This hearing is being held
13 under the provisions of 35 Illinois Administrative
14 Code 164, Procedures For Informational and
15 Quasi-Legislative Public Hearings. Copies of these
16 procedures can be accessed on the Web for the
17 Illinois Pollution Control Board at
18 www.ipcb.state.il.us, or if you do not have ready
19 access to the Web, these regulations can be obtained
20 from me on request.

21 Illinois EPA staff members
22 present today will introduce themselves and make
23 presentations.

24 Following this overview, I

1 will allow the public to ask questions or provide
2 comments and ask questions. You are not required to
3 verbalize your comments as written comments are
4 given the same consideration and may be submitted to
5 the agency at any time within the public comment
6 period which ends on April 9, 2012. Comments will
7 be accepted as long as they are postmarked by
8 April 9, 2012.

9 Any person who wants to make
10 oral comments may do so as long as the statements
11 are relevant to the issues that are addressed at
12 this hearing and time allows. If you have lengthy
13 comments or questions, it might be helpful to submit
14 them to me in writing before the close of the
15 comment period, and I will ensure that they are
16 included in the hearing record as an exhibit.

17 Please keep your comments and
18 questions relevant to the issues at hand. If your
19 comments fall outside the scope of this hearing, I
20 may ask you to proceed to another issue.

21 Registration cards are available on the front table,
22 and you can fill one out and indicate if you would
23 like to comment today.

24 Anyone who fills out one of

1 these cards or who files written comments in this
2 proceeding prior to the close of the record will be
3 notified of Illinois EPA's final decision in this
4 matter. The notification will contain information
5 as to how you may access the Illinois EPA's
6 responsiveness summary.

7 In this summary, Illinois EPA
8 staff will respond to all relevant and significant
9 questions and issues submitted to us in writing
10 before the close of the comment period and may
11 respond to specific issues and questions raised at
12 either of the two hearings in this matter.

13 Again, the written record in
14 this matter will close on April 9, 2012. I will
15 accept all written comments as long as they are
16 postmarked on or before that date. All relevant
17 comments, documents and data will be placed into the
18 hearing record as exhibits provided they are
19 received during the comment period. Please send all
20 written documents or data to me at the following
21 address: Dean Studer, that's D-e-a-n S-t-u-d-e-r,
22 Public Hearing Officer, Illinois EPA regarding
23 Revisions to Alternates Fuels Program Rules, 1021
24 North Grand Avenue East, P.O. Box 19276,

1 Springfield, Illinois 62794-9276. This address is
2 also listed on the public notice for the hearing
3 today.

4 I want to remind those who
5 wish to submit written comments in this matter to
6 please ensure that your submittal indicates that
7 these comments are in regards to the Alternate Fuels
8 Program Rules. This will help ensure that the
9 comments are included in the hearing record for this
10 proceeding.

11 A court reporter is here today
12 making a verbatim record of these proceedings for
13 the purpose of making our administrative record.
14 For her benefit, please keep the general background
15 noise in this room to a minimum so that she can hear
16 everything that is said.

17 Also, when you begin to speak,
18 please state your name and, if applicable, any
19 governmental body, organization or association that
20 you represent. If you are representing yourself,
21 you can simply state that you are an interested
22 citizen or a member of the public.

23 Also, for the benefit of the
24 court reporter, please spell your last name. If

1 there are alternate spellings for your first name,
2 you may also spell your first name.

3 People who have requested to
4 speak will be called upon in the order they have
5 registered.

6 I ask that while you are
7 speaking that you direct your attention to the
8 hearing panel and to the court reporter to ensure
9 that an accurate record of your questions and
10 comments can be made. Prolonged dialogue with
11 members of the hearing panel or with others here in
12 attendance is not permitted.

13 To ensure that everyone here
14 that desires has the opportunity to speak at this
15 hearing, I ask that we hold initial comments and
16 questions to nine minutes. Once this is completed,
17 if time allows, I will allow those that have
18 additional comments to make to come forward.

19 And before we start with the
20 Illinois EPA's presentations, I'd like to record
21 preliminary documents into the record as exhibits.

22 For the record, Exhibit 1 is a
23 copy of the notice of public hearing.

24 Exhibit 2A is the notice of

1 proposed amendments.

2 Exhibit 2B is the full text of
3 the amendments published in the Illinois Register.

4 Exhibit No. 3 is first notice
5 changes.

6 If anyone has documents that
7 they wish to have entered into the record when it is
8 your turn to speak, you may give the documents to me
9 and I will have them entered as an exhibit.

10 I will now turn things over to
11 Kent Mohr to introduce himself and the panel here
12 today, and this will be followed by presentation of
13 statements from the members of the panel.

14 MR. MOHR: Good afternoon. My name
15 is Kent Mohr. I'm assistant counsel for the
16 Division of Legal Counsel at the Illinois EPA.

17 To my right sitting next to me
18 is Mr. Darwin Burkhart who's the manager of the
19 Clean Air Programs at the Illinois EPA.

20 Before Mr. Burkhart gives his
21 brief overview of the proposal, I'm going to go
22 through just a couple comments.

23 As Mr. Studer mentioned, the
24 agency has proposed this rulemaking to implement

1 Public Act 97-0090 which amended the Alternate Fuels
2 Act in Sections 10 and 30.

3 Section 10 contains
4 definitions that will be applicable to the new
5 electric vehicle car sharing grant program as well
6 as the alternate fuel rebate program, and Section 30
7 is the bulk of the Alternate Fuels Act which
8 contains the alternate fuels rebate program and now
9 the new electric vehicle car sharing grant program.
10 The agency has authority to promulgate rules to
11 implement Section 30 of the Act, and you'll find
12 that rulemaking authority in Section 15 of the Act.

13 The Agency has one first
14 notice change at this time. This has to do with
15 Section 275.350(d). When the agency filed this
16 rulemaking proposal with the Secretary of State's
17 office, the Joint Committee on Administrative Rules,
18 as they do in all cases, reviews the proposed
19 amendments and makes generally minor nonsubstantive
20 clarifications or changes which may include grammar,
21 punctuation and other formatting changes. In this
22 case, JCAR made a likely inadvertent error which is
23 a substantive error, and they changed the wording of
24 Section 275.350(d). The Agency is proposing to

1 change that back to the way the Agency had
2 originally proposed that in their filing with the
3 Secretary of State's office. The language that the
4 Agency originally proposed is what you will find
5 here in the first notice change, and it specifically
6 states that in the event a grant is completely or
7 partially terminated, the records relating to the
8 terminated work shall be preserved and made
9 available for five years after any resulting final
10 termination settlement.

11 In JCAR's version that was
12 published in the Illinois Register, they removed the
13 language regarding the records relating to the
14 terminated work shall be preserved and made
15 available.

16 The Agency wants to ensure
17 that it is clear in this rule that if a grant is
18 completely or partially terminated, the records
19 relating to the terminated work are kept for five
20 years after any resulting final termination
21 settlement. In the event that the grant is only
22 partially terminated, you have a portion of that
23 grant which will continue and go on.

24 We want to make clear that any

1 of those records relating to work that is not
2 terminated would be maintained for five years after
3 submission of the final report as it states in
4 (d)(1) of that section.

5 Those two time periods, five
6 years after the submission of a final report, five
7 years after any resulting final termination, can be
8 different dates, so we want to ensure that everyone
9 utilizing the rule has a clear understanding of how
10 long they need to keep their records.

11 The Agency did discuss that
12 with JCAR and pointed that fact out and is now
13 proposing this as a first notice change. This is
14 the only first notice change that the Agency has at
15 this time.

16 Darwin?

17 MR. BURKHART: What I'm going to do
18 in my presentation is go through the Part 275 rules
19 of which copies are on the table over there and kind
20 of go section by section and highlight, briefly
21 highlight what each section entails as far as
22 starting up this new electric vehicle car sharing
23 grant program.

24 The proposed rule is based on

1 amendments to the Alternate Fuels Act that were
2 passed in the spring 2011 session. It was initiated
3 with House Bill 2903 and its companion Senate bill
4 which became effective on July 11, 2011, and as we
5 go through the language, the italicized language in
6 the proposed rule is language that is directly from
7 the Alternate Fuels Act, and the underlying language
8 in the proposal is language that is drafted by the
9 agency for inclusion in the rule.

10 In the current Part 275
11 Alternate Fuels Program Rules, we are adding a
12 subpart (c) to go along with the subpart (a) general
13 provisions, and the subpart (b) which has the
14 alternate fuel vehicle rebate rules for the
15 alternate fuel vehicle rebate program that we
16 currently have.

17 So in subpart (c), this will
18 include additions of additional sections from
19 275.300 down through 275.430. That is highlighted
20 on the first page.

21 Just briefly going through,
22 there were a few minor changes in subpart (a). In
23 275.100(b), it's just presenting a structure for the
24 additions to the rules that we're talking about

1 today for the subpart (c) to include this new
2 program.

3 Definitions in 275.120, Car
4 Sharing Organization was defining Alternate Fuels
5 Act so that's been added into the rules as well as a
6 definition for electric vehicle which spells out
7 exactly the types of electric vehicles that are
8 eligible for the EV car sharing grant rules.

9 The definition of person has
10 an underline there, lessee of a motor vehicle, to
11 basically make our rules congruent with the actual
12 Alternate Fuels Act in which a vehicle must be
13 purchased in order to be eligible for the owner of
14 the vehicle and that leases are not eligible, so
15 that's just a clarification to make it consistent
16 with the language in the Act.

17 Project expenditures is a new
18 definition. Once again, that will have meaning
19 within the context of the rules going forth.

20 Purchase cost, the same with
21 the purchase cost, a new definition as well as
22 supporting infrastructure, a new definition that
23 will be incorporated in later sections of the
24 proposal.

1 So now it's time for subpart
2 (c) which is the heart of what we're talking about
3 today, electric vehicle car sharing grants. In
4 275.300, it addresses the availability and the
5 limitations of the grants.

6 As Kent said, this will be
7 only for fiscal years 2012 and 2013 in which
8 electric vehicle car sharing grants will potentially
9 be made available for this program.

10 Also, in paragraph (b), the
11 grant funding that may be provided by the Agency may
12 only be used for purchasing electric vehicles, and
13 the grant funding may not exceed 25 percent of the
14 actual overall project costs that are incurred by
15 the applicant, and the overall cost may include
16 other types of things that go along with electric
17 vehicles including recharging stations, possibly
18 solar panels used to help charge a station and
19 things like that. So the vehicles and the
20 infrastructure that are associated with the vehicles
21 would be part of an overall project.

22 The availability, in paragraph
23 (c), the availability of grants is dependent on the
24 amount of funding that the Agency estimates to be

1 available at the end of each effective fiscal year
2 in 2012 and 2013, and the funding to be made
3 available is the remaining amount of funding in the
4 alternate fuels fund within the Agency's
5 appropriation after the alternate fuel vehicle
6 rebates that are within subpart (b) of this rule are
7 reviewed and paid with the other program.

8 The rest of this section, the
9 grant shall be awarded on a competitive basis and
10 the Agency may elect to partially fund a grant
11 proposal such that if an applicant is asking for
12 more than what we have allocated or are able to
13 expend on this program that we have the right to
14 basically amend the overall project to something
15 that we would be able to fund.

16 The grant projects must be
17 performed within one year after the day of the grant
18 award, and, of course, in G, the electric vehicle
19 within which funding is provided under the grants,
20 they would not be eligible for a rebate in subpart
21 (b).

22 Going to 275.310, these are
23 the grant application requirements. Discussing
24 about the grant application, submit a proposal to

1 the Agency and the grant applications are to use our
2 application forms, and we envision this would be a
3 cover form with the rest of the application
4 consisting of narrative questions that are addressed
5 and coming up in the rule that we will discuss.

6 In paragraph (b), the grant
7 proposals must include certain things; obviously,
8 identification of the car sharing organization in
9 (1), and (2) the description of the car sharing
10 organization that's consistent with the Act in
11 describing the organization's vehicles that they
12 have now currently in the fleet, the types of
13 vehicles, how those vehicles are strategically
14 located throughout a given area, and, of course,
15 description of the demographic populations being
16 served, and those are items that are all within the
17 Alternate Fuels Act as amended last spring.

18 In addition to that, a summary
19 of the average miles driven by the vehicles that are
20 in the fleet currently, and, of course, the
21 narrative description of the overall project. That
22 would include any infrastructure, charging
23 infrastructure that they may want to include as well
24 as other related equipment on which that 25 percent

1 of the overall project could be in the form of the
2 grant for this program, and with that application,
3 not only a description of the project but, of
4 course, a detailed budget for that project.

5 The grant proposals to us
6 should be submitted in hard copy postmarked by
7 May 1st of the applicable fiscal year or a date
8 otherwise noted by the Agency, and for the first
9 year of the program, it is likely that we're looking
10 at June 1st in lieu of May 1st to be the timing for
11 applications to be received and for the Agency to be
12 able to determine the amount of funding to be
13 awarded for this program.

14 In 275.320, Agency action on
15 grant applications, paragraph (b), In awarding a
16 grant, the Agency shall consider the following: (1)
17 is the environmental benefits. That would include
18 the operations of the vehicles within the ozone
19 nonattainment area, specifically the Chicago area;
20 geographic distribution of those vehicles; the
21 number of proposed vehicles by make and model in the
22 project; the demographic populations being served;
23 and, of course, the average miles per year of the
24 current fleet within that organization.

1 Also within that application
2 is the type of equipment used for refueling the
3 vehicles and whether the refueling locations are
4 private or publicly available as far as who is all
5 using those refueling sites, the charging sites.

6 Going down to paragraph (c),
7 the grant funding amounts are based on the base
8 manufacturer's sticker retail price of the electric
9 vehicle which is often depicted on the window
10 sticker of the vehicle when it's new. The amount of
11 the grant funding is not based on any add-on
12 equipment options.

13 The initial grant funding
14 again shall not exceed 25 percent of the project
15 expenditures. In the event that the final project
16 has less of a cost than what was envisioned at the
17 time of the application, the IEPA has the right to
18 reduce the cost such that the overall award does not
19 exceed 25 percent of the final project cost.

20 And at the end of that
21 section, the Agency does have the right, once again,
22 to request that the applicant revise its application
23 in its grant proposal.

24 And 275.330, grant agreement

1 and amendments. As with our other programs, once
2 awards are determined that the organization or the
3 applicant will receive a grant agreement, the grant
4 agreement will state the details of the project and
5 exactly what the award is to be for in terms of
6 number of electric vehicles to be purchased.

7 Following the acceptance of
8 the grant agreement, we will issue a project
9 confirmation letter that will be returned to the
10 applicant that will authorize them, after signatures
11 are all affixed to the agreement, authorize them to
12 begin the project.

13 During the project time, the
14 grant recipient may propose changes to the overall
15 grant project if needed and agreed to upon by the
16 Agency.

17 275.340, and some of the
18 following sections are template language for many of
19 our grant programs. I'm not going through them in
20 detail, but access, which gives the right of the
21 agency or other agencies involved in state grants
22 access to the vehicles or to the records by the
23 recipient of the award. That would include access,
24 of course, by site visit.

1 requirement for these projects that the recipient is
2 to provide us a report on the status of the project
3 and their progress on a quarterly basis from the
4 date of the award.

5 275.370, final inspection. It
6 states that the agency will conduct an inspection
7 within 60 days after the receipt of the final report
8 to see the charging equipment and, of course, the
9 vehicles that were funded under this program.

10 275.380, this deals with
11 noncompliance provisions.

12 275.390 is in case there's a
13 suspension of the project for reasons that are
14 discussed therein.

15 275.400 covers the conditions
16 for grant termination by the Agency.

17 And 275.410 is recovery and
18 reimbursement of grant funds which provides the
19 language that in case the project was not completed
20 as stated in the grant agreement or the amount of
21 the overall project was less than the recipient
22 shall provide the required funding back to the
23 Agency to meet the 25 percent base, the award, the
24 25 percent of the total project which represents the

1 amount of the award.

2 In 410(d), electric vehicles
3 purchased with grant funds must remain registered
4 and in service for a minimum of five years.

5 And there's also
6 indemnification and disputes in 420 and 430 that are
7 included. Once again, that's template language for
8 many of our grant programs.

9 That concludes the rule.

10 HEARING OFFICER STUDER: Thank you,
11 Darwin.

12 Are there any questions or
13 comments? Yes, Angela?

14 MS. TIN: I can ask a question?

15 HEARING OFFICER STUDER: Yes.

16 MS. TIN: A couple questions.

17 Angela Tin, A-n-g-e-l-a T-i-n. I'm Vice President
18 of Environmental Health for the American Lung
19 Association of the Upper Midwest.

20 Where do the hybrids fit in if
21 it's a hybrid electric vehicle? Could they also
22 seek reimbursement for that?

23 MR. BURKHART: If you're speaking
24 about the traditional hybrid as we know them today,

1 they are not eligible. They are not defined as
2 electric vehicle.

3 MS. TIN: But the different types
4 of electric vehicles would be eligible, right? You
5 know, there's so many different types of EVs.

6 MR. BURKHART: The definition of
7 electric vehicle that's in the Alternate Fuels Act,
8 it states it means a vehicle that is licensed to
9 drive on public roadways, is predominantly powered
10 by and primarily fueled with electricity, and does
11 not have restrictions confining it to operate on
12 only certain types of roads or streets, so without
13 specific examples...

14 MS. TIN: Next question. It says
15 grants shall be awarded on competitive basis.

16 Could you define what
17 competitive means?

18 MR. BURKHART: If, for example,
19 there are multiple organizations that would be
20 eligible for an award and we have a finite amount to
21 give out at any given time, there is the potential
22 that not all the applicants would be able to receive
23 any kind of an award.

24 So that would be dependent on

1 the strength of their application, what their
2 overall project is, the benefits, the environmental
3 benefits that are included in the Alternate Fuels
4 Act. You know, the cost efficiency would be part of
5 that, how many vehicles are they proposing to
6 acquire for their organization based on the amount
7 of funding provided, and related criteria.

8 So basically, a competitive
9 situation is meaning that not all organizations --
10 and that's spelled out in 275.320, so that basically
11 means that all applicants are not guaranteed a share
12 of the funding.

13 MS. TIN: My last question is you
14 have the nonattainment criteria here.

15 Can, you know, car sharing
16 organizations that are not in the nonattainment area
17 still apply?

18 MR. BURKHART: Yes.

19 MS. TIN: Thank you.

20 HEARING OFFICER STUDER: Thank you,
21 Angela.

22 If there's no more questions
23 or comments, I remind everyone that this hearing
24 record is open through April 9th of 2012, and I'll

1 be taking comments through that time as long as they
2 are postmarked by April 9th.

3 This hearing is adjourned.
4 (Adjournment at 2:04 p.m.)
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