

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
AMENDMENTS TO )  
MANIFESTING ) R19-18  
REQUIREMENTS: SPECIAL ) (Rulemaking - Land)  
WASTE HAULING 35 ILL. )  
ADM. CODE 809 )

REPORT OF THE PROCEEDINGS held in the above  
entitled cause before Hearing Officer Daniel  
Pauley, called by the Illinois Pollution Control  
Board, taken by Kari Wiedenhaupt, CSR, for the  
State of Illinois, 100 West Randolph Street,  
Chicago, Illinois, on the 9th Day of May 2019,  
commencing at the hour of 1:00 p.m.

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A P P E A R A N C E S

MS. CYNTHIA SANTOS, Board Member

MR. ANAND RAO, Technical Unit

MS. Alisa LIU, Technical Unit

ALSO PRESENT:

MR. DANIEL PAULEY

MR. TIMOTHY FOX

MS. NATALIE WINQUIST

MR. GABE NEIBERGALL

MR. WADE SCHEER

MS. HOLLY WRIGHT

MR. JAMES JENNINGS

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E X H I B I T S

NUMBER	MARKED FOR ID/ ADMITTED
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Exhibit

No. 1

8

No. 2

43

1 HEARING OFFICER PAULEY: Good  
2 afternoon. And welcome to this Illinois Pollution  
3 Control Board hearing. My name is Daniel Pauley,  
4 and I am the hearing officer for this rulemaking  
5 proceeding entitled, Amendments to Manifesting  
6 Requirements: Special Waste Hauling 35 Ill. Adm.  
7 Code 800. The Board docket number for this  
8 rulemaking is R19-18.

9 And also present with me today  
10 from the Board is Board Member Cynthia Santos, and  
11 we have from the Board's staff, Anand Rau and  
12 Alisa Liu from the Technical Unit. And we have  
13 advisors Tim Fox and Natalie Winquist with me as  
14 well.

15 This hearing is governed by the  
16 Board's procedural rules. All information that is  
17 relevant and that is not repetitious or privileged  
18 will be admitted into the record. Please bear in  
19 mind that any questions posed today by the Board  
20 and its staff are intended solely to help develop  
21 a clear and complete record for the Board's  
22 decision and do not reflect any decision on the  
23 proposal of testimony or other questions.

24 For the sake of the court

1 reporter, please speak clearly and avoid speaking  
2 at the same time as another person so that we can  
3 help produce a clear transcript. The Agency filed  
4 this rulemaking -- this rulemaking proposal with  
5 the Board on November 27th, 2018. The Board  
6 published notice of this hearing on March 26th,  
7 2019 in the State Journal Register and the Chicago  
8 Sun Times.

9                   On March 19th, 2019, the hearing  
10 officer directed participants intending to testify  
11 at this hearing to pre-file their testimony by  
12 April 25th, 2019. On that date, the Board  
13 received pre-filed testimony on behalf of the  
14 agency by James Jennings, and on April 26th, 2019,  
15 the Board received pre-filed testimony on behalf  
16 of Stericycle, Inc. by Wade Scheel. With only a  
17 one-day delay and the Board receiving no  
18 objections, we accept the filing. No other  
19 participants pre-filed testimony.

20                   On May 7th with the hearing  
21 officer order, the Board attached 16 questions  
22 with the hope of expediting the hearing, but  
23 without requiring a written response or setting a  
24 deadline for one. To go over the order of

1 proceedings, we intend to start with the Agency's  
2 pre-filed testimony, which under Section  
3 104.424(f) of the Board's procedural rules  
4 provides that this pre-filed testimony will be  
5 entered into the record as if read, but the Agency  
6 may begin with a brief introduction or summary if  
7 it wishes to do so. We will then turn to  
8 questions for the Agency and the Agency's witness.

9           Following this, we will move to  
10 Stericycle's pre-filed testimony, which will also  
11 be entered into the record as if read. Stericycle  
12 may begin with a brief introduction or summary if  
13 it wishes to do so, and then we will turn to  
14 questions for the Stericycle witness. After those  
15 questions, if there is anyone else who did not  
16 pre-file testimony, but wishes to do so, we can  
17 address that then. And as time allows, we can  
18 determine whether anyone wishes to offer a public  
19 comment.

20           Is there any questions about the  
21 proceeding?

22           MR. NEIBERGALL: No questions from  
23 the Agency.

24           HEARING OFFICER PAULEY: I'm sorry.

1 Can you go ahead and state your name and who you  
2 are with?

3 MR. NEIBERGALL: Yes. This is Gabe  
4 Neibergall. It's spelled, N as in Nora, E-I, B as  
5 in boy, E-R-G-A-L-L, and I am the attorney for the  
6 Agency in this matter.

7 HEARING OFFICER PAULEY: So we will  
8 go ahead and start with the Agency's pre-filed  
9 testimony. And I am going to have the witness  
10 state his name first, and then we will swear him  
11 in for testimony.

12 MR. JENNINGS: Yes. My name is  
13 James Jennings. I am the IEPA's Manager of Waste  
14 Reduction and Compliance Section.

15 HEARING OFFICER PAULEY: And can we  
16 go ahead and have -- can we go ahead and swear in  
17 the witness?

18 (Whereupon, the witness,  
19 Mr. Jennings, was duly sworn.)

20 MR. JENNINGS: I do.

21 HEARING OFFICER PAULEY: And as we  
22 mentioned earlier, the pre-filed testimony is  
23 entered into the record as if read.

24 Did you guys want to enter the

1 testimony as an exhibit?

2 MR. NEIBERGALL: Yes, we do.

3 HEARING OFFICER PAULEY: Okay. And  
4 just for the record, is there any objection to  
5 entering the pre-filed testimony as an exhibit?

6 (No response.)

7 HEARING OFFICER PAULEY: Neither  
8 seeing, nor hearing any, I grant the motion, and I  
9 am marking the Agency's pre-filed testimony as  
10 Exhibit 1, and entering it into the record.

11 (Whereupon, Exhibit No. 1 was  
12 marked for identification and  
13 admitted into evidence.)

14 HEARING OFFICER PAULEY: And does  
15 the Agency wish to give a brief summary or  
16 introduction?

17 MR. NEIBERGALL: I don't think we  
18 need to summarize the pre-filed testimony. I will  
19 say that we thank the Board for the hearing today  
20 and for the questions that they provided in  
21 advance. I believe we are ready to get right into  
22 responding to the Board's questions that were  
23 filed on May 7th, 2019.

24 HEARING OFFICER PAULEY: And then



1 just so we have -- is there anyone else that  
2 wishes to ask questions of the Agency's witness  
3 before we get into the Board's questions?

4 (No response.)

5 HEARING OFFICER PAULEY: Hearing  
6 none and seeing none, we will move to the Board's  
7 questions, which were filed on May 7th, 2019.

8 On Page 1 of the Statement of  
9 Reasons it states that the US EPA's e-Manifest  
10 system is negatively and unnecessarily affecting  
11 the transportation of state-regulated  
12 non-hazardous special waste in Illinois. Can you  
13 please explain how the Agency became aware that  
14 the e-Manifest system was causing issues with the  
15 generators and transporters?

16 MR. JENNINGS: So as you would  
17 expect, when there is a significant change in  
18 applicable federal law that affects state  
19 entities, the Agency hears from multiple angles.  
20 We were independently aware of some of the  
21 conceptual concerns tied to implementation of the  
22 e-Manifest system by virtue of some of our staff  
23 members' involvement on national work groups with  
24 US EPA and other state regulators charged with

1 ironing out and addressing some of the conceptual  
2 concerns that were raised by the states.

3 In addition to that, as a  
4 regulatory agency, we have a lot of involvement  
5 with members of the regulating community, many of  
6 whom were very vocal about the potential concerns  
7 that they had with electronically manifesting some  
8 of the material that otherwise is regulated only  
9 at the state level.

10 And I don't know if you want me  
11 to just continue, or a lot of these do ultimately  
12 tie over. So I will let you get to the next  
13 question.

14 HEARING OFFICER PAULEY: All right.  
15 So Question 1(b) is, When developing the proposed  
16 amendments to address the negative impacts of  
17 e-Manifesting, can you explain what the -- the  
18 Agency's outreach that was conducted, any -- and  
19 could you provide a list of the entities you  
20 reached out to and whether proposed amendments  
21 address all concerns raised during the outreach?

22 MR. JENNINGS: So there were a  
23 couple of angles in the outreach that we did. As  
24 I said, one of the types of outreach that we would

1 do with any type of nationally applicable rule is  
2 evaluating how our state partners are addressing  
3 the same issues or comparable issues in their own  
4 states. And to that end, we were involved with  
5 work groups involving many of US EPA's Regions by  
6 states, as well as others nationally.

7           The concerns that were tied to  
8 those issues are directly addressed in our  
9 proposal, because they are administrative  
10 concerns. They are problems that ultimately  
11 affect how we operate. Within the regulating  
12 community, we did a collection of informal  
13 outreach, and we contemplated providing a complete  
14 list of the entities to whom the Agency reached  
15 out to. The entities that our group individually  
16 contacted or were contacted by included Waste  
17 Management, the Illinois Association of Wastewater  
18 Agencies, and the Illinois Environmental  
19 Regulatory Group.

20           During those conversations,  
21 there were concerns that were raised about the  
22 federal fee structure and concerns about the  
23 regulating community's ability to expeditiously  
24 develop the electronic infrastructure to comply

1 with e-Manifest, and to the best of our knowledge,  
2 those concerns have been addressed in this  
3 proposal.

4 HEARING OFFICER PAULEY: Thank you.

5 MR. RAO: May I?

6 HEARING OFFICER PAULEY: Yes.

7 MR. RAO: With all these, you know,  
8 like, three or four organizations that you  
9 contacted, are they well represented in the  
10 Board's notice list of this proposed regulation?

11 MR. JENNINGS: To the best of my  
12 knowledge, they are.

13 MR. RAO: Okay. Are --

14 MR. NEIBERGALL: I know that one  
15 attorney filed in on the service list for the  
16 Illinois Environmental Regulatory Group, and one  
17 member of the Association for Wastewater Entities  
18 is here today in the room, so --

19 MR. RAO: Were there any  
20 representatives of transporting companies that  
21 deal with special waste or their -- those  
22 companies are represented by IERG and IAWA?

23 MR. JENNINGS: It's my understanding  
24 that many of those companies are represented by

1 IERG. The -- one of the functions of us providing  
2 a more complete list is it's entirely possible  
3 that there were other additional communications,  
4 but just with the communications that were  
5 ultimately shepherded by our group focused largely  
6 on IERG because of their broad reach of  
7 membership.

8 MR. RAO: Thank you.

9 HEARING OFFICER PAULEY: Moving on  
10 to Question No. 2. On page 2 of the Statement of  
11 Reasons it states, Because of Part 809's existing  
12 language requiring the use of US EPA's uniform  
13 manifest for all special waste shipments,  
14 non-hazardous special waste transporters in  
15 Illinois are and will continue to be subject to  
16 additional fees to US EPA ranging from \$5 to \$15  
17 per manifest, significantly more staff time for  
18 e-Manifest system data entry and the potential for  
19 federal enforcement, including substantial federal  
20 fines and penalties for noncompliance.

21 Please -- moving on to Question  
22 2(a). Please clarify whether there was a fee for  
23 using the US EPA's paper uniform manifest prior to  
24 the launch of the e-Manifest system. If so,

1 please explain how the fee for the paper manifest  
2 compares to the e-Manifest fees.

3 MR. JENNINGS: So here's some  
4 additional background that may be helpful. Yeah,  
5 historically, paper manifests were purchased by  
6 the regulating community from private printers,  
7 and the typical transaction involved a generator  
8 of non-hazardous special waste purchasing a bulk  
9 volume of manifests from an -- from a printer.

10 As of yesterday, those manifests  
11 could be purchased for as little as 57 cents per  
12 manifest, and after the manifest was purchased,  
13 that manifest ultimately accompanied the waste  
14 throughout the entire life cycle of it until it  
15 reached the receiving facility that would close  
16 the manifest.

17 Going forward, the e-Manifest  
18 system assesses a fee to process manifests on the  
19 receiving facility. So instead of a generator  
20 purchasing a manifest and having that manifest  
21 be -- represent the entire life cycle of the  
22 financial transaction, the entity that receives  
23 the facility -- or receives the waste has to pay  
24 between 5 and \$15 per manifest for -- to receive

1 that manifest -- that waste.

2 In addition to that, if a  
3 generator doesn't have the capacity to use  
4 entirely electronic manifests, they still have to  
5 purchase paper manifests from an approved printer.  
6 So the effect of this is that for an entire  
7 transaction for a single manifest what  
8 historically cost 57 cents, now could cost as high  
9 as 15.57 to ship material that's regulated only at  
10 the state level.

11 MR. RAO: So there was no processing  
12 fee when paper manifests were being used; is that  
13 correct?

14 MR. JENNINGS: Correct, yes. The --  
15 historically, the only cost associated with this  
16 transaction was a private purchase from a printer.  
17 Now, there may be a private purchase, but in  
18 addition to that, there is a fee assessed that is  
19 remitted to US EPA quarterly.

20 MR. RAO: Thank you.

21 HEARING OFFICER PAULEY: Question  
22 2(b). Please explain how the regulatory burdens  
23 have changed with the e-Manifest system in terms  
24 of potential federal enforcement. Further, is the

1 paper uniform manifest federally enforceable like  
2 the e-Manifest?

3 MR. JENNINGS: So the uniform paper  
4 manifest is not in isolation enforceable.  
5 Ultimately, it's a tracking document that is used  
6 to reflect the shipment of material. There may be  
7 enforcement that could tie from issues related to  
8 the manifest, including absence of manifests or  
9 improperly manifested material, but the document  
10 itself could not provide a springboard to federal  
11 enforcement.

12 Now, the e-Manifest system has a  
13 collection of additional requirements, including  
14 obligations on users to pay fees. If those fees  
15 are unpaid, then there are federal enforcement  
16 components that are tied to the use of the  
17 e-Manifest system, which makes this somewhat of a  
18 unique creature, because there are -- to the best  
19 of my knowledge, there are not any other land  
20 programs in which an item that is regulated  
21 exclusively at the state level could open the door  
22 to enforcement by US EPA.

23 HEARING OFFICER PAULEY: Thank you.  
24 Moving on to Question 2(c). Please clarify



1 whether the e-Manifest system forms require more  
2 information than the paper uniform manifest. If  
3 not, please explain why entering data into  
4 e-Manifest system is more burdensome than if  
5 manually filing the six-part paper uniform  
6 manifest.

7 MR. JENNINGS: Because, ultimately,  
8 this presents a process issue. The information  
9 maintained in the e-Manifest system and the  
10 information maintained on the uniform hazardous  
11 waste manifest are identical. And that's  
12 genuinely reflected by the continued availability  
13 of the uniform hazardous waste manifests.

14 However, where their  
15 administrative and efficiency problems are is how  
16 those items are handled. In Illinois, for  
17 non-hazardous special waste, the Agency is  
18 ultimately responsible for receiving annual  
19 reports from facilities that receive this type of  
20 material and then ultimately evaluating compliance  
21 with manifesting requirements when we inspect  
22 them.

23 Under e-Manifest, we have lot of  
24 additional administrative responsibilities, which

1 include approving e-Manifest system users,  
2 evaluating the veracity of those users prior to  
3 approval, and then doing continual compliance  
4 checks as part of our ordinary course of business.

5           Ultimately, what that means is  
6 that there are roughly 5,500 entities that either  
7 generate, transport or receive non-hazardous  
8 special waste, for which we have additional  
9 oversight that prior to the creation of this  
10 federal system we did not on a day-to-day basis.  
11 So the information is the same. The means by  
12 which the information is transmitted ultimately  
13 creates administrative problems for the Agency,  
14 given our limited personnel and financial  
15 resources.

16           HEARING OFFICER PAULEY: Thank you.

17           So we will move to Question 3.  
18 On page 2 of the Statement of Reasons it notes  
19 that e-Manifest system's continuous reporting  
20 requirements, which are currently applicable to  
21 non-hazardous special waste shipments, are  
22 inconsistent with the Agency's annual reporting  
23 requirements.

24           3(a). Please explain what

1 continuous reporting means in the context of using  
2 the e-Manifest system.

3 MR. JENNINGS: So the e-Manifest  
4 system requires users to submit manifests  
5 reflecting the receipt of waste within 30 days of  
6 delivery, and in addition to that, there are other  
7 periodic reports that are required of system  
8 users. Illinois law, on the other hand, only  
9 requires the receiving facilities to submit annual  
10 reports to us.

11 So this is ultimately an issue  
12 that from an efficiency perspective is likely best  
13 addressed by the regulating community.  
14 Nonetheless, there are -- it's our understanding  
15 that the concerns about compliance with this are  
16 very real.

17 BOARD MEMBER SANTOS: So just for  
18 clarification, you are saying that under the  
19 e-Manifest system it requires additional reports.  
20 Are those reports not generated automatically by  
21 the information that's submitted into the program?

22 MR. JENNINGS: I -- so that's the  
23 question that ultimately would have -- would --  
24 could vary based on the user, and it's a creature

1 of the variety of options that US EPA has provided  
2 e-Manifest users.

3                   It's my understanding that  
4 entities that are using entirely electronic  
5 manifests may have the capacity to have these  
6 reports automatically generated. However, the  
7 entities who have been most vocal with us, those  
8 who don't have that infrastructure, would have to  
9 manually create these reports because of the paper  
10 nature of the type of transaction that they are  
11 undertaking.

12                   BOARD MEMBER SANTOS: So can you  
13 tell me how many of the entities don't have the  
14 electronic capability? Do you have any idea what  
15 that number would be or percentage of the users?

16                   MR. JENNINGS: Unfortunately, I  
17 don't, and that's largely a function of how this  
18 information is transmitted to Illinois under  
19 Illinois law. That is not a -- it's not a data  
20 point that is currently submitted to the Agency.

21                   BOARD MEMBER SANTOS: Because --

22                   MS. WRIGHT: If I could interrupt,  
23 this is Hope Wright, IEPA.

24                   BOARD MEMBER SANTOS: Hope, could

1 you move closer? Could you move over so we could  
2 see you? Thank you. And we have to swear you in,  
3 Hope.

4 (Whereupon, the witness,  
5 Ms. Wright, was duly sworn.)

6 MS. WRIGHT: I do.

7 EPA sends out an irregular  
8 report on the status of the e-Manifest system, and  
9 according to their data, less than 10 percent of  
10 the total manifests are coming in electronically.  
11 Now, that's country-wide. It's not available on a  
12 state-wide basis, but it's under 10 percent are  
13 coming in electronically. I don't know if that  
14 helps, but --

15 HEARING OFFICER PAULEY: And we have  
16 one question, and please identify yourself.

17 MR. SCHEEL: Would you like -- do I  
18 need to be sworn in also?

19 HEARING OFFICER PAULEY: Not for a  
20 question. Unless you are --

21 MR. SCHEEL: No. Just a point of  
22 clarification on what was just said.

23 HEARING OFFICER PAULEY: We will go  
24 ahead and swear you in, then, just to be safe.

1 (Whereupon, the witness,

2 Mr. Scheel, was duly sworn.)

3 MR. SCHEEL: I do.

4 HEARING OFFICER PAULEY: And can you  
5 identify yourself and what party you represent?

6 MR. SCHEEL: Yes. I am Wade Scheel,  
7 Director of Governmental Affairs for Stericycle.

8 BOARD MEMBER SANTOS: Can you spell  
9 your last name?

10 MR. SCHEEL: It's, S-C-H-E-E-L,  
11 first name, Wade.

12 HEARING OFFICER PAULEY: Thank you.  
13 Go ahead.

14 MR. SCHEEL: Just for a point of  
15 clarification, I believe the number that is  
16 representative of the totally electronic manifests  
17 there are in the e-Manifest system that are --  
18 that have been provided, developed in the EPA's  
19 e-Manifest system, is less than 1 percent, not  
20 less than 10 percent.

21 MS. WRIGHT: I am just -- you may  
22 have more recent information than I have. I don't  
23 know. It just came out last week, what I had.

24 MR. RAO: Is that a trend in this

1 number increasing, or does the US EPA expect more  
2 and more?

3 MR. SCHEEL: I'm sorry. I don't  
4 know what the EPA would expect.

5 MR. RAO: Yes.

6 MR. SCHEEL: The number has been  
7 fairly consistent from them hosting monthly  
8 webinars indicating how many manifests have been  
9 submitted using -- there is different -- four  
10 different methods that the manifest can be  
11 submitted to the e-Manifest system, and the  
12 complete, total electronic system, electronic  
13 method, pardon me, is less than 1 percent.

14 MS. WINQUIST: I have a quick  
15 question. I am Natalie Winquist, W-I-N-Q-U-I-S-T.  
16 I was just curious. What is your source for that,  
17 for the 1 percent?

18 MR. SCHEEL: It's the -- the source  
19 is the EPA's webinars where they provide updates  
20 to the general public.

21 MS. WINQUIST: Okay. Thank you.

22 MR. SCHEEL: And they -- they post  
23 information and share information on the activity  
24 level.

1 MS. WINQUIST: Okay. Got it.

2 HEARING OFFICER PAULEY: Thank you.

3 We will move on to Question 3(b)  
4 now. Please comment on whether the Agency  
5 considered modifying Section 809.501(g) to make it  
6 consistent with the federal requirement at 40 CFR  
7 264.71.

8 MR. JENNINGS: So as some of you  
9 would expect, as part of our rulemaking there were  
10 a lot of considerations that we took into account,  
11 but ultimately, we elected not to include them in  
12 this proposal in order to ensure that we were  
13 avoiding confusion that in Illinois,  
14 nationally-regulated hazardous waste would not be  
15 handled the same way as state-regulated  
16 non-hazardous special waste.

17 HEARING OFFICER PAULEY: Thank you.

18 Moving on to 4. On page 3, the  
19 statement of -- sorry -- notes that the regulatory  
20 and administrative burden would be reduced by  
21 using a separate non-US EPA manifest for  
22 state-regulated non-hazardous special waste  
23 generators, transporters and receiving facilities.

24 4(a). Please explain whether



1 the proposal reduces the administrative burden on  
2 both the regulated community and the Agency.

3 MR. JENNINGS: So, actually, I will  
4 handle those in reverse. Based on the feedback  
5 that we received during our informal outreach,  
6 it's our understanding that this proposal would  
7 alleviate some of the administrative burden on  
8 industry. Ultimately, certainly, Mr. Scheel, as  
9 well as others who are on the notice list, may be  
10 in a better position to comment on specific  
11 nuances by which this proposal alleviates the  
12 administrative burden.

13 However, from the Agency  
14 perspective, this absolutely would alleviate the  
15 administrative burden. Currently, we are having  
16 to expend significant staff time and resources  
17 doing background evaluations and approvals for  
18 e-Manifest use, as well as responding to questions  
19 from the public on these issues, and returning  
20 this system to what has historically operated very  
21 effectively in Illinois, which would effectively  
22 amount to us promulgating a form that could then  
23 be used -- could be submitted for public  
24 consumption and use that involves a much lower

1 continued obligation to the Agency than would  
2 currently be constituted under the e-Manifest  
3 system.

4 HEARING OFFICER PAULEY: Thank you.

5 Moving on to 4(b). If so,  
6 please explain how having two separate manifest  
7 systems, one for hazardous waste and one for  
8 non-hazardous special waste would reduce the  
9 administrative burden on the Agency.

10 MR. JENNINGS: So, ultimately, this  
11 is the process at issue. Under the system that we  
12 have proposed, the Agency would be responsible for  
13 developing a form for the manifest, and then  
14 authorizing its external printing and then  
15 continue what we already do, which is evaluating  
16 annual reports that come in and inspecting  
17 facilities for compliance.

18 That's fundamentally different  
19 than the continued level of oversight of a system  
20 that, as Mr. Scheel noted and as US EPA has  
21 identified on a rolling basis, is necessarily  
22 behind informationally. As of the last call that  
23 we participated in, US EPA had nearly 400,000  
24 manifests that were backlogged, compared to

1 roughly 40,000 that had been through some level of  
2 quality check.

3 BOARD MEMBER SANTOS: Board Member  
4 Santos. I have a question. Can you -- I mean,  
5 can you identify or describe what you consider  
6 non-hazardous special waste?

7 MR. JENNINGS: So these are  
8 ultimately statutory terms. State law  
9 identifies -- or defines special waste to  
10 include -- and if I miss one, these -- certainly,  
11 we will address this in post-hearing comments, but  
12 hazardous waste, pollution control waste,  
13 industrial process waste, and there may be another  
14 of the criteria that just escapes me right now.

15 Non-hazardous special waste are  
16 those waste streams that are not hazardous, but  
17 still meet the definition of special waste, and  
18 this -- from a practical perspective, that can  
19 range from anything from non-hazardous wastewater  
20 that is used to clean out tanks or landfill  
21 leachate that does not meet the definition of  
22 hazardous waste to baked goods that fall on the  
23 floor of a bakery which would ultimately meet the  
24 definition of industrial process waste.

1                   So it's like it can be a very  
2 fundamentally different type of waste stream than  
3 hazardous waste.

4                   BOARD MEMBER SANTOS: Okay. Thank  
5 you.

6                   HEARING OFFICER PAULEY: Thank you.  
7 Moving to Question 5. On page 3 of the Statement  
8 of Reasons it states that the proposal will  
9 prevent Illinois transporters and facilities from  
10 being unnecessarily forced to pay significant fees  
11 to the US EPA. This money can instead be  
12 reinvested into those Illinois businesses in the  
13 communities they help to grow and support.

14                   5(a). Based on fee collection  
15 data from prior years, would it be possible for  
16 the Agency to estimate the annual cost savings for  
17 the regulated community from not participating in  
18 the e-Manifest system?

19                   MR. JENNINGS: No. But that's  
20 largely because historically, these were all  
21 private transactions, and so the cost savings --  
22 the data for the cost savings would be best  
23 generated by the regulated community, because  
24 that's a transaction over which the Agency has no

1 oversight.

2 HEARING OFFICER PAULEY: 5(b).

3 Please clarify whether non-hazardous special waste  
4 generators or transporters are currently required  
5 to pay a fee to the Agency. If so, do they have  
6 to continue to pay the fee under the proposed  
7 amendments?

8 MR. JENNINGS: Generators of  
9 non-hazardous special waste do not pay a fee to  
10 the Agency currently, unless they are permitted by  
11 some independent program, and they would not pay a  
12 fee under this proposal. Transporters of  
13 non-hazardous special waste pay permit fees for  
14 hauling permits, but they don't pay fees for  
15 manifests, and under this proposal they would also  
16 not pay fees.

17 HEARING OFFICER PAULEY: Thank you.

18 We are going to move on to the  
19 questions regarding your pre-filed testimony. So  
20 starting with Question 1. On page 2 you state,  
21 many states elected to adopt the uniform manifest  
22 for the transportation of certain non-hazardous  
23 wastes regulated exclusively at the state level.

24 1(a). Please explain how these

1 states are handling the US EPA's transition to the  
2 e-Manifest system.

3 MR. JENNINGS: So in conjunction  
4 with some of the national working groups in which  
5 our staff has been involved, we have seen a  
6 variety of educational materials developed to help  
7 educate members of the regulated community who may  
8 either not be aware that this was a transition  
9 that was coming or who may just need some  
10 clarification of how the individual states  
11 approach it.

12 We followed that model. The  
13 Agency developed a fact sheet that was addressed  
14 to the regulated community outlining how we  
15 contemplated playing our role in implementation,  
16 and that was circulated through a number of the  
17 groups that we mentioned earlier.

18 One point of clarification, it's  
19 important for this, though -- which it's really  
20 reflective of how different some of these programs  
21 are state to state is that hazardous waste on the  
22 state level is ultimately a term of art, and so  
23 for the purposes of our testimony, the term  
24 non-hazardous material means non-hazardous waste

1 in Illinois. There are some states in which  
2 material that is considered non-hazardous waste  
3 here is, as a matter of state law, hazardous  
4 waste.

5 And in those states, it's our  
6 understanding from the conversations we have had  
7 with our other co-regulators, they didn't have the  
8 flexibility of providing the type of regulatory  
9 off ramp that would address the administrative  
10 concerns that we saw here.

11 HEARING OFFICER PAULEY: Thank you.

12 1(b). Are any of these states  
13 taking a similar approach to this proposal by also  
14 moving away from the e-Manifest system to paper  
15 forms?

16 MR. JENNINGS: It's -- ties into one  
17 of the previous responses. We are not aware of  
18 any. To the -- based on the discussions we have  
19 had with other states, that's a function of the  
20 differences in how Illinois regulates hazardous  
21 waste and how we define it, compared to the other  
22 dozen or so states that are affected in a similar  
23 way by the e-Manifest system.

24 MR. RAO: Mr. Jennings, you

1 mentioned there are all these work groups trying  
2 to educate the regulated community about the  
3 e-Manifest system. I wanted to know if as a part  
4 of your interaction with Region 5, US EPA, are  
5 there any efforts being made to rectify some of  
6 the problems that are there with the e-Manifest  
7 system at this time?

8 MR. JENNINGS: And so to the best of  
9 my knowledge, the concerns that have been raised  
10 have been largely tied to the fees, and because  
11 the fees are as a matter of rule required in order  
12 to subsidize the creation of the system, there has  
13 not been a lot of movement on that front.  
14 However, I will defer to Hope on some of the other  
15 more technical specifics.

16 MS. WRIGHT: For technical stuff,  
17 there is an ongoing effort to improve the system,  
18 and they just -- as they have time to work on  
19 programming, they do change it. So it gets  
20 tweaked frequently, but they are pretty minor  
21 tweaks.

22 MR. RAO: Thank you.

23 HEARING OFFICER PAULEY: Thank you.

24 Question 2 on the same page, you state that the



1 obligations of the e-Manifest system include  
2 mandatory participation and fee structure to  
3 incentivize the use of entirely electronic  
4 manifests.

5                   2(a). As a matter of policy, do  
6 you believe that it would be more efficient to use  
7 an e-Manifest, rather than maintaining the use of  
8 paper forms?

9                   MR. JENNINGS: So from a purely  
10 procedural perspective -- this is a question that  
11 Mr. Scheel may be in a better position to provide  
12 some boots on the ground insight on. From the  
13 Agency's perspective, it's very important to  
14 understand both what our position is and also what  
15 it's not.

16                   We are certainly not advocating  
17 a wholesale jettisoning of electronic tracking or  
18 electronic monitoring. However, what we are  
19 proposing is that under these circumstances, this  
20 specific system presents administrative concerns  
21 for us that are significantly profound and would  
22 justify taking a more traditional approach to how  
23 this material is monitored in Illinois.

24                   HEARING OFFICER PAULEY: Thank you.

1                   2(b). Further, please explain  
2 whether the Agency considered creating a separate  
3 electronic reporting system at the state level for  
4 tracking transport of non-hazardous special waste  
5 to move away from paper forms.

6                   MR. JENNINGS: Absolutely. As part  
7 of this process, we considered a number of  
8 options, one of which was certainly to utilize  
9 some of the IT resources that we had. At the end  
10 of the day, though, we recognize that doing so  
11 would present both statutory issues,  
12 administrative issues and staffing issues.

13                   At this point in time, we  
14 weren't in the position from a financial or staff  
15 perspective to be able to confirm that we would  
16 have those resources available to develop a tool  
17 like this. In addition, the amount of the expense  
18 in developing such a system based on other systems  
19 that we've developed entirely would be sufficient  
20 enough that ultimately there would have to be some  
21 degree of cost sharing, similar to what you've  
22 seen at the federal level, and in order for that  
23 to happen, there would have to be statutory  
24 changes that would allow us to assess such a fee.

1                   And in light of those  
2                   significant hurdles, the Agency was significantly  
3                   more comfortable taking the approach that from a  
4                   compliance perspective has historically been very  
5                   effective.

6                   HEARING OFFICER PAULEY: Thank you.

7                   Question 3. On page 3, you note  
8                   that the US EPA's e-Manifest system shifts the  
9                   financial burden of purchasing the manifests from  
10                  waste generator to the waste receiving facility,  
11                  and that there would be the possibility of  
12                  duplicative fees for generators of state-regulated  
13                  non-hazardous special waste who do not utilize  
14                  electronic manifests.

15                  3(a). Has the Agency heard any  
16                  complaints from either generators or receiving  
17                  facilities regarding the shift in financial burden  
18                  under the e-Manifest system?

19                  MR. JENNINGS: Yes, as recently as  
20                  immediately before the hearing.

21                  HEARING OFFICER PAULEY: Please --

22                  MR. RAO: Um -- yeah.

23                  HEARING OFFICER PAULEY: 3(b) -- or  
24                  sorry.

1 MR. RAO: On 3(a), can you elaborate  
2 a little bit more as to who is complaining and who  
3 may not be?

4 MR. JENNINGS: It's the players that  
5 you would expect in a quasi-linear transaction  
6 like this. The receiving facilities have -- have  
7 had concerns over the fact that they are being  
8 assessed a fee for the first time, and they are  
9 assessed a fee that -- by the federal government  
10 for material that's not federally regulated, and  
11 then there's within the chain of commerce of that,  
12 we are hearing -- we have heard concerns about  
13 some of the costs being shifted to generators.

14 So in instances you have a  
15 generator who previously paid roughly 60 cents per  
16 manifest being assessed a fee that could be as  
17 much as 30 times that.

18 MR. RAO: So everyone seems to be  
19 complaining about it?

20 MR. JENNINGS: Yes.

21 MR. RAO: Okay.

22 HEARING OFFICER PAULEY: 3(b).  
23 Please clarify whether there will be a single  
24 purchase fee by the receiving facility if both the

1 generator and receiving facility are utilizing  
2 electronic manifests; i.e., the generator is  
3 subject to duplicative fees, only if paper forms  
4 are used.

5 MR. JENNINGS: So that is a  
6 generally correct statement. A generator would be  
7 assessed a purchase fee from a private printer if  
8 they elect to use paper manifests, and depending  
9 on the nature of the agreement between the  
10 receiving facility, transporter and generator,  
11 it's also possible that under those circumstances,  
12 the generator would also be assessed part of the  
13 fee associated that the receiving facility  
14 ultimately would have to remit to US EPA.

15 But ultimately, the generator is  
16 in the position of dictating, based on their  
17 internal infrastructure, whether they are assessed  
18 the 60 cents or so purchase price for paper  
19 manifests.

20 HEARING OFFICER PAULEY: Thank you.

21 Moving on to Question 4. On  
22 page 3, you note that the e-Manifesting "raises  
23 the possibility of duplicative fees for generators  
24 of state-regulated non-hazardous waste who lack

1 the institutional or operational infrastructure to  
2 utilize electronic manifests."

3 4(a). Please explain what you  
4 mean by institutional or operational  
5 infrastructure.

6 MR. JENNINGS: In this context, that  
7 would mean a generator, transporter or receiving  
8 facility's ability to receive electronic  
9 manifests, so whether they have the computer  
10 network sufficient to maintain that software,  
11 whether they have sufficient materials on their  
12 truck to be able to have entirely electronic  
13 manifests. And effectively, it's the same issues  
14 that really we all see, whether you have good  
15 enough -- a good enough IT source to process the  
16 material that the US EPA has developed.

17 HEARING OFFICER PAULEY: 4(b).  
18 Please comment on how many generators of  
19 non-hazardous special waste lack the expertise to  
20 use an e-Manifest system. I know we have sort of  
21 addressed this earlier.

22 MR. JENNINGS: Yeah. And we don't  
23 have specific data reflecting that. We do know  
24 that in calendar year 2017, nearly 5,500 entities

1 reported -- or were reported to us as generators  
2 of non-hazardous special waste. There is any  
3 variety of ways you could extrapolate that data  
4 based on what we have heard from the US EPA, but  
5 that's not a specific data point that we have  
6 available.

7 HEARING OFFICER PAULEY: Thank you.

8 We will move on to the questions  
9 regarding the rule language. No. 1, the proposed  
10 amendment to the definition of manifest under  
11 Section 809.103 adds the phrase, "as required by  
12 the Act." Please provide the citation to this  
13 requirement in the Act.

14 MR. JENNINGS: This would be Section  
15 22.01 of the Illinois Environmental Protection  
16 Act.

17 HEARING OFFICER PAULEY: Thank you.

18 Going on to Question 2. The  
19 proposed amendment to Section 809.501 states, "For  
20 non-hazardous special waste, the manifest will  
21 consist of forms prescribed by the Agency,  
22 provided that the forms must comply with the  
23 requirements of Section 22.01 of the Act and may  
24 be purchased from a third party."

1                   So 2(a), please provide a copy  
2 of the Agency's non-hazardous special waste  
3 manifest form for the record.

4                   MR. JENNINGS: To date, we have not  
5 developed one, and that's in part because of  
6 the -- this rulemaking is pending, but also  
7 because there are a pair of bills that would  
8 directly address this. So -- I mean, we hate to  
9 continue to go to this, but we do have limited  
10 staffing resources, and we wanted to make sure  
11 that we knew exactly what we were developing  
12 before we initiated development.

13                   MR. RAO: If those forms are  
14 developed before the close of the record in this  
15 rulemaking, then I would appreciate it if you  
16 could submit it at a later time.

17                   MR. JENNINGS: Of course.

18                   HEARING OFFICER PAULEY: Question  
19 2(b). Please clarify whether any third party can  
20 reproduce and sell the non-hazardous special waste  
21 manifest form prescribed by the Agency. If so,  
22 would the Agency provide any guidelines for the  
23 cost of the third party forms? Could the cost of  
24 using the third party manifest form be avoided if



1 the Agency provides an electronic reporting  
2 system?

3 MR. JENNINGS: So the Agency control  
4 of third party cost isn't necessarily within the  
5 scope of what we considered. The Agency's  
6 contemplation was that this would very much mirror  
7 the historical relationship generators had had  
8 with printers, whereby they could purchase these  
9 manifests directly from a third party.

10 Conceptually, the cost of  
11 purchasing printed manifests from a third party  
12 could be alleviated if the Agency developed its  
13 own electronic infrastructure. However, for the  
14 reasons that we have outlined, we wouldn't be in a  
15 position to do that, and if we did, based on what  
16 we see at the federal level, it would appear that  
17 the fees that those entities would have to remit  
18 to us would potentially exceed the current  
19 purchase price of similar manifests.

20 HEARING OFFICER PAULEY: Thank you.  
21 And Question 3, which you hinted at earlier. The  
22 Board notes that the legislature is considering  
23 two bills: House Bill 2764 and House Bill 3675,  
24 which may impact this proposed rule. Would the

1 Agency please comment on how House Bill 2764 and  
2 House Bill 3675 might affect the proposed  
3 amendment?

4 MR. JENNINGS: Certainly, each of  
5 them are related to this proposal. The -- each  
6 bill, because of how they are captioned, could  
7 have the effect of framing how the Agency would  
8 promulgate its form and the content of that form,  
9 but ultimately, our perspective is that this  
10 proposal and those bills, to a degree, work in  
11 tandem.

12 HEARING OFFICER PAULEY: Thank you.

13 And does anyone else have any  
14 questions for the Agency's witnesses or witness?

15 (No response.)

16 HEARING OFFICER PAULEY: Seeing  
17 none, we will move on to the Stericycle, Inc.,  
18 pre-filed testimony. And Mr. Scheer has already  
19 been sworn in.

20 So as mentioned earlier, the  
21 pre-filed testimony was entered -- is entered into  
22 the record as if it was read today. Do you wish  
23 to give any statement introduction or a brief  
24 summary?

1 MR. SCHEEL: No, I don't believe so.

2 Thank you.

3 HEARING OFFICER PAULEY: Thank you.

4 And we will make this an  
5 Exhibit 2 to the hearing. Any -- I'm sorry. Is  
6 there -- I'm sorry. For the record, is there any  
7 objection to making this Exhibit 2 for the  
8 hearing?

9 MR. NEIBERGALL: No objection from  
10 the Agency.

11 HEARING OFFICER PAULEY: Hearing  
12 none and seeing none, we enter it as Exhibit 2.  
13 Thank you.

14 (Whereupon, Exhibit No. 2 was  
15 marked for identification and  
16 admitted into evidence.)

17 HEARING OFFICER PAULEY: And if  
18 Stericycle is ready, we will proceed with  
19 questions. Is there anyone who has any questions  
20 before we get to the Board's questions?

21 I'm sorry. Let me take a step  
22 back. Mr. Scheer, do you have a copy of the  
23 hearing officer order that we filed on the 7th,  
24 the one with the questions?

1 MR. SCHEEL: With the questions, I  
2 do, yes.

3 HEARING OFFICER PAULEY: Thank you.  
4 So seeing no other questions for Stericycle, we  
5 will move to the Board's questions.

6 MR. SCHEEL: I have a point of  
7 clarification before we get to the questions.

8 HEARING OFFICER PAULEY: Yes.

9 MR. SCHEEL: We just got this a  
10 couple of days ago. So just procedurally, I'm not  
11 sure if there is -- is there an opportunity for us  
12 to follow up with a written response to answer  
13 these questions?

14 HEARING OFFICER PAULEY: Yes. We  
15 can get more into that later, but there is a  
16 pre-filing deadline for the second hearing.

17 MR. SCHEEL: Okay.

18 HEARING OFFICER PAULEY: And you can  
19 have until that date, which is going to be on May  
20 23rd before the June 6th hearing. So, I mean, you  
21 can file that any time after the hearing that you  
22 would like, but before that deadline.

23 MR. SCHEEL: Okay. Very good. So  
24 we can supplement what I would present today as

1 far as answers with any follow-up written  
2 response.

3 HEARING OFFICER PAULEY: Yes.

4 MR. SCHEEL: Okay. Good. Thank  
5 you.

6 HEARING OFFICER PAULEY: So going on  
7 to the questions for Mr. Scheel.

8 No. 1. On page 1, you note that  
9 in Illinois, Stericycle has several PIMWs and  
10 document destruction facilities. The Board  
11 regulations at 35 Ill. Adm. Code 1420.104(d) in  
12 the Act at Section 56.1 required the PIMW  
13 manifests for transporting PIMW. Please explain  
14 whether Stericycle must complete dual manifests or  
15 whether the special waste manifests satisfy the  
16 PIMW manifest requirements.

17 MR. JENNINGS: I believe we  
18 understand the question, but I will try to answer  
19 and see if that does provide a sufficient answer  
20 to -- to the Board. We don't believe it would  
21 require duplicate manifests, because our  
22 understanding is that the current regulations  
23 require a manifest to be used for PIMW and that  
24 the state Agency offers up that manifest that we

1 have to use.

2 So the current process requires  
3 us to use a specific manifest, and that's in place  
4 right now. Our approach to this regulation is  
5 that that is acceptable, and that would be  
6 maintained. We appreciate the opportunity to, you  
7 know, consider the requirement that other special  
8 waste be -- be documented shipment on a haz waste  
9 manifest, because those are the complications that  
10 I would like to expand on as far as the challenges  
11 that it creates for us as a waste handling and  
12 management company, as well as generators of that  
13 material.

14 MR. RAO: Okay, yeah. And with this  
15 question, we were just trying to understand that,  
16 are you submitting, you know, multiple manifests,  
17 or do you fill only one manifest that addresses  
18 both PIMW regulations and the special waste  
19 regulations?

20 MR. JENNINGS: Yes, just one. We  
21 are submitting one, and we understand -- as far as  
22 our understanding goes, that would continue, and  
23 that's understood and acceptable.

24 MR. RAO: Does the Agency have

1 anything to add to this?

2 MR. JENNINGS: So as a matter of  
3 law, Section 56.4 of the Illinois Environmental  
4 Protection Act governs the use of manifests for  
5 PIMW and requires the use of an independent  
6 manifest for PIMW, similar to what Mr. Scheel has  
7 described.

8 So we're already to a point that  
9 Illinois had a bifurcated manifesting system,  
10 because the General Assembly has elected to carve  
11 out a certain waste stream from the uniform  
12 manifest.

13 MR. SCHEEL: Yes. He said it very  
14 well, yes.

15 MR. RAO: Thank you.

16 HEARING OFFICER PAULEY: Thank you.

17 Moving on to Question 2,  
18 regarding concerns with the US EPA's e-Manifesting  
19 system, has Stericycle approached US EPA to  
20 alleviate the financial and administrative  
21 burdens? If so, please comment on any response  
22 you received from the US EPA.

23 MR. JENNINGS: We did not as a  
24 company submit any comments with regards to the

1 concept of how the fees were going to be  
2 structured and/or the fees themselves.

3           Going back to when this Act was  
4 adopted by the EPA, it was prescribed in that Act  
5 how the fees would be generally calculated, and at  
6 that time, we really had no idea -- the general  
7 community, as well as generators, had no idea  
8 where the fees were going to land, other than what  
9 the EPA speculated might be the fee structure.

10           At that time, we understood it  
11 to be a substantial financial burden. The fees  
12 per manifest were significant and substantial. We  
13 just determined not to ultimately comment on that,  
14 but we understood when that rule was proposed and  
15 the fee structure calculation was proposed, that  
16 these were going to be a substantial impact to  
17 generators, because as, you know, Mr. Jennings  
18 referred to, the transactional cost of buying a  
19 manifest was really all that was out there before,  
20 and now those have jumped up to a minimum of 5 and  
21 a maximum of \$15 per manifest. So that's  
22 substantial.

23           HEARING OFFICER PAULEY: Thank you.

24           Question 3. On page 1, third



1 paragraph, you mentioned the e-Manifest Act.  
2 Please provide a complete citation to the Act for  
3 the record.

4 MR. JENNINGS: We were referring to  
5 the Hazardous Waste Electronic Manifest  
6 Establishment Act, which was adopted October 5th  
7 of 2012, and that's Public Law 112-195. I believe  
8 that that's the proper reference to the e-Manifest  
9 Act.

10 HEARING OFFICER PAULEY: Thank you.

11 Question 4, on page 2, you note  
12 that there are many forms available that meet the  
13 proposed requirements without increased burden or  
14 cost. 4(a). Please clarify whether these are  
15 third party forms that you must purchase, and if  
16 so, how much do they cost?

17 MR. JENNINGS: There is a variety of  
18 forms out there that are able to be used to  
19 document shipment of materials, and as a waste  
20 services provider, those are commonly used to  
21 document shipments of all waste. It can be a  
22 uniform -- I'm sorry. It can be a universal waste  
23 shipping document. It can be a DOT shipping  
24 document, often referred to as a bill of lading.

1                   There is non-hazardous waste  
2 manifests that are similar in format and structure  
3 to the uniform hazardous waste management form,  
4 that can be used, and are used, by industry to  
5 document the shipment of waste materials. It's --  
6 it's in our best interest in the waste services  
7 sector to document shipments so that we are not  
8 going on word of mouth, but we are actually using  
9 a document to track and record the shipment of  
10 waste materials.

11                   Similar to -- and where we see  
12 the benefit of that as well is -- and the  
13 opportunity here is potentially moving in the  
14 direction that's used for universal waste, a  
15 required documentation that this material was by  
16 the generator shipped to a -- you know, facility  
17 that could manage that.

18                   So we are proposing that, that  
19 potentially is out there and exists right now as  
20 an opportunity or a method to document those  
21 shipments, but not have the negative implications  
22 of a generator being required to participate in  
23 the e-Manifest -- EPA's e-Manifest system, because  
24 the state now requires that shipment to be

1 documented on a uniform hazardous waste manifest,  
2 and therefore, then we as a receiving facility of  
3 that manifest are required to send that manifest  
4 information to the EPA's e-Manifest system.

5 Therefore, the EPA is going to charge us that fee,  
6 depending on how -- the method that we submitted  
7 that.

8                   And then we as a company have,  
9 in turn, decided not to absorb that, as many waste  
10 providers have decided, not to absorb that cost  
11 from the EPA. We are, in turn, billing that out  
12 to our customers, and that's what -- where the  
13 financial impact results from. What the Agency  
14 was referring to is it used to be just a  
15 transactional purchase of a paper form by the  
16 generator, and now they are seeing a fee flow back  
17 to them from their service provider who is  
18 required to pay a pretty substantial fee to get  
19 their information from that manifest submitted to  
20 the US EPA's e-Manifest system.

21                   HEARING OFFICER PAULEY: Thank you.

22                   Question 4(b). Please explain  
23 whether utilizing a separate state level  
24 electronic recording system for non-hazardous

1 special waste instead of paper forms would ease  
2 the administrative burden for a generator or a  
3 transporter.

4 MR. JENNINGS: This is a challenging  
5 question, because the -- we understand the need to  
6 have the data to be able to understand the waste  
7 that's generated. So we understand the Agency's  
8 need to obtain that data and somehow be able to  
9 get that in the most effective and efficient  
10 method possible.

11 Unfortunately, the e-Manifest  
12 system in one of the first times where a  
13 requirement to use a different process and the EPA  
14 generating an electronic system has created  
15 substantial burdens on us, which, in turn, end up  
16 to be financial burdens on the generator, simply  
17 because of the way that this typically works in  
18 the waste services sector.

19 So I will explain and expand  
20 what I mean by that. The e-Manifest built the  
21 e-Manifest system as a repository for data, and  
22 they allowed four different ways for the data for  
23 manifests to get into that system. And they use  
24 this cost fee structure to encourage the use of

1 fully electronic methods to get that data into  
2 their system.

3                   So they charge \$15 for the first  
4 method, and that is mailing the paper copy to the  
5 Agency, and the Agency has to find a way to  
6 physically dump that data and get that data  
7 manually entered into their system. They charge  
8 \$10 for sending a paper -- sending that paper  
9 image in the form of a digital image to the  
10 e-Manifest system, and they have to still manually  
11 enter that data. So, again, they are ratcheting  
12 down, based upon their ease in handling the data.

13                   The third \$6.50 fee of  
14 submitting an electronic image of the manifest,  
15 but then submitting the data electronically to  
16 them -- the less burden, ease in dumping that data  
17 into their system, \$6.50, and the \$5 fee is for  
18 using their system that they built to go in and  
19 build a manifest, and then it retains and resides  
20 in their system electronically, from start to  
21 finish.

22                   Why I brought the point about  
23 the electronic manifest system being  
24 representative of only 1 percent or less of these

1 manifests being electronic is that nobody uses  
2 that system that way.

3           Industry who is a waste services  
4 provider has built their own infrastructure to  
5 maintain that data and produce manifests and  
6 maintain generator records. For them to go  
7 service that customer for a waste service pickup,  
8 we have our own systems that we have built that  
9 maintain all of the necessary infrastructure and  
10 data necessary to produce that manifest, that  
11 document.

12           So for the -- for us to get that  
13 into another system would involve substantial IT  
14 infrastructure rebuilds or at least building a  
15 system to dump that data into another electronic  
16 system, just like we had to do with the e-Manifest  
17 system.

18           And we already know with the  
19 e-Manifest system history, it's very challenging  
20 for us to build that system to get it  
21 electronically dumped somewhere. We already do it  
22 now for the e-Manifest system. If the state was  
23 to build another system, we would have to go  
24 through that same exercise and effort. So that

1 would be challenging.

2 BOARD MEMBER SANTOS: Mr. Scheel,  
3 Member Santos. So currently the process is you  
4 just mail the forms in to them?

5 MR. SCHEEL: We have chosen.  
6 Because we have a robust system that captures all  
7 of that information that's on the manifest  
8 electronically, we already have everything there  
9 in an electronic format, and we scan all the  
10 manifest copies into our system, so we have that  
11 image. So we use the \$6.50 method of submitting  
12 that information. We send out an electronic file  
13 with all of the data points, and that's followed  
14 along with a digital image of the manifest.

15 BOARD MEMBER SANTOS: And is that  
16 per manifest or per transaction?

17 MR. SCHEEL: Per manifest. It's  
18 required to -- every single manifest has to be its  
19 own record submitted into the e-Manifest system.

20 MR. RAO: So if this rule is adopted  
21 by the Board, you don't have to incur the cost of  
22 \$6.50; is that --

23 MR. SCHEEL: Correct. Right now the  
24 way that -- the way that the current regulations

1 require generators to put special manifest --  
2 special waste on a uniform hazardous waste  
3 manifest, the EPA has said, because, you, the  
4 state require that, then the facility that  
5 receives that manifest is required to send that  
6 manifest to the e-Manifest system.

7                   So if this rule allows for  
8 another mechanism of tracking that shipment that's  
9 not a uniform hazardous waste manifest, then we  
10 don't have to -- that manifest isn't coming to our  
11 TSDF, our facility, our permitted facility,  
12 therefore, we would not be required to submit  
13 that. Does that make sense? I'm sorry if that  
14 was confusing.

15                   HEARING OFFICER PAULEY: It does.  
16 And just to clarify, the internal system that you  
17 developed, is that something that is company-wide  
18 across the country, or does each state have their  
19 own system?

20                   MR. SCHEEL: It's company-wide.

21                   HEARING OFFICER PAULEY:  
22 Company-wide.

23                   MR. SCHEEL: And one final comment,  
24 if I could. The -- and I believe that why you are



1 seeing a substantial majority of the methods of  
2 manifests being submitted to the EPA is in a  
3 similar format that we send those to the EPA is  
4 because we are like our counterparts and our  
5 colleagues in the industry, right?

6 Waste services providers have  
7 their own systems that gather that information,  
8 that have that scanned image of the manifest and  
9 they have the data. So by far you see the highest  
10 number of submittals to the e-Manifest system  
11 being in the same format that we are using,  
12 because every other industry service provider has  
13 the same scenario in place. They built their own  
14 system. It has the customer's record in there.  
15 Names, addresses, phone numbers, it has the waste  
16 shipment information in there. It's tied to their  
17 billing systems. It's tied to what we call a  
18 waste profile, which is a description of the waste  
19 that's required, the land disposal restriction  
20 forms. All of -- everything that we need to run  
21 our business is tied into our system.

22 So for us to duplicate this and  
23 create an electronic manifest in the e-Manifest  
24 system would require a completely separate

1 administrative activity. We would have to be --  
2 have someone working in our system and then go  
3 over and then build the same thing in another  
4 system.

5 HEARING OFFICER PAULEY: If -- with  
6 this proposal in mind, if it were to be adopted,  
7 you would -- would you still have to take your  
8 internal manifest and then put it on the IEPA's  
9 paper manifest to submit it?

10 MR. SCHEEL: Let's see. I'm not  
11 sure if I understand your question. If -- could  
12 you repeat it?

13 HEARING OFFICER PAULEY: Yes.  
14 Sorry. Well, you were explaining how with the US  
15 EPA's system you take your manifest, you take that  
16 data, transfer it onto the US EPA's manifest and  
17 submit it. Would you still have to do that with  
18 an IEPA form if it cut the US EPA and just went  
19 straight to the IEPA?

20 MR. SCHEEL: So what -- whatever --  
21 whatever the state would build that we would  
22 require -- that might require us to submit  
23 information to them, data to them based upon  
24 shipment records we would have in our system. So

1 the burden that we would have is not  
2 necessarily -- might be two-fold.

3 If you generate a separate form  
4 that looks completely different than the uniform  
5 hazardous waste manifest, then we would have to  
6 build in our systems the method of grabbing  
7 information and plugging it into your specific  
8 form in this specific spot to be able to print it  
9 and produce that paper manifest. So there would  
10 be some administrative and IT burden there.

11 And then also there would be  
12 some IT burden for us to create that transfer  
13 method of the data. So we would have to build --  
14 just like we did with the e-Manifest system, we  
15 would have to build a feed, an API data feed that  
16 would take our data from our system and put it in  
17 a format that would send it out to the state  
18 system. Does that answer?

19 HEARING OFFICER PAULEY: Yes.

20 MR. JENNINGS: We have one  
21 clarifying point on that. So our proposal would  
22 not require manifest users to submit manifests to  
23 us. Under current Illinois law, and it's actually  
24 part of Section 501, receiving facilities that

1 accept non-hazardous special waste have an  
2 obligation to annually report generator  
3 information, volumetric information to us.

4 That would remain the same under  
5 this proposal. State law actually was changed in  
6 the last decade to alleviate the requirement for  
7 non-hazardous special waste manifests be submitted  
8 to the Agency. So how this transaction would  
9 likely look would be similar to how it did until  
10 the middle of last year, where shipments of  
11 non-hazardous special wastes would be accompanied  
12 by a manifest from the generator to the  
13 transporter to the receiving facility, and then  
14 ultimately, the receiving facility returns a  
15 completed copy of that manifest to the generator.

16 The information that then comes  
17 to us would be the cumulative data acquired over  
18 the course of the year reflecting the total  
19 volumes and sources of the material accepted.

20 MR. RAO: So it's the annual report  
21 is all you really got?

22 MR. JENNINGS: Yes. But it's  
23 consistent with what we get right now.

24 MR. SCHEEL: And we would be in

1 favor of that and support that fully, versus  
2 generating another electronic system that we would  
3 have to build an integration and integrate our  
4 data to. So we would support that and encourage  
5 the Board to consider that.

6 HEARING OFFICER PAULEY: Thank you.

7 And is there anyone else present  
8 who has any questions for the Stericycle witness?

9 (No response.)

10 HEARING OFFICER PAULEY: All right.

11 And is -- going back to what I was reaching at in  
12 the beginning, is there anyone wishing to give a  
13 public comment there in Springfield?

14 MR. NEIBERGALL: No, there is not.

15 HEARING OFFICER PAULEY: Thank you.

16 So let me take a moment to address the economic  
17 impact statement.

18 Section 27(b) of the  
19 Environmental Protection Act provides that the  
20 Board must request that the Department of Commerce  
21 and Economic Opportunity conduct an economic  
22 impact study of proposed rules before the Board  
23 adopts the rules. The Board must make either the  
24 economic impact study or the department's

1 explanation for not conducting one available to  
2 the public at least 20 days before a public  
3 hearing.

4 In a letter dated March 19th,  
5 2019, the Board's Chairman, Katie Papadimitriou,  
6 requested that DCEO conduct an economic impact  
7 study of this rulemaking proposal. The Board  
8 specifically requested a response no later than  
9 April 30th, 2019. The Board received no response  
10 from DCEO to this request.

11 Is there anyone present today  
12 who would like to testify regarding the Board's  
13 request for a study and DCEO's response?

14 (No response.)

15 HEARING OFFICER PAULEY: Hearing  
16 none, we will move on. And can we go off the  
17 record for a moment?

18 (Whereupon, a discussion was had  
19 off the record.)

20 HEARING OFFICER PAULEY: Thank you.  
21 We went off the record to discuss procedural  
22 issues. The pre-filing deadline of May 23rd, 2019  
23 for the June 6th, 2019 hearing, which is at  
24 1:00 p.m., conducted by video conference between

1 Springfield and Chicago, the same as today, and  
2 with the copies of the transcript of today's  
3 hearing -- is that expected to be available by the  
4 next Thursday, May 16th?

5 THE COURT REPORTER: Yes.

6 HEARING OFFICER PAULEY: Thank you.  
7 And once the Board receives that, it promptly will  
8 be available and posted on the COOL website, and  
9 then everyone will be able to view and print it  
10 there.

11 And are there any other matters  
12 that need to be addressed at this time?

13 MR. NEIBERGALL: None in  
14 Springfield.

15 HEARING OFFICER PAULEY: Thank you.  
16 I would like to thank everyone for participating  
17 today, and the first hearing is adjourned.

18 (END OF PROCEEDINGS.)

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I, KARI WIEDENHAUPT, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date, and at the time and place set out on the title page hereof and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

I have hereunder subscribed my hand on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
KARI WIEDENHAUPT, CSR



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