

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Amendments to 35 Ill.) No. R18-28
Adm. Code, Subtitle I:)
Atomic Radiation)

REPORT OF THE PROCEEDINGS held in the
above-entitled cause before HEARING OFFICER
TIMOTHY FOX, called by the Illinois Pollution
Control Board, 100 West Randolph Street, Chicago,
Illinois, on the 6th day of January, 2022,
commencing at the hour of 1:00 p.m.

Reported By: Raelene Stamm, CSR
License No.: 084-004445

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APPEARANCES:

MR. TIMOTHY FOX, Hearing Officer (via video)
MS. CYNTHIA SANTOS, Board Member
MS. MICHELLE GIBSON, Board Member
MR. MARK KAMINSKI, Attorney Advisor
MS. MARIE TIPSORE, Board General Counsel
MR. DON BROWN, Clerk

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: MR. CHARLES MATOESIAN (via video)
1021 North Grand Avenue East
PO Box 19276
Springfield, Illinois 62794
(217) 782-5544

On behalf of the Illinois
Environmental Protection Agency.

ALSO PRESENT:

MS. LOUISE CONWAY (via video)
On behalf of the Illinois Emergency
Management Agency.

1 HEARING OFFICER FOX: Good afternoon and
2 welcome to this Illinois Pollution Control Board
3 hearing. My name is Tim Fox, and I am assisting
4 the assigned hearing officer, Daniel Pauley, in
5 this rulemaking proceeding entitled, Amendments to
6 35 Illinois Administrative Code, Subtitle I, Atomic
7 Radiation. The board docket number for this
8 rulemaking is R18-28.

9 I'm the only representative of the Board
10 here in Springfield. There in Chicago I see that
11 we have Board Members Cynthia Santos and Michelle
12 Gibson present and also the Board's general
13 counsel, Marie Tipsore.

14 Marie, have I missed anyone else there
15 present?

16 MS. TIPSORE: Mark is here as well.

17 HEARING OFFICER FOX: Mark Kaminski is also
18 present in Chicago. Thank you for clarifying that,
19 Marie.

20 Jumping right in, this hearing is governed
21 by the Board's procedural rules so that all
22 information that is relevant and that is not
23 repetitious and privileged will be admitted into
24 record.

1 Please bear in mind that any questions
2 posed today by the Board and its staff are intended
3 solely to help develop a clear and complete record
4 for the Board's decision and do not reflect any
5 decision on the proposal, the testimony or any
6 questions.

7 For the sake of our court reporter, please
8 speak clearly and avoid speaking at the same time
9 as any other person so that we can help produce a
10 clear transcript.

11 Here in Springfield and there in Chicago,
12 there is a sign-in sheet at the entrance to the
13 room so that you may indicate that you would like
14 to submit a public comment to the Board on the
15 record at the hearing today. I do want to stress
16 that public comments can also be submitted
17 electronically through the Board's clerk's office
18 online or COOL.

19 As a matter of background, the Board
20 issued a proposal for public comment on December 19
21 of 2019.

22 On January 27 of 2020, IEPA filed
23 responses to questions posed by the Board. The
24 first hearing in this docket was held on October 12

1 of 2021. A second hearing initially scheduled for
2 November 17, 2021, had to be cancelled.

3 The hearing officer set a deadline of
4 November 10, 2021, to pre-file testimony for that
5 hearing. And on that date the Board received
6 pre-filed testimony from the Illinois Emergency
7 Management Agency, or IEMA, by Louise Conway. That
8 testimony, of course, remains a part of the Board's
9 record and for this hearing today.

10 Notice of this rescheduled hearing was
11 published December 2 of 2021 in the Chicago
12 Sun Times and on December 7 of last year in the
13 Springfield Journal Register.

14 The hearing officer set a deadline of
15 December 30, 2021, to pre-file testimony for
16 today's rescheduled hearing, but the Board has
17 received no additional pre-filed testimony.

18 Before we got under way I had a brief
19 discussion with the participants here in
20 Springfield. We will begin with the pre-filed
21 testimony filed by IEMA. Miss Conway has indicated
22 that she is available to answer any questions that
23 other participants or that they may have.

24 The Board's procedural rules at

1 Section 104.424(f) do provide that this pre-filed
2 testimony will be entered into the record as it's
3 read. But if Miss Conway would like to begin with
4 any kind of introduction or summary briefly, we'll
5 be happy to allow her that opportunity.

6 Once we've wrapped up with the questions
7 based on the pre-filed testimony, we can see
8 whether there is anyone that did not pre-file
9 testimony but would like to testify today, and
10 following that we can deal with any public comments
11 that people may wish to offer. And probably very
12 soon after that wrap up for the day and conclude
13 the second and final hearing in this proceeding.

14 Is there any question at all about our
15 procedures today?

16 Miss Conway, I think we've reached a point
17 at which our court reporter can swear you in, and
18 you can at that point entertain any questions.

19 (WHEREUPON, the witness was
20 duly sworn.)

21 HEARING OFFICER FOX: Miss Conway, if you would
22 start, I should have said this first, just by
23 identifying yourself and any title or position you
24 have with IEMA for the record, please.

1 MS. CONWAY: My name is Louise Conway. That's
2 L-o-u-i-s-e, Conway, C-o-n-w-a-y. I am a staff
3 attorney for the Illinois Emergency Management
4 Agency, IEMA.

5 HEARING OFFICER FOX: Miss Conway, as I
6 mentioned, if you would like to offer any kind of
7 summary introduction, you're welcome to do so. If
8 you'd like to stand on the written testimony that
9 you submitted, we can go right to questions, if
10 that's helpful.

11 MS. CONWAY: Yeah. We'll stand on our written
12 testimony as filed. It's just updating some of the
13 contact information for this rule.

14 HEARING OFFICER FOX: Very good. We can start,
15 Mr. Matoesian, with you on behalf of the agency.
16 Do you have any questions to pose to IEMA on the
17 written testimony that's entered in.

18 MR. MATOESIAN: We have no questions. I would
19 just state my name, Charles Matoesian,
20 M-a-t-o-e-s-i-a-n, as in Nancy. I am an attorney
21 for the Illinois Environmental Protection Agency.
22 But, again, we have no questions or comments.

23 HEARING OFFICER FOX: Thank you for clarifying,
24 Mr. Matoesian. I should have asked you to do that.

1 I appreciate the fact that you clarified that on
2 the record.

3 Did either Member Gibson or Santos have
4 any questions based on the written testimony?

5 MS. SANTOS: No, neither of us.

6 HEARING OFFICER FOX: I'm seeing neither of you
7 do.

8 Miss Conway, you mentioned that you may
9 have a clarification or some further information
10 you wish to offer on the testimony you submitted in
11 November.

12 MS. CONWAY: Yes, so, thank you for that. Yes.
13 So when I drafted it, there was some language I
14 think that was also in there that got deleted. The
15 language should look exactly how it is written in
16 the testimony.

17 HEARING OFFICER FOX: Okay.

18 MS. CONWAY: So the other language should be
19 deleted. If you have any questions, feel free to
20 contact us, and we can make sure that you get a
21 copy of what it really should look like.

22 MR. MATOESIAN: So it should look like --

23 MS. CONWAY: Yes. It should look like what's
24 in our testimony.

1 HEARING OFFICER FOX: Miss Conway, I just want
2 to make sure I understand that the -- what you've
3 submitted is precisely what you would like to have
4 the Board propose for first notice and ultimately
5 adoption of that, correct?

6 MS. CONWAY: Correct.

7 HEARING OFFICER FOX: Is there some way in
8 which that's not exactly consistent with the
9 existing rules?

10 MS. CONWAY: Yes. So what had happened is, I
11 believe, and it's been a little bit -- where it
12 says the Illinois -- where we're adding in Illinois
13 Emergency Management Agency with IEMA, there was
14 some language I think that is right after that or
15 around that language that is not actually in this
16 draft that was supposed to be deleted and is not
17 shown.

18 HEARING OFFICER FOX: So there was language
19 that should be struck through --

20 MS. CONWAY: Correct.

21 HEARING OFFICER FOX: -- and does not appear at
22 all.

23 MS. CONWAY: Correct. It was current language
24 that we were deleting.

1 HEARING OFFICER FOX: Excellent.

2 MR. MATOESIAN: Do you mind if I look at that
3 real quick?

4 MS. TIPSORE: Tim, could she specify the
5 section that she's looking at?

6 HEARING OFFICER FOX: Yes.

7 Miss Conway, that's a very good question.

8 MR. MATOESIAN: It's Section 1000.502.

9 MS. CONWAY: Right.

10 MS. TIPSORE: Thank you.

11 HEARING OFFICER FOX: And, again, Miss Conway,
12 I just to make sure that I understand. There
13 should be existing language that is struck through
14 indicating that you wish to omit it. In fact, you
15 just omitted it without striking it through.

16 MS. CONWAY: Correct. That is correct. Thank
17 you.

18 HEARING OFFICER FOX: That's fine. I had to
19 think that through for a minute, and that wraps it
20 up. That's great.

21 Was there again any questions there in
22 Chicago?

23 MS. SANTOS: No.

24 HEARING OFFICER FOX: Very good. Thank you.

1 Mr. Matoesian, I believe you said you
2 wrapped up your questions; is that correct?

3 MR. MATOESIAN: Yes.

4 HEARING OFFICER: Excellent.

5 Miss Conway, with that I think we can
6 thank you for your testimony and your responses
7 today and have you stand down, as it were.

8 MS. CONWAY: Thank you.

9 HEARING OFFICER FOX: Absolutely. We
10 appreciate your participation.

11 This is the point in which we can check to
12 see whether anyone who did not pre-file testimony
13 wishes to testify today. It's clear that here in
14 Springfield there's no one that's falling into that
15 category.

16 Is there anyone there in Chicago that
17 would wish to do so?

18 Very good. Neither seeing or hearing any
19 in either location, I see that the sign-in sheets
20 for comments -- sign-in sheets for comments here in
21 Springfield is blank, and I'm supposing it is blank
22 there. I see Miss Tipsore indicating that there is
23 no one in Chicago either to offer public comment.

24 At that point we can proceed right to the

1 issue of the economic impact statement.
2 Section 27D of the Environmental Protection Act
3 provides that the Board must request the Department
4 of Commerce and Economic Opportunity or DCEO
5 conduct an economic impact study of proposed rules
6 before the Board adopts them. The Board must then
7 make either the economic impact study or the
8 department's explanation for not conducting one
9 available to the public at least 20 days before
10 public hearing.

11 In a letter dated September 17 of 2021 the
12 Board's chair, Barbara Flynn Currie, requested that
13 DCEO conduct an economic impact study of this
14 proposal. The Board specifically requested a
15 response no later than November 1 of 2021.

16 The Board did receive a response on
17 October 22 of 2021. It stated that the DCEO had
18 conducted a preliminary review of the proposed rule
19 changes. The letter states that because the rule
20 changes our administrative in nature with no
21 meaningful economic impact, DCEO respectfully
22 declined to perform an economic impact study.

23 Is there anyone present in either location
24 today that would like to testify regarding the

1 Board's request for a study or DCEO's response?

2 MS. SANTOS: No one here, Tim.

3 HEARING OFFICER FOX: Neither seeing or hearing
4 any in either location, let me again quickly
5 determine whether anyone has appeared to offer a
6 comment. It appears that no one has.

7 What we can do before we adjourn is
8 confirm that the transcript of this hearing will be
9 available by next Friday, January 14 of 2022. Our
10 customary proposal -- our customary deadline for
11 post-hearing comments would be two weeks after that
12 date on Friday, January 28 of 2022.

13 We have a couple of participants here, and
14 I'd be happy to hear if that is an acceptable
15 deadline for them.

16 MR. MATOESIAN: And that's the deadline for
17 comments?

18 HEARING OFFICER FOX: Post-hearing comments,
19 yes.

20 MR. MATOESIAN: That's fine.

21 HEARING OFFICER FOX: Both IEMA and IEPA have
22 indicated that the deadline of post-hearing
23 comments of January 28 is acceptable.

24 As I mentioned, the transcript will be

1 available by Friday, January 14th. When the Board
2 receives that, it will place it immediately on the
3 clerk's office online on our web page. Any filings
4 after this -- any filings at all including
5 post-hearing comments must be served on the hearing
6 officer and all those persons that are on the
7 Board's service list.

8 Before filing, please check on COOL or
9 with the Board's clerk, Don Brown, to ensure that
10 you have the most recent version of the service
11 list.

12 Is there any other issue that we would
13 need to address or discuss before we adjourn this
14 hearing?

15 MS. SANTOS: Not here, Tim. We're good.

16 HEARING OFFICER FOX: Very good. I don't see
17 any indication here. So we can adjourn.

18 Thanks to both of you as agency
19 representatives for participating. We appreciate
20 it.

21 We are adjourned. Thanks everyone.

22 (WHEREUPON, the hearing was
23 adjourned at 1:15 p.m.)
24

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4 RAELENE STAMM being first duly sworn, on
5 oath says that she is a court reporter doing
6 business in the City of Chicago; and that she
7 reported in shorthand the proceedings of said
8 hearing, and that the foregoing is a true and
9 correct transcript of her shorthand notes so taken
10 as aforesaid, and contains the proceedings given at
11 said hearing.

12
13 _____

14 Certified Shorthand Reporter

<p>A</p> <p>above-entitled 1:11</p> <p>Absolutely 11:9</p> <p>acceptable 13:14 13:23</p> <p>Act 12:2</p> <p>adding 9:12</p> <p>additional 5:17</p> <p>address 14:13</p> <p>adjourn 13:7 14:13,17</p> <p>adjourned 14:21 14:23</p> <p>Adm 1:6</p> <p>administrative 3:6 12:20</p> <p>admitted 3:23</p> <p>adoption 9:5</p> <p>adopts 12:6</p> <p>Advisor 2:6</p> <p>aforsaid 15:10</p> <p>afternoon 3:1</p> <p>agency 2:10,17,23 5:7 7:4,15,21 9:13 14:18</p> <p>allow 6:5</p> <p>Amendments 1:5 3:5</p> <p>answer 5:22</p> <p>appear 9:21</p> <p>APPEARANCES 2:1</p> <p>appeared 13:5</p> <p>appears 13:6</p> <p>appreciate 8:1 11:10 14:19</p> <p>asked 7:24</p> <p>assigned 3:4</p> <p>assisting 3:3</p> <p>Atomic 1:7 3:6</p> <p>attorney 2:6 7:3 7:20</p> <p>available 5:22 12:9 13:9 14:1</p>	<p>Avenue 2:12</p> <p>avoid 4:8</p> <hr/> <p>B</p> <p>background 4:19</p> <p>Barbara 12:12</p> <p>based 6:7 8:4</p> <p>bear 4:1</p> <p>behalf 2:16,22 7:15</p> <p>believe 9:11 11:1</p> <p>bit 9:11</p> <p>blank 11:21,21</p> <p>board 1:1,13 2:4,5 2:7 3:2,7,9,11 4:2,14,19,23 5:5 5:16 9:4 12:3,6 12:6,14,16 14:1 15:1</p> <p>Board's 3:12,21 4:4,17 5:8,24 12:12 13:1 14:7 14:9</p> <p>Box 2:13</p> <p>brief 5:18</p> <p>briefly 6:4</p> <p>Brown 2:8 14:9</p> <p>business 15:6</p> <hr/> <p>C</p> <p>C-o-n-w-a-y 7:2</p> <p>called 1:12</p> <p>cancelled 5:2</p> <p>category 11:15</p> <p>cause 1:11</p> <p>Certified 15:14</p> <p>chair 12:12</p> <p>changes 12:19,20</p> <p>Charles 2:11 7:19</p> <p>check 11:11 14:8</p> <p>Chicago 1:13 3:10 3:18 4:11 5:11 10:22 11:16,23 15:6</p> <p>City 15:6</p> <p>clarification 8:9</p>	<p>clarified 8:1</p> <p>clarifying 3:18 7:23</p> <p>clear 4:3,10 11:13</p> <p>clearly 4:8</p> <p>clerk 2:8 14:9</p> <p>clerk's 4:17 14:3</p> <p>Code 1:6 3:6</p> <p>commencing 1:15</p> <p>comment 4:14,20 11:23 13:6</p> <p>comments 4:16 6:10 7:22 11:20 11:20 13:11,17 13:18,23 14:5</p> <p>Commerce 12:4</p> <p>complete 4:3</p> <p>conclude 6:12</p> <p>conduct 12:5,13</p> <p>conducted 12:18</p> <p>conducting 12:8</p> <p>confirm 13:8</p> <p>consistent 9:8</p> <p>contact 7:13 8:20</p> <p>contains 15:10</p> <p>Control 1:1,13 3:2 15:1</p> <p>Conway 2:21 5:7 5:21 6:3,16,21 7:1,1,2,5,11 8:8 8:12,18,23 9:1,6 9:10,20,23 10:7 10:9,11,16 11:5 11:8</p> <p>COOL 4:18 14:8</p> <p>copy 8:21</p> <p>correct 9:5,6,20 9:23 10:16,16 11:2 15:9</p> <p>counsel 2:7 3:13</p> <p>couple 13:13</p> <p>course 5:8</p> <p>court 4:7 6:17 15:5</p> <p>CSR 1:22</p>	<p>current 9:23</p> <p>Currie 12:12</p> <p>customary 13:10 13:10</p> <p>Cynthia 2:4 3:11</p> <hr/> <p>D</p> <p>Daniel 3:4</p> <p>date 5:5 13:12</p> <p>dated 12:11</p> <p>day 1:14 6:12</p> <p>days 12:9</p> <p>DCEO 12:4,13,17 12:21</p> <p>DCEO's 13:1</p> <p>deadline 5:3,14 13:10,15,16,22</p> <p>deal 6:10</p> <p>December 4:20 5:11,12,15</p> <p>decision 4:4,5</p> <p>declined 12:22</p> <p>deleted 8:14,19 9:16</p> <p>deleting 9:24</p> <p>Department 12:3</p> <p>department's 12:8</p> <p>determine 13:5</p> <p>develop 4:3</p> <p>discuss 14:13</p> <p>discussion 5:19</p> <p>docket 3:7 4:24</p> <p>doing 15:5</p> <p>Don 2:8 14:9</p> <p>draft 9:16</p> <p>drafted 8:13</p> <p>duly 6:20 15:4</p> <hr/> <p>E</p> <p>East 2:12</p> <p>economic 12:1,4,5 12:7,13,21,22</p> <p>either 8:3 11:19 11:23 12:7,23 13:4</p>	<p>electronically 4:17</p> <p>Emergency 2:22 5:6 7:3 9:13</p> <p>ensure 14:9</p> <p>entered 6:2 7:17</p> <p>entertain 6:18</p> <p>entitled 3:5</p> <p>entrance 4:12</p> <p>Environmental 2:10,17 7:21 12:2</p> <p>exactly 8:15 9:8</p> <p>Excellent 10:1 11:4</p> <p>existing 9:9 10:13</p> <p>explanation 12:8</p> <hr/> <p>F</p> <p>fact 8:1 10:14</p> <p>falling 11:14</p> <p>feel 8:19</p> <p>filed 4:22 5:21 7:12</p> <p>filing 14:8</p> <p>filings 14:3,4</p> <p>final 6:13</p> <p>fine 10:18 13:20</p> <p>first 4:24 6:22 9:4 15:4</p> <p>Flynn 12:12</p> <p>following 6:10</p> <p>foregoing 15:8</p> <p>Fox 1:12 2:3 3:1,3 3:17 6:21 7:5,14 7:23 8:6,17 9:1 9:7,18,21 10:1,6 10:11,18,24 11:9 13:3,18,21 14:16</p> <p>free 8:19</p> <p>Friday 13:9,12 14:1</p> <p>further 8:9</p> <hr/> <p>G</p> <p>general 2:7 3:12</p>
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