

ILLINOIS POLLUTION CONTROL BOARD

May 20, 2025

In the matter of:)
)
STANDARDS FOR UNIVERSAL WASTE) R25-22
MANAGEMENT) (Rulemaking-Land)
(35 ILL. ADM. CODE PARTS 703,)
720, 721, 724, 725, 728 and)
733))

Report of proceedings from the hearing
before the ILLINOIS POLLUTION CONTROL BOARD on
Wednesday, May 20, 2025, 10:30 a.m., at 160 North
LaSalle Street, Suite 505, Chicago, Illinois.

Reporter: Paul W. O'Connor, CSR
CSR No. 084-002955

1 PRESENT:

2 ATTENDING BOARD MEMBERS:

 Michelle Gibson

3

4 BOARD STAFF:

 Chloe Salk, Hearing Officer

5 Dr. Anand Rao

 Essence Brown

6

7 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

 Katherine A. Koehler

8 Kyle Rominger

9

10 ALSO PRESENT:

11 Ms. Nicole Dorr

 Mr. Jacob Saffert

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WITNESS:

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EXHIBITS:

None

1 MS. SALK: We will begin. Good morning, everyone.
2 Welcome to this Illinois Pollution Control Board hearing.
3 My name is Chloe Salk and I'm the Hearing Officer for
4 this rulemaking entitled Standards for Universal Waste
5 Management, 35 Illinois Administrative Code Parts 702,
6 720, 721, 724, 725, 728 and 733. The Board docket number
7 for this rulemaking is R25-22.

8 To get started I want to go through three
9 preliminary items. Introduction, procedures to date and
10 housekeeping, including the order in which we'll plan to
11 proceed.

12 First introductions. Present from the
13 board are Board Member Michelle Gibson, lead Board Member
14 assigned this docket. Present today from the Board staff
15 are Anand Rao and Essence Brown of the Board's technical
16 staff.

17 Second, the Board's procedure to date. On
18 March 3, 2025, the Illinois Environmental Protection
19 Agency filed this rulemaking proposal.

20 In an order on March 20th, the Board
21 accepted the proposal for hearing. Also order on
22 March 20th, Hearing Officer scheduled two hearings.

23 Notice for hearing was posted on
24 March 22nd in the Chicago Sun-Times and on March 26th in

1 the State Journal Register.

2 The Board held the first hearing in this
3 matter on April 16th. Today we are holding the second
4 hearing. In the order scheduling hearing, the Hearing
5 Officer directed participants intending to testify at
6 this hearing to pre-file your testimony no later than
7 May 7th.

8 On April 11th, the Board received
9 pre-filed testify from Suzanne Chang with American
10 Coatings Association, ACA. The order did not set a
11 deadline for participants to pre-file questions based on
12 that testimony. But the Board received pre-filed
13 questions from the Illinois Environmental Protection
14 Agency or IEPA on May 15th. In a Hearing Officer order
15 also on May 15th, the Board submitted questions. The
16 Board posted all of these documents to its clerk's office
17 on-line or COOL, under this docket number R25-22 as they
18 were filed.

19 Finally our housekeeping for the hearing.
20 This hearing is governed by the Board Procedural Rules.
21 Under Section 102.426 of those rules, all information
22 that is relevant and is not repetitious or privileged
23 will be admitted by the Hearing Officer into the record.

24 Please bear in mind that any questions

1 posed today by the Board and its staff are intended
2 solely to help develop a clear and complete record for
3 the Board's decision. And those questions do not reflect
4 any determination or judgment on the proposal, testimony
5 or question.

6 For the sake of our court reporter, please
7 speak clearly and avoid speaking at the same time as
8 another person, so we can help produce a clear
9 transcript. If you're asking a question, please state
10 your name and organization you represent prior to any
11 question. Court reporter, please feel free stop me or
12 anyone else at any point if we are going too fast,
13 talking too softly or if you need something repeated.

14 As to the order of today's proceedings we
15 will first call up our only witness, Heidi McAuliffe with
16 the ACA. After being duly sworn in, the pre-filed
17 testimony will be entered into the record as if read
18 under Section 102.424F of the Board's procedural rules.
19 We will then turn to questions for each witness.

20 After finishing with the witness
21 questioning, I will ask if there are any public comments
22 from members of the public. I will also, there will also
23 be a opportunity for any participants to offer testimony
24 or comment on the Board's request that the Department of

1 Commerce and Economic Opportunity, or DCEO, perform an
2 economic impact study of the proposal.

3 I anticipate taking an hour break for
4 lunch around 12:00 p.m. if we go that long, and taking a
5 break around 2:30 p.m. If we haven't finished by then,
6 the hearing will end today around 5:00 p.m. Are there
7 any questions about our order of proceeding. Okay.
8 Hearing none, we are ready to turn to testimony.

9 We will start with Heidi McAuliffe. Will
10 the court please swear in the witness.

11 (Heidi McAuliffe sworn in)

12 MS. SALK: We entered Suzanne Chang's testimony
13 into the record as read. Would you like to add anything
14 to that testimony? We can do like a brief introduction
15 or anything else you would like to say.

16 MS. McAULIFFE: I would like to open with a brief
17 statement, if that's appropriate.

18 MS. SALK: Go ahead.

19 MS. McAULIFFE: Okay. Thank you very much. I did
20 want to introduce the American Coatings Association. We
21 are the premiere trade association that represents paint
22 manufacturers, their raw material suppliers; we represent
23 manufacturers of all categories of paint, not just
24 architectural. So the architectural coatings market, the

1 industrial coatings market, all specialty coatings, all
2 of those manufacturers are members of the American
3 Coatings Association.

4 Our Paint Care Program was established by
5 the American Coatings Association to be the stewardship
6 organization for paint, leftover consumer paint. This
7 organization is as I said, the stewardship organization.
8 It is currently operating in 11 states across the
9 country. We are very hopeful that Illinois is going to
10 be operating very soon. And following that, the State of
11 Maryland will come on-line as well.

12 In the State of Illinois, the program is
13 focused on leftover consumer architectural paint. That
14 is latex and solvent-based paint. It is not paint
15 related waste, it is just paint waste.

16 Latex typically is the greater volume of
17 paint that we collect from consumers and households and
18 businesses. Typically that's about 80 percent of the
19 volume that is returned to our program. About 20 percent
20 of the volume that we collect and manage is solvent-based
21 paint.

22 This program really relies upon the
23 collection network that Paint Care develops when we
24 launch a new program. And that collection network, that

1 drop-off or collection network really focuses on the
2 existing household hazardous waste infrastructure. So
3 your local government municipal organization, plus retail
4 outlets that are familiar with paint. So paint stores,
5 construction material stores, those types of stores also
6 are built into our retail collection network.

7 About 75 percent of the drop-off and
8 collection sites in our programs across the country are
9 retail locations.

10 This is a voluntary activity on their
11 part, they're not required to do this under the law.
12 They volunteer to do it. We work very closely with our
13 retail sites, we provide a lot of training and materials
14 for them to make this a beneficial activity for them.
15 Also that we are in compliance with all laws in the
16 state. And we have a very good relationship with all of
17 our retailers.

18 So for the most part I think our retailers
19 feel this program drives customers into their store, so
20 they have some increased foot traffic. And you know,
21 it's a value-added service for their customers. So it's
22 a very big part of our program, very necessary part of
23 our program and in fact, in most of the laws that
24 implemented this program across the country, we are

1 required to provide a certain level of convenience.

2 In order to comply with our obligations,
3 we really rely on those volunteer retailers to help us
4 meet the convenience for the residents in a state. So
5 the regulations that are proposed today are very
6 important for us to implement our program in the State of
7 Illinois.

8 And as you can tell from the comments that
9 we submitted already, we do have an issue with two
10 particular elements of the rulemaking. And that is the
11 50-foot setback and the notification requirement. So I
12 know there's some questions focused on those. I just
13 like to say a few words about them.

14 As I have already indicated, this is a
15 volunteer activity on the part of retailers across the
16 country. We need those volunteers, we need those retail
17 locations to volunteer and become our drop-off collection
18 network so we can meet our convenience criteria. We've
19 been very successful in recruiting those volunteers
20 across the country.

21 We are very concerned these two particular
22 elements in the rulemaking would be a very significant
23 disincentive for those retailers to volunteer and
24 participate as collection and drop-off locations.

1 So that is why we had suggested that there
2 be some changes to the rulemaking to accommodate our
3 ability to provide a successful program for State of
4 Illinois.

5 I think that's all I wanted to say at the
6 beginning and I'm happy to answer any questions.

7 MS. SALK: Thank you. So we had questions from
8 IEPA, which we will go to first. If you could first
9 state your name for the court reporter. Also just enter
10 the questions as if read, so we can have you go through
11 number one, number two, things like that. So it will
12 make things easier. So go ahead.

13 MS. KOEHLER: Katherine Koehler with the IEPA.

14 MS. SALK: Go ahead.

15 MS. KOEHLER: Number one filed by us.

16 MS. SALK: Number one. Heidi, if you are more
17 comfortable answering them in written comments, let us
18 know that and if you want to answer them now, just say
19 which one and we can move on to the next one.

20 MS. McAULIFFE: I have several different copies.

21 MS. SALK: So IEPA questions first.

22 MS. McAULIFFE: So IEPA. Number one, is Paint Care
23 planning to implement Illinois program in the same way as
24 other state programs. Okay.

1 So as indicated, we provide this program
2 in 11 other states, hopefully 13 soon. We are very
3 successful, we very good at operating this program.

4 Part of the reason we are successful we
5 believe, there's a lot -- actually there's a long list of
6 reasons why we are successful, but one of the reasons
7 that we are successful is because we are implementing the
8 same program state to state. The fundamental elements of
9 this program are very, are exactly the same in California
10 as they are in New York, as they are in Maine, and as
11 they will be in Illinois.

12 Our goal is to manage leftover consumer
13 paint to, you know, reduce the generation of leftover
14 paint, to manage what is left in an environmentally sound
15 and responsible way. We want to divert as much of that
16 as we can from a landfill and what we can't, we will
17 manage responsibly.

18 So sort of the fundamental elements of
19 this program like I said, are going to be exactly the
20 same as they were in every other program across the
21 country. We get a lot of benefit from that and from the
22 operational aspect, that's one of the reasons why we can
23 do this in a very efficient way.

24 I think the only thing different that's

1 going to be about the Illinois program is obviously we
2 are, you know, we have to work within the confines of
3 each state's regulatory environment. We are very hopeful
4 we are going to be able to manage paint under the
5 Universal waste System in Illinois. We are not doing
6 that in every other state, but we are planning to do so
7 in the State of Illinois.

8 MS. KOEHLER: Question number two.

9 MS. McAULIFFE: Regarding non program hazardous
10 waste that are improperly received at the relevant
11 collection sites, how are these wastes manifested, who is
12 the generator of the waste and where is it considered?

13 Non program hazardous waste. So it's
14 important to understand the products that are brought in
15 to our collection program. In Illinois it's limited to
16 architectural paint post consumer. Our goal is to be
17 able to manage this waste from households and from
18 businesses.

19 Paint is latex and solvent-based as I
20 mentioned earlier. The latex is not hazardous. The
21 solvent-based is hazardous. This question is focused on
22 non program hazardous waste. A non program hazardous
23 waste would be not an architectural product, so a non
24 program product. And a hazardous waste would be

1 something that meets the criteria of being hazardous.
2 That's not something that is supposed to come in to our
3 collection sites.

4 So our program isn't built to manage these
5 types of products. But we are always cognizant of the
6 fact that that could happen. We do a lot of training
7 with our retail collection sites. But it does happen
8 where sometimes they make a mistake or sometimes folks
9 drop off things that are not program products and they
10 end within our collection bin. They are managed in an
11 environmentally responsible way.

12 We have hazardous waste transporters that
13 pick up all of these materials and take them to a
14 destination facility. All of those, the transporters as
15 well as the destination facility are trained in hazardous
16 waste, certified in hazardous waste and know how to
17 manage these products.

18 So we are constantly working with our
19 sites to make sure they are only collecting program
20 products but in the event they end up with some non
21 program products, it is managed in that way by certified
22 hazardous waste handlers.

23 MR. RAO: Follow up. So you mentioned that the
24 collection site, the paint most likely can be put in a

1 collection bin. Is that how it works? They accept it
2 and put it in a, place it in a bin for transporters to
3 come pick up the paint?

4 MS. McAULIFFE: That is correct.

5 MR. RAO: So at the collection site will there be
6 any effort by the person in charge of collecting paint to
7 see whether it is hazardous waste, non program hazardous
8 waste, or will that be done at the receiving facility
9 after the transporter collects the paint from the retail
10 site and takes it to the collection facility?

11 MS. McAULIFFE: Each of the retail locations are
12 trained. They are given training materials. Pretty
13 extensive material to tell them how to recognize program
14 products.

15 So we have a list of products we receive,
16 a list of products we don't receive. And they are
17 supposed to do that right at the collection location. So
18 not only do we do training at the beginning when they
19 become a collection facility or collection site, we also
20 follow up and do periodic training.

21 If we learn that that retail location has
22 collected non program products and that becomes a chronic
23 issue, we'll do additional training. If it's not
24 something we can correct, we may be forced to tell that

1 location they can no longer participate in the collection
2 at its facility. But we do provide training, it is
3 continuous training and we do monitor.

4 MR. RAO: So they can if they recognize it non
5 program hazardous waste, they will just reject it and
6 whoever is bringing the paint in will have to take it?

7 MS. McAULIFFE: They are instructed to tell the
8 consumer that they need to take that to a household
9 hazardous waste facility or event.

10 MR. RAO: Thank you.

11 MS. KOEHLER: Question three.

12 MS. McAULIFFE: How many drop-off sites across
13 paint care's collective programs have received non
14 program materials that were hazardous, but the typical
15 number of occurrences and total volume of non program
16 materials -- typical drop-off site each year.

17 So we are going to provide written
18 responses to these questions. So I'm requesting to
19 provide some additional information on this. I will make
20 a few comments on this question.

21 I don't have the exact number of in my
22 head, but I know we have over 2,400 retail sites across
23 the country that are participating as drop-off and
24 collection sites for our Paint Care Program. I know we

1 have done some analysis of how many non programs or
2 what's the trend I think for non program products, how
3 often do we see that within the waste stream that we are
4 managing. I believe it is less than one percent of what
5 we are collecting. So it's not a significant amount when
6 you consider over 2,400 different sites.

7 I think we feel like the training and
8 information we are providing to our retail locations is
9 effective and that's one of the reasons why that number
10 is so low. But we will provide further amplification on
11 that question as well.

12 MS. SALK: Okay.

13 MS. KOEHLER: Question four.

14 MS. McAULIFFE: To clarify, the alternative for the
15 proper disposition of the hazardous non universal waste
16 is for Paint Care transporters and downstream processors
17 to track and manage any incidental non program products
18 they received in accordance with applicable law.
19 Correct? If so, what amendments.

20 Again we will respond to this question
21 with more detail in writing. But I believe that's
22 accurate. There's a reason why we work with transporters
23 who are certified for hazardous waste management.
24 There's a reason why we work with facilities that also

1 are certified as well.

2 Like I said at the beginning, our goal is
3 to provide a program that reduces the generation of
4 leftover paint and manages the leftover paint we do
5 collect in the environmentally responsible way. Using
6 the EPA hierarchy. Our goal is always to be in
7 compliance with the environmental laws, federal and
8 state. So we are pretty confident we always do that.

9 MS. KOEHLER: Question five.

10 MS. McAULIFFE: Question five is has the United
11 States Environmental Protection Agency commented on Paint
12 Care procedures dealing with the receipt and handling of
13 non program products that meet the definition of
14 hazardous waste. If so, has USEPA expressed an opinion
15 as to whether these procedures would affect federal
16 approval of the state to address hazardous waste
17 programs.

18 So the American Coatings Association
19 developed this program in the early, well began
20 discussing the development of this program in the early
21 2000s. We worked very closely with a stakeholder group
22 that was pulled together by a organization called the
23 Product Stewardship Institute. And the Product
24 Stewardship instituted brought to the table

1 non-governmental organizations, environmental
2 organizations as well as representatives from state
3 environmental agencies, including the United States
4 Environmental Protection Agency.

5 Over the course of time, this stakeholder
6 group really developed the elements of this program.
7 They really developed the model program which turned into
8 Paint Care.

9 During these conversations there were
10 several, I think two memorandums of understanding that
11 were signed by the stakeholder group which included
12 USEPA. So EPA really participated in the development of
13 the Paint Care Program. Signed off on the two
14 memorandums of understanding. But because it is a state
15 program, we haven't really interacted a great deal with
16 EPA since the development and launch of these programs.

17 I am in regular contact with the Smart
18 Sectors Program at EPA as well as their Office of Land
19 and Emergency Management, Air and Radiation Services as
20 well as their chemicals program. I periodically provide
21 them updates on our Paint Care Program because they are
22 so interested in it. Have always gotten a very positive
23 reception from them.

24 We never asked them for an opinion or any

1 kind of official approval of the program, because we
2 actually get that approval from the state oversight
3 agencies that we work with in each state.

4 MS. KOEHLER: Have they expressed any opinions
5 about the, specifically the hazardous waste program or --

6 MS. McAULIFFE: 11 states are currently operating
7 the Paint Care Program. None of them have had any issues
8 with their hazardous waste programs in those states. We
9 have not asked EPA for an opinion on that.

10 But I have to believe that if there was a
11 problem, we'd have heard about it by now.

12 MS. SALK: Okay.

13 MR. RAO: Are any of these states in Region 5?

14 MS. McAULIFFE: I believe -- is Minnesota in
15 Region 5?

16 MR. RAO: I think so.

17 MS. McAULIFFE: I think so.

18 MS. KOEHLER: That's it.

19 MS. SALK: Thank you. I want to check, do you want
20 to ask questions now or after? I will check. Okay.

21 So then we will go to the Board's
22 questions. So if you have those in front of you, Heidi.

23 MS. McAULIFFE: I believe I do.

24 MS. SALK: Start with question number 1A.

1 MS. McAULIFFE: Please clarify whether drop-off and
2 collection sites mean the same retail location. And that
3 is correct. They do mean the same. We do use them
4 sometimes interchangeably when we are talking about
5 retail sites.

6 MS. SALK: 1B.

7 MS. McAULIFFE: 1B, explain how a typical retail
8 paint, paint-related waste drop-off collection site
9 operates under Paint Care Program addressing drop-off
10 protocols, volume of paint stored at the site and
11 duration of storage before PPRW is shipped off site for
12 processing.

13 I think I have described it already a
14 little bit, but just to go into a little bit more detail.
15 When a retail location volunteers to be a
16 drop-off/collection site, participating in Paint Care, we
17 will execute an agreement with that site. We want to
18 make sure that they are going to agree to follow our
19 operational procedures and requirements and that they
20 will operate in compliance with all applicable laws.

21 As I've indicated already, we do extensive
22 training for the retail location and their customer
23 service agents. We provide them training materials and,
24 you know, these materials include site guidelines,

1 identification of program products, safe handling/storage
2 of program products and procedures for scheduling a paint
3 pickup.

4 We also have staff located in each state
5 or at least assigned to each state program. I know in
6 the State of Illinois we are going to have several Paint
7 Care staff folks that will be visiting periodically with
8 retail collection sites. Right now I believe they are in
9 the process of gearing up to recruit sites. And once
10 those sites are actually in the program and working with
11 us, our staff will visit with them at least once a year,
12 more if necessary, to make sure they are following our
13 site guidelines and all the requirements and everything
14 else that we provide to them.

15 It is difficult for me to give you any
16 specific numbers on the volume of paint that's going to
17 be stored at any site. Typically that will depend upon
18 the size of a retail location. So the footprint of a
19 retail location and a store located in the middle of
20 Chicago, City of Chicago as opposed to one that's down in
21 Springfield or other parts of the city is going to be
22 very different. Some stores will, would prefer to have
23 more than one collection bin. Other stores would only
24 have room for one. So really depends upon the footprint

1 of the stores.

2 The bin that we use is a cubic yard box,
3 typically holds about a hundred units of paint. And our
4 retail locations are educated and informed on how to
5 schedule a paint pickup.

6 So again, it will depend upon how quickly
7 that bin gets filled and how often they are calling for a
8 pickup at that particular location. They are like I
9 said, educated about how to recognize program products
10 from non program products. It's not just distinguishing
11 between a program product and non program product.

12 We do have requirements for how paint
13 should be delivered back to us, brought back in by
14 consumers. It has to be in a sealed container that is
15 not leaking, has to have the original label still on that
16 container. That's also something they are educated
17 about, that they are supposed to take note of and not
18 accept anything that we can't recognize as a paint
19 product.

20 I think I have answered that question.
21 Again, we will provide written responses to all of these
22 questions, so. I'm sure my written, our written
23 responses will amplify many of the themes that I'm
24 talking about out loud here.

1 MS. SALK: Okay.

2 MR. RAO: You mentioned each of the paint storage
3 bins will hold 100 units. Can you tell us what one unit
4 is, like one gallon of paint or is it one cubic feet?
5 Just give us an idea the size of this bin is.

6 MS. McAULIFFE: I mean, paint containers are
7 typically either a pint or a liter. One gallon container
8 or a five-gallon container. Some states do have
9 two-gallon containers. I'm not sure if that's here in
10 Illinois or not. That may not be across the country.

11 But so typically it's going to be a little
12 bit less than 100 one-gallon containers because you're
13 going to get some five-gallons that are brought in by
14 consumers as well.

15 MR. RAO: Okay.

16 MS. SALK: We will go to 1C.

17 MS. McAULIFFE: Please clarify whether you're
18 seeking an exemption from the 50-foot setback requirement
19 at Section 733.133 applicable to small quantity handlers
20 and retail locations that serve as drop-off/collection
21 sites and not for large quantity universal waste handlers
22 and downstream facilities that accept PPRW for
23 processing.

24 We are only seeking an exemption from the

1 50-foot setback for the small quantity handlers. And
2 specifically our concern there is with retailers that
3 have a very small footprint. The retailers, to really
4 try to illustrate the issue, the retailers here in the
5 City of Chicago that are not going to have big, expansive
6 campuses and, you know, are in a very densely populated
7 area. So for those, that particular type of environment
8 that we are seeking a exemption. So it's just for those
9 small quantity handlers.

10 MR. RAO: One more follow up for question 1B. You
11 mentioned that you will be providing written answers with
12 more information.

13 Would it be possible for you to also
14 include some of the training materials and other
15 guidelines you talked about or if you have like printed
16 manual or something of that sort that you use for
17 training purposes.

18 MS. McAULIFFE: Yeah, I think so. In fact I was,
19 I'm not sure about this, but I think that may already be
20 included in the program plan that we have submitted to
21 IEPA. I will ask Jake and Nicole, is that part of our
22 program plan submission or not?

23 MR. SAFFERT: This is Jacob Saffert with Paint
24 Care. Yes. That is correct. In the program plan that

1 we submitted to the Illinois EPA back in March, one of
2 documents that's included in the appendix is the
3 guidelines for our drop-off sites, so that is publicly
4 available. You can access that on Paint Care's website
5 on the Illinois state page.

6 MR. RAO: Can you please provide that into the
7 record? So it becomes part of the rulemaking record?

8 MS. McAULIFFE: Yes, absolutely. Thanks, Jake.

9 MS. SALK: All right. We will go to 2A.

10 MS. McAULIFFE: Please describe the provisions of
11 an approved paint stewardship program that address fire
12 safety requirements that are not already covered under
13 the proposed rules.

14 I think I just want to clarify here that
15 we do not have an approved stewardship program as of yet.
16 Our stewardship program has submitted but it is not yet
17 been approved. And as Jake indicated, a lot of the
18 requirements for our retail locations are all included
19 with the program plan. This includes proper bin
20 management, emergency response equipment, post emergency
21 procedures, emergency contact numbers via phone. All of
22 these different fire safety requirements that are
23 required under the law. And be happy to provide that as
24 well to make sure it gets into the record.

1 MR. RAO: Thank you.

2 MS. SALK: Okay. 2B.

3 MS. McAULIFFE: Please clarify if all universal
4 waste paint and paint related waste collected at retail
5 drop-off location sites under the Paint Care Program fall
6 under ignitable universal waste category.

7 Again, it's important to remember that the
8 Paint Care Program is designed to manage the end of life
9 of architectural paint product. Latex paint, latex
10 architectural paint is not a hazardous waste. The only
11 hazardous waste that is collected, intended to be
12 collected at these sites is the solvent-based
13 architectural waste or architectural paint brought in by
14 consumers and businesses.

15 MR. RAO: Those would fall under ignitable
16 universal waste category?

17 MS. McAULIFFE: Only the solvent-based portion of
18 that.

19 MR. RAO: I think you mentioned earlier that
20 constitutes about 20 percent of the paint collected?

21 MS. McAULIFFE: Typically, that ratio pretty much
22 holds for our states across the country. It's 80 percent
23 latex, post consumer architectural, 20 percent
24 solvent-based. There's very little solvent-based paint

1 that's actually being introduced into the stream of
2 commerce these days, so we anticipate at some point in
3 the future that ratio would change. But for the moment
4 it's about 80/20.

5 MS. SALK: I think that answers 2C. So we will
6 skip that one. And go straight to 2D.

7 MS. McAULIFFE: Comments on whether it would be
8 reasonable to require retail drop-off location sites to
9 accept only non ignitable universal waste if the location
10 cannot comply with the proposed 50-foot setback.

11 So again as we just discussed, the only
12 hazardous waste product this program is designed to
13 manage is the solvent-based paint brought in by consumers
14 or businesses. That would be the hazardous waste stream
15 that would fall under the universal waste.

16 We do not believe it would be reasonable
17 for a program to only collect latex waste streams or the
18 latex post consumer paint that is brought in. Every
19 other one of our programs across the country manages the
20 end of life of latex and solvent-based paint. That is
21 the requirement of the law that was passed in Illinois
22 and also with the trailer legislation that was adopted
23 the following year, is a mandate for Paint Care to manage
24 the end of life of architectural paint, whether it's

1 latex or solvent-based.

2 We believe that would only add confusion
3 into the program; confusion for consumers, for business
4 consumers, confusion for retailers that are trying to
5 implement this program and again, it would prevent us
6 from fulfilling our statutory responsibility under the
7 law that was passed in Illinois.

8 We do not believe it would be reasonable
9 and we've been able to operate this program very
10 successfully in 11 states across the country without this
11 50-foot set-back requirement for those stores with small
12 footprints, densely populated areas.

13 So, again, we will provide some additional
14 amplification for that answer as well.

15 MS. SALK: Okay. Then we will go to question
16 three.

17 MS. McAULIFFE: Please explain why the proposed
18 option of obtaining written approval from the authority
19 having jurisdiction over the local fire code to avoid the
20 50-foot setback requirement is unworkable for retail
21 drop-off location sites. Comment on whether the approval
22 could be part of the facility's local fire safety code
23 compliance.

24 You know, I think as I have indicated a

1 couple of times now, it is vital for Paint Care to be
2 able to recruit these retail locations as drop-off and
3 collection sites. It is not required for them to
4 participate in this program. We've been successful
5 across the country in recruiting the 2,400 plus retail
6 locations because we worked so closely with those
7 locations. We do the training, we provide the
8 information that they need. We enable them to provide
9 this value-added service to their customers.

10 But it is additional work for them. It's
11 not a revenue-generating activity for a retail location.
12 So they have to want to do this. They have to respond
13 positively to, you know, to our invitation to join Paint
14 Care and be part of our collection network. Any
15 additional paperwork burden, applying for an approval or
16 for a waiver of the 50-foot requirement or the
17 notification requirement, is going to act as a
18 significant disincentive for these retailers.

19 They are typically small business folks.
20 We provide as much support as we can for them. But for
21 something like that where they actually have to go to
22 IEPA or some other state agency office to either fill out
23 the forms or whatever it takes for them to get this
24 approval, is going to be a step too far. And we've seen

1 that I think in other programs.

2 So this is a way to remove that barrier
3 for these retailers to participate in the Paint Care
4 Program as collection sites.

5 MR. RAO: So most of these collection sites in your
6 program, they are already selling paint, aren't they?

7 MS. McAULIFFE: Most of them, yes.

8 MR. RAO: They do sell solvent paint?

9 MS. McAULIFFE: 20 percent.

10 MR. RAO: So do you think they may already be
11 storing paint, new paint for retail sales, is there any
12 difference between what they collect and what they are
13 selling in terms of a fire hazard?

14 MS. McAULIFFE: That's one of the reasons why we
15 rely on stores that sell paint. Because they are already
16 familiar with this commodity. They know how to manage
17 it.

18 MR. RAO: Okay. Thank you.

19 MS. SALK: Okay. Go to question number four.

20 MS. McAULIFFE: Please comment on whether an
21 alternative set-back distance like a 50-foot setback from
22 the nearest building or residence would be acceptable
23 rather than measuring the distance from the property
24 line.

1 I think the reasoning is exactly the same.
2 It's because of densely-populated areas like the City of
3 Chicago, very small footprint. The 50-foot setback might
4 not even be available to a store with a small footprint.
5 50 feet from the nearest building or residence. That's
6 the reason we are asking for this change.

7 MS. SALK: Okay. Go to 5A.

8 MS. McAULIFFE: Please clarify whether ACA is
9 concerned about the notification requirements that apply
10 to the small quantity drop-off collection sites, or also
11 with those that apply to the large quantity handlers in
12 destination facilities.

13 Again our -- I think our primary concern
14 is with the small quantity handlers. For the 50-foot
15 setback and the notification requirement. I think we do
16 have a concern with the destination facilities as well
17 with regard to the notification requirement.

18 And again this goes back to the idea that
19 the retail stores, these drop-off collection sites are
20 volunteers. This is not a revenue-generating activity
21 for them. They are volunteering to provide the service
22 to the community. And any additional burden on them to
23 deal with the 50 feet setback or the notification
24 requirement, represents a barrier that they may not be

1 willing to undertake in order to do this.

2 The notification requirement is an issue
3 with regard to the destination facilities I think also
4 because again we don't want to -- we don't want to do
5 anything that's going to deter these retail locations
6 from volunteering. If there is a specter of any type of
7 additional outreach or potentially enforcement activity
8 from the agency, that is generated from information
9 collected at a destination facility, will operate as a
10 disincentive. It will just be one more barrier, one more
11 burden they have to get over in order to sign up as a
12 volunteer for this program.

13 MS. SALK: Okay.

14 MR. RAO: I have follow-up. With the destination
15 facilities, if they are already subject to notification
16 requirements, do you have any concerns about continuing
17 those notification requirements which are already in
18 place?

19 MS. McAULIFFE: If they are already subject to
20 them, I guess I have to probably consult with my folks on
21 that because I'm not sure if you're already subject under
22 the hazardous waste program or would they already be
23 subject under the universal waste rules.

24 MR. RAO: I'm not sure what these destination

1 facilities are subject to. My general understanding is
2 they are subject to some state regulations for accepting
3 this material.

4 MS. McAULIFFE: I'm sure they are.

5 MR. RAO: Maybe notification requirements, even
6 under the universal waste rules -- I think I should let
7 you answer 1B. Because we have existing regulations, if
8 you can take a look at it.

9 MS. McAULIFFE: 1B of these questions?

10 MR. RAO: The one just, you answered 1A.

11 MS. McAULIFFE: 5B. Given the notification
12 requirements under those sections, given the notification
13 requirement under these -- 5B is given the notification
14 requirements are part of the existing rules that apply to
15 universal waste including batteries, pesticides,
16 mercury-containing equipment, lamps, aerosols, some of
17 which are collected at retail sites like the PPRW,
18 explain why handlers of PPRW at retail sites must be
19 treated differently.

20 So again, I will indicate that we are
21 going to amplify our response to this, but we talked
22 about this a little bit as we were preparing for these
23 questions.

24 All of these different commodities listed

1 in this question, batteries, pesticides,
2 mercury-containing equipment, lamps and aerosols, those
3 are pretty easily recognized commodities. It's pretty
4 easy to recognize a battery. There's lots of different
5 kinds of batteries out there.

6 I think paint is different. We think
7 paint is different. Paint, there are a lot of different
8 products that could be mistaken as paint, which is one of
9 the reasons why we do so much training on what's a
10 program product, what is not a program product. And even
11 though at these retail sites the customer service agents
12 are familiar with paints because they are selling it,
13 when this comes back in as a post consumer product, I
14 think it's easy to -- not easy -- but it's very possible
15 to misidentify paint.

16 It could be some type of an undercoating
17 that's not a program product. That's one of the reasons
18 why we sometimes have the contamination issue. But I
19 think our program is different from these other programs.

20 Our retail network is absolutely important
21 for us. Not that it's not for these other programs, but
22 I don't think they have the same types of convenience
23 requirements that we have. 75 percent of our collection
24 sites are retail locations. I'm not sure that's true

1 about these other programs.

2 So our reliance on that volunteer aspect
3 is really paramount to our ability to comply with the
4 law.

5 MR. RAO: It will be helpful for the Board if you
6 can provide information also about the destination
7 facilities, size of them, how much they accept PPRW.
8 Especially if you're asking the Board to exempt them from
9 notification requirements, it will be helpful to have a
10 full picture.

11 MS. McAULIFFE: All right. Will do. Thank you.

12 MS. SALK: Okay. I know we touched on this a
13 little bit, but we will go through 5C.

14 MS. McAULIFFE: If ACA's concern is with retail
15 drop-off/collection sites, please explain why
16 notification requirements applicable to large quantity
17 handlers and destination facilities would deter potential
18 drop-off/collection sites from voluntarily participating
19 in the program.

20 Again, I don't think our concern is with
21 the large quantity handlers, it's with the small quantity
22 handlers and the destination facilities. It is exactly
23 as we just discussed. Volunteer nature, our reliance on
24 that in order to comply with our obligations. The fact

1 these notification requirements represented additional
2 work and additional paperwork burden, another barrier to
3 being a volunteer.

4 MR. RAO: I think you have answered 5D and E. But
5 you have anything to add?

6 MS. McAULIFFE: I think I have answered D. And I
7 think we talked about E. Sufficiently.

8 MS. SALK: Go to number six then.

9 MS. McAULIFFE: Honestly, number six I would prefer
10 we send in a written response to make sure that as I talk
11 through it I don't mess it up.

12 MS. SALK: Totally acceptable. All right. Any
13 other questions from the Board? Any other questions from
14 any other participants?

15 Okay. Seeing none, we will move on to
16 public comment. Is there anyone present today here in
17 Chicago or Springfield who would like to give a public
18 comment? Seeing none, all right.

19 We will move on to the issue of an
20 economic impact study. Section 27B of the Environmental
21 Protection Act provides that the Board must request that
22 the Department of Commerce and Economic Opportunity
23 conduct a economic impact study of the proposed rules
24 before the Board adopts them. The Board must then make

1 either the study or the department's explanation for not
2 conducting one available to the public at least 20 days
3 before a public hearing.

4 In a letter dated March 20, the Board's
5 Chair Barbara Flynn Curry requested DCEO conduct a
6 economic impact study of this rulemaking proposal. The
7 Board specifically requested a response no later than
8 April 30. The Board did not receive a response to this
9 request from DCEO.

10 Is there anyone present today who would
11 like to testify regarding the Board's request for a study
12 on and DCEO's response? Okay. Neither seeing or hearing
13 any, let me again quickly determine whether there's
14 anyone present who wishes to testify or comment today.
15 Okay.

16 MS. McAULIFFE: Can I make one additional comment
17 about economic impact?

18 MS. SALK: Yeah.

19 MS. McAULIFFE: I think it's important for the
20 Board to understand that one of the reasons we are here
21 in Illinois is because the counties that typically manage
22 household hazardous waste asked us to come. They wanted
23 Paint Care to be implemented in this state because they
24 deal with so much leftover paint, it's expensive for

1 them.

2 They have seen what we have done in other
3 states with regard to managing this waste stream. And
4 part of the benefit of Paint Care in the state is that
5 the counties, the existing household hazardous waste
6 infrastructure really benefits significantly.

7 Once we are up and operating and we are
8 working very cooperatively with the household hazardous
9 waste infrastructure, we really take on the cost of
10 managing post consumer paint. So Lake County for
11 instance and blanking on the name of the counties. But
12 when they ask us to come in, this is part of their goal
13 is they want Paint Care to take over management of this
14 particular waste stream so they can use their resources
15 to manage other types of waste, and enhance their program
16 offering to their residence.

17 So the economic impact of the, this
18 program coming into the state is very positive in that
19 regard. There's a significant, almost immediate positive
20 impact on the counties. So I wanted to add that to the
21 record.

22 MS. SALK: Thank you. That's very helpful. We
23 appreciate it. Any other comments?

24 MR. RAO: One. Do these notification requirements

1 present a burden on your collection sites?

2 MS. McAULIFFE: Yes, I do. Because I think if
3 retail location sites are going to be required to get
4 approval for or a waiver of the 50-foot notification, or
5 if they are going to be required to notify if any non
6 program product comes in, that's going to add
7 responsibilities for their employees, for their staffs
8 that currently don't exist. And, you know, retail
9 locations are pretty lean already. Retail is, brick and
10 mortar retail locations are not trending in a positive
11 direction right now. So I think adding any recordkeeping
12 or requests for a waiver is going to add some burden to
13 that.

14 MR. RAO: Thank you.

15 MS. SALK: Okay. One last check. If there's any
16 comments or testimony? Okay. I like to go off the
17 record for a moment.

18 (Discussion had off the record)

19 MS. SALK: Copies of the transcript of today's
20 hearing are expected to be available no later than
21 Friday, May 23. When the Board receives the transcript
22 it will promptly post it to COOL, from which it can be
23 viewed and printed.

24 The deadline for ACA's written responses

1 will be May 28. And follow-up questions to ACA's written
2 comments will be due on June 3rd. Before it takes action
3 on the agency's proposal, the Board will open a post
4 hearing comment period, which will tentatively end
5 June 11th. I will confirm that in a post hearing Hearing
6 Officer order. And I will confirm all those deadlines in
7 that order. Filings with the Board whether paper or
8 electronic must also be served on the Hearing Officer and
9 those persons on the service list.

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

13 Are there any other matters that need to
14 be addressed at this time? Okay. Neither hearing or
15 seeing any, thank you to everyone for participating. The
16 second and final hearing is adjourned.

17
18
19 (Whereupon, proceedings were
20 adjourned in this Hearing)
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22
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24

[084-002955 - addressed]

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Illinois Code of Civil Procedure

Article II, Part E

Rule 207, Signing and Filing Depositions

Signing and Filing Depositions

(a) Submission to Deponent; Changes; Signing.

Unless signature is waived by the deponent, the officer shall instruct the deponent that if the testimony is transcribed the deponent will be afforded an opportunity to examine the deposition at the office of the officer or reporter, or elsewhere, by reasonable arrangement at the deponent's expense, and that corrections based on errors in reporting or transcription which the deponent desires to make will be entered upon the deposition with a statement by the deponent that the reporter erred in reporting or transcribing the answer or answers involved. The deponent may not otherwise change either the form or substance of his or her answers. The deponent shall provide the officer with an electronic or physical address to which notice is to be sent when the transcript is available for examination and signing. When the deposition is fully transcribed, the officer shall deliver to the deponent, at the address supplied,

notice that it is available and may be examined at a stated place at stated times, or pursuant to arrangement. After the deponent has examined the deposition, the officer shall enter upon it any changes the deponent desires to make, with the reasons the deponent gives for making them. If the deponent does not appear at the place specified in the notice within 28 days after the mailing of the notice, or within the same 28 days make other arrangements for examination of the deposition, or after examining the deposition refuses to sign it, or after it has been made available to the deponent by arrangement it remains unsigned for 28 days, the officer's certificate shall state the reason for the omission of the signature, including any reason given by the deponent for a refusal to sign. The deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 211(d) the court holds that the reasons given by the deponent for a refusal to sign require rejection of the deposition in whole or in part.

(b) Certification, Filing, and Notice of Filing.

(1) If the testimony is transcribed, the officer

shall certify within the deposition transcript that the deponent was duly sworn by the officer and that the deposition is a true record of the testimony given by the deponent. A deposition so certified requires no further proof of authenticity

(2) Deposition transcripts shall not be filed with the clerk of the court as a matter of course. The party filing a deposition shall promptly serve notice thereof on the other parties and shall file the transcript and any exhibits in the form and manner specified by local rule.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.