

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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IN THE MATTER OF:

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CONFORMING AND TECHNICAL
5 AMENDMENTS TO 35 ILL.
ADMINISTRATIVE CODE 809

R-0018

(Rulemaking)

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8 The following is a transcript held in
9 the above-entitled matter taken stenographically by
10 TERRY A. STRONER, CSR, a notary public within and
11 for the County of Cook and State of Illinois, at
12 Suite 9-039, 100 West Randolph Street, Chicago,
13 Illinois, on the 20th day of April, A.D., 2000,
14 commencing at 1:00 o'clock p.m.

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1 APPEARANCES:

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3 HEARING TAKEN BEFORE:

4 ILLINOIS POLLUTION CONTROL BOARD,
100 West Randolph Street
5 Suite 11-500
Chicago, Illinois 60601
6 (312) 814-3665
BY: MR. JOEL J. STERNSTEIN

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9 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
1021 North Grand Avenue East
10 P.O. Box 19276
Springfield, Illinois 62794
11 (217) 782-5544
BY: MS. KIMBERLY A. GEVING
12 MR. TED DRAGOVICH
MR. DAN MERRIMAN

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16 ILLINOIS POLLUTION CONTROL BOARD MEMBERS:

17 Nicholas J. Melas

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1 HEARING OFFICER STERNSTEIN: Well, let's get
2 started then. Good afternoon. My name is Joel
3 Sternstein. I've been appointed by the Illinois
4 Pollution Control Board to serve as hearing officer
5 in this proceeding, which is entitled: In the
6 Matter of Conforming and Technical Amendments to
7 35 Illinois Administrative Code 809. The docketing
8 number for this rulemaking is R-0018. Sitting to my
9 right is Nicholas Melas, the Board member assigned
10 to this matter.

11 For the record, today's date is April
12 20th, 2000, and it is approximately 1:00 p.m. This
13 is a rulemaking subject to the Board's procedural
14 rules and, therefore, all relevant and
15 nonrepetitious and nonprivileged testimony will be
16 heard at this first hearing of this proceeding and
17 at the second hearing. The second hearing will be
18 held on May 18th, 2000, at the Board's Springfield
19 office.

20 This matter was filed on February 29th,

21 2000, by the Board. Briefly, to give an overview of
22 the rule, there are two changes. The first change
23 in the rule is that in Public Comment 21 for Docket
24 R-9918, the Agency proposed to change in the

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1 definition of on-site at Part 809.103 of the Board's
2 rules. The Agency notes that the Illinois
3 definition of on-site for purposes of transport of
4 hazardous waste has not been consistent with the
5 federal definition of on-site since 1998.

6 The Agency's proposed change conforms the
7 state definition of on-site to the federal one,
8 making them identical.

9 The change affects owners and operators of
10 the same or geographically contiguous properties who
11 must use public rights of way to transport hazardous
12 waste from one part of the facility to another.

13 Pursuant to the current Illinois
14 definition of on-site, the owner or operator does
15 not need a permit and manifest to transport a
16 shipment of hazardous waste across a public right of
17 way. However, the owner or operator needs a permit

18 and manifest if the hazardous waste is transported
19 along the right of way.

20 The new language does away with the
21 distinction and allows unpermitted and unmanifested
22 transport for hazardous waste both across and along
23 public rights of way. It also aligns the state and
24 federal definitions of on-site.

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1 The second changes -- or the second set of
2 changes, I should say, in the rulemakings are
3 technical. The Board is also proposing technical
4 amendments to 35 Illinois Administrative Code, Part
5 809.

6 At the close of the rulemaking and Docket
7 R98-29, the joint committee on administrative rules
8 submitted a list of typographical errors from the
9 text of Part 809.

10 The Board had planned to include these
11 changes in the second order for Docket R99-18, but
12 could not because the Board dismissed that docket
13 instead. The Board, therefore, includes the
14 corrections in the instant docket. These changes
15 suggested by JCAR are, as I said, nonsubstantive.

16 A little information about the economic
17 impact statement. The Board will reserve time at
18 the May 18th, 2000, hearing in Springfield for
19 comments on the decision by the Department of
20 Commerce and Community Affairs to not conduct an
21 economic impact statement for this rule.

22 For the record, I'd like to note that we
23 have three employees of the Illinois Environmental
24 Protection Agency here. I'd just ask that you

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1 identify yourselves.

2 MR. MERRIMAN: Dan Merriman, M-e-r-r-i-m-a-n.

3 MS. GEVING: Kimberly Geving, G-e-v-i-n-g,
4 assistant counsel.

5 MR. DRAGOVICH: Ted Dragovich,
6 D-r-a-g-o-v-i-c-h.

7 HEARING OFFICER STERNSTEIN: And as I
8 understand it from our discussions before the
9 hearing got underway that the Agency has filed no
10 pre -- does not have any prefiled testimony and will
11 not be testifying at the hearing today, is that
12 correct?

13 MS. GEVING: That's correct.

14 HEARING OFFICER STERNSTEIN: Okay. Mr. Melas,
15 is there anything that you'd like to add?

16 MR. MELAS: No, not at all.

17 HEARING OFFICER STERNSTEIN: Okay. Thank you.

18 And at this point, I'm going to request that we
19 recess for about ten minutes, but stay convened in
20 case someone from the public arrives late who has
21 questions to ask. So it is now about 1:05 and we'll
22 stand in recess until 1:15.

23 MR. MELAS: 1:15?

24 HEARING OFFICER STERNSTEIN: Yeah.

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1 (Whereupon, after a short break was had, the
2 following proceedings were held accordingly.)

3 HEARING OFFICER STERNSTEIN: Does anyone
4 present have any other further comments on this
5 rulemaking R-0018? All right.

6 The second hearing in this matter will be
7 held next month on Thursday, May 18th 2000, at 9:30
8 a.m. at the Board's Springfield office, 600 South
9 Second Street, Suite 403. Prefiled testimony for
10 that hearing must be filed with the Board by

11 Thursday, May 11th, 2000, at 4:30 p.m.

12 Requests for additional hearings will be
13 accepted pursuant to the Board's procedural rules at
14 35 Illinois Administrative Code 102.161, which
15 require a participant to demonstrate in a motion to
16 the Board that failing to hold an additional hearing
17 will result in a material prejudice to the movant.

18 The transcript for this hearing should be
19 available within ten business days. If anyone would
20 like a copy, they can speak to the court reporter
21 directly or you can get a copy by contacting the
22 clerk's office in Chicago. You can download the
23 transcript from the Board's web site or you can call
24 me.

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1 At the second hearing, the Board will set
2 a deadline for public comments in this matter.
3 Seeing no one else present who would like to testify
4 today, that concludes the hearing. Thank you all
5 very much for your time and attention, and the
6 hearing is adjourned.

7 (Whereupon, no further

8 proceedings were held in the
9 above-entitled matter.)
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)
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6 I, TERRY A. STRONER, CSR, do
7 hereby state that I am a court reporter doing
8 business in the City of Chicago, County of Cook, and
9 State of Illinois; that I reported by means of
10 machine shorthand the proceedings held in the
11 foregoing cause, and that the foregoing is a true
12 and correct transcript of my shorthand notes so
13 taken as aforesaid.

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Terry A. Stroner, CSR

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Notary Public, Cook County, Illinois

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