

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )

AMENDMENTS TO 35 ILL. ADM. CODE )  
PART 229, HOSPITAL/MEDICAL/ )  
INFECTIOUS WASTER INCINERATORS )

) DOCKET R11-20  
) (Rulemaking - Air)

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) **STATE OF ILLINOIS**  
) **Pollution Control Board**

Hearing held, pursuant to notice, on Wednesday,  
June 8, 2011, at the hour of 9:00 a.m. at DeWitt  
County Building, 201 W. Washington, Clinton,  
Illinois, before KATHLEEN CROWLEY, duly appointed  
Hearing Officer.

L.A. REPORTING SERVICE  
(312) 419-9292

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

1 BOARD MEMBERS:

2 CARRIE ZALEWSKI  
3 GARY BLANKENSHIP

4 STAFF:

5 ALISA LIU  
6 Environmental Scientist  
7 Illinois Pollution Control Board

8 APPEARANCES:

9 CHARLES MATOESIAN  
10 IEPA  
11 1021 North Grand Avenue East  
12 Springfield, Illinois 62794

13 appearing on behalf of IEPA;

14 SELIN HOBOY  
15 303 S. Broadway  
16 Suite 200 PMB#105  
17 Denver, Colorado 80209.

18 appearing on behalf of Stericycle.

19 PRESENT:

20 STERICYCLE REPRESENTATIVES:

21 RICK GABEY  
22 JIM NOLD  
23 WADE VAN ZEE  
24

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I N D E X

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1 HEARING OFFICER CROWLEY: Good  
2 morning. My name is Kathleen Crowley, and I am the  
3 assigned hearing officer in this rulemaking. This  
4 is the first of two presently scheduled hearings  
5 being conducted by the Illinois Pollution Control  
6 Board in our Docket R-11-20 in the matter of  
7 Amendments to 35 Illinois Administrative Code  
8 Part 229: Hospital/Medical/Infectious Waste  
9 Incinerators.

10 At today's hearing, the Board  
11 will begin its receipt of testimony on the merits  
12 and economic effects of the Illinois Environmental  
13 Protection Agency's December 23, 2010 regulatory  
14 proposal.

15 As I see, we have no one in  
16 the courtroom today who is -- oh, there is one  
17 gentleman that I'm not familiar with so I'll give a  
18 synopsis of the rules.

19 The proposed rules would  
20 reflect amendments promulgated by the United States  
21 Environmental Protection Agency or USEPA to federal  
22 air quality standards including new source  
23 performance standards and emissions guidelines.  
24 Changes include revised emission standards to be

1 more stringent than existing ones, revised waste  
2 management plan provisions for greater flexibility  
3 in demonstrating compliance, and removal of an  
4 existing startup, shutdown and malfunction  
5 provision. The compliance date for the new rules  
6 would be January 1, 2014, and the Agency reports  
7 that Illinois currently has only one facility to  
8 which the new rules would apply, and that is the  
9 Stericycle facility located here in Clinton.

10 As we have very few people  
11 today, I'll shorten up some of the usual opening  
12 remarks.

13 All hearings before the Board  
14 are transcribed by the court reporter you see with  
15 us today. We ask that persons speak one at a time  
16 and that you speak loudly enough for her to hear.  
17 All witnesses will be sworn in by the court reporter  
18 prior to giving testimony, but you can give public  
19 comment if you care to without being sworn in, and  
20 that will be a little bit later in this hearing.

21 Any person may ask questions  
22 of any witness giving testimony but please wait  
23 until I call on you before speaking. Questions  
24 asked by the Board or its staff are not intended to

1 indicate any prejudgment of the merits of any  
2 testimony or of a proposal. They are asked to make  
3 sure that there is a full and complete record for  
4 deliberation by the three other board members not  
5 present today.

6 Seated to my immediate right  
7 is board member Carrie Zalewski, the board member  
8 coordinating this proceeding. Seated to her  
9 immediate right is Board environmental scientist  
10 Alisa Liu, and seated to my left and one level down  
11 at his choice is board member Gary Blankenship.

12 Do you have any opening  
13 remarks you'd like to make, Member Zalewski?

14 MEMBER ZALEWSKI: No. Just thank  
15 you for coming out, and we appreciate everyone's  
16 prefiled questions and responses. That really helps  
17 a lot so thank you.

18 HEARING OFFICER CROWLEY: So at  
19 this point, we'll ask for appearances.

20 Mr. Matoesian?

21 MR. MATOESIAN: Yes. Charles  
22 Matoesian appearing for the Illinois Environmental  
23 Protection Agency, and here with me today we have  
24 Dixon Nwaji who is an environmental protection

1 engineer. He will provide some testimony and answer  
2 any questions the Board would have.

3 HEARING OFFICER CROWLEY: Thank  
4 you.

5 And I understand Stericycle is  
6 not represented by an attorney today but you are  
7 participating through... Your name, please?

8 MS. HOBOY: Selin Hoboy with  
9 Stericycle, Vice President of Legislative and  
10 Regulatory Affairs.

11 HEARING OFFICER CROWLEY: And if  
12 you would introduce who you brought with you here  
13 today just briefly?

14 MS. HOBOY: Sure.

15 I have with me Rick Gabey.  
16 He's our regional operations director. Next to him  
17 is Jim Nold, and he is our plant operations manager,  
18 and Wade Van Zee who is our manager of Environmental  
19 Quality.

20 HEARING OFFICER CROWLEY: And there  
21 is one member of the public in the room. We welcome  
22 you, sir.

23 Before we begin with the  
24 agency's testimony and then Stericycle's testimony,

1 there's just a couple of housekeeping things I have  
2 to get on the record.

3 On February 22nd, the Board  
4 submitted a written request to the Department of  
5 Commerce and Economic Opportunity known as DCEO that  
6 it perform an economic affect study, or an EcIS, as  
7 provided for in Section 27 of the Environmental  
8 Protection Act.

9 On May 23rd, the Board  
10 received DCEO's response to the request. DCEO  
11 stated that, "At this time, the Department is unable  
12 to undertake such an economic impact study." No  
13 study has been filed.

14 Section 27(b) requires the  
15 Board to hold a hearing on the economic impact of  
16 the rules, any EcIS submitted, and on any  
17 explanation DCEO provides for not conducting one.

18 Section 27(b) allows the Board  
19 to dovetail that hearing with any other hearing, and  
20 so any DCEO hearing issues can be addressed at  
21 today's hearing.

22 Order of hearing. To  
23 streamline the hearing and save everybody's time, I  
24 issued hearing officer orders on February 1,



1 May 23rd, and June 3, 2011. These orders asked  
2 persons to prefile testimony and to answer questions  
3 developed by Board staff.

4 The only two entities who  
5 filed testimony in response to these orders have  
6 been the Agency and Stericycle. The Agency prefiled  
7 testimony on February 18, 2011 and answers to  
8 questions on May 25, 2011. Stericycle prefiled  
9 testimony on February 22, 2011 and answers to  
10 questions on May 23, 2011.

11 We will first allow the Agency  
12 to deliver testimony and answer questions. Next  
13 we'll hear from Stericycle, and then we'll take any  
14 testimony or oral public comments from anyone else  
15 today concerning the merits, it's expected economic  
16 impacts and any other matters.

17 Okay. Mr. Matoesian, you're  
18 up.

19 MR. MATOESIAN: Thank you.

20 I would like to introduce an  
21 exhibit, Mr. Nwaji's testimony, as if read. This is  
22 prefiled testimony.

23 HEARING OFFICER CROWLEY: So we'll  
24 mark that as Exhibit 1.

1 MR. MATOESIAN: And then on  
2 speaking with Stericycle, we've come to an agreement  
3 on change on a few dates, so we have drafted a new  
4 Section 229.115 which I would like to enter as an  
5 exhibit.

6 HEARING OFFICER CROWLEY: Okay.

7 MEMBER ZALEWSKI: You just have the  
8 one copy?

9 HEARING OFFICER CROWLEY: No,  
10 actually, I've got another one.

11 MEMBER ZALEWSKI: Okay. Great.

12 HEARING OFFICER CROWLEY: Okay.

13 And, Mr. Matoesian, would you mind just scrawling a  
14 date on this?

15 MR. MATOESIAN: Oh, okay.

16 HEARING OFFICER CROWLEY: And I  
17 assume that Stericycle representatives have a copy  
18 of this already.

19 MS. HOBOY: Yes.

20 HEARING OFFICER CROWLEY: Okay.

21 Great. Thanks very much. It will just keep it  
22 separate from many of the others. Okay. That's  
23 Exhibit 2, a document dated 6-8-2011 with a heading  
24 Section 229.115, Compliance Schedules. It

1 represents an agreed change developed by EPA and  
2 Stericycle.

3 Okay. Mr. Matoesian.

4 MR. MATOESIAN: That's all the  
5 testimony I have for today. Mr. Nwaji can answer  
6 questions if the Board has any though.

7 MS. LIU: Would you please give us  
8 a moment to review the alternate schedule you've  
9 provided?

10 MR. MATOESIAN: Oh, sure.

11 (Pause)

12 HEARING OFFICER CROWLEY: And while  
13 we're looking at documents, Mr. Matoesian, I would  
14 also like, just so we've got everything tidy, I'd  
15 like to mark as Exhibit 3 the document received  
16 May 25, 2011 which is your answers in first errata  
17 to questions.

18 MR. MATOESIAN: Oh, okay.

19 HEARING OFFICER CROWLEY: That way  
20 we'll have everything that you've given us in the  
21 record as an exhibit for ease of reference by the  
22 Board.

23

24

1 (Whereupon an off-the-record  
2 discussion transpired at this  
3 time.)

4 HEARING OFFICER CROWLEY: If you  
5 don't mind, we'll ask Stericycle to go ahead and  
6 present its testimony, and then when we ask  
7 questions, we can have people speak as necessary.

8 MS. HOBOY: Okay.

9 As I neglected to ask the  
10 court reporter to swear in Mr. Nwaji, I will ask you  
11 please to swear in both him and Ms. Hoboy of  
12 Stericycle at this point.

13 (Whereupon Dixon Nwaji and Selin  
14 Hoboy were sworn by the  
15 reporter.)

16 MS. HOBOY: Good morning, and thank  
17 you, Madame Hearing Officer and members of the Board  
18 for the opportunity to address the Board this  
19 morning.

20 As I mentioned, I'm Selin  
21 Hoboy with Stericycle, Vice President of Legislative  
22 and Regulatory Affairs.

23 We realize that this hearing  
24 is concerning the proposed amendments to the rules

1 for all HMIWIs in the state but as we are the only  
2 ones operating an HMIWI and therefore affected at  
3 this time, we're obliged to answer the Board's  
4 request for our comments.

5 We are here today to add  
6 comments to our prefiled testimony, as mentioned  
7 before, from February 22nd and May 23rd of this  
8 year. We have reviewed the proposed amendments to  
9 the rules in question, and we have been working with  
10 the EPA, Illinois EPA, to review alternative time  
11 frames and dates for demonstrating increments of  
12 progress towards final compliance.

13 We have discussed these  
14 alternate time frames and reached an agreement with  
15 the Illinois EPA on the dates included in today's  
16 testimony filed by the Illinois EPA. I would like  
17 to read and submit on the record these dates just to  
18 make sure we have them. Is that appropriate or  
19 would you rather have them --

20 HEARING OFFICER CROWLEY: That's  
21 fine if you'd care to.

22 MS. HOBOY: Okay. Under  
23 Section 229.115(b)2(B)(i), finalize contracts for  
24 the purpose of either pollution control equipment,

1 process modification and control systems by August 1  
2 of 2012.

3 (ii). Commence the  
4 implementation of either the process modifications  
5 or necessary construction or installation of air  
6 pollution control devices or the HMIWI by March 1st  
7 of 2013.

8 (iii). Complete either the  
9 process modifications or installation or  
10 construction of the new air pollution control  
11 equipment by September 1.

12 (iv). Achieve final  
13 compliance which includes incorporating all process  
14 changes and/or completing retrofit construction as  
15 described in the final control plan connecting the  
16 air pollution control equipment or process changes  
17 such that the unit is brought online and ensuring  
18 that all necessary process changes and air pollution  
19 control equipment are operating properly no later  
20 than June 1, 2014.

21 (v). Complete the initial  
22 performance test in accordance with Section 229.142  
23 of this part no later than October 6, 2014.

24 (vi). Submit the results of

1 the initial performance test and revised waste  
2 management plans to the agency no later than 60 days  
3 following the initial performance test.

4 And finally, (vii). You must  
5 submit notification to the agency within ten  
6 business days of completing or failing to complete  
7 by the applicable date each of the increments of  
8 progress specified in the subsection (b)(2)(B) of  
9 the sixth section. The notification must be signed  
10 by the owner's or operator's representative  
11 responsible for the management of the HMIWI.

12 I just wanted to make sure  
13 that that got on record.

14  
15 HEARING OFFICER CROWLEY: And you  
16 are reading from Exhibit 2 just for the record.

17 MS. HOBOY: Yes, I was reading from  
18 Exhibit 2. Thank you.

19 Having reached the agreement  
20 with the Illinois EPA on these milestone dates, we  
21 are prepared to accept the amendments proposed and  
22 pledge to be in compliance with them in the time  
23 frame specified.

24 We will be happy to answer any

1 questions by the Board or the Illinois EPA at this  
2 time.

3 HEARING OFFICER CROWLEY: Okay.

4 Just for the record, a little housekeeping.

5 I'm going to do as we did with  
6 EPA, Ms. Hoboy. The prefiled testimony received by  
7 the Board February 22, 2011 will be marked as  
8 Exhibit 4.

9 The answers to questions filed  
10 by Stericycle filed May 23, 2011 will be Exhibit 5.

11 And I have one question to  
12 open with to ask of both Mr. Matoesian and Ms. Hoboy  
13 on Section 229.115 (b) (2) (B) 7. It's a provision  
14 that reads "you must submit."

15 Do you have any problem if we  
16 strike the "you must" part and just have it read  
17 "submit" like 6 does?

18 MR. MATOESIAN: Oh, I see. That's  
19 fine with us.

20 HEARING OFFICER CROWLEY: If that's  
21 okay with you, I will make the change on this  
22 document and initial it myself. Okay?

23 MR. MATOESIAN: Yes.

24 HEARING OFFICER CROWLEY: Thank



1       you.

2                   MS. HOBOY:  Yes, that's fine.

3                   HEARING OFFICER CROWLEY:  Alisa?

4                   MS. LIU:  Good morning, Ms. Hoboy.

5                                Would you like to introduce  
6       the people that you brought with you today?

7                   MS. HOBOY:  Yes.

8                                Today with me is Jim Nold,  
9       manager of U.S. corporate operations, Mr. Rick  
10      Gabey, Regional Operations Director for our Clinton  
11      facility, and Mr. Wade Van Zee, the environmental  
12      quality manager for our Clinton facility.

13                   MS. LIU:  The agreed upon language  
14      for this schedule, one of the dates that you didn't  
15      mention is in Section 229.115(b)(2)(A), the  
16      milestone date of January 1, 2012.

17                                Is that also agreeable to  
18      Stericycle.

19                   MS. HOBOY:  Yes.  I apologize for  
20      omitting that.  It is.

21                   MS. LIU:  The rest of the questions  
22      I have will be directed to the Illinois EPA.

23                                Good morning.  I'm going to  
24      ask the questions that appeared in Hearing Officer

1 Crowley's order, Question No. 1.

2 HEARING OFFICER CROWLEY: Just one  
3 second.

4 Which hearing officer order?

5 MS. LIU: June 3, 2011.

6 HEARING OFFICER CROWLEY: Okay.

7 Why don't we mark that as Exhibit 6, and if you want  
8 to read the questions, you can. If you prefer not  
9 to, you don't have to.

10 MR. MATOESIAN: We will be  
11 answering those in writing if that's what you're  
12 wondering.

13 MS. LIU: You're not prepared to  
14 respond today?

15 MR. MATOESIAN: Are you prepared to  
16 respond (referring to Dixon Nwaji)?

17 HEARING OFFICER CROWLEY: Whatever  
18 you're comfortable doing Alisa. I don't care.

19 MR. MATOESIAN: We would prefer it  
20 in writing because the answers will be quite long.

21 HEARING OFFICER CROWLEY: Fine.  
22 That's acceptable: That hearing officer order made  
23 it clear that we didn't necessarily expect you to  
24 answer those questions today but that we do need

1 answers, if possible, before the next hearing if  
2 you're going to do it in writing.

3 MR. MATOESIAN: Sure. That's fine.

4 HEARING OFFICER CROWLEY: Great.

5 Did you have anything else at  
6 this point, Alisa?

7 MS. LIU: Could you give us a  
8 moment off the record, please?

9 HEARING OFFICER CROWLEY: Off the  
10 record.

11 (Whereupon an off-the-record  
12 discussion transpired at this  
13 time.)

14 HEARING OFFICER CROWLEY: If we  
15 could go back on the record.

16 I think the record is clear on  
17 this, but I'm just going to have it asked and  
18 answered one more time. I just want to be sure that  
19 the dates in Exhibit 2 which are the revised  
20 complaint schedule that was presented today, that  
21 Stericycle fully expects to be able to comply with  
22 those dates.

23 MS. HOBOY: We're going to do  
24 everything in our power to do so.

1 HEARING OFFICER CROWLEY: At this  
2 point in time, it does seem doable?

3 MS. HOBOY: Yes, at this point in  
4 time, it is our intention to comply with these  
5 dates.

6 HEARING OFFICER CROWLEY: Okay. I  
7 ask this because when we get back to Chicago, we  
8 will be asked whether this is something the company  
9 thinks it can do, and I wanted to make that clear.

10 MS. HOBOY: Yes. At this time we  
11 believe we can.

12 HEARING OFFICER CROWLEY: Did you  
13 have anything?

14 MEMBER ZALEWSKI: I have nothing  
15 further.

16 HEARING OFFICER CROWLEY: Member  
17 Blankenship?

18 MR. BLANKENSHIP: No.

19 HEARING OFFICER CROWLEY: Okay.  
20 Does anyone else have anything else they want to say  
21 about this?

22 There does not appear to be.  
23 Okay. So what we get to is the part that everybody  
24 wants to know about which is what happens next.

1                   As you know, we have another  
2 hearing scheduled for June 28th in the Board's  
3 office in Chicago. After we conclude that hearing,  
4 I will set a deadline for receipt of the last  
5 written public comments which is typically a couple  
6 of weeks after the transcript of the hearing is in.

7                   As I explained in previous  
8 hearing officer orders and as explained in the  
9 Board's procedural rules for rulemaking at 35  
10 Illinois Administrative Code Part 102 and  
11 specifically in the April 20th hearing officer  
12 order, the Board has to follow the rulemaking steps  
13 under both the Environmental Protection Act and the  
14 Illinois Administrative Procedures Act, or APA. The  
15 APA requires that the Board publish proposed rules  
16 in the Illinois Register and receive written public  
17 comments for at least 45 days after publication.  
18 Then the Board submits the rules with any amendments  
19 and response to public comments to the Joint  
20 Committee on Administrative Rules.

21                   Once JCAR gets the rules, the  
22 Board can make changes only in response to JCAR  
23 comments. JCAR has 45 days to review the rules. If  
24 JCAR says the rules are okay, then the Board can

1 adopt them and file them with the Secretary of  
2 State.

3 When Illinois EPA filed the  
4 proposed rules, EPA said that it would like to have  
5 rulemaking completed so that it can have an  
6 application for revision of the state implementation  
7 plan including these rules to USEPA no later than  
8 October 6, 2011.

9 Now that we've had at least  
10 one hearing on this, Member Zalewski plans to ask  
11 the Board to consider adoption of a "first notice  
12 opinion and order" proposing rule amendments at the  
13 Board's June 16th meeting.

14 We from the Board will  
15 endeavor to prepare a draft report consideration  
16 that includes the EPA proposal and all of your  
17 agreed upon provisions.

18 After adopting a first notice  
19 proposal, the Board will then publish it in the  
20 Illinois Register. That starts the 45-day public  
21 comment period. We'll be holding the next public  
22 hearing within that comment period.

23 After reviewing all the  
24 transcripts and any more public comments we get, the

1 Board will determine whether to amend the proposal  
2 before sending it to JCAR.

3 We believe that we will be  
4 able to get this rulemaking to USEPA on the  
5 timetable that the Agency prefers.

6 Are there any other questions  
7 or comments?

8 Off the record.

9 (Whereupon an off-the-record  
10 discussion transpired at this  
11 time.)

12 HEARING OFFICER CROWLEY: We've had  
13 a brief discussion here as to whether it would be  
14 possible for the Illinois EPA to provide its answers  
15 to the questions in the June 3rd hearing officer  
16 order in a relatively short time period. That would  
17 assist the Board's deliberations at its June 16th  
18 meeting.

19 Mr. Matoesian has agreed that  
20 he believes it would be doable for the Agency to  
21 submit answers by this coming Monday which is  
22 June 13th. That will be a permitted fax filing,  
23 e-mail, whatever, but please be sure that Stericycle  
24 is served as well.

1 MR. MATOESIAN: Sure.

2 HEARING OFFICER CROWLEY: Are there  
3 any other questions, comments?

4 MR. MATOESIAN: Nothing from us.

5 HEARING OFFICER CROWLEY: There  
6 don't appear to be any.

7 Thank you all very much.

8 We're adjourned, and we'll see all or some of you on  
9 June 28th in Chicago then.

10 (Adjournment at 9:45 a.m.)

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1 STATE OF ILLINOIS )  
 )SS.  
2 COUNTY OF SANGAMON)

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CERTIFICATE

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I, Laurel A. Patkes, Certified Shorthand Reporter in and for said County and State, do hereby certify that I reported in shorthand the foregoing proceedings and that the foregoing is a true and correct transcript of my shorthand notes so taken as aforesaid.

11

12

13

14

I further certify that I am in no way associated with or related to any of the parties or attorneys involved herein, nor am I financially interested in this action.

15

Dated June 9, 2011.

16

17

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Laurel Patkes  
Certified Shorthand Reporter

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