

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
AMENDMENTS TO 35 ILL. ADM. CODE)	R11-20
PART 229: HOSPITAL/MEDICAL/)	(Rulemaking-
INFECTIOUS WASTE INCINERATORS)	Air

REPORT OF THE PROCEEDINGS held in the above entitled cause before Hearing Officer Kathleen Crowley, called by the Illinois Pollution Control Board, taken by Steven Brickey, CSR, for the State of Illinois, 100 West Randolph Street, Chicago, Illinois, on the 28th day of June, 2011, commencing at the hour of 11:00 a.m.

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 STATE OF ILLINOIS
 Pollution Control Board

A P P E A R A N C E S

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MS. CARRIE ZALEWSKI
MS. ALISA LIU

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REPORTED BY:

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L.A. COURT REPORTERS, LLC. (312) 419-9292

1 MS. CROWLEY: Good morning. As you
2 know, my name is Kathleen Crowley and I'm the
3 assigned Hearing Officer in this proceeding. This
4 is the second of two presently scheduled hearings
5 being conducted by the Illinois Pollution Control
6 Board In The Matter of: Amendments to 35 Illinois
7 Administrative Code Part 229:
8 Hospital/Medical/Infectious Waste Incinerators.
9 Docket R11-20. At today's hearing, the Board will
10 conclude its receipt of testimony on the merits
11 and economic effect of the Illinois Environmental
12 Protection Agency's December 23rd regulatory
13 proposal.

14 The proposed rules basically
15 tighten up Illinois' rules to be consistent with
16 US EPA rules. Seated to my immediate left is
17 Carrie Zalewski, who is the Board Member
18 coordinating this proceeding. Seated to my
19 immediate right is Alisa Liu, an environmental
20 scientist with the Board. Looking at the room in
21 addition to the three of us from the Board there
22 are four persons that I know who are associated
23 with the parties. So we'll just eliminate some of
24 the usual opening statements and I'll ask everyone

1 here to introduce themselves for the record
2 starting with Mr. Matoesian.

3 MR. MATOESIAN: Thank you. I'm
4 Charles Matoesian and I'm appearing for the
5 Illinois Environmental Protection Agency and with
6 me I have Mr. Dixon Nwaji, who is the
7 environmental protection engineer and can answer
8 any questions the Board has.

9 MS. CROWLEY: And we'll remind you
10 you were placed under oath.

11 MR. GABEY: Rick Gabey, regional
12 operation's director for Stericycle.

13 MS. HOBOY: Selin Hoboy, vice
14 president legislative and regulatory affairs
15 Stericycle.

16 MS. CROWLEY: Great. As always,
17 there are a couple of things we need to get put on
18 the record. We conducted the first hearing on
19 June 8th. To streamline hearings, I issued
20 Hearing Officer orders on February 1st, May 23rd
21 and June 3rd. The orders asked persons to
22 pre-file testimony and to answer questions
23 developed by the Board's staff. The only two
24 entities who provided testimony have been the

1 Agency and Stericycle. The Agency and Stericycle
2 presented testimony and addressed questions at the
3 first hearing. The transcript of that hearing was
4 filed on June 9th, 2011, and entered into the
5 Board's electronic docketing system.

6 Additionally, the Agency agreed
7 to answer some questions in writing. On June
8 13th, the Agency electronically filed a document
9 entitled Illinois EPA Answers and Second Errata to
10 Questions Regarding Hospital/Medical/Infectious
11 Waste Incinerators. Consistent with what we did
12 at the first hearing, I'm going to mark and enter
13 a copy of that document as Exhibit 7.

14 Also, I would like to note for
15 the record that we very much appreciated the fact
16 that the folks from the Agency made this filing
17 early in the day so that we had additional time to
18 work with it and to put together a quality
19 document for review by the Board before its June
20 16th Board meeting.

21 On June 16th, the Board adopted
22 its first notice opinion and order. The order
23 included the text of the Agency's proposal as
24 amended by the Agency and its May 25th and June

1 13th, 2011, errata sheets and contains the
2 compliance dates agreed to by Stericycle at its
3 first hearing. Publication of the first notice
4 proposal should occur soon. We're currently
5 expecting that will happen July 1st unless we get
6 pushed back in the publishing queue for whatever
7 reason. We haven't received any pre-filed
8 testimony for today's hearing so we'll allow first
9 the Agency and then Stericycle to say anything
10 else you may wish the Board to take into
11 consideration on the merits of the proposal, the
12 economic effects or anything else. Mr. Matoesian?

13 MR. MATOESIAN: The only -- I have
14 nothing except we were going to go when we get
15 back to the office check out a cross site on one
16 of the pages where there might be an error. We're
17 not sure and they pointed it out, but it's so long
18 that we're going to have to look at it in depth at
19 home or the office. So we'll submit a written
20 errata three if it's necessary.

21 MS. HOBOY: This is Selin Hoboy for
22 the record. The reference that he is talking
23 about is on page 42 of the opinion by the Board
24 and the exception leads us to have to test by

1 January 1st, 2014, as opposed to the way the
2 section reads. So that we would be testing and
3 everything would be complete by October 4th of
4 2014. So it's just -- I think it's just a
5 typographical error quite honestly.

6 MR. MATOESIAN: You're referring to
7 115 (a) 2 (b) 5?

8 MS. HOBOY: Yeah.

9 MS. CROWLEY: We can go off the
10 record for a minute if you guys want to look at
11 it.

12 (Whereupon, a discussion was had
13 off the record.)

14 MS. CROWLEY: Back on the record.
15 There is no one else here and so if no one else
16 has any comments they want to make we'll go to the
17 ever popular what happens next part of this.

18 MS. HOBOY: I just have one
19 additional comment for the record. Exhibit 7 that
20 was submitted on June 13th from the Illinois EPA
21 on page 10 where they have the draft schedule for
22 review and recurrence I just want to make sure
23 that we're on the record to state that Illinois
24 Code 229.115 (b) 2 (A) submit CAAPP application to

1 the Agency on or before January 1, 2013, that was
2 just a typo I think and it is correct in the
3 Board's opinion. It should read 2012 and it does
4 read 2012 in the opinion and then under the same
5 section.

6 MS. CROWLEY: Just before we --

7 MS. HOBOY: Sorry.

8 MS. CROWLEY: Go ahead.

9 MS. HOBOY: And just before --

10 MS. CROWLEY: Sorry. Would you mind
11 making that change on the exhibit and initialing
12 it, Mr. Matoesian?

13 MR. NWAJI: I'd like to look at this
14 again because if somebody is not around I didn't
15 know what happened to this.

16 MS. LIU: I believe on page 10 it
17 was the draft schedule prepared by the Board
18 staff. It wasn't the one that you had
19 collaborated on. So this was correct. The Board
20 had prepared this for your consideration and then
21 you guys collaborated on a different schedule and
22 presented it at the hearing. So that was when the
23 date had changed was during your negotiations.

24 MS. HOBOY: So it was my

1 misunderstanding in reading this that this wasn't
2 what they proposed and submitted.

3 MS. LIU: No. They just cut and
4 paste from the Board's Hearing Officer order into
5 here and then they provided their response so
6 that's what that is.

7 MS. HOBOY: And same with the
8 perform the initial --

9 MS. CROWLEY: We have too many
10 people talking at the same time.

11 THE COURT REPORTER: Can you start
12 from the beginning?

13 MS. HOBOY: This was cut and pasted
14 you're saying?

15 MS. LIU: From the Board's June 3rd
16 Hearing Officer order proposing the schedule for
17 you guys to discuss so that's simply what that is.

18 MR. MATOESIAN: I think you're right
19 if I remember right now.

20 MS. LIU: The schedule you actually
21 agreed upon was Exhibit 2 from the last hearing.

22 MS. HOBOY: Okay.

23 MS. LIU: And that's the one you
24 want to make sure is correct and the date on

1 that -- that one actually didn't include --

2 MS. HOBOY: The CAAPP.

3 MS. LIU: 229.115(b)2(A), but I
4 believe I asked you that at the hearing.

5 MS. HOBOY: Yes, and we confirmed
6 that January 1, 2012, would be acceptable.

7 MS. CROWLEY: Let's go off the
8 record.

9 (Whereupon, a discussion was had
10 off the record.)

11 MS. CROWLEY: Let's go back on the
12 record. So is it correct, Mr. Matoesian, that 35
13 Ill. Adm. Code 229.115(b)2(A) submit CAAPP to the
14 Agency on or before January 2012 is what was
15 intended?

16 MR. MATOESIAN: Yes, that's what was
17 intended.

18 MS. CROWLEY: And I will ask you to
19 make that change on my exhibit and initial it.

20 MR. MATOESIAN: Yes. Thank you.

21 MS. CROWLEY: Did you have anything
22 else, Ms. Hoboy?

23 MS. HOBOY: If the assumption is
24 this is what was prepared by the Board staff, then

1 the corrected information is in the Board's
2 opinion as far as the dates are concerned because
3 the only other one was under that same section
4 little four and it said June 21st, 2014, and it
5 should be June 1st, 2014 which is already in the
6 Board's opinion.

7 MS. CROWLEY: But I will ask if you
8 make those corrections, Mr. Matoesian, it just
9 keeps things cleaner.

10 MS. LIU: Can we go off the record?

11 MS. CROWLEY: Yes.

12 (Whereupon, a discussion was had
13 off the record.)

14 MS. CROWLEY: If we go back on the
15 record. Again, try to go at it another way. Do
16 the Agency and Stericycle agree that the dates as
17 contained in the Board's June 16th opinion and
18 order are the way you would like to have the rule
19 read?

20 MR. MATOESIAN: Yes.

21 MS. HOBOY: Yes.

22 MS. CROWLEY: That's a yes from
23 both. Anything else? Then the last thing we have
24 to do today is set a date for the closing post

1 hearing comments.

2 As we explained last time we got
3 together, the Board must follow the rulemaking
4 steps under the Environmental Protection Act and
5 under the Illinois Administrative Procedures Act
6 or APA. The APA requires that the Board publish
7 proposed rules in the Illinois Register and
8 receive written public comments for at least 45
9 days after publication. Assuming a July 1st
10 publication, the period begins on July 2nd and
11 ends August 16th. Section 102.108(b) of the
12 Board's procedural rules also provides that the
13 Board will accept comments for 14 days after the
14 receipt of the hearing transcript or any other
15 date set by the Hearing Officer.

16 Transcripts are due under a
17 standard reporting contract by the eighth business
18 day after a hearing. Here, that would be July 1st
19 and so the 14 day due date under 102.108 would be
20 July 15th, but the APA public comment period runs
21 through and includes Tuesday, August 16th. So
22 we'll set the date for the end of the comment
23 period as Tuesday, August 16th.

24 I'd ask that comments be in the

1 Board's office by that date either electronically
2 or by mail and that the mailbox rule will not
3 apply. If possible, we'd appreciate the filing of
4 closing comments by the Agency and Stericycle in
5 advance of that date if you can. We know it's
6 summer, though. The Board's next scheduled
7 meeting dates after the close of the public
8 comment period on August 16th are; August 18th,
9 September 1st and September 15th.

10 We would like to have the option
11 of adopting a second notice of opinion and order
12 on the earliest date if we can. And as I
13 explained before, the Board is required by the APA
14 to submit rules to the Joint Committee on
15 Administrative Rules or JCAR. Once JCAR has
16 received the rules, the Board can only make
17 changes in response to JCAR comments. JCAR has 45
18 days to review the rules. If JCAR approves the
19 rules, only then can the Board adopt the final
20 rules and file them.

21 As we noted when the -- when we
22 spoke previously, the Agency would like to have a
23 rulemaking complete so that it can have an
24 application for revision of the State

1 Implementation Plan including these rules to US
2 EPA no later than October 6th. We believe it may
3 still be possible to achieve the goal. We will be
4 working towards it and so I'll ask if there are
5 any other questions? No questions.

6 MS. ZALEWSKI: We appreciate
7 everyone's participation and cooperation. Thank
8 you.

9 MS. CROWLEY: Thank you, all, very
10 much and I'm sorry for your long drive, but I
11 believe we finished this up for today.

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)
4

5 I, Steven Brickey, Certified Shorthand
6 Reporter, do hereby certify that I reported in
7 shorthand the proceedings had at the trial
8 aforesaid, and that the foregoing is a true,
9 complete and correct transcript of the proceedings
10 of said trial as appears from my stenographic
11 notes so taken and transcribed under my personal
12 direction.

13 Witness my official signature in and for
14 Cook County, Illinois, on this 28th day of
15 June, A.D., 2011.

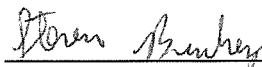
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