

IN THE MATTER OF:
PROPOSED AMENDMENTS TO
NONHAZARDOUS SPECIAL WASTE
HAULING AND THE UNIFORM
PROGRAM, 35 ILL. ADM. CODE
PART 809

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STATE OF ILLINOIS
Pollution Control Board (Rulemaking-
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REPORT OF THE PROCEEDINGS held in the
above entitled cause before Hearing Officer Tim
Fox, 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 15th day of February, 2012,
commencing at the hour of 1:00 p.m.

A P P E A R A N C E S

MR. TIM FOX, Hearing Officer
MR. THOMAS E. JOHNSON
MS. JENNIFER A. BURKE
MR. THOMAS HOLBROOK
MS. CARRIE ZALEWSKI
MS. DEANNA GLOSSER

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: MS. KIMBERLY A. GEVING
MR. DAVID WALTERS
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

REPORTED BY:

Steven J. Brickey, CSR
CSR License No. 084-004675

1 MR. FOX: Good afternoon and welcome
2 to this Illinois Pollution Control Board hearing.
3 My name is Tim Fox and I am the Hearing Officer
4 for this rulemaking, which is entitled In the
5 Matter of: Proposed Amendments to Nonhazardous
6 Special Waste Hauling and the Uniform Program, 35
7 Ill. Adm. Code 809. The Board docket number for
8 this rulemaking is R12-13.

9 Also present today from the
10 Board are at my immediate left the Board's
11 chairman Tom Holdbrook who is the lead Board
12 member for this proceeding. At my right are Board
13 members Thomas E. Johnson and Jennifer Burke and
14 to Chairman Holbrook's left are Board members
15 Carrie Zalewski and Deanna Glosser. I also want
16 to note for the record that present in the room is
17 Anand Rao of the Board's technical staff.

18 The Illinois Environmental
19 Protection Agency filed this rulemaking proposal
20 on October 28th, 2011, and in an order dated
21 November 17th, 2011, the Board accepted the
22 proposal for hearing and the first hearing took
23 place on January 12th, 2012, in Springfield. A
24 Hearing Officer order had set February 1st, 2012,

1 as the deadline to pre-file testimony for the
2 second hearing, but no participant has pre-filed
3 testimony for it. I do want to note that inside
4 the door at the witness table where the Agency is
5 seated there is a sheet on which anyone who had
6 not pre-filed testimony could indicate that they
7 would like to testify here today.

8 We will begin with any person
9 who had indicated that they wished to testify and
10 then at the end, the testimony and questions based
11 upon it. Any persons wishing to offer a public
12 comment could do so as time permits. This
13 proceeding is governed, of course, by the Board's
14 procedural rules under Section 104.426 of those
15 rules: All information that is relevant and that
16 is not repetitious or privileged will be admitted
17 into the record.

18 Please note that any questions
19 posed today by the Board or its staff are intended
20 solely to assist in developing a record and not to
21 reflect any prejudgment on the proposal.

22 Before we get underway, are
23 there any questions by the Agency on the part of
24 our procedure?

1 MS. GEVING: No.

2 MR. FOX: Very good. Just before
3 the hearing began I referred a moment ago to the
4 sheet in which persons could indicate they wished
5 to testify. As the hearing began, I could see
6 that no one had so indicated and I can see plainly
7 that no one has done so since we got underway. In
8 fact, if the record could reflect other than the
9 Board members and staff the only persons present
10 are Ms. Geving and Mr. Walters, the
11 representatives here of the IEPA.

12 Is there anyone present who
13 wishes to offer a public comment on the Agency's
14 proposal? Neither seeing nor hearing anyone who
15 does, let's proceed to the issue of an Economic
16 Impact Statement. Section 27(b) of the
17 Environmental Protection Act provides that the
18 Board must request that the Department of Commerce
19 and Economic Opportunity, or DCEO, conduct an
20 Economic Impact Study of proposed rules before the
21 Board adopts those rules.

22 The Board must then either make
23 the Economic Impact Study or the department's
24 explanation for not conducting one available to

1 the public at least 20 days before a public
2 hearing. In a letter dated November 17th, 2011,
3 the Board's chairman Tom Holbrook requested the
4 DCEO conduct an Economic Impact Study proposal.
5 The Board specifically requested a response no
6 later than January 12th of 2012 and the Board has
7 to date received no response to this request from
8 DCEO.

9 Is there anyone who wishes to
10 testify regarding either the Board's request or
11 the lack of a response from DCEO to it? Neither
12 seeing nor hearing any, let me quickly determine
13 once again whether there is anyone who wishes to
14 pose a question or offer comment? Mr. Rao, on
15 your part?

16 MR. RAO: No.

17 MR. FOX: Very good. Let me turn to
18 the subject of a deadline for post hearing
19 comments. Before going on the record, counsel for
20 the agency, Ms. Geving, and I spoke about the
21 procedural issue of setting a deadline for the
22 filing of those post hearing comments. Copies of
23 this transcript are expected to be available to
24 the Board by this Friday, February 17th, 2012.

1 Once it is filed with the Board, the transcript
2 will be posted promptly to the Board's website.
3 Before it takes action on the Agency's proposal,
4 the Board will hold open a post hearing comment
5 period ending 14 days after receiving that
6 transcript or on Friday, March 2nd of 2012. In
7 order to set that as clearly as possible, I will
8 issue a Hearing Officer order reflecting that
9 deadline and providing it to the entities that are
10 on the service and notice lists.

11 I do want to note that post
12 hearing comments may be filed electronically
13 through the clerk's office online or in COOL and
14 questions about electronic filing should be
15 directed to our clerk's office.

16 Any of those filings, post
17 hearing comments or otherwise, whether on paper or
18 electronic, must also be served on the Hearing
19 Officer and on those persons on the service list
20 and I would ask that anyone filing please check
21 with the Board's clerk to ensure they have the
22 most current and recent version of the service
23 list.

24 Are there any questions about

1 any procedural aspects of this rulemaking at this
2 point? Ms. Geving, anything to add on the part of
3 the Agency?

4 MS. GEVING: I have nothing.

5 MR. FOX: Why don't we do this. It
6 is just 10 after 1:00 p.m. Why don't we go off
7 the record to 20 after 1:00 p.m. to ensure that we
8 don't adjourn before anyone who is late arrives.
9 If no one appears by 20 after 1:00, we'll come
10 back on the record and quickly adjourn then.

11 (Whereupon, a break was taken
12 after which the following
13 proceedings were had.)

14 MR. FOX: Thanks everyone for your
15 patience. The time of 1:20 having come I do want
16 the record to reflect that no other persons have
17 appeared for this hearing. Consequently,
18 Ms. Geving, unless the Agency has any questions or
19 anything they'd like to add to the record, we can
20 adjourn.

21 MS. GEVING: We're ready to adjourn.

22 MR. FOX: Very good. In the absence
23 of anything on the part of the Agency, we are
24 adjourned. To the Agency, thank you for your

1 travel and your time and we will look forward to
2 your comments that you may wish to file before the
3 deadline on the 2nd.

4 MS. GEVING: Thank you.

5 MR. FOX: Great. Thank you.

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)
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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 16th day of
15 February, A.D., 2010.

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