

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R 2025-022
STANDARDS FOR UNIVERSAL)	(Rulemaking – Land)
WASTE MANAGEMENT)	
(35 ILL. ADM. CODE PARTS 703, 720,)	
721, 724, 725, 728 and 733))	

NOTICE

TO: Don A. Brown, Clerk
 Illinois Pollution Control Board
 60 E. Van Buren Street
 Suite 630
 Chicago, Illinois 60605
 (VIA ELECTRONIC MAIL)

Chloe Salk, Hearing Officer
 Illinois Pollution Control Board
 60 E. Van Buren Street
 Suite 630
 Chicago, Illinois 60605
 (VIA ELECTRONIC MAIL)

See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the TESTIMONY OF KYLE ROMINGER of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you along with this notice.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Katherine A. Koehler
 Katherine A. Koehler
 Assistant Counsel
 Division of Legal Counsel

DATED: April 1, 2025

115 S. LaSalle Street
 Suite 2203
 Chicago, Illinois 60603
 312/832-2171
katherine.koehler@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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)
STANDARDS FOR UNIVERSAL) R 2025- 22
WASTE MANAGEMENT) (Rulemaking–Land)
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721, 724, 725, 728, and 733))

TESTIMONY OF KYLE ROMINGER

My name is Kyle Rominger. I am the Bureau Chief for the Illinois Environmental Protection Agency’s (“Illinois EPA” or “Agency”) Bureau of Land. I have been employed by the Agency for a total of approximately 28 years. I have been the Bureau Chief for the Bureau of Land since 2019. My positions prior to Bureau Chief include: Deputy Bureau Chief for the Bureau of Land from 2015 through 2019; Deputy General Counsel for the Land Regulatory and Water Regulatory Units in the Agency’s Division of Legal Counsel from 2010 through 2015; Associate General Counsel in the Land Regulatory Unit in the Agency’s Division of Legal Counsel from 1999 through 2010; and Project Manager in the Bureau of Land’s Leaking Underground Storage Tank Section from 1990 through 1994. I hold a Bachelor of Science degree from the University of Illinois in Ecology, Ethology, and Evolution (1990), and a Juris Doctorate from the University of Louisville Brandeis School of Law (1997).

In my current position as Bureau Chief, my duties include oversight of the Agency’s administration and enforcement of the Board’s hazardous waste program, including the Universal Waste Rules, through the Bureau of Land’s Division of Remediation Management and the Division’s Permit Section, Field Operations Section, and Materials Management & Compliance Section. I have been involved with the development and drafting of Board and Agency rules since 1999, and with the review, development, and drafting of environmental legislation since 2002. I was part of the Agency team that developed and drafted the rules proposed in this proceeding, as

well as part of the team representing the Agency with respect to the legislation that instigated the proposed rules, P.A. 103-372 and P.A. 103-887.

I will be providing testimony regarding the proposed amendments to Title 35 of the Illinois Administrative Code (“35 IAC”) Part 733, regarding the designation of hazardous waste paint and paint-related waste as a universal waste, and the associated changes to Parts 703, 720, 721, 724, 725, and 728.

The Agency proposed this rulemaking pursuant P.A. 103-887, which became effective January 1, 2025, and requires the Agency to propose these rules within sixty (60) days and the Board to adopt rules within one hundred and eighty (180) days after receipt of the Agency’s proposal. P.A. 103-887 was a trailer bill to P.A. 103-372, which created the Paint Stewardship Act (415 ILCS 175).

The Paint Stewardship Act requires manufacturers of architectural paint¹ sold at retail in the State of Illinois to establish and operate a post-consumer paint stewardship program. PaintCare, an entity that operates stewardship programs on behalf of the paint industry in several states, was instrumental in the passage of both P.A. 103-372 and P.A. 103-887 and will be the entity operating the Illinois paint stewardship program on behalf of manufacturers.

The architectural paint required to be collected under the Paint Stewardship Act includes both latex paint and oil-based paint. The oil-based paint is subject to regulation as a hazardous waste based on the hazardous waste characteristic of ignitability. Likewise, paint-related waste that is ignitable is also subject to regulation as a hazardous waste.

¹ "Architectural paint" means interior and exterior architectural coatings sold in containers of 5 gallons or less. "Architectural paint" does not include industrial original equipment or specialty coatings. 415 ILCS 175/10.

Oil-based paint and paint-related waste collected by PaintCare from households would be exempt from hazardous waste regulation under the household hazardous waste exemption. However, a good deal of the paint (and some of the paint-related waste) that PaintCare wants to collect will not be from households (e.g., oil-based paint from painting contractors or other businesses returning excess paint to paint stores). Sites collecting this hazardous waste would be subject to hazardous waste permitting and local siting approval requirements. To ease the regulatory burden on its anticipated collection sites, PaintCare sought trailer legislation enacted as P.A. 103-887 to designate the hazardous waste paint being collected a universal waste and allow it to be managed under the universal waste rules instead of the regular hazardous waste rules.

Pursuant to the General Assembly's designation of hazardous waste paint and paint-related waste (hereinafter "PPRW") as a universal waste, the Title 35 Parts listed above required amendment. The following is a summary of the proposed amendments to the Board's Universal Waste rules in Part 733:

Section 733.101. Subsection (a)(6) is added to include PPRW, as described in 35 Ill. Adm. Code 733.107, within the scope of this Part.

Section 733.107. Section 733.107 (Applicability) is added to identify the waste subject to the rules. This Section also identifies when PPRW and unused paint become waste. This Section is based on the format of similar Sections in the Universal Waste Rules and the PPRW that PaintCare will be collecting under the Paint Stewardship Act.

Section 733.108. Section 733.108 is updated consistent with hazardous waste rule changes made since the last time the Universal Waste Rules were updated. Given the now more numerous types of wastes that are allowed to be managed under the Universal Waste Rules, subsection (b) is amended to clarify that any commingled wastes must be of the same type in order to utilize the

Universal Waste Rules. Commingled wastes of different types should remain regulated under the regular hazardous waste rules.

Section 733.109. Section 733.109 is amended consistent with P.A. 103-372 and 103-887 to add, *inter alia*, definitions for “paint” and “paint-related waste.”

Section 733.113. Subsection (f) is added to address the management of PPRW by small quantity handlers of universal waste. The subsection is based on similar requirements for other types of universal waste, tailored to PPRW.

Section 733.114. Subsection (g) is added to address the labeling and marking by small quantity handlers of PPRW consistent with other types of universal waste.

Section 733.132. Subsection (b)(4) is amended consistent with the addition of PPRW to the Universal Waste Rules. Given the general evolution in disseminating information electronically, the Board Note is amended to delete reference to an Agency phone number.

Section 733.133. Subsection (f) is added to address the management of PPRW by large quantity handlers of universal waste. The subsection is based on similar requirements for other types of universal waste, tailored to PPRW.

Section 733.134. Subsection (g) is added to address the labeling and marking by large quantity handlers of PPRW consistent with other types of universal waste.

Section 733.139. This section is amended to address PPRW consistent with other types of universal waste.

Section 733.162. This section is amended to address PPRW consistent with other types of universal waste. A cross-reference to aerosol cans is also added for language consistency among universal waste cross references.

After intra-agency development of the rule, Illinois EPA reached out to interested parties with a draft of the proposed rules on December 16, 2024, requesting that they provide any comments on the draft rules to Illinois EPA by January 18, 2025. In no particular order, the interested parties contacted by Illinois EPA were PaintCare, the Chemical Industry Council of Illinois, the Illinois Product Stewardship Council, the Illinois Recycling Association, the National Waste and Recycling Association, the Illinois Manufacturers Association, the Illinois Retail Merchants Association, the Illinois Environmental Regulatory Group, and the Illinois Environmental Council. Illinois EPA received several comments and questions from these parties regarding draft rulemaking language. As a result of this outreach effort, revisions to the draft were made and incorporated into the rulemaking proposal submitted to the Board.

A more detailed description of the proposed rule amendments and the Agency's justification are set forth in the rule proposal. The technical support document included in the rule proposal is incorporated by reference into this testimony. I drafted the technical support document for the proposed rulemaking and am prepared to answer any questions from the Board and hearing participants regarding these and other issues relevant to the rulemaking during the hearing or in writing subsequent to the hearing, if necessary.

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached TESTIMONY OF KYLE ROMINGER of the Illinois Environmental Protection Agency upon the following:

See attached Service List

I affirm that my e-mail address is katherine.koehler@illinois.gov; the number of pages in the e-mail transmission is 8; and the e-mail transmission took place before 5:00 p.m. on April 1, 2025.

Respectfully submitted,

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY**

By: /s/ Katherine A. Koehler
Katherine A. Koehler
Assistant Counsel
Division of Legal Counsel

DATED: April 1, 2025

115 S. LaSalle Street
Suite 2203
Chicago, Illinois 60603
312/832-2171
katherine.koehler@illinois.gov

SERVICE LIST

Illinois Pollution Control Board Mr. Don A. Brown, Clerk of the Board Chloe Salk, Hearing Officer 60 E. Van Buren Street Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov chloe.salk@illinois.gov	Office of the Attorney General Environmental Bureau Jason E. James Assistant Attorney General 201 West Point Drive, Suite 7 Belleville, IL 62226 Jason.james@ilag.gov enviro@ilag.gov
Illinois Department of Natural Resources Renee Snow General Counsel One Natural Resource Way Springfield, Illinois 62702 renee.snow@illinois.gov	Illinois Environmental Protection Agency Nick M. San Diego Deputy General Counsel 2520 West Iles Avenue P.O. Box 19276 Springfield, Illinois 62974 nick.m.sandiego@illinois.gov