

ILLINOIS POLLUTION CONTROL BOARD  
April 10, 2025

IN THE MATTER OF: )  
)  
STANDARDS FOR UNIVERSAL WASTE ) R25-22  
MANAGEMENT ) (Rulemaking - Land)  
(35 ILL. ADM. CODE PARTS 703, 720, 721, )  
724, 725, 728, and 733) )

**HEARING OFFICER ORDER**

Public Act 103-372, effective January 1, 2024, created the Paint Stewardship Act, which requires manufacturers of architectural paint sold at retail in the State of Illinois to establish and operate a post-consumer paint stewardship program. On August 9, 2024, the Governor signed Senate Bill 839 into law as Public Act 103-887, effective January 1, 2025. P.A. 103-887 adopted Section 22.23e of the Environmental Protection Act (Act), which allows PaintCare, the anticipated paint manufacturer representative in Illinois, to manage post-consumer paint as universal waste and alleviate the regulatory burden on PaintCare's collection sites.

P.A. 103-887 requires that, within 60 days of the effective date of the Public Act, the Illinois Environmental Protection Agency (IEPA) must propose to the Board rules for management of paint and paint-related waste as universal waste. On March 3, 2025, IEPA filed this proposal under Section 22.23e of the Act. Within 180 days after receiving the proposal from IEPA, the Board must adopt rules. 415 ILCS 5/22.23e(b)(1); P.A. 103-887.

On March 20, 2025, the Board accepted the proposal, submitted it to first-notice publication in the *Illinois Register*, and directed the assigned hearing officer to proceed to hearing under the Act and Board rules.

The hearing officer scheduled the first hearing in this proceeding for April 16, 2025, with the deadline for IEPA to pre-file testimony by April 2, 2025. On April 1, 2025, IEPA filed the testimony of Kyle Rominger.

The Board and its staff have reviewed the pre-filed testimony filed by IEPA in this matter, and submit questions listed in the attachment to this order. Although the questions are directed to IEPA, any participant may respond to the attached questions or submit a comment.

All filings in this proceeding will be available on the Board's website at [pcb.illinois.gov](http://pcb.illinois.gov) under this docket number R25-22. Unless the Board, hearing officer, Clerk or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk's Office On-Line (COOL). 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

IT IS SO ORDERED.



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**Attachment to Hearing Officer Order of April 10, 2025**  
**R25-22: Universal Waste Rules**  
**Hearing Questions**

**Mr. Kyle Rominger**

1. Please comment on whether IEPA consulted with USEPA during the enactment of P.A. 103-887 and sought comments from USEPA regarding the proposed paint and paint-related waste (PPRW) rules.
2. Under new Section 22.23e(b)(1) of the Environmental Protection Act (Act), hazardous waste PPRW “are hereby designated as a category of universal waste subject to the streamlined hazardous waste rules set forth in 35 Ill. Adm. Code 733.” Given this statutory designation, please explain whether IEPA considers this rulemaking to be subject to 35 Ill. Adm. Code 733.180 and 733.181.
  - a. If IEPA considers Section 733.180 applicable or otherwise relevant here, please explain how the proposed PPRW rules satisfy Section 733.180(c)(1).
  - b. If IEPA considers Section 733.181 applicable or otherwise relevant here, please address as many of the factors listed in Section 733.181 as IEPA considers appropriate for PPRW.
3. On page 3, you state, “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.”
  - a. Please clarify whether architectural paint collected under the Paint Stewardship Act includes nonhazardous latex paint, nonhazardous paint-related waste, hazardous oil-based paint, and hazardous paint-related waste.
  - b. If so, explain how latex paint would be managed given that nonhazardous paint or paint-related waste is not covered under the proposed universal waste rules. See proposed Section 733.107(b)(2).
4. The TSD states that the proposed PPRW rules are economically reasonable as they provide an option “less burdensome and more streamlined method for handling the wastes to which they apply, by definition making them more technically feasible and economically reasonable than the regular hazardous waste rules that would otherwise apply”. TSD at 145.
  - a. To confirm, please indicate whether IEPA expects the new PPRW rules to have a positive economic effect, a negative economic effect, or no economic effect..
  - b. If IEPA expects an economic effect from the new PPRW rules, please

- i. Identify the entities or types of entities anticipated to be affected economically.
  - ii. Describe how IEPA expects the economic effect to occur (when rules become effective and going forward on a yearly basis).
  - iii. Quantify the dollar amount of the economic effect, if feasible, per affected entity and Statewide.
5. Regarding commingled waste under Section 733.108, you state, “[g]iven 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.” (emphasis added). Is it IEPA’s view that *existing* Section 733.108(b) (and 40 CFR 273.8(b)) applies to the wastes described in Section 733.108(a)(1) and (a)(2) that are commingled with universal waste, but only if that universal waste is of the same type as the subsection (a)(1) or (a)(2) waste?

**Question on the Proposed Rules**

6. In the preamble of Section 703.123, please comment on whether it would be acceptable to IEPA if the phrase “among those that are” is deleted.
7. Please comment on whether the phrase “universal waste” should be added preceding the subsection headings in Sections 733.113(d), (e), and (f) (“Lamps”, “Aerosol cans”, and “Paint and paint-related waste”) to be consistent with subsection headings in Sections 733.113 (a), (b) and (c).
8. Section 733.113(f)(1) requires containers used for storing universal waste PPRW to lack evidence of leakage or damage that could cause leakage under “reasonably foreseeable conditions”. Please provide some examples of reasonably foreseeable conditions.
9. Section 733.113(f)(3) specifies requirements that must be followed by a small quantity handler of universal waste upon detection of a release. Please clarify whether term “release” means the same as the definition of that term under Section 3.395 of the Act. If so, should that definition be added to Section 733.109?
10. In Section 733.133(f)(3)(C), please clarify what “properly” managing the released universal waste entails with examples. If appropriate, propose revisions by replacing the word “properly” with more descriptive language.
11. Please comment on whether the following reorganization of Section 733.113(f)(4) is acceptable to IEPA:
  - 4) Ignitable universal waste paint or paint-related waste.

- A) A small quantity handler of universal waste must locate containers holding ignitable universal waste paint or paint-related waste at least 50 feet from the facility property line, unless the small quantity handler obtains written approval from the authority having jurisdiction over the local fire code to allow ignitable universal waste paint or paint-related waste to be located within 50 feet of the facility property line. The small quantity handler must maintain a record of the written approval as long as universal waste paint or paint-related waste is located within 50 feet of the facility property line.
- B) A small quantity handler of universal waste must take precautions to prevent accidental ignition of universal waste paint or paint-related waste. The small quantity handler must separate and protect universal waste paint and paint-related waste from sources of ignition, including the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), or radiant heat.
- C) While handling ignitable universal waste paint or paint-related waste, the small quantity handler must confine smoking and open flames to specifically designated locations. The small quantity handler must conspicuously place “No Smoking” signs wherever there is an ignitability hazard from universal waste paint or paint-related waste.

12. Please comment on whether the following reorganization of Section 733.133(f)(4) is acceptable to the IEPA:

- 4) Ignitable universal waste paint or paint related waste.
  - A) A large quantity handler of universal waste must locate containers holding ignitable universal waste paint or paint related waste at least 50 feet from the facility property line, unless the large quantity handler obtains written approval from the authority having jurisdiction over the local fire code to allow ignitable universal waste paint or paint related waste to be located within 50 feet of the facility property line. The large quantity handler must maintain a record of the written approval as long as universal waste paint or paint related waste is located within 50 feet of the facility property line.
  - B) A large quantity handler must take precautions to prevent accidental ignition of universal waste paint or paint related waste. The large quantity handler must separate and protect universal waste paint and paint related waste from sources of ignition, including, ~~but not limited to,~~ the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), or radiant heat.

- C) While handling universal waste paint or paint related waste, the large quantity handler must confine smoking and open flames to specifically designated locations. The large quantity handler must conspicuously place “No Smoking” signs wherever there is an ignitability hazard from universal waste paint or paint related waste.