

DEC 07 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
STANDARDS FOR UNIVERSAL ) R 05-8  
WASTE MANAGEMENT ) (Rulemaking - Land)  
(35 ILL. ADM. CODE PARTS 703, 720, )  
721, 724, 725, 728, and 733) )

NOTICE OF FILING

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

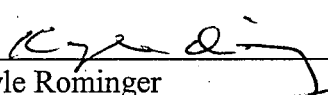
Marie Tipsord  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Pre-Filed Testimony of Mark L. Crites, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

  
\_\_\_\_\_  
Kyle Rominger  
Assistant Counsel

Date: December 6, 2004  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

RECEIVED  
CLERK'S OFFICE

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PRE-FILED TESTIMONY OF MARK L. CRITES

My name is Mark L. Crites. I work in the Bureau of Land, Permit Section, RCRA Permit Unit, and am the Illinois EPA contact for universal waste issues. A copy of my resume is attached. My comments today will address the characteristics of mercury-containing equipment that renders it hazardous waste, and the appropriateness of allowing such waste to be managed as universal waste.

The devices that are the subject of this proceeding; namely mercury relays, mercury switches, and scientific instruments and instructional equipment containing mercury added during their manufacture; all contain an amount of elemental mercury, which varies by the type of device. Mercury is a well-known toxin that primarily affects the central nervous system and kidneys, and is a hazardous constituent under the Resource Conservation and Recovery Act ("RCRA").

Under current rules, solid waste that exhibits the characteristic of toxicity, as defined at 35 Ill. Adm. Code 721.124, must be managed under the hazardous waste management system. Solid waste is considered a hazardous waste if the mercury concentration in the extract from a representative sample of the waste exceeds 0.2 milligrams per liter by the Toxicity Characteristic Leaching Procedure. Specific testing of the mercury-containing devices covered by this proposal has not been conducted by

the Illinois EPA, but because of the composition of the devices we expect that all exceed the TC for mercury, and are therefore currently subject to regulation as hazardous waste.

The subject proposal would allow generators of these mercury devices to manage them under a more streamlined system called the Universal Waste Rule (UWR). The UWR was established by USEPA as an alternative management system for certain wastes that would normally be managed as hazardous waste. It is a system whose goal is to improve the management of commonly mismanaged wastes by encouraging proper collection, consolidation, and other management through use of streamlined procedures. Universal wastes are generally wastes that meet the definition of hazardous waste, are produced by a large variety of generators that are commonly unfamiliar with the hazardous waste management system, and as a result these wastes are commonly mismanaged. Current universal wastes include lamps, mercury-containing thermostats, suspended and canceled pesticides, and batteries. Generators of hazardous waste that qualifies for management as universal waste have the option of continuing to manage the waste under the hazardous waste system, or to manage the waste under the UWR. Those opting for management under the UWR are not required to include this waste in their hazardous waste totals for purposes of determining generator category.

In our opinion, the types of waste included in this proposal fit the above description of universal waste. Mercury thermostats are in virtually every climate-controlled building in the state. Similarly, mercury relays are used in many common types of equipment used every day. Mercury-containing scientific and educational equipment will be found in virtually every school, laboratory, and medical facility. In the vast majority of the locations where these devices are employed, no one at the facility is

familiar with the hazardous waste management system, and as a result, many of these devices are improperly discarded. To further substantiate the classification of mercury-containing waste as universal waste, USEPA has proposed and intends to soon finalize similar regulation, which includes a much broader scope of mercury devices, at the federal level. A copy of the USEPA's proposal was submitted in the Illinois EPA's original filing for this proceeding. Additionally, other states, including Pennsylvania and Michigan, have also added mercury device categories to their state Universal Waste Rules as well. Because inclusion in the UWR tends to decrease improper disposal of the waste in question, USEPA and the various states generally do not see much opposition to this approach.

The subject proposal would regulate these mercury devices in the same way as mercury thermostats are currently regulated under the UWR. This is because many of the devices included in this proposal are similar in nature to mercury thermostats, and because this is the way that the USEPA proposal would regulate such devices. An advantage of this approach is that when and if USEPA finalizes its mercury device rule, it should be a relatively simple matter to update the Illinois regulations to keep them consistent with the federal rule.

In our experience, the Universal Waste Rule has been successful in its goal of encouraging proper management of the existing wastes included in the rule. Most importantly, it has done so without any significant unexpected consequences. We expect similar success with the addition of mercury-containing devices to the Universal Waste Rule.

# Mark L. Crites

## Experience

1990 to Present: Environmental Protection Engineer

Illinois Environmental Protection Agency  
Bureau of Land, Permit Section, RCRA Unit

### Responsibilities:

- Illinois EPA's contact person and technical expert on the Universal Waste Rule and related statutes.
- Illinois EPA's contact person and technical expert on hazardous waste delisting.
- Review applications and write permits for hazardous waste management facilities.
- Review site remediation plans for state and federal clean-up programs to determine Applicable or Relevant and Appropriate Regulations with regard to the hazardous waste management system.
- Evaluate closure by removal demonstrations for hazardous waste management units.
- Inspect hazardous waste management facilities to resolve permitting issues.
- Respond to correspondence from the public and the regulated community regarding technical interpretations of the hazardous waste regulations and statutes.

## Education

1990 to Present: Ongoing professional continuing education in a variety of topics including engineering, chemistry, geology, hydrogeology, mathematics, computer modeling, risk assessment, technical writing, project management, new regulations, software-specific courses, and others.

1985 to 1990: Bachelor of Science Mechanical Engineering, Southern Illinois University at Carbondale, Spring 1990.

## Licensing and Certification

- State of Illinois Professional Engineer in Training
- OSHA HAZWOPER General Site Worker
- Red Cross CPR and First Aid
- Total Quality Management Facilitator

STATE OF ILLINOIS )  
COUNTY OF SANGAMON )

**PROOF OF SERVICE**

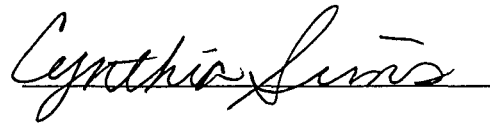
I, the undersigned, on oath state that I have served the attached Pre-Filed Testimony of Mark L. Crites upon the persons to whom they are directed by placing copies in envelopes addressed to:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
(Overnight Mail)

Marie Tipsord  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
(Overnight Mail)

SEE ATTACHED SERVICE LIST  
(First Class Mail)

and mailing them from Springfield, Illinois on December 6, 2004, with sufficient postage affixed as noted above.



SUBSCRIBED AND SWORN TO BEFORE ME

this 6<sup>th</sup> day of December, 2004.

  
Notary Public



Party Name	Role	City & State	Phone/Fax
<u>IEPA</u> Interested Party	1021 North Grand Avenue East P.O. Box 19276 Kyle Rominger Lindsay Evans	Springfield IL 62794-9276	217/782-5544 217/782-9807
<u>Gardner Carton &amp; Douglas</u> Interested Party	191 N. Wacker Drive Suite 3700 John W. Watson	Chicago IL 60606-1698	312/569/1000 312/569-3000
<u>Hodge Dwyer Zeman</u> Interested Party	3150 Roland Avenue Post Office Box 5776 Christine G. Zeman	Springfield IL 62705-5776	217/523-4900 217/523-4948
<u>Office of the Attorney General</u> Interested Party	Environmental Bureau 100 West Randolph Street, 11th Floor Matthew J. Dunn, Chief	Chicago IL 60601	312/814-2550 312/814-2347
<u>Illinois Environmental Regulatory Group</u> Interested Party	3150 Roland Avenue Robert A. Messina, General Counsel	Springfield IL 62703	217/523-4942 217/523-4948
<u>Barnes &amp; Thornburg</u> Interested Party	1 North Wacker Drive Suite 4400 Eugene H. Bernstein	Chicago IL 60606	312/357-1313 312/759-5646
<u>H. E. Hanson, Esq. P.C.</u> Interested Party	4721 Franklin Avenue Suite 1500 Heidi E. Hanson	Western Springs IL 60558-1720	708/784-0624 708/784-0627
<u>Illinois Pollution Control Board</u> Interested Party	100 W. Randolph St. Suite 11-500 Dorothy M. Gunn, Clerk of the Board Marie Tipsord, Hearing Officer	Chicago IL 60601	3128143956
<u>Admiral Environmental Services</u> Interested Party	2025 South Arlington Heights Road Suite 103 Philip A. Twomey	Arlington Heights IL 60005-4141	
<u>Department of Natural Resources</u> Interested Party	One Natural Resources Way Stan Yonkauski	Springfield IL 62702-1271	217/782-1809 217/524-9640
<u>CICI</u> Interested Party	2250 E. Devon Ave. Suite 239 Lisa Frede	Des Plaines IL 60018	847-544-5995
<u>Carl J. Frank</u> Interested Party	734 N. Wells Street *	Chicago IL 60610	
<u>CH2M Hill</u> Interested Party	8501 W. Higgins Road Suite 300 Tracie Gross	Chicago IL 60631	

Total number of participants: 15