

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1993

IN THE MATTER OF:)
) R86-9(B)
HAZARDOUS WASTE PROHIBITIONS) (Rulemaking)

Proposed Rule. Dismissal Order.

ORDER OF THE BOARD (by G. T. Girard):

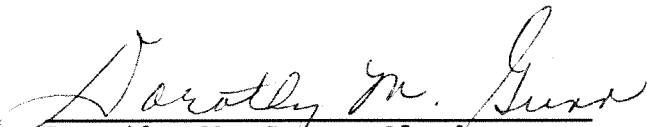
In October 1986 the Board adopted an emergency rulemaking essentially prohibiting the Illinois Environmental Protection Agency (Agency) from enforcing certain interpretive provisions of Section 39(h) of the Environmental Protection Act. The Board enacted the emergency rule largely due to a concern that the Agency would attempt to initiate wide-scale industrial internal process changes. This rulemaking was appealed by Citizens For A Better Environment (CBE). On appeal, the court did not reach the substance of the proposal, but instead dismissed the rule finding that no emergency existed, CBE v. Pollution Control Board, 152 Ill. App. 3d 105 (1st Dist. 1987).

In August 1990 the Board decided by a 4-3 vote that Section 39(h) needed to be clarified in this rulemaking docket. Since the August 1990 decision by the Board no substantive action has taken place. This docket has now been open for 7 years. The Board has received no additional requests for action. There have been no objections to the Agency implementation of Section 39(h) filed in this docket. In summary, the record lacks up-to-date information on the implementation of Section 39(h) and there does not appear to be a need for this rulemaking. Therefore, the Board will dismiss this docket at this time.

The Board notes that if any of the participants believe that rulemaking is still necessary a new petition may be filed under a new docket number.

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 16th day of December, 1993, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board