

ILLINOIS POLLUTION CONTROL BOARD
November 19, 1992

WE-SHRED-IT, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 92-180
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.C. Marlin):

On November 17, 1992, petitioner, We-Shred-It, Inc. filed a variance petition with the Board. The petition requests a variance from the financial assurance requirements for used and waste tires in 35 Ill. Adm. Code 848.Subpart D, with respect to petitioner's tire shredding operation in Pana, Christian County. The variance petition apparently grows out of the Board's opinion and order in In The Matter of: Petition of We-Shred-It, Inc. for an adjusted standard from 35 Ill. Adm. Code 848.101 (Waste Tires), AS 92-2 (September 3, 1992), that order denied an adjusted standard for this facility, but stated that the facility was not precluded from filing a petition for variance.

The procedural rules governing variance petitions pursuant to Section 35 of the Act are found in 35 Ill. Adm. Code 101 and 104. It would appear that petitioner may not have referenced the Board's procedural rules, since the petition does not follow the format of the rules.

This petition, standing alone, is deficient for failure to provide much of the information required by Sections 104.121 and 104.124, including but not limited to the following:

- * Description of the business.
- * Detailed description of proposed equipment to be used in the compliance plan.
- * Description of past efforts to achieve compliance.
- * Discussion of alternate methods of achieving compliance, and the comparative factors leading to selection of the compliance program in the petition.

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- * Concise factual statement of the reasons petitioner believes that compliance with the regulations would impose an arbitrary or unreasonable hardship.
- * Request for a hearing, or, alternatively, a waiver of hearing and an affidavit or other proof in support of the material facts alleged in the petition.

However, much of the above information is summarized in the Board's order in AS 92-2. The Board on its own motion incorporates the opinion and order by reference. However, the petitioner may wish to supplement and update the information, particularly where the Board noted in AS 92-2 that information was unclear, contradictory or confusing and present it in a format suitable for a variance petition. If a hearing is to be waived, the petition must be supported by an affidavit.

Additionally, a variance must captioned as provided in 35 Ill. Adm. Code 101. Appendix A, Illustration D, or as shown above. The petitioner must serve a copy of the petition on the Illinois Environmental Protection Agency (Agency), and file a proof of service. Pursuant to Section 101.143(a)(3), a proof of service by a non-attorney needs to be by affidavit. (Section 101.120(b)(3)).

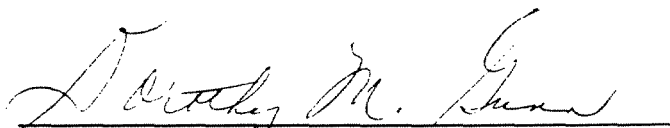
In AS 92-2 the Board was confronted with a confused record which resulted in part from piecemeal amendments to the petition. The Board strongly urges petitioner to file a complete amended petition which includes both the information in the November 17, 1992 petition and the information requested above.

Unless an amended petition for variance is filed within 45 days after the date of this order, curing the above-noted deficiencies, this matter will be subject to dismissal. The Board notes that, for purposes of calculation of the decision deadline pursuant to Section 38 of the Act, the filing of an amended variance petition will restart the Board's 120 day deadline.

IT IS SO ORDERED.

0137-0230

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 11th day of November, 1992 by a vote of 7-2.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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