

ILLINOIS POLLUTION CONTROL BOARD
December 4, 1980

IN THE MATTER OF:)
LEAF BURNING)
PROPOSED AMENDMENT TO CHAPTER 2:) R73-5
AIR POLLUTION, PART V: Open)
Burning, of The Illinois Pollution)
Control Board Rules and Regulations)

Final Order of Dismissal:

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

Under the Board's initial Air Pollution Regulations adopted April 13, 1972, in R71-23, the open burning of leaves was proscribed within any municipality plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1,000 or more. On November 28, 1972, the Board relaxed this ban against leaf burning in rural areas and smaller communities which are not within a major metropolitan area (R72-11, 6 PCB 357). The prohibition remained in effect in municipalities over 2500 in population and in their adjoining municipalities, and within unincorporated areas which are within 1000 feet of a municipality where leaf burning was banned. The open burning of landscape waste remained prohibited in all municipalities located in the Chicago and East St. Louis metropolitan areas, regardless of size.

On March 30, 1973, the Board published a proposed amendment which would have based the leaf burning ban on actual air quality rather than on the size of the municipality. Two hearings were held on this proposal on April 27 and 30, 1973, in Springfield and Rock Island, respectively. Hearings were then held in abeyance pending legislative action.

On August 13, 1973, legislation amending Section 10(g) of the Environmental Protection Act was signed into law (Public Act 78-243). In a written opinion dated October 16, 1973, the Illinois Attorney General concluded that it was the intention of the General Assembly to allow the burning of leaves. The Board was left the power to regulate that burning where sound scientific evidence showed "that such burning will produce in the atmosphere of that geographical area contaminants in sufficient quantity and of such characteristics and duration as to be injurious to human, plant or animal life or health" (Public Act 78-243).

On September 6, 1973, the Agency filed a new proposal to control leaf burning in those parts of the state which do not meet the Primary Air Quality Standards. This proposal was published in Board Newsletter #72 (September 6, 1973).

Public hearings were held on that proposal on November 16, 19, and 27, 1973, in Peoria, Chicago, and Urbana, respectively. The evidence adduced at these hearings (as well as the previous two hearings) was addressed in the Opinion of the Board on September 19, 1974 (R73-5,13 PCB 645). At that time the Board found that the record did not support the adoption of the proposal. However, the Board retained jurisdiction pending a scientific study from the Institute for Environmental Quality.

The Economic Impact Study was submitted on January 13, 1977, and hearings were held to consider it on April 6,7, and 19, 1977, in Chicago, Champaign, and Peoria, respectively.

On December 13, 1979, the Agency withdrew its proposal, and no new proponent has come forward.

This lengthy history has resulted in an out-dated record. The most recent hearings are approaching four years old. Most of the hearings are over seven years old. The Board finds that if it were to consider adoption of a leaf burning proposal in the near future, new hearings would have to be held. However, the present time would be inopportune in that a Federal respirable particle standard is expected to be set sometime around May of 1981. Such a standard may well change the nature of these proceedings.

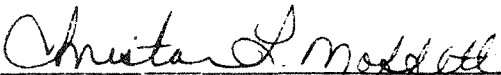
Therefore, the Board finds that the present proposal should be dismissed. If, after the Federal respirable particle standard is set, a new proposal is forthcoming, the Board will consider it as a new proceeding. That does not mean, however, that elements from the record in this present proceeding which have continuing validity cannot be brought into the later record.

ORDER

It is the Order of the Illinois Pollution Control Board that Petition R73-5 is hereby dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 4th day of December 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board