

ILLINOIS POLLUTION CONTROL BOARD
May 7, 1992

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM.) R90-8
CODE 105.102; REPEAL OF) (Rulemaking)
DE NOVO HEARINGS FOR APPEALS)
OF NPDES PERMITS)

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

On February 8, 1990, the Board proposed for first notice an amendment to 35 Ill. Adm. Code 105.102(b)(8) which provides for de novo hearings on disputed issues of fact in NPDES permit appeals. The Board's intent in proposing this amendment was to correct discrepancies between the Board's interpretation of the "de novo regulation" and the appellate court's interpretation of the regulation. A hearing was held on May 16, 1990 in Chicago, Illinois and numerous public comments were received.

The Board's review of the transcripts and comments leads it to conclude that the scope of its proposed amendment is not as limited as initially thought (In the Matter of: Amendments to 35 Ill. Adm. Code 105.102; Repeal of De Novo Hearings for NPDES Permits (February 8, 1990), R90-8 at 2) and that any amendment to the "de novo regulation" would best be addressed in the context of a review of the Part 105 permit procedural rules as a whole.¹ It is also possible that some of the problems the instant proceeding was intended to address may best be remedied by legislative action. Therefore, the Board dismisses this rulemaking and closes this docket.

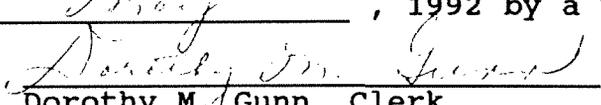
ORDER

For the foregoing reasons, the instant proceeding is dismissed and this docket is hereby closed.

IT IS SO ORDERED.

B. Forcade dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 7th day of May, 1992 by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

¹ The Board may incorporate the instant record into any new docket opened for the purpose of reviewing the permit procedural rules.