

ILLINOIS POLLUTION CONTROL BOARD
August 9, 1990

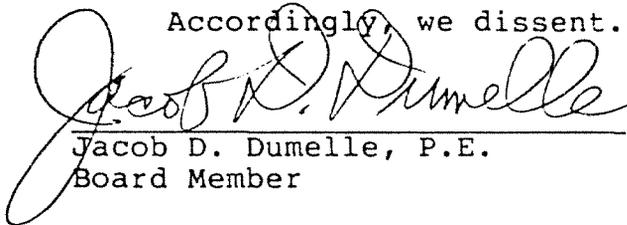
IN THE MATTER OF:)
)
IDENR SPECIAL WASTE) R89-13(A)
CATEGORIZATION) (Rulemaking)
)

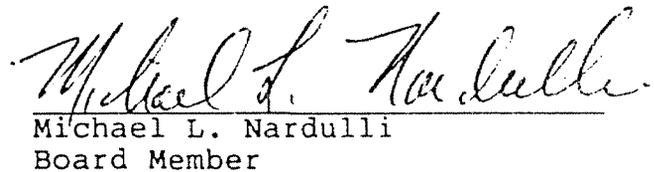
DISSENTING OPINION (by J.D. Dumelle and M. Nardulli):

In an earlier dissenting opinion in this same proceeding, we pointed out that the data base for determining the degree of hazard was not adopted under the requirements of the Administrative Procedure Act (i.e. Notice and comment) and is not set forth in the rule. (See Dissenting Opinion 89-13(A), November 15, 1989.) The details of our opinion need not be repeated in full, yet the main point remains that those industries subjected to regulation should be afforded all the information to which its regulators possess.

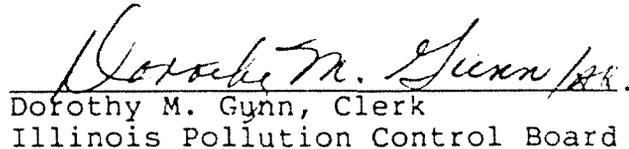
The value of any rule is shortchanged when those affected by it are unable to analyze its applicability unto themselves. Because the data base in the instant proceeding is so discretionary as to its criteria, it contains the potential to violate due process.

Accordingly, we dissent.


Jacob D. Dumelle, P.E.
Board Member


Michael L. Nardulli
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Dissenting Opinion was submitted the 17th day of August, 1990.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board