

ILLINOIS POLLUTION CONTROL BOARD  
October 27, 1993

KNAPHEIDE MFG. CO., )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 93-169  
 ) (Variance)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by C. A. Manning):

On September 8, 1993, the Knapheide Mfg. Company ("Knapheide") filed a petition for variance relief pursuant to Section 35 of the Environmental Protection Act ("Act") and 35 Ill. Adm Code 104.120 for its facility located in Quincy, Adams County, Illinois. (415 ILCS 5/35 (1992).) Knapheide is requesting relief from 35 Ill. Adm. Code 215.204(j)(2) and (3) which establish volatile organic material ("VOM") emission limitations for Miscellaneous Metal Parts and Product Coating manufacturers.

The Board, on September 9, 1993, entered an order requesting Knapheide to amend its petition filed on September 8, 1993, to cure certain deficiencies in that filing. The Knapheide Company filed an amended petition on September 16, 1993. Knapheide in its amended petition has waived its right to a hearing in this matter pursuant to 35 Ill. Adm. Code 104.124. Pursuant to Section 37(a) of the Act, legal notice was published on October 1, 1993. No hearing request was filed with the Board. (415 ILCS 5/37(a) (1992).)

The Agency filed its recommendation in support of grant of variance pursuant to Section 35(a) of the Act and 35 Ill. Adm. Code 104.180 on October 12, 1993. In addition, the Agency states in its recommendation that it does not "intend to submit to the United States Environmental Protection Agency ("USEPA") a State Implementation Plan revision regarding this variance due to the exigency of the surrounding circumstances, the attainment status of the area in which the facility is located and the minimal impact associated with the variance." <sup>1</sup> (Rec. at 2) <sup>2</sup>

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<sup>1</sup> Pursuant to the Clean Air Act Section 110 if the State Implementation Plan were to be revised a public hearing would have been necessary. (42 U.S.C.A. 7410 (1993).)

Accordingly, no hearing was scheduled or held in this matter.

For the following reasons, the Board finds that Knapheide Company has presented adequate proof that immediate compliance with 35 Ill. Adm. Code 215.204(j)(2) and (3) would result in the imposition of an arbitrary or unreasonable hardship. Therefore, the variance is granted, subject to the conditions set forth in the order below.

#### BACKGROUND

The Knapheide Company is a manufacturer of tool boxes, miscellaneous truck bodies, hoists and platforms. The operations involve metal shaping, forming, welding, fabrication and painting. Knapheide employs approximately 145 persons and its annual sales have been thirty million dollars (\$30,000,000.00). (Pet. at 2(b).)

The Knapheide Company moved its operations from West Quincy, Missouri to 1701 North 16th Street, Quincy, Illinois due to the flooding of the Mississippi River which made its Missouri plant inoperable. Knapheide was granted two provisional variances from the Board to allow it to move its operations and to continue manufacturing while attempting to establish a permanent facility. (See PCB 93-141, July 29, 1993, and PCB 93-168, September 9, 1993.)

Knapheide states in its petition, and the Agency reiterates in its recommendation, that VOM are emitted from the facility's painting operations. (Pet. at 2(c), Rec. at 3(11).) The VOM emission is the result of the paint and thinner usage which is a vital part of Knapheide operations. (Pet. at 2(c).) Both the Agency and Knapheide state that when located in Missouri Knapheide was in compliance with the air permitting laws and substantive regulations for VOM emissions. Knapheide states that the VOM emissions were approximately 75-80 tons per year. (Pet. at 2(d).) Further, Knapheide estimates that the maximum VOM content of the coating as applied to be 6.6 lbs. of VOM per gallon of coating. (A. Pet. at Exhibit D.) Knapheide states that it expects to reduce the paint usage at the proposed site and therefore reduce the VOM emission. (Pet. at 2(c).) However, the Board's regulations at 35 Ill. Adm. Code 215.204(j)(2) and 215.204(j)(3) require Knapheide to utilize coatings containing no more than 3.5 pounds per gallon of VOM; these are stricter than the Missouri limitations. As a result, Knapheide will not be able to achieve compliance without changing its operation or adopting a new method of operation. Therefore, Knapheide is requesting a two-year variance to construct a new facility which

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<sup>2</sup> The Agency recommendation will be cited as "Rec.", and the Knapheide petition and amended petition will be cited as "Pet." and "A. Pet." respectively.

would enable it to operate in compliance in Illinois.

#### COMPLIANCE PLAN

Knapheide proposes to achieve compliance by constructing a new plant which is capable of utilizing the low VOM-compliant coating. (A. Pet. at 2(3).) The construction time required for completion of the new plant is roughly two years. (A. Pet. at 2(3).) Knapheide states that the estimated cost is \$8,000,000. (A. Pet. at 2(3).) The Agency states in its recommendation that Knapheide has reviewed all possible technically feasible and economically reasonable alternatives and that Knapheide's analysis is based on sound engineering principles and evaluates all reasonably available compliance strategies thoroughly. (Rec. at 4(16,17).) Knapheide states that all other feasible compliance alternatives would also require at least two years to implement. (Pet. at Exhibit 4.) The Agency recommends Knapheide's chosen method of compliance, the construction of a new facility. (Rec. at 4(19).)

#### HARDSHIP

Knapheide states in its petition that it has spent roughly \$2,000,000 in its efforts to relocate its operations in Illinois at the temporary site located in Quincy. (A. Pet. at 2(3).) Additionally, Knapheide states it spent roughly \$500,000.00 fighting the Mississippi River flood. (A. Pet. at 2(3).) Knapheide states that if the variance is not granted, it would simply not be able to operate in compliance and would be forced to shut down. (Pet. at 3(k).) Knapheide and the Agency state that Knapheide stands to lose its major customers and face possible legal liability if it is not allowed to continue its operations. (Pet. at 3(k), Rec. at 4(16).) Currently, Knapheide is operating pursuant to two (2) provisional variances granted by the Board under Section 35(b) of the Act.<sup>3</sup>

The Agency's recommendation states that denial of variance would cause arbitrary and unreasonable hardship. (Rec. at 6.)

#### ENVIRONMENTAL IMPACT

Knapheide currently is located at 1701 North 16th Street in Quincy, Illinois, approximately three miles from its Missouri site which is an area that is in attainment with the National Ambient Air Quality Standard for ozone. Knapheide states that the environmental impact would be minimal due to this and that it would be utilizing the same paint and thinners it used when located in Missouri. (Pet. at 3(g).)

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<sup>3</sup> See PCB 93-141, July 29, 1993, and PCB 93-168, September 9, 1993.

After evaluating the 1992 Illinois Annual Air Quality Report for ozone, specifically regarding the Quincy monitoring, the Agency determined that Knapheide's moving its facility approximately three miles from the previous site "is unlikely to affect the ozone readings at the Quincy monitor or otherwise adversely affect Illinois' air quality." (Rec. at 5(26).) Additionally, the Agency states that, based upon the projected compliant coatings usage estimates provided by Knapheide, "the VOM emissions from the new facility, once constructed, will be less than 25 tons per year." (Rec. at 5(27).) Furthermore, the Agency states that the "VOM emissions at the Quincy facility will be less than the 75-80 tons per year level due to decreased paint and thinner usage." (Rec. at 5(25).)

#### CONCLUSION

Based upon the record, the Board finds that to require immediate compliance with the VOM limitations set forth at 35 Ill. Adm. Code 215.204(j)(2) and (3) would impose an arbitrary or unreasonable hardship on the Knapheide Company. The flooding of the Mississippi River which resulted in Knapheide moving its operations to Illinois was beyond its control. Knapheide has already expended several million dollars fighting the flood and re-locating its operations to Illinois. During the period in which Knapheide is constructing a new facility, which ultimately will bring it into compliance with the Board regulations, it would be impossible for Knapheide to continue its operations and meet Board guidelines at the same time. The environmental impact for this period should be minimal, if any, due to the VOM emissions being relatively the same as when located three miles away in Missouri. Additionally, the temporary facility is still located within an air quality attainment area. Overall, with the construction of the new plant which will be in compliance, the total VOM emissions will be reduced for the attainment area. Knapheide and the Agency state that the grant of this variance will be consistent with the applicable federal laws due to the Agency's conclusion that the State Implementation Plan will not have to be revised. (Pet. at 3(1), Rec. at 2(9).) Thus, the variance will be granted with certain conditions recommended by the Agency. (Rec. at 6-7.) The Board has also specified a limitation on the maximum VOM emissions for coating used in painting operations based on Knapheide's estimation that the maximum VOM content of coating as applied will be 6.6 lb per gallon. In addition, as a result of the unusual circumstances related to the flood, the Board grants this variance with a retroactive start date of October 25, 1993.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Knapheide Company is hereby granted a variance from 35 Ill. Adm. Code 215.204(j)2 and (3) as those sections apply to Knapheide's painting operations at its facility located at 1701 North 16th Street Quincy, Illinois. The variance is subject to the following conditions:

a. The variance starts on October 25, 1993 and ends on April 1, 1996.

b. Volatile organic material emissions for coating used in the painting operations shall not exceed 6.6 lbs. per gallon as delivered to the coating applicator, excluding water and any compounds specifically exempted from the definition of volatile organic material by Board regulations.

c. Knapheide shall complete all phases of its compliance plan by April 1, 1996.

d. Knapheide shall submit semi-annual progress reports to the Agency on January 15th and July 15th of each year during the term of the variance. These reports must include detailed information on Knapheide's progress toward completion of the new facility and testing of compliant coatings.

e. Knapheide shall apply for and receive any applicable permits from the Agency prior to beginning construction.

2. Within forty-five days of the date of this order, Knapheide Company shall execute and forward to:

Sharon M. Davis  
Assistant Counsel  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62704

A certification of acceptance and agreement to be bound to all terms and conditions of the granted variance. The 45-day period shall be held in abeyance during any period that this matter is appealed. Failure to execute and forward the certificate within 45-days renders this variance void. The form of certificate is as follows.

## CERTIFICATION

I (We), \_\_\_\_\_, hereby accept and agree to be bound by all terms and conditions of the Pollution Control Board's (date of order) in PCB 93-169.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Authorized Agent

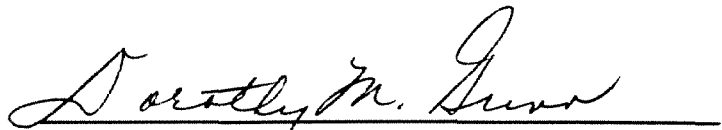
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Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for the appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. See also 35 Ill. Adm. Code 101.246 Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 27<sup>th</sup> day of October, 1993, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board