

ILLINOIS POLLUTION CONTROL BOARD
March 26, 1992

KEARNEY-NATIONAL, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 92-46
)	(Provisional Variance)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

This matter comes before the Board upon receipt of an Agency Recommendation dated March 24, 1992. The recommendation refers to a request from Petitioner, Kearney-National, Inc. for a 30 day provisional variance for its Cook County facility from the 90-day on-site limitations for hazardous wastes set forth in 35 Ill. Adm. Code 722.134(b).

Upon receipt of the request the Agency issued its recommendation, finding that the hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary and uncontrollable circumstances and failure to grant the requested 30-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

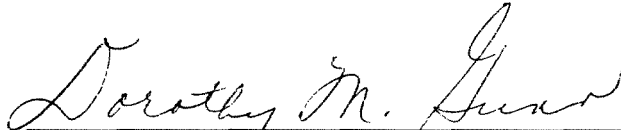
The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See Ill. Rev. Stat. 1989, ch. 111½, pars. 1035(b) & (c). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal Order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

In this instance, the Agency has recommended that the Board grant a 32-day provisional variance. This exceeds the 30 days allowed by 35 Ill. Adm. Code 722.134(b). The Agency recommendation indicates that the accumulation start date for the instant wastes was December 10, 1991. Therefore, the 90 day accumulation time allowed by 35 Ill. Adm. Code 722.134(a) expired on March 9, 1992. For these reasons, the Board will grant the provisional variance as commencing on March 9, 1992, as recommended by the Agency, and ending on April 8, 1992, two days before the time recommended by the Agency.

Having received the Agency recommendation finding that a denial of the request relief would impose an arbitrary and unreasonable hardship the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 722.134(b) from March 9, 1992 to April 8, 1992.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 26th day of March, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board