

ILLINOIS POLLUTION CONTROL BOARD
September 21, 1992

AMERICAN DECAL AND)	
MANUFACTURING CO.,)	
)	
<u>Petitioner,</u>)	
)	
v.)	PCB 92-135
)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on receipt of an Agency Recommendation dated September 18, 1992. The recommendation refers to a request from Petitioner, American Decal and Manufacturing Co. for a 45-day provisional variance for its Cook County facility from the use of alternative add-on control methodologies, as set forth in 35 Ill. Adm. Code 218.207(a), (b)(1) and (c), for the period from September 17, 1992 to October 31, 1992.

The afterburner that controls American's Adhesive Coater/Laminator #1 overheated, causing the afterburner to become completely inoperable.

Upon receipt of the request, the Agency issued its recommendation, finding that the failure to grant the requested 45-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.¹

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the

¹ We note that in its filing the Agency stated that "failure to allow American to operate would lead to an extreme and unreasonable hardship upon American". In response to an informal query, Agency personnel indicated that the above phrasing was a conscious decision. The Board does not know what the language is meant to convey, particularly insofar as it does not reflect the statutory language, found at Section 35(b) of the Act, "...compliance on a short term basis with any rule or regulation, ...would impose an arbitrary or unreasonable hardship". Under the facts of this case, and in order to avoid prejudice to the petitioner, the Board will construe the Agency's filing as expressing its intent that the Board grant this provisional variance.

0136-0201

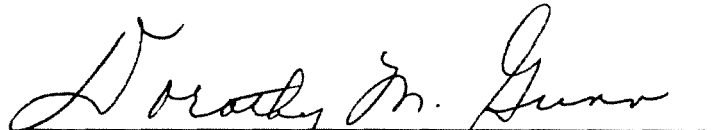
responsibilities in standard variances. See Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(b) & (c). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal Order, 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.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 218.207(a), (b)(1) and (c) from September 17, 1992 to October 31, 1992, subject to the following conditions:

1. The term of this provisional variance shall commence on September 17, 1992 and expire on October 31, 1992;
2. If the Agency issues an ozone advisory and notifies American of the need to temporarily cease operations of its Adhesive Coater/Laminator #1, American shall do so as expeditiously as possible.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 21st day of September, 1992, by a vote of 4-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board