

ILLINOIS POLLUTION CONTROL BOARD  
October 24, 1985

MODINE MANUFACTURING )  
COMPANY, )  
 )  
Petitioner, )  
 )  
v. ) PCB 85-154  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by E. Forcade):

On October 16, 1985, Modine Manufacturing Company ("Modine") filed a petition for variance. This matter is accepted for hearing. Hearing must be scheduled within 14 days of the date of this Order and completed within 80 days of the date of this Order. The hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list and all actual exhibits to the Board within 5 days of the hearing. The hearing officer may by order set a schedule for submission of briefs. But such schedule shall provide for final filings as expeditiously as possible and in no event later than 90 days from the date of this Order.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. This schedule will only provide the Board a very short time period to deliberate and reach a decision before the due date. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

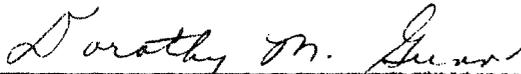
The hearing officer may extend this schedule only on a waiver of the decision deadline by the petitioner and only for the equivalent or fewer number of days that the decision deadline is waived. Such waivers must be provided in writing to the Clerk of the Board. Any waiver must be an "open waiver" or a waiver of decision until a date certain. Any waiver shall extend the time deadline of Section 104.180 regarding filing the Agency recommendation by the equivalent number of days, but in any circumstance the recommendation must be filed at least 10 days before the hearing.

Because this proceeding is the type for which the Illinois Environmental Protection Act sets a very short statutory deadline for decisionmaking, absent a waiver, the Board will grant extensions or modifications only in unusual circumstances. Any such motion must set forth an alternative schedule for notice, hearing, and final submissions, as well as the deadline for decision, including response time to such a motion. However, no such motion shall negate the obligation of the hearing officer to set a date pursuant to the second paragraph of this Order.

On page 13 of the variance petition, Modine requests "the entire record" in PCB 82-111 be incorporated by reference in this proceeding. That request is denied. The Board will incorporate all Opinions and Orders from PCB 82-111 into this proceeding by reference. However, any other portion of the record in PCB 82-111 which Modine wishes included in this proceeding must be filed with the Board in the usual manner.

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 24<sup>th</sup> day of October, 1985, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board