

ILLINOIS POLLUTION CONTROL BOARD
July 29, 1993

THE KNAPHEIDE MANUFACTURING,)	
COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 93-141
)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for the Knapheide Manufacturing Co. (Knapheide) in order to allow it to continue operating during the Great Flood of 1993. The Agency Recommendation and a motion to amend and supplement were dated July 28, 1993. The Board hereby grants the motion to amend and supplement.

Specifically, the Agency recommends that we grant Knapheide a 45-day provisional variance for its Quincy, Illinois facility from the construction and operating permit and permit review requirements and the volatile organic material emissions limitations, as set forth in 35 Ill. Adm. Code 201.142 through 201.164 and 215.204, beginning July 28, 1993 and running through September 10, 1993.

The Agency's provisional variance recommendation states that Knapheide operated a metal shaping, forming, welding and fabrication facility in West Quincy, Missouri. Due to the flooding along the Mississippi River, however, the petitioner was forced to suspend those operations because its Missouri site is now under sixteen feet of water. Knapheide has located an alternative facility directly across the Mississippi River in Quincy, Adams County, Illinois at which it could temporarily resume operations. The Agency recommendation states that the alternative facility is located about three miles from the flooded Missouri facility, that the Quincy, Illinois area is presently in compliance with the National Ambient Air Quality Standard for ozone, and that the expected environmental impact of the provisional variance is minimal.

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

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See 415 ILCS 5/35(b) & (c) (1992) (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 normal 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.

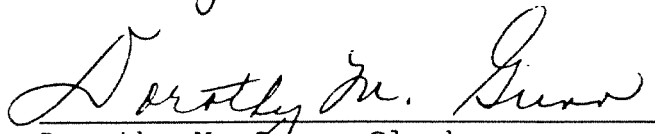
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 201.142 through 201.164 and 215.204, beginning July 28, 1993 and running through September 10, 1993.

The Agency recommendation did not include the customary recommendation that the Board grant the provisional variance subject to conditions, and the Board does not add conditions to the grant.

The Board notes that Knapheide does not have a compliance plan, but is in the process of developing one. Also, Knapheide anticipates seeking another 45-day provisional variance, and may have the need to seek a "regular" variance. (Application, ¶¶ 8-9.) In such event the Board will make every effort to expedite the handling of any variance Knapheide may file, and we encourage Knapheide to consult with Board staff for procedural guidance as it prepares its petition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted by the Board on the 29th day of July, 1993, by a vote of 4-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board