

ILLINOIS POLLUTION CONTROL BOARD
October 4, 2001

BERLIN INDUSTRIES,)
)
Petitioner,)
)
v.) PCB 02-43
) (Provisional Variance - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On October 2, 2001, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance to Berlin Industries (Berlin) at its commercial lithographic plant located at 175 Mercedes Drive, Carol Stream, DuPage County. The provisional variance would begin November 1, 2001, and provide relief from 35 Ill Adm. Code 218.407(a)(1)(C), 218.407(a)(1)(E), and Part 203 and Conditions 7.1.3(f)(i)(C), 7.1.3(f)(i)(E), and 7.1.6(a) of Berlin's Clean Air Act Permit Program (CAAPP) permit. The provisional variance would allow Berlin to operate its printing lines while a damper in its existing thermal afterburner is replaced with a state-of-art, three-armed design. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on Berlin. The Agency believes that the environmental impact will be minimal since Berlin has agreed to delay repairs until after the end of the ozone season on October 31, 2001.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2000)) provides:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. Such provisional variances shall be issued within 2 working days of notification from the Agency. 415 ILCS 5/35(b) (2000); *see also* 35 Ill. Adm. Code 104.302.

A provisional variance lasts for no more than 45 days, but the Board can extend the time period up to an additional 45 days on the Agency's recommendation. Provisional variances granted to one person cannot exceed a total of 90 days during any calendar year. 415 ILCS 5/36(c) (2000); 35 Ill. Adm. Code 104.308.

The Board grants Berlin a provisional variance from 35 Ill Adm. Code 218.407(a)(1)(C), 218.407(a)(1)(E), and Part 203 and Conditions 7.1.3(f)(i)(C), 7.1.3(f)(i)(E), and 7.1.6(a) of its CAAPP permit, subject to the following conditions:

1. The duration of this provisional variance is for 45-days commencing November 1, 2001. Berlin's air pollution control equipment must be shut down for no longer than seven continuous days during this period.
2. A record must be kept which includes the date and time the afterburner is shut down and restarted and the actual amount and type of material usage, volatile organic material (VOM) content, and associated VOM emissions that occurred during this period, with supporting calculations.
3. Within 90 days after all ten printing lines are on-line and operational, the repairs to the afterburner have been completed, and the monitoring system is fully operational, a stack test must be performed. The Agency must be notified of the date and time of the stack test for observation purposes.
4. When the air pollution control equipment is returned to operation following repair, it must be maintained and operated according to manufacturer's specifications and all applicable regulatory and permit requirements.
5. Notification and a copy of the records required must be sent to the Agency when the afterburner is returned to operation. The notification must be sent to:

Joyce Embree
Illinois Environmental Protection Agency
Bureau of Air Compliance Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

IT IS SO ORDERED.

If Berlin chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within 10 days after the date of the above order, forward the executed certificate to the Agency at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

Berlin Industries accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's October 4, 2001 order in PCB 02-43.

Petitioner

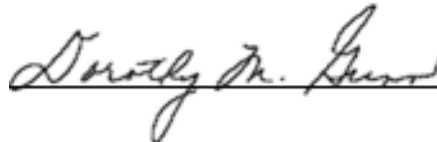
Authorized Agent

Title

Date

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 4, 2001, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board