

ILLINOIS POLLUTION CONTROL BOARD
March 16, 1995

AMERICAN NICKELOID COMPANY,)
)
 Petitioner,)
)
 v.) PCB 95-101
) (Provisional Variance-RCRA)
 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)), American Nickeloid Company (American) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow American's facility in LaSalle County to continue accumulating hazardous waste for a period in excess of ninety (90) days. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, March 15, 1995. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant a nineteen (19)-day provisional variance from the ninety (90)-day limitation on the accumulation of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b), for the period from February 13, 1995 to March 3, 1995.

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that due to unforeseen, temporary and uncontrollable circumstances, failure to grant the requested nineteen (19)-day provisional variance would impose an arbitrary or unreasonable hardship on the petitioner.

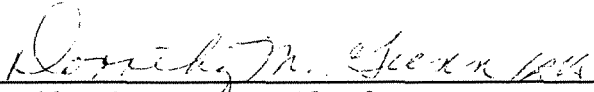
Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35(b) & 36(c)). In provisional variances it is the responsibility of the 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 notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the

petitioner a provisional variance from 35 Ill. Adm. Code
722.134(b) February 13, 1995 to March 3, 1995.

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
16th day of March, 1995, by a vote of
7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board