

ILLINOIS POLLUTION CONTROL BOARD
February 6, 1997

CLARK REFINING & MARKETING, INC.,)	
)	
)	
Petitioner,)	PCB 97-132
)	(Provisional Variance-RCRA)
v.)	
)	
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)), Clark Refining & Marketing, Inc. (Clark) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Clark to continue accumulating hazardous waste for a period in excess of 90 days. Such request for a provisional variance and the notification of recommendation was filed with the Board by the Agency on February 4, 1997. 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 30-day provisional variance from the 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 17, 1997 to March 19, 1997.

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 30-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) from February 17, 1997 to March 19, 1997.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41(1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board