

ILLINOIS POLLUTION CONTROL BOARD
March 7, 2002

ENSIGN BICKFORD COMPANY,)
)
 Petitioner,)
)
 v.) PCB 02-118
) (Provisional Variance - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

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

On March 5, 2002, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance to Ensign Bickford Company (Ensign). The provisional variance from the requirements of 35 Ill. Adm. Code 237.103 would allow Ensign to burn explosive and potentially explosive contaminated wastes at its explosive products manufacturing facility near the town of Wolf Lake, Union County. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on Ensign.

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 Ensign a provisional variance from 35 Ill. Adm. Code 237.103, subject to the following conditions:

1. The provisional variance's duration is for 45-days and begins with the issuance of the Board's order.

2. Open burning shall be conducted pursuant to conditions 2a, 2b, 2c, 2d, 2e, 2f, 2j, 2k, 2l, 2m, 2n, 2o, and 2s set forth by the Board in Ensign Bickford v. IEPA, PCB 00-24, (Nov. 18, 1999).
3. This provisional variance allows the open burning of only the currently on-site accumulated Resource Conservation and Recovery Act (RCRA) waste materials plus the anticipated amount of RCRA regulated waste materials that would be generated during the provisional variance period. Only the specific materials and amounts that are classified as RCRA waste and listed below are to be burned:

Pentolite Waste (W001)	1000#
Primer Production (W004)	600#
Wastewater Sludge (W026)	1800#
Wastewater Spent Carbon (W027)	1000#

The other wastes are not authorized for open burning.

4. Petitioner shall not flash equipment potentially contaminated with explosive waste pursuant to this provisional variance.
5. Open burning should only be conducted on calm, clear days during daylight hours when the wind velocity ranges between two and ten miles per hour.
6. Open burning shall not commence before 10 a.m. on any given day.
7. Petitioner shall maintain records for each burn and the specific type and weight of waste burned. Copies of these records are to be mailed monthly to:

John Justice, Regional Manager
Bureau of Air
Illinois Environmental Protection Agency
2009 Mall Street
Collinsville, IL 62234

8. Records detailing type of disposal along with types and weight of waste disposed, including transportation records, with dates are to be kept by Ensign and copies enclosed in the monthly mailings to Mr. John Justice.

IT IS SO ORDERED.

If Ensign 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 following address:

Rachel Doctors, Assistant Counsel

Division of Legal Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276

The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

Ensign accepts and agrees to be bound by all terms and conditions of the
 Pollution Control Board's March 7, 2002 order in PCB 02-118.

 Petitioner

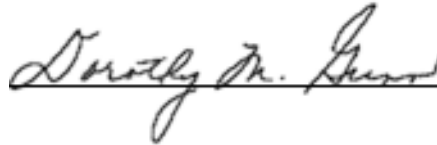
 Authorized Agent

 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 March 7, 2002, by a vote of 7-0.



Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board