

ILLINOIS POLLUTION CONTROL BOARD
August 1, 1996

GRACE CONTAINER PRODUCTS,)	
)	
Petitioner,)	
)	
v.)	PCB 97-24
)	(Provisional Variance - Air)
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)), Grace Container Products (Grace) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Grace to continue operating its facility while repairs are made to the catalytic oxidizer and the associated ventilation system which is part of its pollution control system. Such request for a provisional variance and the notification of recommendation was filed with the Board by the Agency on Tuesday, July 30, 1996. 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 Grace a 45-day provisional variance for its Cook County facility from 35 Ill Adm. Code 218.Subpart QQ and 415 ILCS 5/9(b) (1994) for the period commencing July 1, 1996 and continuing until the required repairs are completed, or after 45 days have elapsed, whichever comes first.

The Agency's provisional variance recommendation states that Grace operates a facility located at 6050 West 51st Street, Chicago, Cook County, Illinois which manufactures solvent-based can sealant.

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 45-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 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 218.Subpart QQ and 415 ILCS 5/9(b) (1994) for the period commencing July 1, 1996 and continuing until the required repairs are completed, or after 45 days have elapsed, whichever comes first, subject to the following conditions:

1. The term of this provisional variance shall commence on July 1, 1996 and continue until the required repairs to the catalytic oxidizer and associated ventilation system are completed, or after 45 days have elapsed, whichever comes first; and
2. Grace shall notify the Agency upon completion of the repairs to the catalytic oxidizer and associated ventilation system. Such notification shall be sent to:

Mr. Dave Kolaz
Illinois Environmental Protection Agency
Compliance and System Management Section
2200 Churchill Road
Springfield, IL 62794-9276

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of

_____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board