

ILLINOIS POLLUTION CONTROL BOARD
May 25, 1989

AMERICAN NATIONAL CAN COMPANY,)
)
 Petitioner,)
)
 v.) PCB 88-176
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

MR. MARK J. STEGER OF McBRIDE, BAKER & COLES, APPEARED ON BEHALF OF PETITIONER;

MR. JOSEPH R. PODLEWSKI, JR., APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon a Petition for Variance and Amended Petition for Variance filed November 1, 1988 and January 24, 1989, respectively, by American National Can Company ("ANC"). ANC requests variance until July 1, 1989 from the requirements of 35 Ill. Adm. Code 215.245 for flexographic and rotogravure printing operations in ozone non-attainment areas.

On December 14, 1988 the Illinois Environmental Protection Agency ("Agency") filed a recommendation that the requested relief be granted subject to conditions. On February 24, 1989 the Agency submitted an amended recommendation continuing with its position that the requested relief be granted, but requesting that an additional condition be imposed. Hearing was held on April 18, 1989 in Elgin. No members of the public were present. At hearing no information was presented in addition to that already contained in the documents submitted to date.

BACKGROUND

ANC's Batavia Plant, formerly owned by Guardian Packaging Corporation ("Guardian"), is located at 475 Kirk Road, Batavia, Kane County, Illinois. ANC's Batavia Plant is a flexible packaging manufacturing facility with flexographic and rotogravure printing capability as well as cast extrusion and laminating capability; the facility employs approximately 100 people. In the manufacturing process, various volatile organic materials ("VOM") are used in the printing, coating, and laminating of plastic film and paper (Pet. at 1). ANC's printing

operations (both flexographic and rotogravure) resulted in VOM emissions of over 425 tons in 1986 and over 490 tons in 1987 and 1988 (Agency Rec. at 2).

Regulatory History

Prior to November 9, 1987, ANC's predecessor, Guardian, was exempt from the requirements of 35 Ill. Adm. Code 215, Subpart P pursuant to the 1000 ton per year aggregate uncontrolled emissions exemption found at 35 Ill. Adm. Code 215.402. However, the Board on October 19, 1987 added Section 215.245 to, inter alia, lower the exemption applicable to Guardian (subsequently to ANC) and other similarly situated facilities to 100 tons per year. The amendment which became effective November 9, 1987, required compliance with the emissions limitations of Subpart P by December 31, 1987*.

Prior Variance

In anticipation of the new requirements to be imposed by Section 215.245, Guardian filed a permit application for construction of an incinerator and capture system with the Agency on December 12, 1986. The permit was issued by the Agency on April 9, 1987. Due to construction delays and work stoppages associated with the installation of the control equipment, Guardian filed for variance from Section 215.245 to obtain an extension of time to achieve compliance. On March 24, 1988, the Board granted Guardian, by then under ownership of ANC, variance from Section 215.245 until April 1, 1988 (see Guardian Packaging Corporation v. IEPA, Slip. Op. PCB 87-190, March 24, 1988). ANC contends that "the majority of the incineration/capture system was installed by April 1, 1988, and has been run since April, 1988" (Petition, para. 3). ANC itself now petitions for variance, believing additional time is necessary to complete further design, installation, and debugging of all control equipment, especially due to discovery of certain design deficiencies, as noted below.

* The Board notes that ANC requests variance only from Section 215.245, the Section which renders the Subpart P requirements applicable to the ANC facility. At other points in the record, the requested variance is referred to as variance from Subpart P or from Section 215.401. Section 215.401 contains limitations for flexographic and rotogravure printing and is itself contained in Subpart P. The Board construes these as references to variance from Section 215.245.

DESIGN DEFICIENCIES AND COMPLIANCE PLAN

ANC acquired Guardian in late 1987 and discovered several design deficiencies in the control system. In particular, the capture system did not afford adequate capture of VOM emissions from the presses. A consultant hired by ANC in July 1988 examined the capture system and concluded that additional time would be required to redesign and install the capture system to meet the requirements of the regulations.

In addition, in the course of debugging the operation of the control equipment on the rotogravure presses, two solvent explosions occurred. To prevent such occurrences in the future, ANC believes lower explosive limit (LEL) sensors and drier recirculation fans are necessary. In its amended petition, ANC states that these devices have been installed, but require further modification to ensure the proper operation of the VOM control equipment (Amended Pet. at 2).

Also in its amended petition, ANC noted further complications regarding the control equipment. ANC states that, in the course of operating the incinerator, excessive temperatures have been experienced causing the incinerator to shut down. ANC adds that the contractor who installed the incinerator has agreed to modify the incinerator system to install a heat exchanger bypass whereby a portion of the oven exhaust air will bypass the heat exchanger, and that excessive temperatures should not be experienced in the future.

ANC anticipates that the modifications and debugging of the control system will be completed by May 31, 1989. Thereafter, ANC will conduct a compliance test and submit a report to the Agency by July 1, 1989. Therefore, ANC anticipates compliance by, and requests variance until July 1, 1989 (Amended Pet. at 1-2).

The Agency notes that once operational, the thermal incinerator will control VOM emissions from certain flexographic presses and coaters. As the Agency states, "[b]ecause the thermal incinerator is expected to achieve 95% control, with proper capture afforded by the redesigned capture system the VOM emissions limits of 35 Ill. Adm. Code 215 Subpart P should be met easily" (Agency Rec. at 7). The Agency believes ANC is committed to achieving compliance by a date certain and deems ANC's compliance program acceptable as amended.

HARDSHIP

In addressing the matter of hardship, the Agency notes:

The Agency believes that immediate compliance with the VOM emissions limitation of Section 215.401 would

create an unreasonable hardship for [ANC]. . . Since April, 1988, [ANC] has taken steps to bring the VOM control system into compliance . . . while minimizing the adverse environmental affect of noncompliant operations. Unless [ANC] were granted the requested variance relief, its only compliance alternative would be to shut down its printing operations. It is likely that a shut down of the non-complying flexographic and rotogravure presses would cause a shut down of the entire [ANC] plant and a temporary loss of approximately 100 jobs. (Agency Rec. at 9-10)

In its amended recommendation the Agency further states:

The Agency believes that immediate compliance with the VOM emissions limitations of 35 Ill. Adm. Code 215, Subpart P would impose an unreasonable or arbitrary hardship. The [Agency] further believes that the granting of the additional relief requested would be consistent with federal law. (Agency Amended Rec. at 2)

ENVIRONMENTAL IMPACT

As noted earlier, ANC's facility is located in Batavia, Kane County. Kane County is a non-attainment area for ozone. The ozone monitor located closest to the ANC facility is in Elgin, Illinois. The Agency notes that no ozone exceedences were detected at this monitor in 1986 and 1987, with one exceedence recorded in 1988. The Agency further notes that there were multiple exceedences of the ozone ambient air quality standards ("AAQS") in the Chicago metropolitan area, and that "as a major hydrocarbon source in an ozone non-attainment area, [ANC] contributes, to a unquantified degree to the . . . violations of the ozone AAQS in northern Illinois" (Agency Rec. at 7).

At the time ANC filed its petition for variance in November 1988, ANC proposed to be in compliance by April 1, 1989, the beginning of the 1989 ozone season. Under its revised compliance schedule, compliance will not be achieved until July 1989, well within the 1989 ozone season. To lessen any adverse environmental impact which may result from the uncontrolled operation of ANC's flexographic and rotogravure printing processes during the first three months of the ozone season, the Agency recommends that the variance be conditioned to require operation of the incinerator from April 1, 1989 to July 1, 1989, to the maximum extent possible given plant health and safety concerns (Agency Amended Rec. at 2). This is in addition to other conditions requiring submission of reports and testing. The Board finds that this condition is appropriate with the need to minimize environmental impact during the term of the variance.

CONCLUSION

Based on the facts in this record, the Board finds that ANC would incur an arbitrary or unreasonable hardship if denied the requested relief. The Board also agrees with the parties that minimal environmental impact will occur, given that compliance is timely forthcoming, and by ANC's operation of its incinerator to the maximum extent possible during that portion of the 1989 ozone season included in the term of this variance. Accordingly, the variance will be granted subject to conditions consistent with this Opinion and the Illinois Environmental Protection Act.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

American National Can Company is hereby granted variance from 35 Ill. Adm. Code 215.245 for its facility located in Batavia, Illinois, subject to the following conditions:

1. Variance expires on July 1, 1989, or when compliance with 35 Ill. Adm. Code 215.245 is achieved, whichever occurs first.
2. During the term of this variance, ANC shall submit monthly written reports to the Agency detailing all progress made in achieving compliance with 35 Ill. Adm. Code 215, Subpart P at its plant located at 475 Kirk Road, Batavia, Illinois. The first monthly report will be due thirty (30) days from the date of the Board order granting the variance. These monthly reports shall include monthly VOM emission data from each printing press. The first monthly report shall also include copies of material data sheets showing the composition (in terms of percentage of solid, solvent and water) of all inks used during the flexographic and rotogravure printing processes. All of the above information shall be submitted to the Agency at the following address:

- 1) Manager, Permit Section
Division of Air Pollution Control
Illinois Environmental Protection Agency
1340 N. Ninth Street
Springfield, Illinois 62702
- 2) Manager, Field Operations Section
Division of Air Pollution Control
Illinois Environmental Protection Agency
1701 S. First Avenue
Suite 600
Maywood, Illinois 60153

3. ANC shall give thirty (30) days notice prior to the expected date of any stack test to the Agency's regional office and Emission Source Specialist at the address provided in Condition 2(2). The Agency's Emission Source Specialist shall be further notified within a minimum of five (5) working days of the exact date, time, and place of these tests, to enable Agency to witness these tests.
4. During that portion of the 1989 ozone season covered by this variance (April 1, 1989 to July 1, 1989), ANC shall operate its incinerator to the maximum extent possible, given plant health and safety concerns.
5. Within 45 days of the date of this Order, Petitioner shall execute and forward to Joseph R. Podlewski, Jr., Enforcement Attorney, Illinois Environmental Protection Agency, 1701 S. First Avenue, Suite 600, Maywood, Illinois 60153, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. The 45-day period shall be held in abeyance during any period that this matter is being appealed. Failure to execute and forward the Certificate within 45 days renders this variance void and of no force and effect as a shield against enforcement of rules from which variance was granted. The form of said Certification shall be as follows:

CERTIFICATION

I (We), _____, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 88-176, May 25, 1989.

Petitioner

Authorized Agent

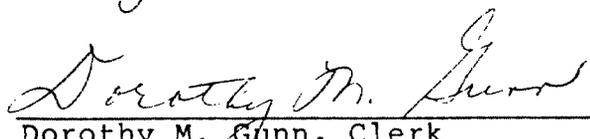
Title

Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111¹/₂ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 25th day of May, 1989, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board