

ILLINOIS POLLUTION CONTROL BOARD
February 20, 1985

PRECISION COATINGS, INC.,)
)
) Petitioner,)
)
) v.) PCB 84-117
)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
) Respondent.)

MR. JOHN VOELPEL (HONIGMAN, MILLER, SCHWARTZ & COHN), APPEARED ON BEHALF OF PETITIONER; AND

MS. BOBELLA GLATZ APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (BY J. D. Dumelle):

This matter comes before the Board on the August 3, 1984, petition for variance filed by Precision Coatings, Inc. (PCI) as amended on September 17, 1984. The amendment was withdrawn on December 3, 1984. PCI has questioned the applicability of Rule 205(n)(1)(c) of Chapter 2: Air Pollution*, to its film coating operation at Spring Valley, and has requested a variance until June 1, 1985. By that date an emission control unit with an efficiency of 90% will allegedly be operational. On November 19, 1984, the Illinois Environmental Protection Agency (Agency) filed a recommendation that a variance for Machine No. 2 emissions be granted. A hearing was held on November 28, 1984.

PCI owns and operates a plant located in Spring Valley, Bureau County. Bureau County is an attainment county for ozone. The plant has two coating machines in operation (Machine No. 1 and Machine No. 2). Polyester plastic film is coated with as many as six different coatings, depending upon the final use of the film. The facility was built in 1980, and until August,

*PCI uses the rule numbering system of old Chapter 2. The Board will, however, use the new codified section numbering system. The codification of applicable rules to 35 Ill. Adm. Code is as follows:

<u>Old Rule</u>	<u>New Section</u>
205(n)(1)(c)	215.204(c)
201	211.122

1983, was operating without any permits (Rec. 2). Section 215.204(c) requires that the Volatile Organic Compound (VOC) content for paper coating shall have an upper limit of 2.9 lb VOC/gal. Section 211.122 defines paper coating as "the application of a coating material to paper or pressure sensitive tapes, regardless of substrate, including web coating on plastic fibers and decorative coatings on metal foil."

In its original petition and at hearing, PCI argued that the 2.9 lb VOC/gal requirement for "paper coating" does not include their coating process because the substrate used is plastic film (R. 17-19). This argument is detailed in Exhibit "A" of the original variance petition. PCI essentially argues that the phrase "regardless of substrate" modifies "pressure sensitive tapes" and does not modify "paper." Thus, since the material which PCI coats is not paper or tape, as those words are commonly defined, PCI argues that Section 215.204(c) is inapplicable to its operation.

The Agency has hardly addressed this issue beyond the bald assertion that the "coating of plastic films or tapes in a facility producing VOC emissions was certainly within the intent of this definition" (Rec. p. 1). In fact, the Agency argues that the question of applicability is not before the Board since PCI "has committed itself, to some extent, to the application of this rule" by bringing a variance petition (R. 27).

The question is, however, properly before the Board. PCI has clearly chosen to request variance to avoid a possible enforcement action but has not agreed that the rule from which variance has been requested is applicable to it. This is a proper procedural mechanism which results in the question of applicability of the rule becoming the threshold issue. If the rule is inapplicable, no variance is necessary and no inquiry into arbitrary or unreasonable hardship need be made.

In determining the applicability of the rule in the absence of citations to case law or prior Board Opinions, the Board first notes that "acts which may be classed as in the interest of the public welfare or public health are entitled to receive a liberal construction" (3 OAG 2832). Further, the language of Section 211.122 indicates that the common definition of "paper" is inappropriate in determining the applicability of Section 215.204(c). If the common definition were presumed, the class of affected materials could not include "web coating" on plastic fibers and decorative coatings on metal foil" since those are applications to neither paper nor pressure sensitive tape. Thus, the phrase "regardless of substrate," must refer to both paper and to pressure sensitive tape. Despite the fact that the definition of paper coating is admittedly poorly drafted and that PCI's interpretation of the definition is understandable, the Board finds that the definition of "paper coating" was intended to include the coating of plastic film.

Through reformulation, the coating used for Machine No. 1 contains less than 2.9 lb VOC /gal and is, therefore, in compliance (Rec. 3). Reformulation was not successful, however, for coatings used for Machine No. 2 which has emissions of 5.7 lb VOC/gal. It is for that machine that variance is requested.

PCI has proposed to bring Machine No. 2 into compliance by installing a thermal oxidizer which has proven in its Michigan plant to be approximately 90% efficient in reducing VOC emissions. This would result in emissions of 0.57 lb VOC/gal. On September 5, 1984, the Agency issued a construction permit for the oxidizer and recommends that variance be granted until June 1, 1985, which should allow PCI the necessary time for construction and installation. PCI has estimated that eight months from the time of permit issuance should be sufficient (Pet. 4). The additional month will allow for operational adjustments.

The Board notes that the record contains less than a desirable amount of information regarding either the hardship to PCI or the environmental impact of granting variance. In its petition PCI states that "it simply cannot control emissions before...the early portion of the 1985 'ozone season,'" and that requiring compliance prior to June 1, 1985, "would impose an unreasonable hardship on PCI while providing no environmental benefit" (Pet. 4). PCI also states that since its plant is located in an attainment area, the "requested variance will impose no significant environmental impact on human, plant and animal life in the area" (Pet. 5).

On the other hand, five local residents testified regarding what they believe to be adverse environmental impacts resulting from PCI's operations. Three complained of damage to plants (R. 43, 49 and 50). One individual complained of damage to the crops in his fields, particularly soybeans, which he claimed was caused by emissions from PCI (R. 43). Another complained of damage to her shrubberies and trees (R. 53). On July 10, 1984, a representative from the Illinois Department of Agriculture inspected the plants (Rec. 7). He stated that the soybean damage appeared to be chemical or herbicidal damage, but determined that the damage to the shrubberies and trees could have been due to natural causes.

Trichloroacetic acid (TCA), emitted from Machine No. 1, is sometimes used as a herbicide (Rec. 7). According to information from PCI, up to 3 pounds per hour of TCA goes to the scrubber now attached to Machine No. 1. PCI believes that the wet scrubber is not working properly and may be causing mist entrainment, which could be the source of the complaints. It has informed the Agency that it is having stack tests done to determine TCA emissions and is seeking solutions from the manufacturer of the scrubber at this time.

The VOC materials in the emissions of Machine No. 2, which are ethanol, acetone, methyl ethyl ketone, ethyl acetate, and methanol, have a moderate degree of toxicity when in high concentrations. However, the Agency states there should not be any problems at the actual concentrations of these materials as emitted from PCI. Additionally, the VOC materials are not known to cause crop damage or damage to paint (Rec. 7). Thus, it appears that any adverse environmental impact, if it is caused by PCI's plant, results from operation of Machine No. 1 rather than the machine for which variance is requested. Therefore, the Board finds that the environmental impact of granting the variance will be minimal.

Emissions for Machine No. 2 prior to installation of air emission equipment would be 5.7 pounds of VOC per gallon of coating solution minus water; 128 pounds per hour VOC maximum; and 75 pounds per hour VOC average. The construction permit necessary for construction of the emission control unit for Machine No. 2, a regenerative type of thermal oxidation afterburner, has been issued by the Agency. The cost of the equipment is estimated to be \$225,000. Using the 90% control efficiency stated by the manufacturer, the emissions of organic material from Machine No. 2 after installation of the control equipment will be approximately 0.6 pounds of VOC per gallon of coating solution, less water, as compared to the regulatory limit of 2.9 pounds of VOC per gallon of coating solution, less water. Apparently, the only compliance alternative is to cease operations until the afterburner has been installed.

The Board finds that Machine No. 2 is located in an attainment area, that its emissions should not cause significant environmental harm, and that PCI has committed to the installation of control equipment which will bring emissions to one fifth of the required level within four months of the date of this Order. Therefore, the Board concludes that denial of variance would result in an arbitrary or unreasonable hardship and that variance should be granted.

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

ORDER

Precision Coatings, Inc. is hereby granted a variance from 35 Ill. Adm. Code 205.204(c) as it applies to its Machine No. 2 located at its Spring Valley plant, subject to the following conditions:

1. The variance expires on June 1, 1985;
2. Coating material delivered to the coating applicator of Machine No. 2 shall not exceed 5.7 lb/gal, excluding water;

3. A thermal oxidation afterburner shall be installed and properly operating to control emissions from Machine No. 2 by September 1, 1985; and

4. Within 45 days of the date of this Order, Precision Coatings, Inc., shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 84-117, dated February 20, 1985, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorize Agent

Title

Date

IT SO ORDERED.

Board Member B. Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of February, 1985, by a vote of 5-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board