

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2001

KIMBLE GLASS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-68
)	(Provisional Variance – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On December 4, 2001, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a retroactive provisional variance for the period of November 5 to November 7, 2001 to Kimble Glass, Inc. (Kimble). The provisional variance from 35 Ill. Adm. Code 212.321 and Title V Permit Conditions 7.5.5(b) and 7.5.6(a) would allow Kimble to lawfully operate its glass melting Furnace B during repair of its electrostatic precipitator. Kimble's facility produces commercial soda lime glass containers used in the food and beverage industries, and borosilicate glass containers used in pharmaceutical and other specialized industries. The facility is located at 1131 Arnold Street, Chicago Heights, Cook County.

The Agency states that failure to grant the retroactive provisional variance would impose an arbitrary or unreasonable hardship on Kimble. The information before the Agency indicated that Kimble did not have an approved schedule for performance of routine equipment cleaning, maintenance, and repair. While the Agency concluded that Kimble adequately justified its November request for a retroactive variance, the Agency notes that it did not recommend that the Board grant a provisional variance for 30 hours of routine maintenance work performed by Kimble in August, 2001. One of the recommended conditions for the grant of this variance is Kimble's development of a plan for routine equipment cleaning, maintenance, and repair to avoid the need for future provisional variances.

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 Kimble a retroactive provisional variance from 35 Ill. Adm. Code 212.321 and conditions 7.5.5(b) and 7.5.6(a) of its Title V Permit for the period of November 5 to November 7, 2001, subject to the following conditions:

1. The duration of this provisional variance is for 45 1/2 hours commencing on November 5, 2001 at 5:30 p.m. and ending on November 7, 2001 at 3:00 p.m. Kimble's air pollution control equipment was shut down for no longer than 45 1/2 hours during this period.
2. Within 45 days of the November 7, 2001 completion of repair (*i.e.* on or before December 22, 2001), Kimble must send the Agency a report detailing the cause of the malfunction and repair work details completed on the electrostatic precipitator, actions taken by Kimble to minimize emissions during the malfunction, and details on the process and emissions during the malfunction. This report should be sent to:

Illinois Environmental Protection Agency
Bureau of Air Compliance Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

3. In the August 20, 2001 request for a provisional variance, Kimble indicated its plans to work with the Agency to revise its Title V permit to include a condition that will allow Kimble to perform regularly scheduled cleaning, maintenance and repair so that, in the future, an emergency provisional variance will not be necessary. Within 90 days of the November 7, 2001 completion of repair (*i.e.* on or before February 5, 2002), Kimble must contact the Agency to work on this revision and develop a compliance plan and a schedule for proper operation and maintenance of the electrostatic precipitator. To arrange this revision, Kimble should contact personnel located at the following address:

Illinois Environmental Protection Agency
Bureau of Air Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

IT IS SO ORDERED.

If Kimble 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 (*i.e.* on or before December 16, 2001), forward the executed certificate to Joyce Embree at the Agency's Division of Legal Counsel at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

Kimble accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's December 6, 2001 order in PCB 02-68.

Petitioner

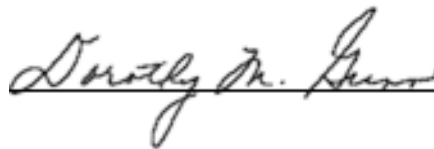
Authorized Agent

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 opinion and order on December 6, 2001, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board