

ILLINOIS POLLUTION CONTROL BOARD
March 7, 2002

BWAY CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 02-119
) (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 provisional variance for the period of February 25, 2002 to March 26, 2002 to Bway Corporation (Bway). The provisional variance from the requirements of 35 Ill. Adm. Code 218.204(b), 218.207(h)(2), and condition 7.2.5(a) of its Clean Air Act Permit Program (CAAPP) permit would allow Bway to repair its Smith thermal oxidizer at its metal decorating facility located at 3400 North Powell Avenue, Franklin Park, Cook County. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on Bway.

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 Bway a provisional variance from 35 Ill. Adm. Code 218.204(b), 218.207(h)(2), and condition 7.2.5(a) of its CAAPP permit subject to the following conditions:

1. Bway will obtain a construction permit addressing the emissions consequences of the shutdown and repair of the Smith thermal oxidizer, including Conditions 7.1.6 and 7.2.6, the NSR limits, prior to beginning repairs on February 25, 2002.

2. The duration of the provisional variance, commencing on February 25, 2002, and expiring on March 26, 2002.
3. Bway's Smith thermal oxidizer for lines CO-1, PC-2, and PC-5 will be shut down for no longer than the duration of this provisional variance.
4. Petitioner will minimize the uncontrolled volatile organic material (VOM) emissions by appropriately scheduling operations to lower the VOM emissions as much as practicable, both to reduce the VOM emissions and any potential odor problem during the period of the variance.
5. During the thermal oxidizer shut-down, Bway must keep the following records, and submit such records to the Agency within seven days of bringing the thermal oxidizer back on line:
 - a. The actual amount of VOM emitted to the atmosphere;
 - b. The actual time the thermal oxidizer was shut down and the actual time the thermal oxidizer was restarted and brought back on line;
 - c. A schedule detailing repairs made each day that the thermal oxidizer was shut down; and
 - d. A list of associated emission units in operation.
 - e. Records should be sent to:

Julie Armitage
Compliance Unit
Bureau of Air
Illinois EPA
P.O. Box 19276
Springfield, Illinois 62794-9276
6. Bway will perform a stack test to show compliance with its permit limits for the destruction efficiency of the Smith oxidizer within 30 days after the oxidizer is back on line. Petitioner will notify the Agency one week prior to the test to allow the Agency to observe testing.
7. When the pollution control equipment is returned to operation following repair, it must be maintained and operated according to the manufacturer's specifications and all applicable regulatory and permit requirements.

IT IS SO ORDERED.

If Bway 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:

Joyce Embree
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

Bway accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's March 7, 2002 order in PCB 02-119.

Petitioner

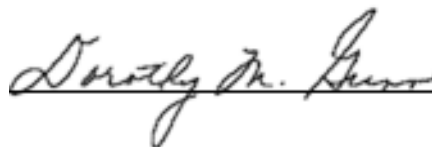
Authorized Agent

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