

ILLINOIS POLLUTION CONTROL BOARD
April 8, 1976

UNARCO INDUSTRIES, INC.)
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 Petitioner,)
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 v.) PCB 75-289
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ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

On July 25, 1975 Unarco Industries, Inc. (Unarco) filed a petition for variance from Rule 203(a) of the Air Pollution Control Regulations. On September 8, 1975 the Environmental Protection Agency (Agency) filed its Recommendation. The Board issued an Interim Order on October 9, 1975 requiring Unarco to submit additional information. On October 30, Unarco waived, for 90 days, the 90-day decision requirement. Unarco filed its Supplemental Petition before this Board on December 18, 1975, and further waived the decisional date on January 9, 1976. On January 28, 1976 the Agency filed an Amended Recommendation in which the Agency recommended that a variance be granted.

The facility in question is a porcelain-on-steel manufacturing plant located west of Paris, Illinois, in Edgar County. The plant employs 35-hourly and five salaried personnel, manufacturing procelain-on-steel sinks for the housing industry and certain porcelain component parts. The specific portion of this process that occasioned the instant petition is the spray application of finely milled porcelain enamel onto steel. During the spraying operation some of these particles are emitted from the spray booths into the atmosphere, via stacks 32 feet high, in violation of the particulate limits of Rule 203(a).

Unarco is presently in the process of installing a system designed to collect, at a 99.9% efficiency, particles above 1/2 micron in size. (Page 4 of Exhibit II) The projected cost is \$178,091.00. As Unarco states that the emitted dust consists only of particles of 3.75 microns and above (page 3 of Petition), there can be no doubt that the completed system would bring Unarco into compliance with particulate regulations. In fact, the processed air is to be recirculated back into the plant (Page 1, Exhibit 1).

Unarco shows that its emissions are not causing or contributing to a violation of Ambient Air Quality Standards in Bloomington or Champaign, Illinois (Page 5 of Petition). While these data are not conclusive as to the air quality near Unarco's plant, the small amount of the emissions (2.1 lbs/hr. from each of 3 spray booth assemblies) and the absence of any citizen complaints indicate no reason to suspect any significant adverse impact on ambient air quality according to the Agency (See page 5 of Recommendation).

The remaining issue is whether Unarco's delay in compliance (the regulation was effective as of December 31, 1973) has been self-imposed so as to negate Unarco's claim of unreasonable or arbitrary hardship. On page 8 of its Supplemental Petition Unarco comments:

"This has not been a situation of a manufacturer claiming a necessity to choose between either increased corporate profits or the spending of extra profits on pollution control devices. Instead, it is a manufacturer struggling to get an operation off the ground, while at the same time attempting to meet the various environmental requirements."

Unarco has asserted facts which would tend to support this generous language. Indeed, Unarco speaks of several crisis situations, since it obtained the plant in February 1973, which required serious evaluation and justification for keeping the plant open. In early summer of 1974 Unarco became aware that it would lose its prime customer. During May, 1975, Unarco was ordered by its home office to evaluate the effects of a natural gas cutback.

However, from the period of February, 1973 to early summer of 1974 Unarco states that its failure to act on the problem in question was due to the allocation of its financial and manpower resources to three other environmental projects which were of greater consequence. Knowing that it was in violation of Rule 203(a), Unarco decided to: 1) not remedy the problem, and 2) not apply for a variance. Unarco has certainly not demonstrated that it could not have afforded the cost of

preparing and filing a petition for variance. The evidence submitted, voluminous as it is, does not satisfactorily explain Unarco's failure to petition for a variance until July of 1975. However, Unarco appears to have been otherwise earnest in its attempts to comply with the Board's regulations. It is arguable that, given the lack of funds to accomplish compliance, the delay did not cause substantial additional environmental damage. Further, the loss of Unarco's prime customer and decisions on the economic viability of this recently purchased plant do explain substantial parts of the lengthy delay.

On balance, the Board finds that compliance with Rule 203(a) would have caused an unreasonable hardship for Unarco, and that Unarco's delay was substantially explained. However, it is not the loss of a customer or the allocation of funds to other projects which the Board views in mitigation of Unarco's failure to take steps necessary to obtain compliance with Rule 203(a). The mitigating factor is the economic hardship which was caused by these occurrences. These other hardships combine to make compliance with Rule 203 a sufficiently arbitrary and unreasonable hardship to outweigh even Unarco's lengthy delays. Yet even that finding could have been outweighed in this case had Unarco's emissions constituted a more significant threat to the environment.

The Board finds that a variance until May 15, 1976 should allow Unarco adequate time to diligently complete the construction of its frit particulate collection system. Due to the nearness of Unarco's completion date for the collection system, no performance bond will be required.

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

ORDER

1. Petitioner Unarco Industries, Inc., is hereby granted variance from Rule 203(a) of the Air Pollution Control Regulations from July 25, 1975 until May 15, 1976.
2. Petitioner Unarco Industries, Inc., shall, as a condition of this variance, submit monthly reports to the Agency detailing its progress towards completion of its compliance program. These progress reports shall begin on the first day of the month following the Board Order and shall be submitted on the first day of each month thereafter until the project is completed. The

progress reports will be submitted to:

Environmental Protection Agency
Division of Air Pollution Control
Control Program Coordinator
2200 Churchill Road
Springfield, Illinois 62706

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of April 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board