

ILLINOIS POLLUTION CONTROL BOARD
December 19, 1996

UNITED STATES TOBACCO)	
MANUFACTURING CO.,)	
)	
Petitioner,)	
)	
v.)	PCB 97-108
)	(Provisional Variance - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), United States Tobacco Manufacturing Co. (USTMC) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow USTMC to continue operating its facility while maintenance is performed to the regenerative thermal oxidizer (RTO) which is part of its pollution control system. Such request for a provisional variance and the notification of recommendation was filed with the Board by the Agency on Wednesday, December 18, 1996. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant USTMC a four (4) day provisional variance for its Cook County facility from 35 Ill Adm. Code 218.Subpart TT for the period commencing February 10, 1997 and expiring on February 14, 1997.

The Agency's provisional variance recommendation states that USTMC operates a facility located at 11601 Copenhagen Court, Franklin Park, Cook County, Illinois which processes tobacco.

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that due to unforeseen, temporary and uncontrollable circumstances, failure to grant the requested 45-day provisional variance would impose an arbitrary or unreasonable hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35(b) & 36(c).) In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal

order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill Adm. Code 218.Subpart TT for the period February 10, 1997 and continuing until the required repairs are completed, or after four (4) days have elapsed, whichever comes first, subject to the following conditions:

1. The term of this provisional variance shall commence on February 10, 1997 and will expire on February 14, 1997;
2. The RTO may be shut down for a single period not to exceed 24 hours;
3. The USTMC shall notify the Agency's Maywood, Illinois Regional Office by telephone, at 708/338-7900, before the RTO is taken off line and again after the RTO is brought back on line;
4. During the shutdown, USTMC shall keep the following records, and submit such records to the Agency within seven (7) days of bringing the RTO back on line:
 - a. Actual amounts of VOM emitted to the atmosphere;
 - b. A detailed report of all maintenance performed on the RTO;
 - c. The actual time the RTO was shutdown and the actual time the RTO is restarted and brought back on line; and
 - d. A list of all associated emission units in operation during the times reported in paragraph c above.
5. USTMC shall submit the records to:

John Stefan
Bureau of Air
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board