

ILLINOIS POLLUTION CONTROL BOARD  
May 18, 1995

AMOCO OIL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 95-145  
 ) (Provisional Variance-Air)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Amoco Oil Company (Amoco) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Amoco's gasoline dispensing operation (service station) to continue operating even though it did not install operational vapor recovery equipment by May 15, 1995. This provisional variance is being requested because the Woodridge station will be demolished and rebuilt after receipt of a needed zoning variance from the Village of Woodridge, which Amoco expects to receive on May 25, 1995. This request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, May 16, 1995. 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 Amoco a ten (10)-day provisional variance for its facility located at Route 53 and Hobson Rd, Woodridge, DuPage County in the Chicago metropolitan statistical area from the Stage II vapor recovery requirements, as set forth in 35 Ill. Adm. Code 218.586, for the period beginning May 16, 1995 and continuing for ten (10)-days or until the required vapor recovery equipment is installed, whichever comes first.

This recommendation is essentially that the Board extend a previously-granted forty-five (45)-day provisional variance that expired May 15, 1995. The docket number of the previous provisional variance was PCB 95-130, granted on April 20, 1995. That prior provisional variance was itself an extension of the

variance granted on January 11, 1995 in PCB 94-263.<sup>1</sup>

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that the failure to grant the requested ten (10)-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 notifying the Board 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 218.586, subject to the following conditions:

1. The term of this provisional variance shall commence on May 16, 1995 and continue for ten (10)-days or until the required vapor recovery equipment is installed, whichever comes first.
2. In addition, Amoco, as it states in its request, will not dispense gasoline at either of these operations if the National Weather Service indicates that the temperature for

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<sup>1</sup> Section 36(c) of the Act imposes limitations on the Board's ability to extend a provisional variance:

Any provisional variance granted by the Board pursuant to subsection (b) of Section 35 shall be for a period of time not to exceed 45 days. Upon receipt of a recommendation from the Agency to extend this time period, the Board shall grant up to an additional 45 days. The provisional variances granted to any one person shall not exceed a total of 90 days during any calendar year.

Since the variance granted in PCB 95-130 expired May 15, 1995, and fewer than ninety (90) days of variance will have elapsed in this calendar year by the expiration of the variance requested in the present petition, the Board interprets Section 36(c) as allowing Amoco the Agency-recommended ten (10)-day extension.

the following day will be above 88°F. Amoco will notify Mr. Terry Sweitzer, or his designee, by telephone at 217/782-1733 should this action be necessary.

3. The petitioner shall notify the Agency upon installation of the Stage II gasoline vapor recovery equipment, by sending notification addressed as follows:

Mr. Terry Sweitzer, P.E.  
Manager, Air Monitoring Section  
Illinois Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Amoco will cease dispensing gasoline at the Woodridge gasoline dispensing operation after May 25, 1995, if Stage II vapor recovery has not been installed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 18<sup>th</sup> day of May, 1995, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board