

ILLINOIS POLLUTION CONTROL BOARD  
February 17, 1994

SMITH OIL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 94-62  
 ) (Provisional Variance)  
 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)), Smith Oil Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Smith Oil Company's gasoline dispensing operations (service station) to continue operating even though it did not install operational vapor recovery equipment by November 1, 1993. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, February 15, 1994. 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 Smith Oil Company a forty-five (45)-day provisional variance for its facilities located in Will 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 February 6, 1994, and continuing for forty-five (45) days or until the required vapor recovery equipment is installed, whichever comes first.

This recommendation is essentially that the Board extend a previously-granted provisional variance that expired February 4, 1994. The docket number of the previous provisional variance was PCB 94-30, granted on January 20, 1993.

The Agency's provisional variance recommendation states that Smith Oil Company has requested a provisional variance on behalf of its service station in the Chicago area, located as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Will	Wilmington	705 West Baltimore Street

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that the failure to grant the requested forty-five (45)-day provisional variance would impose an arbitrary or unreasonable hardship on the petitioner. The

Agency recommendation states that installation of Stage II vapor recovery equipment at the Smith Oil Company facilities is not possible by the November 1, 1993 deadline for compliance because frost and ground conditions and adverse weather has prevented it from installing vapor recovery equipment for its gasoline dispensers before the compliance deadline.

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.

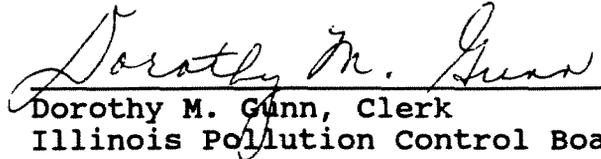
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

1. The term of this provisional variance shall commence on February 6, 1994, and it shall expire on the date the petitioner completes the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45) days have elapsed, whichever comes first;
2. The petitioner shall notify the Agency of the installation of the 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

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 17<sup>th</sup> day of February, 1994, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board