

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1993

PHILLIPS 66 COMPANY,)
)
 Petitioner,)
)
 v.) PCB 93-252
) (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)), Phillips 66 Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of Phillips 66 Company's gasoline dispensing operations (service stations) to continue operating even though they 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, December 14, 1993. 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 Phillips 66 Company a forty-five (45)-day provisional variance for twenty-three (23) of its facilities¹ located in seven (7) Counties 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 November 29, 1993, and continuing for forty-five (45) days or until the required vapor recovery equipment is installed, whichever comes first.

The Agency's provisional variance recommendation states that Phillips 66 Company has requested a provisional variance on behalf of numerous of its service stations in the Chicago area, located as follows:

<u>County</u>	<u>Number of Stations</u>
DuPage	7
Cook	5
Kane	5
Will	3
Kendall	1

¹ The Agency recommendation states twenty (20) facilities, but it actually lists twenty-three (23) facilities.

Lake	1
McHenry	1

The addresses of those stations are listed as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Cook	Burbank	5149 West 79th Street
Cook	Chicago	2010 West Marquette Road
Cook	Country Club Hills	18280 South Pulaski
Cook	Oak Forest	15229 South Cicero
Cook	Wheeling	14 North Elmhurst Road
DuPage	Carol Stream	1440 Army Trail Road
DuPage	Elmhurst	524 Old South York Road
DuPage	Warrenville	28 West 244 Aurora Road
DuPage	West Chicago	1307 Route 59
DuPage	Wheaton	331 Rice Lake Square
DuPage	Willowbrook	6949 Kingery Highway
DuPage	Woodridge	2340 West 75th Street
Kane	Aurora	1331 North Farnsworth
Kane	Batavia	108 North Batavia Road
Kane	Batavia	200 Fabyan Parkway
Kane	Montgomery	602 East Montgomery Road
Kane	Sugar Grove	42 West 400 Galena Boulevard
Kendall	Oswego	2501 Light Road
Lake	Waukegan	2500 West Washington
McHenry	Algonquin	2390 East Algonquin
Will	Frankfort	400 North LaGrange Road
Will	Lockport	14747 West 159th Street
Will	Plainfield	451 South Division 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 Petitioner. The Agency recommendation states that installation of Stage II vapor recovery equipment at the Phillips 66 Company facilities is not possible by the November 1, 1993 deadline for compliance because vapor recovery equipment for its gasoline dispensers was not available 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) & (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.

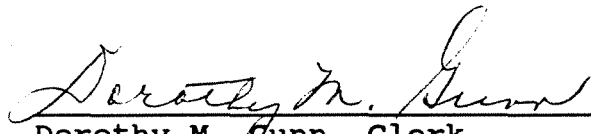
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

1. The term of this provisional variance shall commence on November 29, 1993, 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 16th day of December, 1994, by a vote of 7-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board