

ILLINOIS POLLUTION CONTROL BOARD
March 2, 1995

ILLINOIS PETROLEUM)	
MARKETERS ASSOCIATION,)	
)	
Petitioner,)	
)	
v.)	PCB 95-67
)	(Provisional Variance-Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by R.C. Flemal):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Illinois Petroleum Marketers Association (IPMA) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of IPMA's member gasoline dispensing operations (service stations) to continue operating even though they did not install operational vapor recovery equipment by November 1, 1994. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, February 28, 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 IPMA's members a forty-five (45)-day provisional variance for sixty-two (62) of its member facilities located in six (6) 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 February 2, 1995 and continuing for forty-five (45)-days or until the required vapor recovery equipment is installed, whichever comes first.¹

The Agency's provisional variance recommendation states that IPMA has requested a provisional variance on behalf of sixty-two (62) of its members facilities (service stations) in the Chicago

¹ The Board previously granted a provisional variance to the IPMA that expired December 15, 1994. The docket number of the previous provisional variance was PCB 94-366, granted on December 1, 1994. Two individuals, Elmhurst Shell and Gas Stop were granted individual provisional variances on January 11, 1995. The docket numbers of the previous provisional variances were PCB 95-21 and PCB 95-23.

area, located as follows:²

County	Number of Stations
Cook	40
DuPage	8
Kane	7
Lake	2
McHenry	3
Will	2

The addresses of those stations are listed as follows:

County	Facility	Street Address	City
Cook	AFS Summit	7665 Lawndale	Summit, IL 60501
Cook	AFS Northlake	2 E. Lake St.	Northlake, IL 60164
Cook	AFS Halsted-The Spot	222 N. Halsted	Chicago, IL 60606
Cook	Alsip Gas	12249 S. Cicero	Alsip, IL 60658
Cook	Angelo's Service Station	242 Waukegan Rd.	Glenview, IL 60025
Cook	Arlington Kwik Stop	301 W. Central Rd	Arlington Heights, IL
Cook	Ashland Bryn Mawr 76	5550 N. Ashland Ave.	Chicago, IL 60640

²Section 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 variances granted on January 11, 1995 in PCB 95-21 and PCB 95-23 both expired on January 29, 1995, and fewer than ninety (90) days elapsed in this calendar year, the Board interprets Section 36(c) as allowing Elmhurst Shell and Gas Stop the Agency recommended forty-five (45)-day extensions.

Cook	Austin Service	6005 W. 35th St.	Cicero, IL 60650
Cook	Bam's Inc. Citgo	2816 W. Irving Park	Chicago, IL 60618
Cook	Belmont-Kostner 76	4357 W. Belmont Ave.	Chicago, IL 60641
Cook	Bridgeview Phillips	8849 S. Harlem	Bridgeview, IL 60455
Cook	C+X Enterprises	14941 Dixie Hwy.	Harvey, IL
Cook	Carreon Phillips 66	2346 N. Western Ave.	Chicago, IL 60647
Cook	Diversey-Central Park 76	3559 W.Diversey Ave.	Chicago, IL 60647
Cook	Dolton Gas	14209 S. Lincoln	Dolton, IL
Cook	F & O Service	3001 W. Belmont Ave.	Chicago, IL 60618
Cook	Flossmoor Service Station	2733 Flossmoor Rd.	Flossmoor, IL 60422
Cook	Gas Stop	901 N. Pulaski	Chicago, IL 60630
Cook	Grand & Wolf	2900 N. Wolf Rd	North Lake, IL 60014
Cook	Harders Gas & Pantry	1546 S. Lombard	Berwyn, IL 60402
Cook	Indian Head Citgo	6600 S. Willow Springs Rd.	LaGrange, IL 60525
Cook	Jim's Phillips 66	7400 W. Roosevelt	Forest Park, IL 60130
Cook	LaGrange & Ogden Service	40 N. LaGrange Rd.	LaGrange, IL 60525
Cook	Marquette Gas	4300 W. 67th St.	Chicago, IL 60629
Cook	Midway Phillips	4710 W. 63rd St.	Chicago, IL
Cook	Oak Park 76 Service	333 Lake St.	Oak Park, IL 60302
Cook	Ogden & Carrol Service Stations	335 N. Ogden Ave.	Chicago, IL
Cook	Palos Petroleum	12301 S. 80th Ave.	Palos Park, IL
Cook	Pete's Phillips	6717 W. 79th St.	Burbank, IL
Cook	Petro Service Station	7100 S. Martin Luther King Dr.	Chicago, IL 60619
Cook	R & A Citgo	3037 W. 63rd St.	Chicago, IL 60629
Cook	Raffco II Unocal	3700 W. 111th St.	Chicago, IL 60655
Cook	Raj Citgo	11200 W. 31st St	Westchester, IL 60154
Cook	Ruben's Mobil	5726 N. Nagle	Chicago, IL 60646

Cook	Sheppard's Gas for Less	874 E. Higgins	Elk Grove Village, IL 60007
Cook	Twist Service, Inc.	5200 W. Addison St.	Chicago, IL 60641
Cook	Tuxedo Junction	4701 S. Western Blvd.	Chicago, IL 60609
Cook	Uptown Service Station	4900 N. Broadway	Chicago, IL 60640
Cook	Village Tire	1530 S. Hermen	Northbrook, IL 60062
Cook	Western Citgo	8258 S. Western	Chicago, IL 60620
DuPage	Bensenville Citgo	1156 S. York Rd.	Bensenville, IL 60106
DuPage	Elmhurst Shell	152 N. Addison Ave.	Elmhurst, IL 60126
DuPage	Naperville Union 76	2300 N. Rt. 59	Naperville, IL 60540
DuPage	Petro Oil Co.	154 S. York	Bensenville, IL 60106
DuPage	Ronlin Auto Center Inc.	47 E. 55th St.	Westmont, IL 60559
DuPage	Roselle's Service Center	445 E. Irving Park	Roselle, IL 60172
DuPage	Shannon's Specialty	610 S. Main	Lombard, IL 60148
DuPage	Willowbrook Citgo	6900 S. Rt. 83	Willowbrook, IL 60514
Kane	Elgin Car Wash	313 Dundee Ave	Elgin, IL 60120
Kane	Geneva Carwash	618 S. First	Geneva, IL 60134
Kane	Goding's Union 76	1150 Prairie St	Aurora, IL 60506
Kane	Harper Oil Co. #26	1116 E. New York	Aurora, IL 60505
Kane	Kimball "66"	50 Kimball	Elgin, IL 60120
Kane	Petro Pantry	601 Villa	Elgin, IL 60120
Kane	W-D Oil Co.	1775 S. LaFox	S. Elgin, IL 60177
Lake	Seitz Corp	530 N. Western Ave	Lake Forest, IL 60045
Lake	Waukegan Public Works	1700 McAree Rd.	Waukegan, IL 60085
McHenry	Harvard Amoco	360 S. Division	Harvard, IL 60033
McHenry	Boncosky Oil	4019 Main St.	McHenry, IL 60050

McHenry	Boncosky Food & Fuel	400 Northwest Highway	Fox River Grove, IL 60021
Will	Scotts U Save	3400 S. Union St.	Steger, IL 60475
Will	Wilmington Citgo	809 E. Baltimore	Wilmington, IL 60481

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 IPMA member facilities was not possible by the November 1, 1994 deadline for compliance because the IPMA's member facilities had contracted for the purchase and installation of vacuum assist vapor recovery equipment, but that the equipment and the crews necessary to install it were 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) & 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 each of IPMA's member service stations listed on pages 1 thru 4 above 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 2, 1995 and it shall expire on the date each of IPMA's member service stations complete the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45)-days have elapsed, whichever comes first;
2. Each of IPMA's member service stations 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

Each of IPMA's member service stations shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy addressed as follows:

Illinois Environmental Protection Agency
Division of Legal Counsel
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Attention: Brooke Peterson

Each of IPMA's member service stations shall forward that copy within forty-five (45) days of the date of this order of the Board, and The Certificate of Acceptance shall take the following form:

CERTIFICATION

I (We), _____, hereby accept and agree to be bound by all terms and conditions of the order of the Pollution Control Board in PCB 95-67, March 2, 1995.

Petitioner

Authorized Agent

Title


Facility

Facility Address

Date

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 2nd day of March, 1995, by a vote of 5-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board