

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1994

MOBIL OIL CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 94-64
) (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)), Mobil Oil Corporation has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of Mobil Oil Corporation'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, 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 Mobil Oil Corporation a forty-five (45)-day provisional variance for seventy-four (74) of its facilities located in five (5) 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 January 30, 1994, and continuing for forty-five (45) days or until the required vapor recovery equipment is installed, whichever comes first.¹

This recommendation is essentially that the Board extend previously-granted forty-five (45)-day provisional variances that expired January 29 and February 24, 1994. The docket numbers of the previous provisional variances were PCB 94-4, as to forty-five (45) facilities, and PCB 94-8, as to thirty-eight (38) of forty-six (46) facilities, granted on January 6, 1994 and both

¹ This recommendation basically concerns two groups of facilities: those granted provisional variances that expired January 29, 1994 (PCB 93-199 and PCB 93-212, extended in PCB 94-4 and PCB 94-8), and a single station granted a provisional variance in PCB 94-36, which expires on February 24, 1994. The Agency-recommended term of this provisional variance is forty-five (45) days beginning January 30, 1994 as to all stations involved.

expiring on January 29, 1994, and PCB 94-36, granted on January 20, 1994, granted as to one facility and expiring on February 24, 1994. The prior PCB 94-4 and PCB 94-8 provisional variances were themselves extensions of forty-five (45)-day provisional variances granted on October 27, 1993 in PCB 93-199, as to forty-five (45) facilities, and on November 4, 1993 in PCB 93-212, as to forty-six (46) facilities.²

The Agency's provisional variance recommendation states that Mobil Oil Corporation 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>
Cook	38
DuPage	23
Lake	11
Kendall	1
Will	1

The addresses of those stations are listed as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Cook	Arlington Heights	3005 E. Rand Road
Cook	Arlington Heights	1880 S. Arlington Heights Rd
Cook	Buffalo Grove	1200 W. Dundee Road
Cook	Calumet City	2074 Sibley Boulevard
Cook	Chicago	2801 W. Diversey Avenue
Cook	Chicago	4001 W. Irving Park Road

² 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 variances granted in PCB 94-4 and PCB 94-8, which expired January 29, 1994, and PCB 94-36, which expires February 24, 1994, and fewer than ninety (90) days elapsed in this calendar year, the Board interprets Section 36(c) as allowing Mobil Oil Corporation the Agency-recommended forty-five (45)-day extension.

Cook	Chicago	9901 S. Halsted Street
Cook	Chicago	7601 S. State Street
Cook	Des Plaines	9701 Milwaukee Avenue
Cook	Des Plaines	800 W. Oakton Street
Cook	Elk Grove Village	1600 Nerge Road
Cook	Elk Grove Village	8 E. Higgins Road
Cook	Elk Grove Village	1699 Landmeier Road
Cook	Hanover Park	6800 Barrington Road
Cook	Hoffman Estates	615 W. Higgins Road
Cook	Hoffman Estates	1700 W. Algonquin Road
Cook	Hoffman Estates	2595 W. Golf Road
Cook	Lincolnwood	6777 Lincoln Avenue
Cook	Lincolnwood	6401 N. Cicero Avenue
Cook	Matteson	4801 W. 211th Street
Cook	Morton Grove	7951 Golf Road
Cook	Norridge	8339 W. Lawrence Avenue
Cook	Northbrook	1999 Willow Road
Cook	Oak Lawn	8700 S. Cicero Avenue
Cook	Oak Lawn	10240 S. Crawford
Cook	Orland Park	14300 96th Avenue
Cook	Palatine	1228 Dundee Road
Cook	Palatine	1800 S. Roselle Road
Cook	Palatine	1490 N. Quentin Road
Cook	River Forest	754 N. Harlem Avenue
Cook	River Grove	8359 W. Grand Avenue
Cook	Rolling Meadows	2101 Hicks Road
Cook	Rosemont	9401 W. Higgins Road
Cook	Schaumburg	780 E. Schaumburg Road
Cook	Schaumburg	1601 E. Algonquin Road
Cook	Schaumburg	1530 W. Schaumburg
Cook	Skokie	4002 Dempster Street
Cook	Streamwood	2 S. Sutton Road
DuPage	Addison	20 W 561 Lake Street
DuPage	Carol Stream	870 W. Army Trail Road
DuPage	Downers Grove	2181 63rd Street
DuPage	Elmhurst	1000 N. York Street
DuPage	Glendale Heights	234 Army Trail Road
DuPage	Glendale Heights	1202 Bloomingdale Road
DuPage	Itasca	1150 W. Irving Park Road
DuPage	Itasca	1400 Arlington Heights Road
DuPage	Lombard	435 W. Roosevelt Road
DuPage	Lombard	2150 S. Highland Avenue
DuPage	Naperville	1598 W. Ogden Avenue
DuPage	Naperville	1280 W. Ogden Avenue
DuPage	Naperville	1420 E. Ogden Avenue
DuPage	Naperville	1671 N. Route 59
DuPage	Naperville	20 E. Odgen Avenue
DuPage	Naperville	8S080 Route 59
DuPage	Naperville	1576 S. Washington
DuPage	Naperville	988 South Route 59
DuPage	West Chicago	27 W 210 N. Avenue
DuPage	Westmont	798 E. Odgen Avenue

DuPage	Willowbrook	7675 Kingery Highway
DuPage	Wood Dale	1000 N. Wood Dale Road
DuPage	Woodridge	1940 75th Street
Kendall	Montgomery	1987 Douglas Avenue
Lake	Barrington	504 E. Main Street
Lake	Buffalo Grove	1248 N. McHenry Road
Lake	Deerfield	650 Waukegan Road
Lake	Gurnee	6155 W. Grand Avenue
Lake	Highland Park	2580 Skokie Valley
Lake	Highland Park	1333 Half Day Road
Lake	Highwood	1000 Sheridan Road
Lake	Lake Zurich	650 S. Rand Road
Lake	Lake Bluff	2 Waukegan Road
Lake	Vernon Hills	485 W. Route 60
Lake	Vernon Hills	294 E. Route 60
Will	Crest Hill	1800 N. Plainfield

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 Mobil Oil Corporation facilities is not possible by the November 1, 1993 deadline for compliance because vapor recovery equipment for Gilbarco dispensers having Dresser Wayne controls is still under development and Tokheim is still in the last stages of CARB approval for vapor recovery equipment for its gasoline dispensers, and that equipment 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) & 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:

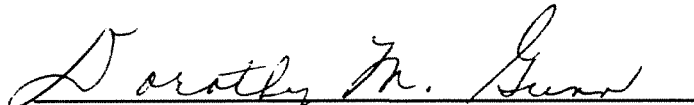
1. The term of this provisional variance shall commence on January 30, 1994, and it shall expire on the date the petitioner completes the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45) days have elapsed, whichever comes first;

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 17th day of February, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board