

ILLINOIS POLLUTION CONTROL BOARD
May 28, 1981

OUTBOARD MARINE CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 80-211
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by I. Goodman):

Outboard Marine Corporation (OMC) petitioned the Board on November 13, 1980 for variance from Rule 205(j) and Rule 205(k) (3) of the Board's air pollution control rules and regulations (Chapter 2) from July 1, 1980 to April 1, 1981. Hearing was waived. The Agency submitted its recommendation on March 2, 1981 that the Board deny variance, stating that OMC's hardship was self-imposed.

OMC manufactures powered products at its Waukegan, Lake County, plant, producing various components for these products and conducting various machining and painting operations. Eighteen degreasers were used by OMC before the Board's adoption on July 12, 1979 of the rules in question, which prohibit operation of cold cleaning, open top, and conveyORIZED degreasers without the specified control equipment on and after July 1, 1980. In August of 1979 OMC retained a consultant in order to install the necessary controls (amended April, 1980, see Petition, Ex. B).

On February 7, 1980 OMC filed its Compliance Schedule under Rule 104(g)(1) with the Agency. The CS was approved on March 14, 1980. Due to a layoff of 40% of OMC's management personnel, including engineering staff, caused by decreased sales, the particular specifications for the retrofiting were not finalized until June of 1980. The problem was exacerbated by the supplier's proposal having been amended in April, 1980, and the particular operating decisions not having been finalized until August of 1980. Equipment delivery is scheduled to begin in December, 1980 and end in March, 1981. OMC applied for a construction permit at some time between March and October of 1980.¹

¹OMC appealed the permit in PCB 80-210, dismissed on February 19, 1981 on the representation that the Agency had "reissued" the permit on an unspecified date.

The hardship alleged in not extending the compliance date by ten months is that OMC could not meet the July 1, 1980 date due to occurrences beyond its control. OMC has endeavored to reduce VOC emissions during the ten months by temporarily covering the degreasers when not in use, increasing the frequency of its inspections, and providing personnel with written instructions to follow in the event of abnormal operations. An Agency intraoffice memorandum shows that the shutting down of seven of OMC's eighteen degreasers reduced annual solvent usage by 36,867 gallons, 28% of total usage, which would cause a corresponding 28% decrease in hydrocarbon emissions. Although grant of variance will allow an increase in allowable hydrocarbon emissions from the Waukegan facility, OMC's past actions have minimized this increase. The Board concludes that there will be no significant increased effect on nonattainment areas which would be affected by grant of the variance, e.g., downwind of Waukegan. Indeed, by April 1, 1981 OMC expects to be in full compliance with Rule 205(k)(3).

The Agency recommends denial of the variance solely because, it alleges, the hardship experienced is neither arbitrary nor unreasonable. It states that "the problem of sales slumps and resulting layoffs of personnel are a situation facing corporations and businesses throughout the United States" (Rec.,p.10), and that "Petitioner should have been able to anticipate" such economic problems (Rec.,p.11). The recommendation makes no mention of steps OMC has and is taking to minimize emissions, nor does it distinguish between layoffs in general and the 40% layoff experienced by OMC.

In light of the efforts of OMC to meet the July 1, 1980 deadline by contracting for the purchase of proper equipment; the layoff of engineering personnel necessarily involved in ensuring compliance; the time spent after March 14, 1980 in applying for a construction permit; the attention given to compliance strategy; the fact that OMC's removal of seven degreasers accomplished an emission reduction which mitigates the emission increase which will occur during the next ten months; and, finally, the lack of substantial harm to public health; the Board finds that an unreasonable hardship exists and will grant variance from Rule 205(j). Variance from Rule 205(k)(3) is unnecessary. The Board notes, for purposes of the existing SIP, the compliance date therein of December 31, 1982, and notes, for purposes of the 1982 SIP, the extension of the primary ozone air quality attainment date to December 31, 1987. 40 C.F.R. §52.723(a).

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. Outboard Marine Corporation be and hereby is granted variance from Rule 205(j) of Chapter 2, Air Pollution Control Rules and Regulations, from July 1, 1980 to April 1, 1981.

2. Within 45 days of the date of this Order, Outboard Marine Corporation shall execute and forward to the Illinois Environmental Protection Agency, Variance Unit, 2200 Churchill Road, Springfield, IL 62706, a Certification of acceptance and agreement to be bound by all conditions of this variance. The 45-day period shall be held in abeyance if Outboard Marine Corporation seeks judicial review of this Order. The form of said Certification shall be as follows:

I, (We,) _____ having read the Order of the Illinois Pollution Control Board in PCB 80-211, dated _____, understand and accept the Order and agree to be bound by all of its terms and conditions.

_____, Petitioner

_____, Authorized Agent

_____, Title

_____, Date

3. Variance from Rule 205(k)(3) of Chapter 2, Air Pollution Control Rules and Regulations, is denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 28th day of May, 1981 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board