

ILLINOIS POLLUTION CONTROL BOARD
May 11, 1995

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|------------------------|---|----------------------------|
| UNITED STATES TOBACCO |) | |
| MANUFACTURING COMPANY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 95-141 |
| |) | (Provisional Variance-Air) |
| 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)), United States Tobacco Manufacturing Company (USTMC) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow USTMC's tobacco processing facility to continue operating even though it did not install operational emission capture and control equipment by March 15, 1995. This provisional variance is being requested because USTMC had contracted for the purchase and installation of the air pollution emission capture and control equipment at the facility before the compliance deadline, but it did not arrive until March 21, 1995. This request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, May 9, 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 USTMC a forty-five (45)-day provisional variance for its facility located at 11601 Copenhagen Court, Franklin Park, Cook County, Illinois from the volatile organic material emissions requirements for "Other Emission Units" of the air pollution control requirements, as set forth in 35 Ill. Adm. Code 218, Subpart TT, specifically, 35 Ill. Adm. Code 218.986, for the period beginning March 15, 1995, and continue for forty-five (45)-days or until the required emission capture and control equipment, specifically, a regenerative thermal oxidizer is installed, whichever comes first.

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.

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.

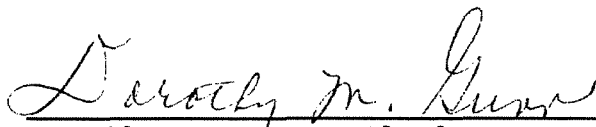
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 218.986, subject to the following conditions:

1. The term of this provisional variance shall commence on March 15, 1995, and continue for forty-five (45)-days or until the required regenerative thermal oxidizer is installed, whichever comes first.
2. The petitioner shall notify the Agency upon installation and startup of the regenerative thermal oxidizer, by sending notification addressed as follows:

Mr. Brooke Peterson
Bureau of Air
Illinois Environmental Protection Agency
2200 Churchill Road, 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 11th day of May, 1995, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board