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FILED
FEB 14 2006

BEFORE THE HEARING BOARD

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

OF THE

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

STATE OF CALIFORNIA

MARY ROMAIDIS
CLERK
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

In the Matter of the Application of

United Airlines

For a Variance from Regulation(s):

California Code of Regulations, Title 17
Section 93102.5

DOCKET NO. 3508

ORDER GRANTING INTERIM VARIANCE

ALB

1 The above-entitled matter is an Application for Interim and Regular Variance from the
2 provisions of California Code of Regulations, Title 17, Section 93102.5, filed on December 27,
3 2005.

4 Keith Casto of Sedgwick, Detert, Moran & Arnold, LLP appeared as counsel for United
5 Airlines ("Applicant").

6 Alexander Crockett appeared as counsel for the Air Pollution Control Officer ("APCO").

7 The Clerk of the Hearing Board provided notice of this hearing on the Application for
8 Interim Variance in accordance with the requirements of the California Health and Safety Code.

9 The Variance application requested Interim Variance relief and Regular Variance Relief
10 from January 1, 2006 to August 31, 2006. The Hearing Board heard the request for the Interim
11 Variance on January 26, 2006. The hearing upon the Regular Variance has been set for 9:35 am,
12 Thursday, March 16, 2006.

13 The Hearing Board provided the public with the opportunity to testify at the hearing as
14 required by the California Health and Safety Code. The Hearing Board heard evidence and
15 argument from the Applicant and the APCO. The APCO did not oppose the granting of the
16 variance.

17 The Hearing Board took the matter under submission for decision. After consideration of
18 the evidence, the Hearing Board voted to grant the request for an Interim Variance, as set forth in
19 more detail below:

20 BACKGROUND

21 Applicant, a major international air carrier, operates a maintenance base at San Francisco
22 International Airport under a Major Facility Review ("MFR") permit from the Bay Area Air
23 Quality Management District (District). Applicant is not considered a small business as
24 described by California Health and Safety Code Section 42352.5(b)(2) and it emits more than ten
25 tons per year of air contaminants.

26 Applicant operates a thermal spray operation at the facility which consists of eight
27 thermal spray booths (one of which is currently non-functional), process equipment such as spray
28 guns, control panels, parts stands, robot arms and material feeders, as well as air pollution control

1 systems. The thermal spray operation is not subject to a permit and has been unregulated until
2 the enactment of California Code of Regulations, Title 17, Section 93102.5, which is intended to
3 substantially reduce the emissions of nickel and hexavalent chromium from thermal spray
4 operations. The primary emissions consist of the overspray and fumes generated by the plasma
5 spray process. The booths are part of a complex system of duct hoods, water troughs, ventilation
6 systems, electrical panels, filter systems and water curtains (the current method of air pollution
7 control). The thermal spraying operation at United Airlines is critical to the function of the entire
8 maintenance base and, by extension, to its international operations.

9 Based on the Applicant's baseline thermal spray material throughput, the Section 93102.5
10 emission factors, and existing thermal spray booth configurations, the new regulation requires
11 that 99.97% at three microns filtration be used for the equipment at United Airline's thermal
12 spraying operation. The current emissions equipment consists of water curtains (except for one
13 booth, which already has a HEPA filter). Compliance with the Air Toxic Control Measure
14 (ATCM) will require the Applicant to expend an estimated 1.5 million dollars in capital and
15 labor costs on a complex and sophisticated engineering project. The Applicant currently does not
16 meet Section 93102.5 because its thermal spray booths use water curtain emissions control
17 devices instead of the HEPA filtration system required by the regulation.

18 DISCUSSION

19 Applicant testified that it was aware of the development of the new regulation, and that it
20 initiated analysis of the new regulation and was involved in submitting comments during the
21 rule-making, but that it would have been imprudent for the company to invest extensive time and
22 resources until the regulation became final and legally effective (which occurred on
23 September 30, 2005). Applicant further testified that it immediately began to take steps to
24 comply with the regulation after September 30, 2005. These initial steps included taking a
25 baseline emissions inventory, submitting the required application for a permit to operate, meeting
26 with the District's permit engineer to discuss an alternative method of measuring airflow and
27 other issues related to Section 93102.5, contacting emissions control vendors, and conducting
28 briefings with senior management regarding requirements of the project.

1 Applicant also testified that the phased staging of the project, which is necessary to keep
2 the thermal spray shop operating, will extend the completion date of the project as compared to
3 shutting down the entire operation and installing the necessary equipment in one phase. In
4 addition, approval by various agencies, including the Bay Area Air Quality Management District
5 (BAAQMD), Fire Marshal and the Airport, will be needed as the project progresses. Applicant
6 further testified that its internal processes are underway, including budget approval, defining the
7 scope of the project, and the allocation of project responsibilities to internal departments and
8 outside contractors. After this work has been completed, the design and engineering process will
9 take up to eight weeks, obtaining and building the necessary equipment will take up to sixteen
10 weeks, and the installation and testing of the equipment will take up to eight weeks. Based on
11 the foregoing, Applicant expects to complete the project by December 31, 2006.

12 Applicant testified that it has been working with its vendors for several months to plan
13 the retrofit of the booths, and currently intends to proceed in two or three stages and retrofit three
14 or four booths at a time depending on the final engineering design. Applicant also testified that
15 since no more than three booths are needed at any one time, excess emissions of hexavalent
16 chromium and nickel may be non-existent at the end of the first or second phase (depending on
17 whether the project is done in two or three phases), because at that point in time all booths in
18 operation will have been retrofitted with the new air pollution control systems and the booths
19 being retrofitted in the final phase would be non-operative.

20 The estimated excess emissions during the interim variance period are as follows:
21 Nickel:16.96 pounds; Hexavalent Chromium:1.27 pounds.

22 SPECIFIC FINDING

23 The Hearing Board finds, pursuant to Health and Safety Code Section 42351, that good
24 cause exists to issue this Interim Variance, and that such good cause is based upon the
25 complexity of the engineering project required to make the applicant's thermal spray operation
26 compliant with California Code of Regulations, Title 17, Section 93102.5.

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THEREFORE, THE HEARING BOARD ORDERS:

An Interim Variance from California Code of Regulations, Title 17, Section 93102.5 is hereby granted from January 1, 2006 through and including March 31, 2006, or until a decision is made by the Hearing Board on the Regular Variance in this matter at the hearing scheduled on March 16, 2006, whichever occurs first, subject to the following conditions:

1. Applicant shall conduct a health risk assessment pursuant to Regulation 2, Rule 5 of the BAAQMD ("New Source Review of Toxic Air Contaminants"). If the health assessment that has already been performed by the BAAQMD can be located and it adequately matches the current emissions profile, then Applicant may not need to perform another assessment. The assessment shall be submitted to the Hearing Board by March 1, 2006, in an original and nine copies, and addressed to the Hearing Board, Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, California 94109.

2. California Code of Regulations, Title 17, Section 93102.5(3)(1), Table 3, sets forth specific monitoring requirements for conventional water curtains. Applicant shall comply with these monitoring requirements beginning as soon as possible and must provide a report to the Hearing Board and the BAAQMD by March 1, 2006. The report shall be submitted to the Clerk of the Hearing Board, in an original and nine copies, at the address listed above.

3. Applicant shall perform a load analysis on the workflow in the thermal spray operation. More specifically, Applicant shall determine how it can minimize emissions by maximizing its use of the one booth that complies in part with Section 93102.5 and those booths that are retrofitted in the first phase. Further, Applicant shall assess whether the currently unused booth must be put into operation or whether it can remain non-operational. Applicant shall make appropriate workflow changes if the analysis indicates that such changes would reduce excess emissions during the interim variance period. Applicant shall provide the analysis report to the Hearing Board and the BAAQMD by March 1, 2006. Applicant shall submit the analysis report to the Clerk of the Hearing Board, in an original and nine copies, at the address listed above.

4. Applicant shall provide an interim schedule of increments to the Hearing Board and the BAAQMD by March 9, 2006. Applicant shall submit the schedule to the Clerk of the

1 Hearing Board, in an original and nine copies, at the address listed above.

2 5. Applicant shall pay excess emission fees for 1.27 pounds of Hexavalent Chromium
3 and 16.96 pounds of Nickel, pursuant to District Regulation 3, Schedule A.

4 Moved by: Allan R. Saxe, Esq.

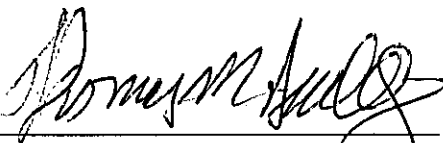
5 Seconded by: Terry A. Trumbull, Esq.

6 AYES: Christian Colline, P.E., Julio Magalhães, Ph.D.; Allan R. Saxe, Esq.;

7 Terry A. Trumbull, Esq.; Thomas M. Dailey, M.D.

8 NOES: None

9 ABSENT: None

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14 Thomas M. Dailey, M.D., Chair

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Date 7-8-06