

ILLINOIS POLLUTION CONTROL BOARD
July 31, 1986

NESCO STEEL BARREL)
COMPANY,)
)
Petitioner,)
)
v.) PCB 84-81
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On July 3, 1986, Nesco Steel Barrel Company (Nesco) filed a third amended petition titled "Supplement to Second Amended Petition for Variance (Supplement)". This petition was filed in response to the Board's May 22, 1986 "more information" Order. On July 10, 1986, the Illinois Environmental Protection Agency (Agency) filed a renewed Motion to Dismiss, to which Nesco responded in opposition on July 18, 1986.

In essence, the Agency continues to object to Petitioner's failure to submit an adequate compliance plan, particularly in that the petition lacks "trigger dates to initiate decisions for alternative compliance methods should the testing be unsuccessful" (Agency Rec. p 2). Nesco, on the other hand, asserts that the Supplement contains a detailed testing schedule for compliant exterior coatings and a statement of its intent to achieve compliance for its interior coatings through internal offsets. However, after the week of September 8, 1986, Nesco's testing schedule is open-ended. Nesco states:

"Nesco will continue its testing program for high solids, low VOC exterior coatings until all of the enamels it presently uses are replaced with compliance exterior coatings. Nesco believes that its exterior coating testing program, concentrating as it does on the high volume colors first, will result in compliance with the 35 Ill. Adm. Code 215.204(j) standard for exterior coatings by December 31, 1987. Nesco anticipates filing additional supplements to its Second Amended Variance Petition as it expands its testing schedule". (Nesco Supplement, p. 5)

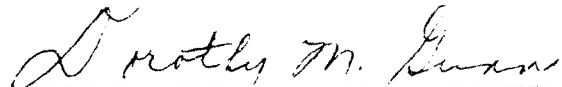
The Board notes, as it did in its May 22, 1986 Order, that Nesco has requested variance not only from the emission limitations, but also from the requirements of 35 Ill. Adm. Code 215.212 to file a compliance plan. In that same order the Board also noted that:

"The Board has, in certain instances, granted short term variances so that information necessary to formulate and schedule a compliance plan can be gathered".

Nesco's petition is still inadequate. As a minimum, it fails to give a time when Nesco will end its testing and formulate a time-related compliance plan. Nesco is essentially asking for an open-ended testing period extending until the deadline for actual compliance. Nevertheless, on balance, the Board believes the best course at this time is to allow this matter to proceed to hearing, which the Board notes has been scheduled for September 18 and 19. Therefore, the Agency motion to dismiss is denied. However, in so denying, the Board does not intend to imply that it does not share the Agency's concerns.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 31st day of July, 1986, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board