

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1997

FEDDERS CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 98-68
)	(Provisional Variance - RCRA)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On November 12, 1997, Fedders Corporation (petitioner), filed a request with the Illinois Environmental Protection Agency (Agency) requesting that it be granted a provisional variance to allow its facility in Effingham County, Illinois, to continue accumulating hazardous waste for a period in excess of 90 days. Such request for a provisional variance and the notification of recommendation were filed with the Board by the Agency on November 18, 1997. Pursuant to Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (1996)), the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant a 30-day provisional variance from the 90-day limitation on the accumulation of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b), for the period from November 13, 1997 to December 13, 1997.

Upon receipt of the request from the petitioner, the Agency issued its recommendation notifying the Board that due to unforeseen, temporary, and uncontrollable circumstances, failure to grant the requested 30-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) (1996). 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.

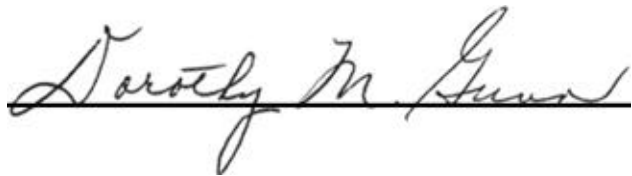
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants

the petitioner a provisional variance for the period from November 13, 1997, to December 13, 1997.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 145 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of November 1997, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board